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,

veteran status, physical disability, mental disability, medical condition, marital status, sex, sexual orientation, age, or other status protected from workplace discrimination by state or federal law. Authority officers, employees and Contractors shall not knowingly deny an Authority opportunity or benefit, discriminate against or harass, any Authority employee, applicant for employment, contractor, vendor, or recipient of Authority services on account of the person's race, color, ethnicity, national origin, ancestry, religion, creed, veteran status, physical disability, mental disability, medical condition, marital status, sex, sexual orientation, age, or other status protected from workplace discrimination by state or federal law. Authority officers, employees and Contractors shall not knowingly give preferential treatment to any applicant for employment, bidder, contractor, vendor, or recipient of Authority services on the basis of race, color, ethnicity, national origin, ancestry, religion, creed, physical disability, mental disability, medical condition, marital status, sex, or sexual orientation.

"(b) This section shall be interpreted in a manner that is consistent with the California and United States Constitutions and applicable state and federal statutes governing workplace discrimination. The terms used in this section shall have the same meaning as defined in state statutes governing the same subject matter.

"(c) Nothing in this section shall be interpreted as prohibiting bona fide occupational qualifications consistent with applicable state and federal law and reasonably necessary to the normal operation of Authority employment or contracting. Nothing in this section shall be interpreted as prohibiting regulations and policies to prevent nepotism or conflicts of interest.

"(d) Nothing in this section shall be interpreted as prohibiting action taken to establish or maintain eligibility for any federal program, where ineligibility would result in a loss of federal funds to the Authority."

(b) Civil Rights Act. Contractor agrees to comply with Title VII of the Civil Rights Act of 1964, as amended, the California Fair Employment Practices Act, the Americans with Disabilities Act of 1990, any other applicable federal and state laws and regulations hereinafter enacted, and the Water Authority's Small Contractor Outreach and Opportunities Program.

(c) Water Authority Discrimination/Harassment Policy. Contractor and its officers, employees, agents and subcontractors shall comply with the Water Authority's Discrimination/Harassment Prohibition Policy in performance of this contract.

(d) Indemnification. To the fullest extent permitted by law and without limitation by the provisions of Section 19 relating to insurance, the Contractor shall also indemnify, defend and hold harmless the Water Authority, and its directors, officers, employees and agents from and against all liability (including without limitation all claims, damages, penalties, fines, and judgments, associated investigation and administrative expenses, and defense costs, including but not limited to reasonable attorneys' fees, court costs, and costs of alternative dispute resolution) resulting from any claim of discrimination or harassment, including but not limited to

sexual harassment, arising from the conduct of the Contractor or any of the Contractor's officers, employees, agents, licensees, or subcontractors. In the event of a discrimination or harassment complaint against any employee, agent, licensee or subcontractor of the Contractor or its subcontractors, the Contractor shall take immediate and appropriate action in response to such complaint, including, but not limited to termination or appropriate discipline of any responsible employee, agent, licensee or subcontractor. The provisions of this Section survive completion of the services or termination of the Contract.

11. WORKPLACE CONDUCT AND BEHAVIOR:

Contractor and Contractor's officers, employees, agents and subcontractors shall comply with the Water Authority's Substance-free Work Place Policy, Information and Communications Systems Policy, and other rules and regulations governing work place safety, conduct, and behavior, for any portion of the work performed on the premises of the Water Authority or using Water Authority facilities or equipment.

12. OWNERSHIP OF WORK PRODUCT:

Upon delivery, the work product, including without limitation, all original reports, writings, recordings, drawings, files, and detailed calculations developed under this contract are the property of the Water Authority. Contractor agrees that all copyrights which arise from creation of the work pursuant to this contract shall be vested in the Water Authority and waives and relinquishes all claims to copyright or other intellectual property rights in favor of the Water Authority. Water Authority acknowledges that its use of the work product is limited to the purposes contemplated by the scope of work and that the Contractor makes no representation of the suitability of the work product for use in or application to circumstances not contemplated by the scope of work.

13. FORMAT OF DOCUMENTS:

Documents submitted to the Water Authority in electronic format shall be formatted according to specifications provided by the Water Authority, or if not otherwise specified, in Microsoft Word, Excel, PowerPoint or other Microsoft Office Professional 2007 format as appropriate for the particular work product or, if directed by the Contract Manager in Adobe Acrobat pdf format.

14. CHANGES IN WORK:

No payment for changed or additional work shall be made unless the changed or additional work has first been approved in writing by the Contract Manager and the parties have agreed upon the appropriate adjustment, if any, to the payment schedule and maximum payment amount for the changed or additional work. The Contract Manager may order changes or additions to the scope of work. Whether a change or addition to the scope of work is proposed by the Contractor or ordered by the Contract Manager, the parties shall in good faith negotiate an appropriate adjustment, if any, to the payment schedule and maximum payment for the changed or additional work. An approved change or addition, along with the payment adjustment, if any, will be

effective upon an amendment to this contract executed by both parties. The amendment shall not render ineffective or invalidate unaffected portions of this contract. All changes in work that increase the amount of payment shall be subject to Section 4.04.040 of the Water Authority Administrative Code.

15. CONFIDENTIALITY:

(a) Confidential Nature of Information. Contractor shall treat all information obtained from the Water Authority in the performance of this contract as confidential and proprietary to the Water Authority. Contractor shall treat all records and work product prepared or maintained by Contractor in the performance of this contract as confidential.

(b) Limitation on use and disclosure. Contractor agrees that it will not use any information obtained as a consequence of the performance of work for any purpose other than fulfillment of Contractor's scope of work. Contractor will not disclose any information prepared for the Water Authority, or obtained from the Water Authority or obtained as a consequence of the performance of work to any person other than the Water Authority, or its own employees, agents or subcontractors who have a need for the information for the performance of work under this contract unless such disclosure is specifically authorized in writing by the Water Authority.

(c) Security plan. If requested by the Contract Manager, Contractor shall prepare a security plan to assure that information obtained from the Water Authority or as a consequence of the performance of work is not used for any unauthorized purpose or disclosed to unauthorized persons. Contractor shall advise the Water Authority of any request for disclosure of information or of any actual or potential disclosure of information.

(d) Survival. Contractor's obligations under this paragraph shall survive the termination of this contract.

16. PROHIBITED INTEREST:

No official or employee of the Water Authority who is authorized in such capacity on behalf of the Water Authority to negotiate, make, accept, or approve, or take part in negotiating, making, accepting, or approving this contract, shall become directly or indirectly interested in this contract or in any part thereof. No officer or employee of the Water Authority who is authorized in such capacity and on behalf of the Water Authority to exercise any executive, supervisory, or similar functions in connection with the performance of this contract shall become directly or indirectly interested personally in this contract or any part thereof.

17. CONFLICT OF INTEREST:

(a) Local Conflict of Interest Code Compliance.[**OPTION 1**]: The Water Authority has determined, based on the scope of the services to be provided by Contractor under this contract, that this contract does not confer on Contractor or any of Contractor's employees the status of a "designated employee" or "Consultant" of the Water Authority for the purposes of the Water

Authority's Local Conflict of Interest Code and the California Political Reform Act. This contract does not require or permit Contractor to make a governmental decision as specified in 2 Cal. Code of Regs. § 18701, subdiv. (a)(2)(A), or serve in a staff capacity as specified in 2 Cal. Code of Regs. § 18701, subdiv. (a)(2)(B).

[**OPTION 2**: The Water Authority has determined, based on the scope of the services to be provided by Contractor under this contract, that this contract confers on Contractor or any of Contractor's employees the status of a "designated employee" or "Consultant" of the Water Authority for the purposes of the Water Authority's Local Conflict of Interest Code and the California Political Reform Act. Contractor will be subject to the same provisions as the _____ Designation in the Water Authority's Local Conflict of Interest Code.

(b) Disqualification. Contractor shall not make or participate in making or in any way attempt to use Contractor's position to influence a governmental decision in which Contractor knows or has reason to know Contractor has a direct or indirect financial interest other than the compensation promised by this contract. Contractor will not have such interest during the term of this contract. Contractor will immediately advise the General Counsel of the Water Authority if Contractor learns of a financial interest of Contractor's during the term of this contract. If Contractor's participation in another Water Authority project would create an actual or potential conflict of interest, in the opinion of the Water Authority, the Water Authority may disqualify Contractor from participation in such other project during the term of this Contract.

18. INDEMNIFICATION:

(a) To the fullest extent permitted by law, the Contractor shall (1) immediately defend, and (2) indemnify the Water Authority, and its directors, officers, and employees from and against all liabilities regardless of nature or type arising out of or resulting from Contractor's performance of services under this contract, or any negligent or wrongful act or omission of the Contractor or Contractor's officers, employees, agents, or subcontractors. Liabilities subject to the duties to defend and indemnify include, without limitation all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. The Contractor's obligation to indemnify applies unless it is adjudicated that its liability was caused by the sole active negligence or sole willful misconduct of an indemnified party. If it is finally adjudicated that liability is caused by the comparative active negligence or willful misconduct of an indemnified party, the Contractor's indemnification obligation shall be reduced in proportion to the established comparative liability of the indemnified party.

(b) The duty to defend is a separate and distinct obligation from the Contractor's duty to indemnify. The Contractor shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by the Water Authority, the Water Authority and its directors, officers, and employees, immediately upon tender to the Contractor of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination of comparative active negligence or willful misconduct by an indemnified party does not relieve the Contractor from its separate and distinct obligation to

defend Water Authority. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes an obligation to provide independent defense counsel if the Contractor asserts that liability is caused in whole or in part by the negligence or willful misconduct of the indemnified party. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of an indemnified party, Contractor may submit a claim to the Water Authority for reimbursement of reasonable attorneys' fees and defense costs.

(c) The review, acceptance or approval of the Contractor's work or work product by any indemnified party shall not affect, relieve or reduce the Contractor's indemnification or defense obligations. This Section survives completion of the services or the termination of this contract. The provisions of this Section are not limited by and do not affect the provisions of this contract relating to insurance.

19. INSURANCE:

(a) Requirement. Contractor shall procure and maintain during the period of performance of this contract and for ___ months following completion, insurance from insurance companies authorized to do business in the State of California, as set forth in this section. These policies shall be primary insurance as to the Water Authority so that any other coverage held by the Water Authority shall not contribute to any loss under Contractor's insurance.

General liability: (with coverage at least as broad as ISO form CG 00 01 10 01) coverage in an amount not less than **[$2,000,000]** general aggregate and **[$1,000,000]** per occurrence for general liability, bodily injury, personal injury, and property damage.

Automobile liability: (with coverage at least as broad as ISO form CA 00 01 10 01, for "any auto") coverage in an amount not less than **[$1,000,000]** per accident for personal injury, including death, and property damage.

Professional liability: (errors and omissions) for damage alleged to be as a result of errors, omissions or negligent acts of Contractor coverage in an amount not less than **[$1,000,000]** per claim.

Workers' compensation and employer's liability: coverage shall comply with the laws of the State of California, but not less than an employer's liability limit of **[$1,000,000.]**

A deductible or retention may be utilized, subject to approval by the Water Authority. All policies that include a self-insured retention shall include a provision that payments of defense costs and damages (for bodily injury, property damage, personal injury or any other coverages included in the policy) by any party including additional insureds or insurers, shall satisfy the self-insured retention limits.

(b) Endorsements. The insurance policies shall be endorsed as follows:

For the commercial general liability insurance, the Water Authority (including its directors, officers, employees, and agents) shall be named as additional insured, and the policy shall be endorsed with a form equivalent to ISO form CG 20 10 10 93, that contain the provisions required by this contract.

Contractor's insurance is primary to any other insurance available to the Water Authority with respect to any claim arising out of this Agreement. Any insurance maintained by the Water Authority shall be excess of the Contractor's insurance and shall not contribute with it. The Contractor's endorsement of insurance shall include a waiver of any rights of subrogation against the Water Authority, and its directors, officers, employees and agents.

Contractor's insurance will not be canceled, limited, amended, reduced in coverage amount, or allowed to expire without renewal until after thirty (30) days' written notice has been given to the Water Authority, or after ten (10) days' written notice in the case of cancellation for non-payment of premium.

(c) Qualifications of Insurer. The insurance shall be provided by an acceptable insurance provider, as determined by the Water Authority, which satisfies the following minimum requirements: An insurance carrier admitted to do business in California and maintaining an agent for process within the state. Such insurance carrier shall maintain a current A.M. Best rating classification of "A-" or better and a financial size of "$10 million to $24 million (Class V) or better", or A Lloyds of London program provided by syndicates of Lloyds of London and other London insurance carriers, providing all participants are qualified to do business in California and the policy provides for an agent for process in the state. Workers' Compensation and Employer's Liability shall be provided by an A-V rated carrier or by the California State Compensation Fund. If provided by a carrier other than California State Compensation Fund, Contractor shall provide proof of the carrier's A-V rating to Water Authority.

(d) Provision of Insurance Prior to Commencement of Services. Before commencing any services, Contractor shall furnish certificates of insurance and endorsements affecting coverage on forms provided by Water Authority, or on equivalent ISO forms that contain provisions required by this contract.

20. ACCIDENT REPORTS:

Contractor shall immediately report (as soon as feasible, but not more than 24 hours) to the Water Authority any accident or other occurrence causing injury to persons or property during the performance of this Contract. If required by the Water Authority's Risk Manager, the report shall be made in writing and shall include, at a minimum: (a) the names, addresses, and telephone numbers of the persons involved, (b) the names, addresses and telephone numbers of any known witnesses, (c) the date, time and description of the accident or other occurrence.

21. COVENANT AGAINST CONTINGENT FEES:

Contractor agrees that its firm has not employed or retained any company or person, other than a

bona fide employee working for Contractor, to solicit or secure this contract, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this contract. For breach or violation of this provision, the Water Authority shall have the right to terminate this contract without liability, or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fees, gift, or contingent fee.

22. TERMINATION OR ABANDONMENT:

(a) Water Authority's Rights. The Water Authority has the right to terminate or abandon any portion or all of the work by giving ten (10) days' written notice. Upon receipt of a notice of termination, Contractor shall perform no further work except as specified in the notice. Before the date of termination, Contractor shall deliver to Water Authority all work product, whether completed or not, as of the date of termination and not otherwise previously delivered. The Water Authority shall pay Contractor for services performed in accordance with this contract before the date of termination. If this contract provides for payment of a lump sum for all services or by task and termination occurs before completion of the work or any defined task which according to the performance schedule was commenced before the notice of termination, the fee for services performed shall be based on an amount mutually agreed to by the Water Authority and Contractor for the portion of work completed in conformance with this contract before the date of termination. In addition, the Water Authority will reimburse Contractor for authorized expenses incurred and not previously reimbursed. The Water Authority shall not be liable for any fees or costs associated for the termination or abandonment except for the fees, and reimbursement of authorized expenses, payable pursuant to this section.

(b) Contractor's Rights. Contractor, if Contractor is not in default or breach, may terminate Contractor's obligation to provide further services under this contract upon thirty (30) days' written notice only in the event of a material default by the Water Authority, which default has not been cured within thirty (30) days following the written notice.

23. SUCCESSORS OR ASSIGNS:

All terms, conditions, and provisions of this contract shall apply to and bind the respective heirs, executors, administrators, successors, and assigns of the parties. Nothing in this paragraph is intended to affect the limitation on assignment.

24. DAMAGE OR LOSS OF EQUIPMENT OR FACILITIES:

(a) General Obligation. Contractor shall pay to the Water Authority the replacement cost of any equipment or repair cost of any facilities provided by the Water Authority for Contractor's use in performance of services that is lost or damaged by Contractor or Contractor's officers, employees, agents or subcontractors.

(b) Keys. During the term of the contract, Contractor may be issued keys to Water Authority

facilities in order to perform the scope of work. Keys shall not be loaned, duplicated, or given to anyone not authorized to have the keys. Contractor will sign for each key and each key will be returned to the project manager when access to that area is no longer authorized, or at the end of the contract term, whichever is applicable. Should keys become lost or stolen, Contractor shall immediately notify the Contract Manager. A charge will be assessed for all expenses incurred by the Water Authority, including the replacement of locks, lock cores, keys, and other materials necessary to ensure the Water Authority security level is returned to the same level existing prior to the loss of the key(s). The cost of replacing locks may be as much as $40,000.

25. ELECTRONIC COMMUNICATIONS:

During the course of this contract, communications may occur through sending, receiving or exchanging electronic versions of documents and e-mails using commercially available computer software and Internet access. Contractor and the Water Authority acknowledge that the Internet is occasionally victimized by the creation and dissemination of so-called viruses, or similar destructive electronic programs. Contractor and the Water Authority view the issues raised by these viruses seriously and have invested in document and e-mail scanning software that identify and reject files containing known viruses. Contractor agrees to update its system with the software vendor's most current releases at regular intervals. Because of the virus scanning software, the respective computer systems of the parties may occasionally reject a communication. The parties acknowledge that this occurrence is to be expected as part of the ordinary course of business. Because the virus protection industry is generally one or two steps behind new viruses, neither party can guarantee that its respective communications and documents will be virus free. Occasionally, a virus will escape and go undetected as it is passed from system to system. Although each party will use all reasonable efforts to assure that its communications are virus free, neither party warrants that its documents will be virus free. Each party agrees to advise the other if it discovers a virus in its respective system that may have been communicated to the other party.

26. LAWS AND VENUE:

This contract and disputes arising out of or relating to the contract or the parties' relationship are governed by the laws of the State of California. Any action or proceeding arising out of or relating to the contract or the parties' relationship shall be brought in a state or federal court situated in the County of San Diego, State of California.

27. ADMINISTRATION:

(a) Contractor's principal place of business and agent for service of process. Contractor's principal place of business is _____. Contractor's agent for service of process is _____.

(b) Water Authority's Representative. The Water Authority's representative for administration of this contract is _____, who is the designated Contract Manager. The Water Authority may change the Contract Manager at any time upon notice to the Contractor.

(c) Contractor's Representative. The Contractor's representative for administration of this contract is _____, who is designated as the Project Manager. The Contractor may change the Project Manager upon written notice to and approval by the Contract Manager.

(d) Notices. Any notice or instrument required to be given or delivered by law or this contract shall be effective upon receipt thereof and shall be by personal service or delivered by depositing the same in any United States Post Office, registered or certified, postage prepaid, addressed to:

San Diego County Water Authority
4677 Overland Avenue
San Diego, CA 92123-1233

Attn: _____(Contract Manager)

Contractor:
_____
_____
_____

Attn:_____(Project Manager)

Either party may change the address or identity of the person for notices under this paragraph by written notice to the other delivered in accordance with this paragraph.

(e) Routine Administrative Communications. Routine administrative communication required to be in writing may be by personal delivery, mail, facsimile transmission or electronic mail as agreed between the Contractor and Contract Manager.

28. INTEGRATION AND MODIFICATION:

This contract represents the entire understanding of the Water Authority and Contractor as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This contract may not be modified, amended, or altered except in writing signed by the Water Authority and Contractor.

29. ADVICE OF COUNSEL:

The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms, and conditions of this contract, and that the decision of whether or not to seek the advice of counsel with respect to this contract is a decision which is the sole responsibility of each of the parties hereto. This contract shall not be construed in favor or against either party by reason of the extent to which each party participated in the drafting of

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:_____

ATTACHMENT A

SCOPE OF WORK

ATTACHMENT B

PAYMENT and FEE SCHEDULE

ATTACHMENT C

PERFORMANCE SCHEDULE

ATTACHMENT D

CERTIFICATES OF INSURANCE

and

ADDITIONAL INSURED ENDORSEMENTS

GENERAL LIABILITY SPECIAL ENDORSEMENT
FOR THE SAN DIEGO COUNTY WATER AUTHORITY

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone

NAMED INSURED

POLICY INFORMATION

Insurance Company:

Policy No.:

Policy Period: (from) (to)

☐ Deductible OR ☐ Self-Insured Retention of $_____

☐ Each Occurrence ☐ Per Claim

APPLICABILITY. This insurance pertains to the operations, products and/or activities of the Named Insured under all written agreements and permits in force with the Water Authority unless checked here ☐ in which case only the following specific agreements and permits with the Water Authority are covered:
AGREEMENTS/PERMITS

TYPE OF INSURANCE

☐ COMMERCIAL GENERAL LIABILITY ☐ Claims Made Retroactive Date _____

☐ COMPREHENSIVE GENERAL LIABILITY ☐ Occurrence

☐ OWNERS & CONTRACTORS PROTECTIVE

OTHER PROVISIONS

COVERAGES	LIABILITY LIMITS IN THOUSANDS $	
	EACH OCCURRENCE	AGGREGATE
☐ GENERAL LIABILITY		
☐ PRODUCTS-COMPLETED OPERATIONS		
☐ PERSONAL & ADVERTISING INJURY		
☐ FIRE LEGAL LIABILITY		
☐ EXPLOSION, COLLAPSE, UNDERGROUND HAZARD		
☐ CONTRACTUAL LIABILITY		
☐		

CLAIMS: Underwriter's Representative for claims pursuant to this insurance

Name: _____

Address: _____

_____

Telephone: ( ) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, it is agreed as follows:

1. **ADDITIONAL INSURED**. The Water Authority, its directors, officers, employees, and agents, are included as additional insureds with regard to liability and defense of suits or claims arising from the operations, products and activities performed by or on behalf of the Named Insured.

2. **CONTRIBUTION NOT REQUIRED**. This insurance shall be primary. Any other insurance or self-insurance available to the insureds added by this endorsement shall be in excess of and shall not contribute with this insurance.

3. **SEVERABILITY OF INTEREST**. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.

4. **CANCELLATION NOTICE**. With respect to the interests of the Water Authority, this insurance shall not be canceled or materially reduced in coverage except after thirty (30) days prior written notice by receipted delivery has been given to the Water Authority at address indicated below. (Except 10 days shall be allowed for non-payment of premium.)

5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure by the Named Insured to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the insureds added by this endorsement.

6. **SCOPE OF COVERAGE.** This endorsement shall afford coverage at least as broad as Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG 0001; or claims made form CG 0002

Except as stated above, nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER / ADDITIONAL INSURED

SAN DIEGO COUNTY WATER AUTHORITY
4677 OVERLAND AVENUE
SAN DIEGO, CA 92123

PROJECT:_____

ATTENTION: _____

TELEPHONE: _____

AUTHORIZED REPRESENTATIVE

I _____(print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____

Title _____

Employer of Signatory _____

Telephone: ( ) _____ Date Signed _____

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT
FOR THE SAN DIEGO COUNTY WATER AUTHORITY

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone

POLICY INFORMATION

Insurance Company:
Policy No.:
Policy Period: (from) (to)

☐ Deductible OR ☐ Self-Insured Retention $_____

NAMED INSURED

APPLICABILITY. This insurance pertains to the operations, and/or activities of the Named Insured under all written contracts and agreements in force with the Water Authority unless checked here ☐ in which case only the following specific permits and agreements with the Water Authority are covered:

AGREEMENTS/PERMITS

TYPE OF INSURANCE

- ☐ BUSINESS AUTO POLICY
- ☐ TRUCKERS AND MOTOR CARRIER LIABILITY POLICY
- ☐ GARAGEKEEPERS LIABILITY
- ☐ NON-OWNED - - HIRED VEHICLES
- ☐ OTHER _____

LIABILITY LIMIT IN THOUSANDS $

$ _____ per accident, for bodily injury and property damage liability.

OTHER PROVISIONS

CLAIMS: Underwriter's Representative for claims pursuant to this insurance.

Name: _____
Address: _____
_____
Telephone: ( )

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, it is agreed as follows:

1. **ADDITIONAL INSURED**. The Water Authority, its directors, officers, employees, and agents, are included as additional insureds with regard to liability and defense of suits or claims arising from the operations, products and activities performed by or on behalf of the Named Insured.
2. **CONTRIBUTION NOT REQUIRED**. This insurance shall be primary. Any other insurance or self-insurance available to the insureds added by this endorsement shall be in excess of and shall not contribute with this insurance.
3. **SEVERABILITY OF INTEREST**. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE**. With respect to the interests of the Water Authority, this insurance shall not be canceled or materially reduced in coverage except after thirty (30) days prior written notice by receipted delivery has been given to the Water Authority at address indicated below. (Except 10 days shall be allowed for non-payment of premium.)
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure by the Named Insured to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the insureds added by this endorsement.
6. **SCOPE OF COVERAGE.** This endorsement shall afford coverage at least as broad as Insurance Services Office form number CA0001, Code 1 ("any auto").

Except as stated above, nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER / ADDITIONAL INSURED

SAN DIEGO COUNTY WATER AUTHORITY
4677 OVERLAND AVENUE
SAN DIEGO, CA 92123

ATTENTION: (PROJECT MANAGER)

TELEPHONE: _____

AUTHORIZED REPRESENTATIVE

I _____(print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
Title _____
Employer of Signatory _____
Telephone: ( ) _____ Date Signed _____

PROFESSIONAL LIABILITY SPECIAL ENDORSEMENT

FOR THE SAN DIEGO COUNTY WATER AUTHORITY

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone

POLICY INFORMATION

Insurance Company:

Policy No.:

Policy Period: (from) (to)

☐ Deductible OR ☐ Self-Insured Retention $_____

☐ Per Occurrence ☐ Per Claim

NAMED INSURED

APPLICABILITY. This insurance pertains to services and/or activities of the Named Insured under all written contracts and permits in force with the Water Authority unless checked here ☐ in which case only the following specific agreements and permits with the Water Authority are covered:

CONTRACTS/PERMITS:

TYPE OF INSURANCE

☐ Claims Made Form ☐ Occurrence Form

CLAIMS: Underwriter's Representative for claims pursuant to this insurance.

Name: _____

Address: _____

_____

Telephone: ( )

COVERAGES

	LIABILITY LIMITS IN THOUSANDS $	
	EACH OCCURRENCE	AGGREGATE
☐ ARCHITECTS /ENGINEERS PROFESSIONAL LIABILITY		
☐ ENVIRONMENTAL PROFESSIONAL LIABILITY		
☐ CONTRACTORS / PROJECT MANAGER'S PROFESSIONAL LIABILITY		
☐ LAWYER'S PROFESSIONAL		
☐ OTHER_____		

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, it is agreed as follows:

1. **CANCELLATION NOTICE**. This insurance shall not be canceled or materially reduced in coverage except after thirty (30) days prior written notice by receipted delivery has been given to the Water Authority at address indicated below. (Except 10 days shall be allowed for non-payment of premium.)

2. **OTHER PROVISIONS.** The following exclusions, or special provisions apply to this coverage.

Except as stated above, nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

SAN DIEGO COUNTY WATER AUTHORITY
4677 OVERLAND AVENUE
SAN DIEGO, CA 92123

ATTENTION: **(PROJECT MANAGER)**

TELEPHONE: _____

AUTHORIZED REPRESENTATIVE

I _____(print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____

Title _____

Employer of Signatory _____

Telephone: ( ) _____ Date Signed _____

WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY SPECIAL ENDORSEMENT

FOR THE SAN DIEGO COUNTY WATER AUTHORITY

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone

NAMED INSURED

POLICY INFORMATION

Insurance Company:

Policy No.:

Policy Period: (from) (to)

☐ Deductible OR ☐ Self-Insured Retention $_____

☐ Each Occurrence ☐ Per Claim

APPLICABILITY. This insurance pertains to the operations, products and/or activities of the Named Insured under all written contracts and permits in force with the Water Authority unless checked here ☐ in which case only the following specific contracts and permits with the Water Authority are covered:

CONTRACTS/PERMITS

COVERAGES (check as applicable)

☐ Statutory Workers' Compensation

☐

☐

☐ Employer's Liability _____ Bodily Injury (each accident)

_____ Bodily Injury by Disease (each employee)

_____ Bodily Injury by Disease (policy limit)

OTHER PROVISIONS

CLAIMS: Underwriter's Representative for claims pursuant to this insurance

Name: _____

Address: _____

_____

Telephone: ( )

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, it is agreed as follows:

1. **WAIVER OF SUBROGATION.** The Insurance Company agrees to waive all rights of subrogation against the Water Authority, its directors, officers, employees, and agents for losses paid under the terms of this policy which arise from the work performed by the Named Insured for the Water Authority.

2. **CANCELLATION NOTICE**. With respect to the interests of the Water Authority, this insurance shall not be canceled or materially reduced in coverage except after thirty (30) days prior written notice by receipted delivery has been given to the Water Authority at address indicated below. (Except 10 days shall be allowed for non-payment of premium.)

Except as stated above, nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

THE SAN DIEGO COUNTY WATER AUTHORITY
4677 OVERLAND AVENUE
SAN DIEGO, CA 92123

ATTENTION: **(PROJECT MANGER)**

TELEPHONE: _____

AUTHORIZED REPRESENTATIVE

I _____(print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____

Title _____

Employer of Signatory _____

Telephone: ( ) _____ Date Signed _____