

**SAN GORGONIO PASS WATER AGENCY
REQUEST FOR PROPOSALS**

On-Call Engineering Services for
Planning, Design, and Construction Management Services for the
Operation, Maintenance, Repair, Replacement, and Improvement of
SGPWA Facilities.

The San Gorgonio Pass Water Agency (SGPWA) is inviting Firms to submit proposals for On-call Engineering Services in support of the Operations and Maintenance (O&M) and Engineering Departments. Services may include contract administration; request for proposal (RFP) and bid document preparation; permitting and environmental; surveying and geotechnical; and civil, mechanical, structural, electrical, instrumentation and controls (I&C) engineering-related work through all project phases (planning, design, and construction) of a project.

1.0 BACKGROUND AND GENERAL PROJECT DESCRIPTION

The Professional Services Agreement (PSA) will initially have a one-year term. Upon authorization and execution, the PSA may be renewed annually, with a maximum renewal period of five years. Renewals will be determined at the discretion of both the selected Firm and SGPWA, subject to their mutual agreement.

The authorized tasks under this agreement will encompass contract administration, preparation of RFPs and bids, planning, design, and construction management support for Operations, Maintenance, Repair, Replacement, and Capital Improvement projects. These tasks will involve various services, including the development of plans, specifications, and bid or quote packages for construction projects. The Firm will also provide construction support services such as contract management, field inspection, submittal review, and responses to RFIs and public records requests for information.

Firms interested in proposing for this work must demonstrate recent experience, specifically within the past five years, in State Water Project (SWP) conveyance and facilities. Additionally, firms will be required to assist in the acquisition of necessary jurisdictional agency permits. They may also be involved in the preparation of other professional services RFPs and coordinating/managing related services, particularly in areas such as geotechnical and environmental aspects of the various projects.

This work is in support of the Operation, Maintenance, Repair, Replacement, and Improvement of SGPWA facilities. Facilities include but are not limited to, water treatment equipment, air & vacuum pressure systems, shut-off valves, flow control valves, flow meters, pressure-reducing valves, air/vacuum valves, blowoff valve assemblies, transmission pipelines, pumps and motors, electrical and controls, SCADA, buildings and surrounding site improvements, groundwater recharge areas, and storage reservoirs. Work may also include design or design support of new SGPWA facilities.

2.0 SELECTION BASIS AND PROCESS

Selection of the top-ranked consultant will be made on the basis of qualifications and relevant State Water Project experience of consultant personnel assigned, understanding of the work effort and initial project scope of work, availability of resources to commit to the work, fee rate structure, Public Agency client reference review, and interview, if conducted.

The top-ranked Firm will be notified by SGPWA, and negotiations (if required) entered into. If SGPWA is unable to reach an agreement on the scope of work and proposed fee rate schedule with any of the top-ranked consultants, SGPWA will conclude that a viable candidate has not been identified.

The selected consultant and fee proposal (once an agreement on scope of work and fees is reached) will then be recommended to the SGPWA Board of Directors for Authorization.

Depending on SGPWA needs, more than one Firm may be selected.

Upon selection, the successful Firm will be required to enter into a PSA with SGPWA. It is anticipated that the selection process will include the following steps:

- This RFP will be advertised on SGPWA's website and will be shared with interested Firms that have previously worked with or have contacted SGPWA about their interest in this project.
- The availability of the RFP will be advertised publicly and others may submit proposals.
- A selection panel consisting of SGPWA staff are anticipated to review and rank the written submitted proposals. The selection panel may consist of staff member(s) from an outside agency(s).
- SGPWA may decide to conduct interviews before making a final selection. SGPWA will notify any Firm selected for an interview at least one week before scheduling the interview.
- SGPWA may decide to open the fee proposals and begin negotiating the scope of work and fees of the top-ranked consultant.
- A consultant will be recommended, and a final selection will be determined by the SGPWA Board of Directors, along with the project scope of work and fees for Board authorization.
- The SGPWA Professional Services Agreement with the scope of work and fees will then need to be executed by the consultants and SGPWA.

- SGPWA reserves the right to issue additional RFPs, modify, or abandon this project before award of contract. Nothing in this RFP shall require that SGPWA award a contract for this project.

3.0 ANTICIPATED PROPOSAL SCHEDULE

Release Request for Proposals	June 27, 2023
Pre-proposal Questions Deadline	July 13, 2023 (5:00 p.m.)
Proposals Due at SGPWA Offices	August 9, 2023 (2:30 p.m.)
Notification of Interviews (if necessary)	August 24, 2023
Interviews of Invited Firms (if necessary)	September 4, 2023 (Week of)
Staff Recommendations to SGPWA Board	September 18, 2023

4.0 PRE-PROPOSAL QUESTIONS

Questions regarding this RFP must be submitted in writing to SGPWA via email, Attn: Mr. Emmett Campbell (Ecampbell@SGPWA.com). Questions must be received before 5:00 p.m. Thursday, July 13, 2023. If necessary, SGPWA will tentatively provide an addendum to the RFP by July 21, 2023. No questions received by SGPWA after this time will be answered.

5.0 ORGANIZATION AND CONTENTS OF PROPOSAL

Proposals should include clear and concise information in each section. Proposals should be a concise statement of the Consultant's qualifications and experience and should be organized as follows.

5.1 COVER LETTER

A principal of the Firm authorized to commit the Firm to the requirements of the RFP must sign the cover letter. The letter shall discuss the Firm's commitment to providing high-quality services as described in the RFP. Additionally, the letter shall briefly describe the firm's understanding and approach to the services. The letter should identify a contact person (name, e-mail address, and phone number) for future communication during the selection process.

5.2 COMPANY BACKGROUND

Provide a brief background of the Firm including history, types of services provided, organization structure, number of employees, number of offices and locations with staff size, and disciplines, and any other relevant information that may be useful in determining the Firm's qualifications to provide the services described in this RFP.

5.3 PROJECT TEAM

Provide an organizational chart indicating the project team's responsibilities and reporting relationship. Team members must be identified by name, as well as position and in which office they are located. The primary point of contact (project manager/project engineer) must be provided and the office in which they are located.

5.4 EXPERIENCE, REFERENCES, AND QUALIFICATIONS

Provide a summary of relevant experience, including specific references for the project manager and key team members. References should include agency name and contact information. Include only references for relevant work experience directly attributable to a member of the project team. Full project abstracts can be provided in the appendix to the proposal. Experience working with or managing public works projects with prevailing wage requirements is expected.

Provide a minimum of five (5) references of recent demonstrated experience in providing engineering services similar in scope and size to the work identified in Section 6.0 below and include any public agency work.

Provide summary qualifications of the project team's key staff. Resumes can be provided in the appendix to the proposal.

5.5 ASSUMPTIONS AND EXCEPTIONS

All assumptions made in the preparation of the proposal should be clearly stated. Any concerns regarding the project scope, schedule, or fees should be clearly noted.

6.0 SCOPE OF WORK

6.1 AGENCY ENGINEER

Provide Professional Engineering Services in support of SGPWA Staff. This work will be considered an extension of SGPWA Operations and Engineering staff with the requirement of working out of the SGPWA Offices located in Beaumont, CA.

6.1.1 *Minimum Qualifications*

SGPWA seeks a professional Consultant with demonstrated expertise in performing the services described in Section 1 of this RFP. The successful Consultant shall have a staff with proven experience in providing the described professional services and shall, at a minimum; have staff members that meet the following:

1. Possess ten (10) years of experience in engineering and related operations of a municipal public works program.
2. A Bachelor's degree in Civil Engineering, Mechanical Engineering, Electrical Engineering, or a related field.

3. Possession of Professional Engineers (PE) Licenses from the State of California and registration as a Civil Engineer, Mechanical Engineering, and Electrical Engineering is required.
4. Possession of Land Surveyor's (LS) License from the State of California.

The Consultant may propose utilizing one or more staff members to meet the various licensing requirements listed above provided that the Principal Staff Person meets, at a minimum, the qualifications and experience listed in 1, 2, and 3 as stated above as a Civil, Mechanical, or Electrical Engineer.

6.1.2 Principal Staff Person

Identify the Principal Staff Person who may be available to perform work at SGPWA Offices on a weekly basis; the backup to the Principal Staff Person who may be available to perform work at SGPWA Offices on a weekly basis; and all support staff who will be performing required work remotely as needed. Provide a work history resume for each of the key personnel, including applicable training, licensing, and/or certifications, descriptions of projects worked upon, dates, project costs, and duties planned to be performed by each individual.

6.1.3 Description of Duties

Consultant shall perform SGPWA Operations and Engineering Services throughout the duration of the agreement under the direction of the SGPWA Staff, in conformance with established procedures, policies and standards of the profession and SGPWA along with all applicable local regulations.

The following are minimum job duties and tasks expected of the Agency Engineer to be rendered by the Consultant to meet SGPWA's objectives. The following listed tasks are neither limited nor comprehensive and the Consultant's proposal may include additional tasks if in the Consultant's professional opinion such tasks are reasonable and warranted:

1. Perform activities and services associated with State Water Project water facilities, groundwater recharge facilities, and buildings/grounds.
2. Plan, manage, assign, supervise, perform professional engineering work in the planning, design, and construction for the operation, maintenance, repair, and replacement of SGPWA facilities.
3. Apply knowledge of advanced engineering theory, techniques, principles, and practices applicable to planning, design, and construction of the described public works type; apply Federal, State, and Local laws, codes, regulations, and ordinances governing the administration of water distribution, and other related utilities; Apply methods and techniques of drafting, mapping, and planning as they apply to land description and general public works purposes; apply laws,

statutes, and ordinances governing legal property descriptions.

4. Prepare and develop evaluations, alternatives, solutions, sound conclusions, recommendations, and courses of action; present proposals and recommendations clearly and logically in public meetings; develop clear, concise and comprehensive technical reports, correspondence, and other written materials.
5. Prepare and develop cost estimates in accordance with AACE guidelines for design and construction of O&M projects.
6. Justify and defend engineering projects, programs, operations, and related activities; negotiate and resolve controversial or complex issues.
7. Monitor and supervise the use of budgeted funds to assure compliance with the annually adopted budget; assist in preparing budgets for future years.
8. Provide technical advice to SGPWA staff.
9. Review and prepare reports, evaluations, or alternatives for projects as directed.
10. Prepare, administer, and supervise specialized Consultants through the process of request for proposals, selection, authorization by the Board, and completion of services.
11. Prepare, administer, and supervise all services for the planning, design, bidding/quotes, and construction of the referenced type of projects, including those project task orders authorized by SGPWA for specific projects.
12. When directed, attend SGPWA Committee, Board, and Public Meetings; present project related materials and answer project related questions.
13. Respond to questions from the Staff, Board, or Public as it relates to assigned duties.
14. Establish working relationships and coordinate with other public agencies and utilities involving engineering and other matters, as directed.
15. Assure that files, plans, and other records are secured, organized, and kept up to date.
16. Complete tasks assigned in a timely and efficient manner.

6.1.4 *On-site Staffing*

The Consultant shall name a Principal Staff Person, who is a registered Professional Engineer, in the State of California, to generally serve as the Agency's Engineer on a weekly basis. The Principal Staff Person shall be the main point of contact regarding the Engineering services to be performed and shall be available to perform work based out

of the SGPWA Offices in Beaumont, CA up to two (2) days per week 8 hours per day or as needed. SGPWA reserves the right to adjust the number of days and hours the Principal Staff Person shall work at the SGPWA Offices upon written notice. Although all on-site work will be performed within SGPWA's service area, the particular location may be subject to change at the discretion of SGPWA Staff depending on specific project needs. SGPWA will provide the office workspace for the Principal Staff Person with phone and access to the SGPWA computer network.

Consultant shall name a backup to the Principal Staff Person, who is a registered Engineer, to perform weekly job duties based out of the SGPWA Offices up to two (2) days per week or as needed whenever the Principal Staff Person is unavailable to do so.

If agreeable to SGPWA and the selected Firm, remote options in lieu of on-site staffing may be available.

SGPWA reserves the right to, at SGPWA's sole discretion and upon 30-day written notice to the Consultant, have the Principal Staff Person, Back up Staff Person, or any other person employed by the Consultant, dismissed from performing work for SGPWA for reasons pertaining to qualifications, work performance, or any other reason SGPWA deems appropriate.

SGPWA reserves the right to, at SGPWA's sole discretion, utilize other contracted engineering services with other Consultants as deemed necessary in order to meet project deadlines, accommodate fluctuations in workload, or any other reason that allows SGPWA to operate efficiently.

6.1.5 *Ownership of Work Products*

All work products generated by the Consultant and paid for by SGPWA shall be property of SGPWA.

7.0 **SEPARATE FEE ENVELOPE**

A rate schedule for work is to be provided in a separate sealed envelope marked: "Fee Proposal – On-call Engineering Services – Agency Engineer, To Be Opened by Addressee Only – Attention Emmett Campbell."

Fee envelopes will be opened after the selection panel reviews all proposals.

Provide an all-in, fully-burdened, hourly rate for each project team member proposed to work on SGPWA's projects. It is expected that the indicated hourly rates will remain in effect for the duration of the Contract unless otherwise specified and approved by SGPWA. The hourly rates on the rate sheet shall include any other rates or fees, such as markups (i.e., SGPWA will not pay for a markup for subconsultants, subcontractors, equipment, etc.). Any other rates to be potentially incurred by SGPWA shall be included such as other direct costs (e.g., mileage, equipment, consumables, etc.). Include in this rate sheet a note indicating any escalation of rates, if applicable, for future years.

Consultant commits that the individuals (or sub-consultant) listed on the rate schedule will perform the work unless a substitution is approved by SGPWA.

8.0 BUDGET AND FINANCING

The SGPWA Board of Directors has included this initial task order project work in the 2023/24 budget and anticipates continuing to budget for on-call engineering services in future years.

9.0 PROFESSIONAL SERVICES AGREEMENT

The successful Consultant will be required to enter into the SGPWA Professional Services Agreement (PSA). A copy of this PSA is provided as an attachment to the RFP. Consultant shall provide any exceptions they have with the PSA in their proposal.

10.0 INSURANCE AND INDEMNIFICATION

The selected Consultant will be required to provide the Insurance as identified in the SGPWA PSA.

11.0 PROPOSAL SUBMITTAL DEADLINE AND POINT-OF-CONTACT

The Consultant will provide three (3) printed copies and one (1) electronic pdf copy of the proposal in a sealed envelope, clearly marked on the cover as to the contents. The Consultant shall also submit the rate schedule in a separate sealed envelope as described in Section 7.0 herein. All costs incurred in the preparation of proposal materials for this RFP will not be reimbursed by SGPWA.

To be considered, proposals must be received at SGPWA's office by Wednesday, August 9, 2023 at 2:30 P.M. Proposals are to be addressed to:

San Gorgonio Pass Water Agency
Attn: Emmett Campbell
1210 Beaumont Avenue
Beaumont, CA 92223
Ecampbell@SGPWA.com

SAN GORGONIO PASS WATER AGENCY
PROFESSIONAL SERVICES AGREEMENT
FOR ON-CALL SERVICES

1. PARTIES AND DATE.

This Agreement is made and entered into this _____ day of _____, 2023, by and between the San Gorgonio Pass Water Agency, a public agency with its principal place of business at 1210 Beaumont Avenue, Beaumont, CA 92223 ("Agency") and [***INSERT NAME OF COMPANY], a [INSERT TYPE OF BUSINESS; I.E., CORPORATION (INCLUDE STATE OF INCORPORATION), LIMITED LIABILITY COMPANY, SOLE PROPRIETORSHIP, ETC.***], with its principal place of business at [***INSERT ADDRESS***] ("Consultant"). Agency and Consultant are sometimes individually referred to herein as "Party" and collectively as "Parties."

2. RECITALS.

2.1 Consultant.

Consultant desires to perform and assume responsibility for the provision of certain professional services required by the Agency on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing on-call engineering services to public clients, is licensed in the State of California, and is familiar with the plans of Agency.

2.2 Project.

Agency desires to engage Consultant to render such professional services for On-Call Engineering Services for Planning, Design and Construction Management Services for the Operation, Maintenance, Repair, Replacement and Improvement of Agency Facilities ("Project") as set forth in this Agreement.

3. TERMS.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Consultant promises and agrees to furnish to the Agency all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional consulting services necessary for the Project described in Exhibit "A" attached hereto and incorporated herein by reference ("Services"). The Services shall be more particularly described in the individual Task Order issued by the Agency or its designee. No Services shall be performed unless authorized by a fully executed Task Order in the form attached hereto as Exhibit "B". All Services shall be subject to, and performed in accordance with, this Agreement, each Task Order, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from the date of full execution of this Agreement ("Commencement Date") to the date which is one (1) year from the Commencement Date ("Term"), unless earlier terminated as provided herein. The Parties may, by mutual written consent, extend the term of this Agreement for a maximum of five (5) additional

1-year terms ("Extended Term(s)"). Either Party may provide advance written notice to the other Party of its wish to extend the Term at least thirty (30) days prior to the expiration of the Term or any Extended Term which may be in effect. The Agreement will then be extended for an Extended Term if the other Party provides written consent in response to the notice.

3.2 Compensation.

3.2.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The maximum compensation for Services to be provided pursuant to each Task Order shall be set forth in the relevant Task Order. The total compensation for all Task Orders issued hereunder shall not exceed *****INSERT AMOUNT WRITTEN OUT** (\$*****INSERT NUMBER**) without written approval of the Agency Council or Agency Manager, as applicable. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

3.2.2 Payment of Compensation. Consultant shall submit to Agency a monthly invoice which indicates work completed and hours of Services rendered by Consultant. The invoice shall describe the amount of Services provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the invoice. Agency shall, within 30 days of receiving such invoice, review the invoice and pay all non-disputed and approved charges. If the Agency disputes any of Consultant's fees, the Agency shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth therein. Payment shall not constitute acceptance of any Services completed by Consultant. The making of final payment shall not constitute a waiver of any claims by the Agency for any reason whatsoever.

3.2.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by Agency, or included in Exhibit "C" of this Agreement.

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

3.3 Responsibilities of Consultant.

3.3.1 Independent Contractor; Control and Payment of Subordinates. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. Agency retains Consultant on an independent contractor basis and not as an employee. Any personnel performing the Services on behalf of Consultant shall not be employees of Agency and shall at all times be under Consultant's exclusive direction and control. Neither Agency, or any of its officials, officers, directors, employees or agents shall have control over the conduct of Consultant or any of Consultants officers, employees or agents, except as set forth in this Agreement. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional

personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.3.2 Schedule of Services. Consultant shall perform the Services in a prompt and timely manner. Consultant shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines set forth in each individual Task Order issued by the Agency. Consultant represents that it has the professional and technical personnel required to perform the Services expeditiously. Upon request of Agency, Consultant shall provide a more detailed schedule of anticipated performance to meet the established schedules and deadlines.

3.3.3 Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of Agency.

3.3.4 Substitution of Key Personnel. Consultant has represented to Agency that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of Agency. In the event that Agency and Consultant cannot agree as to the substitution of key personnel, Agency shall be entitled to terminate this Agreement for cause. The key personnel for performance of this Agreement are as follows: *****INSERT NAME AND TITLE*****.

3.3.5 Agency's Representative. The Agency hereby designates *****INSERT NAME AND TITLE*****, or his/her designee, to act as its representative in all matters pertaining to the administration and performance of this Agreement ("Agency's Representative"). Agency's Representative shall have the power to act on behalf of the Agency for review and approval of all products submitted by Consultant but not the authority to enlarge the Scope of Services or change the total compensation due to Consultant under this Agreement. The Agency Manager shall be authorized to act on Agency's behalf and to execute all necessary documents which enlarge the Scope of Services or change the Consultant's total compensation subject to the provisions contained in this Agreement. Consultant shall not accept direction or orders from any person other than the Agency Manager, Agency's Representative or his/her designee.

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

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

3.3.8 Standard of Care; Performance of Employees. Consultant shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling

necessary to perform the Services. Consultant warrants that all employees and subconsultants shall have sufficient skill and experience to perform the Services assigned to them. Consultant represents that it, its employees and subconsultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Consultant shall perform, at its own cost and expense and without reimbursement from the Agency, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein. Any employee of the Consultant or its subconsultants who is determined by the Agency to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the Agency, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

3.3.9 Period of Performance.

3.3.9.1 Consultant shall perform and complete all Services under this Agreement within the term set forth in Section 3.1.2 above ("Performance Time"). Consultant shall also perform the Services in strict accordance with any completion schedule or Project milestones described in Exhibits "A" or "B" attached hereto, or which may be separately agreed upon in writing by the Agency and Consultant ("Performance Milestones"). Consultant agrees that if the Services are not completed within the aforementioned Performance Time and/or pursuant to any such Performance Milestones developed pursuant to provisions of this Agreement, it is understood, acknowledged and agreed that the Agency will suffer damage.

3.3.9.2 Neither Agency nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing Party. For purposes of this Agreement, such circumstances include a Force Majeure Event. A Force Majeure Event shall mean an event that materially affects a Party's performance and is one or more of the following: (1) Acts of God or other natural disasters; (2) terrorism or other acts of a public enemy; (3) orders of governmental authorities (including, without limitation, unreasonable and unforeseeable delay in the issuance of permits or approvals by governmental authorities that are required for the services); (4) strikes and other organized labor action occurring at the site and the effects thereof on the services, only to the extent such strikes and other organized labor action are beyond the control of Consultant and its subcontractors, and to the extent the effects thereof cannot be avoided by use of replacement workers; and (5) pandemics, epidemics or quarantine restrictions. For purposes of this section, "orders of governmental authorities," includes ordinances, emergency proclamations and orders, rules to protect the public health, welfare and safety, and other actions of a public agency applicable to the services and Agreement.

3.3.9.3 Should a Force Majeure Event occur, the non-performing Party shall, within a reasonable time of being prevented from performing, give written notice to the other Party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement. Force Majeure Events and/or delays, regardless of the Party responsible for the delay, shall not entitle Consultant to any additional compensation. Notwithstanding the foregoing in this section, the Agency may still terminate this Agreement in accordance with the termination provisions of this Agreement.

3.3.10 Laws and Regulations; Employee/Labor Certification.

3.3.10.1 Compliance with Laws. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with the Services and this Agreement. All violations of such laws and regulations shall be grounds for the Agency to terminate the Agreement for cause.

3.3.10.2 Employment Eligibility; Consultant. Consultant certifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time and shall require all subconsultants and sub-subconsultants to comply with the same. Consultant certifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Agreement, and shall not violate any such law at any time during the term of the Agreement.

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

3.3.10.4 Air Quality. To the extent applicable, Consultant must fully comply with all applicable laws, rules and regulations in furnishing or using equipment and/or providing services, including, but not limited to, emissions limits and permitting requirements imposed by the South Coast Air Quality Management District (SCAQMD) and/or California Air Resources Board (CARB). Consultant shall indemnify Agency against any fines or penalties imposed by SCAQMD, CARB, or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Consultant, its subconsultants, or others for whom Consultant is responsible under its indemnity obligations provided for in this Agreement.

3.3.10.5 Water Quality Management and Compliance. Consultant shall keep itself and all subcontractors, staff, and employees fully informed of and in compliance with all local, state and federal laws, rules and regulations that may impact, or be implicated by the performance of the Services including, without limitation, all applicable provisions of the Agency's ordinances regulating water quality and storm water; the Federal Water Pollution Control Act (33 U.S.C. § 1251, *et seq.*); the California Porter-Cologne Water Quality Control Act (Water Code § 13000 *et seq.*); and any and all regulations, policies, or permits issued pursuant to any such authority. Consultant must additionally comply with the lawful requirements of the Agency, and any other municipality, drainage district, or other local agency with jurisdiction over the location where the Services are to be conducted, regulating water quality and storm water discharges. Agency may seek damages from Consultant for delay in completing the Services caused by Consultant's failure to comply with the laws, regulations and policies described in this Section, or any other relevant water quality law, regulation, or policy.

3.3.10.6 Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed.

3.3.11 Insurance. *****AGENCY RISK MANAGER TO REVIEW PRIOR TO EACH USE*****

3.3.11.1 Time for Compliance. Consultant shall not commence work under this Agreement until it has provided evidence satisfactory to the Agency that it has secured all insurance required under this section. In addition, Consultant shall not allow any subconsultant to commence work on any subcontract until it has provided evidence satisfactory to the Agency that the subconsultant has secured all insurance required under this section. Failure to provide and maintain all required insurance shall be grounds for the Agency to terminate this Agreement for cause.

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

(A) Commercial General Liability: Commercial General Liability Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01, or the exact equivalent, with limits of not less than \$1,000,000 per occurrence and no less than \$2,000,000 in the general aggregate. Defense costs shall be paid in addition to the limits. The policy shall contain no endorsements or provisions (1) limiting coverage for contractual liability; (2) excluding coverage for claims or suits by one insured against another (cross-liability); (3) products/completed operations liability; or (4) containing any other exclusion(s) contrary to the terms or purposes of this Agreement.

(B) Automobile Liability Insurance: Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 00 01 covering "Any Auto" (Symbol 1), or the exact equivalent, covering bodily injury and property damage for all activities with limits of not less than \$1,000,000 combined limit for each occurrence.

(C) Workers' Compensation: Workers' Compensation Insurance, as required by the State of California and Employer's Liability Insurance with a limit of not less than \$1,000,000 per accident for bodily injury and disease.

(D) Professional Liability (Errors & Omissions): Professional Liability insurance or Errors & Omissions insurance appropriate to Consultant's profession with limits of not less than \$1,000,000. Covered professional services shall specifically include all work to be performed under the Agreement and delete any exclusions that may potentially affect the work to be performed (for example, any exclusions relating to lead, asbestos, pollution, testing, underground storage tanks, laboratory analysis, soil work, etc.). If coverage is written on a claims-made basis, the retroactive date shall precede the effective date of the initial Agreement

and continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least five (5) years from termination or expiration of this Agreement.

3.3.11.3 Insurance Endorsements. Required insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms approved by the Agency to add the following provisions to the insurance policies:

(A) Commercial General Liability: (1) Additional Insured: The Agency, its officials, officers, employees, agents, and volunteers shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of the Agreement. Additional Insured Endorsements shall not (1) be restricted to "ongoing operations"; (2) exclude "contractual liability"; (3) restrict coverage to "sole" liability of Consultant; or (4) contain any other exclusions contrary to the terms or purposes of this Agreement. For all policies of Commercial General Liability insurance, Consultant shall provide endorsements in the form of ISO CG 20 10 10 01 and 20 37 10 01 (or endorsements providing the exact same coverage) to effectuate this requirement. (2) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the Agency except ten (10) days shall be allowed for non-payment of premium.

(B) Automobile Liability. (1) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the Agency except ten (10) days shall be allowed for non-payment of premium.

(C) Professional Liability (Errors & Omissions): (1) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the Agency except ten (10) days shall be allowed for non-payment of premium. (2) Contractual Liability Exclusion Deleted: This insurance shall include contractual liability applicable to this Agreement. The policy must "pay on behalf of" the insured and include a provision establishing the insurer's duty to defend.

(D) Workers' Compensation: (1) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the Agency except ten (10) days shall be allowed for non-payment of premium. (2) Waiver of Subrogation: A waiver of subrogation stating that the insurer waives all rights of subrogation against the Agency, its officials, officers, employees, agents, and volunteers.

3.3.11.4 Primary and Non-Contributing Insurance. All policies of Commercial General Liability and Automobile Liability insurance shall be primary and any other insurance, deductible, or self-insurance maintained by the Agency, its officials, officers, employees, agents, or volunteers shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

3.3.11.5 Waiver of Subrogation. All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to waiver of subrogation in favor of the Agency, its officials, officers, employees, agents, and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery

against Agency, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

3.3.11.6 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be approved in writing by the Agency and shall protect the Agency, its officials, officers, employees, agents, and volunteers in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

3.3.11.7 Evidence of Insurance. The Consultant, concurrently with the execution of the Agreement, and as a condition precedent to the effectiveness thereof, shall deliver either certified copies of the required policies, or original certificates on forms approved by the Agency, together with all endorsements affecting each policy. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the Agency for approval. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15 days) prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the Agency. If such coverage is cancelled or reduced and not replaced immediately so as to avoid a lapse in the required coverage, Consultant shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the Agency evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies.

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

3.3.11.9 Enforcement of Agreement Provisions (non estoppel). Consultant acknowledges and agrees that actual or alleged failure on the part of the Agency to inform Consultant of non-compliance with any requirement imposes no additional obligation on the Agency nor does it waive any rights hereunder.

3.3.11.10 Requirements Not Limiting. Requirement of specific coverage or minimum limits contained in this Section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance.

3.3.11.11 Additional Insurance Provisions

(A) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the Agency, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(B) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, Agency has the right but not the duty to obtain the insurance it deems necessary

and any premium paid by Agency will be promptly reimbursed by Consultant or Agency will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, Agency may cancel this Agreement.

(C) The Agency may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(D) Neither the Agency nor any of its officials, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of this Agreement.

(E) The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it limit the Consultant's indemnification obligations to the Agency and shall not preclude the Agency from taking such other actions available to the Agency under other provisions of the Agreement or law.

(F) Consultant shall report to the Agency, in addition to Consultant's insurer, any and all insurance claims submitted by Consultant in connection with the Services under this Agreement.

3.3.11.12 Insurance for Subconsultants. Consultant shall include all subconsultants engaged in any work for Consultant relating to this Agreement as additional insureds under the Consultant's policies, or the Consultant shall be responsible for causing subconsultants to purchase the appropriate insurance in compliance with the terms of these Insurance Requirements, including adding the Agency, its officials, officers, employees, agents, and volunteers as additional insureds to the subconsultant's policies. All policies of Commercial General Liability insurance provided by Consultant's subconsultants performing work relating to this Agreement shall be endorsed to name the Agency, its officials, officers, employees, agents and volunteers as additional insureds using endorsement form ISO CG 20 38 04 13 or an endorsement providing equivalent coverage. Consultant shall not allow any subconsultant to commence work on any subcontract relating to this Agreement until it has received satisfactory evidence of subconsultant's compliance with all insurance requirements under this Agreement, to the extent applicable. The Consultant shall provide satisfactory evidence of compliance with this section upon request of the Agency.

3.4 Labor Code Requirements.

3.4.1 Prevailing Wages. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. Agency shall provide Consultant with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. 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 available to interested parties upon request, and shall post copies at the Consultant's principal

place of business and at the project site. It is the intent of the parties to effectuate the requirements of sections 1771, 1774, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code within this Agreement, and Consultant shall therefore comply with such Labor Code sections to the fullest extent required by law. Consultant shall defend, indemnify and hold the Agency, its officials, officers, employees, agents, and volunteers free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

3.4.2 Registration/DIR Compliance. If the Services are being performed on a public works project of over \$25,000 when the project is for construction, alteration, demolition, installation, or repair work, or a public works project of over \$15,000 when the project is for maintenance work, in addition to the foregoing, then pursuant to Labor Code sections 1725.5 and 1771.1, the Consultant and all subconsultants must be registered with the Department of Industrial Relations ("DIR"). Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants.

3.4.3 Compliance Monitoring. This Project may also be subject to compliance monitoring and enforcement by the DIR. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements, including the submission of payroll records directly to the DIR. Any stop orders issued by the DIR against Consultant or any subconsultant that affect Consultant's performance of services, including any delay, shall be Consultant's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the Agency. Consultant shall defend, indemnify and hold the Agency, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the DIR against Consultant or any subconsultant.

3.4.4 Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.5 Termination of Agreement.

3.5.1.1 Grounds for Termination. Agency may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those Services which have been adequately rendered to Agency, and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause. The rights and remedies of the Agency provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law, equity or under this Agreement.

3.5.1.2 Effect of Termination. If this Agreement is terminated as provided herein, Agency may require Consultant to provide all finished or unfinished Documents and Data and other information of any kind prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such document and other information within fifteen (15) days of the request.

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

3.6 Indemnification.

3.6.1 To the fullest extent permitted by law, Consultant shall defend (with counsel of Agency's choosing), indemnify and hold the Agency, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's Services, the Project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses except such loss or damage caused by the sole negligence or willful misconduct of the Agency. Consultant's obligation to indemnify shall survive expiration or termination of this Agreement and shall not be restricted to insurance proceeds, if any, received by Consultant, the Agency, its officials, officers, employees, agents, or volunteers.

3.6.2 If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance as a "design professional" (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

3.7 General Provisions.

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

3.7.2 Independent Contractors and Subcontracting.

3.7.2.1 Use of Consultants. Consultant is aware of statutory and case law regarding classification of workers as independent contractors, including California Labor Code Section 2750.3 and Dynamex Operations West, Inc. v. Superior Court, 4 Cal. 5th 903 (2018). To ensure that Consultant is in compliance with the California Labor Code, Consultant shall only utilize its employees to provide the Services. Consultant may not provide the services through any independent contractor, subcontractor or subconsultant ("Subcontractor(s)") unless approved by the Agency as set forth in Section 3.7.2.2 below. Consultant represents and warrants that all personnel who perform the Services on Consultant's behalf are Consultant's employees, and that Consultant complies with all applicable laws, rules and regulations governing its

employees, including, but not limited to, the California Labor Code, Unemployment Insurance Code and all applicable Industrial Welfare Commission Wage Orders.

3.7.2.2 Prior Approval Required. Consultant shall not use any Subcontractor to provide the Services, or any portion of the work required by this Agreement, without prior written approval of Agency. In the event that Agency authorizes Consultant to use a Subcontractor, Consultant shall enter into a written agreement with the Subcontractor, which must include all provisions of the Agreement, including a restriction on the Subcontractor's use of further independent contractors, subcontractors or subconsultants without the Agency's prior written consent.

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

Consultant: [***INSERT BUSINESS NAME***]
[***INSERT STREET ADDRESS***]
[***INSERT CITY, STATE ZIP***]
ATTN: [***INSERT NAME AND TITLE***]

Agency: San Gorgonio Pass Water Agency
1210 Beaumont Avenue
Beaumont, CA 92223
ATTN: [***INSERT NAME AND TITLE***]

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

3.7.4 Ownership of Materials and Confidentiality.

3.7.4.1 Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for Agency to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data"). All Documents & Data shall be and remain the property of Agency, and shall not be used in whole or in substantial part by Consultant on other projects without the Agency's express written permission. Within thirty (30) days following the completion, suspension, abandonment or termination of this Agreement, Consultant shall provide to Agency reproducible copies of all Documents & Data, in a form and amount required by Agency. Agency reserves the right to select the method of document reproduction and to establish where the reproduction will be accomplished. The reproduction expense shall be borne by Agency at the actual cost of duplication. In the event of a dispute regarding the amount of compensation to which the Consultant is entitled under the termination provisions of this Agreement, Consultant shall provide all Documents & Data to Agency upon payment of the undisputed amount. Consultant shall have no right to retain or fail to provide to Agency any such documents pending resolution of the dispute. In addition, Consultant shall retain

copies of all Documents & Data on file for a minimum of fifteen (15) years following completion of the Project, and shall make copies available to Agency upon the payment of actual reasonable duplication costs. Before destroying the Documents & Data following this retention period, Consultant shall make a reasonable effort to notify Agency and provide Agency with the opportunity to obtain the documents.

3.7.4.2 Subconsultants. Consultant shall require all subconsultants to agree in writing that Agency is granted a non-exclusive and perpetual license for any Documents & Data the subconsultant prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or its subconsultants, or those provided to Consultant by the Agency.

3.7.4.3 Right to Use. Agency shall not be limited in any way in its use or reuse of the Documents and Data or any part of them at any time for purposes of this Project or another project, provided that any such use not within the purposes intended by this Agreement or on a project other than this Project without employing the services of Consultant shall be at Agency's sole risk. If Agency uses or reuses the Documents & Data on any project other than this Project, it shall remove the Consultant's seal from the Documents & Data and indemnify and hold harmless Consultant and its officers, directors, agents and employees from claims arising out of the negligent use or re-use of the Documents & Data on such other project. Consultant shall be responsible and liable for its Documents & Data, pursuant to the terms of this Agreement, only with respect to the condition of the Documents & Data at the time they are provided to the Agency upon completion, suspension, abandonment or termination. Consultant shall not be responsible or liable for any revisions to the Documents & Data made by any party other than Consultant, a party for whom the Consultant is legally responsible or liable, or anyone approved by the Consultant.

3.7.4.4 Indemnification. Consultant shall defend, indemnify and hold the Agency, its directors, officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, for any alleged infringement of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person or entity in consequence of the use on the Project by Agency of the Documents & Data, including any method, process, product, or concept specified or depicted.

3.7.4.5 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents & Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of Agency, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use Agency's name or insignia, photographs of the Project, or any agency pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of Agency.

3.7.4.6 Confidential Information. The Agency shall refrain from releasing Consultant's proprietary information ("Proprietary Information") unless the Agency's legal counsel determines that the release of the Proprietary Information is required by the California Public Records Act or other applicable state or federal law, or order of a court of competent jurisdiction, in which case the Agency shall notify Consultant of its intention to release Proprietary Information. Consultant shall have five (5) working days after receipt of the release notice to give Agency written notice of Consultant's objection to the Agency's release of Proprietary Information. Consultant shall indemnify, defend and hold harmless the Agency, and its officers, directors, employees, and agents from and against all liability, loss, cost or expense (including attorney's fees) arising out of a legal action brought to compel the release of Proprietary Information. Agency shall not release the Proprietary Information after receipt of an objection notice unless either: (1) Consultant fails to fully indemnify, defend (with Agency's choice of legal counsel), and hold Agency harmless from any legal action brought to compel such release; and/or (2) a final and non-appealable order by a court of competent jurisdiction requires that Agency release such information.

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

3.7.6 Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements.

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

3.7.8 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County. In addition to any and all contract requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, claims and/or changed conditions, Consultant must comply with the claim procedures set forth in Government Code sections 900 et seq. prior to filing any lawsuit against the Agency. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Consultant. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Consultant shall be barred from bringing and maintaining a valid lawsuit against the Agency.

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

3.7.10 Agency's Right to Employ Other Consultants. Agency reserves right to employ other consultants in connection with this Project.

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

3.7.12 Assignment or Transfer. Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the Agency, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Consultant shall not subcontract any portion of the Services required by this Agreement, except as expressly stated herein, without prior written approval of Agency. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

3.7.13 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all personnel, employees, agents, and subconsultants of Consultant, except as otherwise specified in this Agreement. All references to Agency include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

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

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

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

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

3.7.18 Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Consultant further agrees to file, or shall cause its employees or subconsultants to file, a Statement of Economic Interest with the Agency's Filing Officer as required under state law in the performance of the Services. For breach or violation of this warranty, Agency shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of Agency, during the term of his or her service with Agency, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.7.19 Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and

authority to make this Agreement and bind each respective Party.

3.7.20 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.7.21 Survival. All rights and obligations hereunder that by their nature are to continue after any expiration or termination of this Agreement, including, but not limited to, the indemnification obligations, shall survive any such expiration or termination.

3.7.22 Order of Precedence. The following order and succession of the referenced documents shall govern in the event of conflict between documents:

- 3.7.22.1 Amendment(s)
- 3.7.22.2 This Agreement
- 3.7.22.3 Task Orders

[SIGNATURES ON NEXT PAGE]

**SIGNATURE PAGE TO PROFESSIONAL SERVICES AGREEMENT FOR ON-CALL
SERVICES BETWEEN THE
SAN GORGONIO PASS WATER AGENCY
AND**

*****INSERT NAME*****

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed on the day and year first above written.

SAN GORGONIO PASS WATER AGENCY

[INSERT NAME OF CONSULTANT]

Approved By:

**[If Corporation, TWO SIGNATURES,
President OR Vice President AND Secretary
OR Treasurer REQUIRED]**

[INSERT NAME]
[INSERT TITLE]

By: _____

Its: _____

Printed Name: _____

By: _____

Its: _____

Printed Name: _____

**EXHIBIT "A"
SCOPE OF SERVICES**

*****INSERT SCOPE*****

EXHIBIT "B"
SAMPLE TASK ORDER FORM

Task Order No. [REDACTED]

Agreement: [INSERT TITLE OF AGREEMENT]

Consultant: [INSERT NAME OF CONSULTANT]

The Consultant is hereby authorized to perform the following services subject to the provisions of the Agreement identified above:

List any attachments: (Please provide if any.)

Dollar Amount of Task Order: Not to exceed \$ [REDACTED], [REDACTED].00

Completion Date: [REDACTED]

The undersigned Consultant hereby agrees that it will provide all equipment, furnish all materials, except as may be otherwise noted above, and perform all services for the work above specified in accordance with the Agreement identified above and will accept as full payment therefore the amount shown above.

SAN GORGONIO PASS WATER AGENCY [INSERT NAME OF CONSULTANT]

Dated: _____

Dated: _____

By: _____

By: _____

**EXHIBIT "C"
COMPENSATION**

*****INSERT RATES & AUTHORIZED REIMBURSABLE EXPENSES***]**