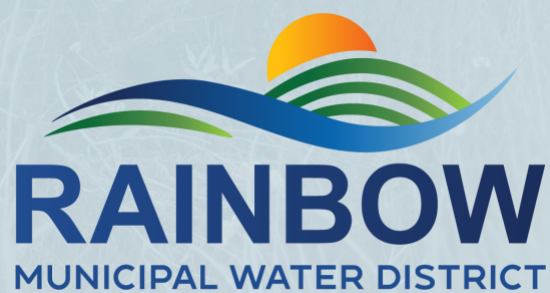


Request for Proposal

Independent Auditing Services 2026-2030



RESPONSES REQUESTED
BY 4:00 PM
APRIL 14, 2026

RAINBOWMWD.CA.GOV

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INDEPENDENT AUDITING SERVICES

Request for Proposals

Rainbow Municipal Water District (the “District”) is soliciting proposals from qualified certified public accounting firms to provide independent auditing services for a five-year term beginning with the fiscal year ending June 30, 2026.

Background and District Overview

Rainbow Municipal Water District is a municipal water district organized under the Municipal Water District Act of 1911 and located in northern San Diego County, California. The District provides water distribution and wastewater collection services to the communities of Rainbow, Bonsall, Pala Mesa, and portions of Fallbrook and Vista.

The District’s service area covers approximately 82 square miles and serves approximately 23,000 residents. Water supplies are primarily purchased from the San Diego County Water Authority and delivered through the District’s distribution system to residential, agricultural, commercial, and institutional customers.

The District is governed by a five-member elected Board of Directors. Day-to-day operations are managed by the General Manager and supported by approximately 58 full-time employees across operations, engineering, customer service, and administration.

The District’s annual operating budget is approximately \$50 million, with additional capital improvement project expenditures varying by fiscal year.

The District currently serves approximately 9,200 customer accounts, including residential, agricultural irrigation, commercial, and institutional customers. The District operates and maintains an extensive water distribution and wastewater collection infrastructure system, including pipelines, pumping facilities, storage reservoirs, and related facilities.

District Financial Information

The following information is provided to assist proposers in preparing their proposals and understanding the context of the scope of work associated with this engagement.

Fiscal Year

The District’s fiscal year runs from July 1 through June 30.

Financial Reporting

The District prepares an Annual Comprehensive Financial Report (ACFR) in accordance with Generally Accepted Accounting Principles (GAAP) and Governmental Accounting Standards Board (GASB) pronouncements.



Fund Structure

The District operates primarily as **an enterprise fund**, providing water distribution and wastewater collection services. The District maintains multiple funds to support its operations and capital improvement programs, including water and wastewater enterprise funds and capital project funds.

Financial Systems

The District maintains its accounting records using a computerized financial management system. Supporting schedules and documentation required for the audit are prepared by District staff. ***A new ERP system implementation is anticipated during the term of the services sought.***

Federal Financial Assistance

The District does not typically expend federal funds above the threshold requiring a Single Audit. If federal expenditures exceed applicable thresholds during the audit period, the District may request additional audit services in accordance with federal requirements.

Prior Audit Results

The District has consistently received unmodified (“clean”) audit opinions on its financial statements and has been recognized by the Government Finance Officers Association (GFOA) for excellence in financial reporting.

Board Presentation

The selected auditor will be expected to present the final audit results to the District’s Board of Directors at a regularly scheduled Board meeting following completion of the audit.



PROJECT OBJECTIVES AND SCOPE OF SERVICES

The objective of this engagement is to obtain independent auditing services from a qualified certified public accounting firm to perform annual financial statement audits for the Rainbow Municipal Water District for fiscal years ending June 30, 2026, through June 30, 2030. The selected auditor will provide an independent opinion on the fair presentation of the District's financial statements and evaluate the District's internal control environment and compliance with applicable laws, regulations, and policies. The District prepares its financial statements in accordance with Generally Accepted Accounting Principles (GAAP) applicable to governmental entities and follows the pronouncements of the Governmental Accounting Standards Board (GASB). The District operates primarily as an enterprise fund and prepares an Annual Comprehensive Financial Report (ACFR) each year.

The selected firm shall perform the services described below.

1. Financial Statement Audit.

The auditor shall conduct an annual audit of the District's financial statements and express an opinion as to whether the financial statements are fairly presented in accordance with GAAP and applicable GASB standards.

The audit shall be conducted in accordance with:

- Generally Accepted Auditing Standards (GAAS)
- Government Auditing Standards issued by the Comptroller General of the United States
- Generally Accepted Accounting Principles (GAAP) for governmental entities
- Applicable Governmental Accounting Standards Board (GASB) pronouncements
- California State Controller reporting requirements for special districts

The audit shall include examination of the following components of the District's financial statements:

- Statement of Net Position
- Statement of Revenues, Expenses, and Changes in Net Position
- Statement of Cash Flows
- Notes to the Financial Statements
- Required Supplementary Information

2. Annual Comprehensive Financial Report

The auditor shall review the District's Annual Comprehensive Financial Report (ACFR) and perform the procedures necessary to issue an audit opinion on the financial statements contained within the report. The auditor shall coordinate with District staff on required disclosures, the implementation of accounting standards, and the presentation of financial information.

The District annually submits its ACFR to the Government Finance Officers Association (GFOA) for consideration under the Certificate of Achievement for Excellence in Financial Reporting Program. The auditor shall provide assistance and recommendations necessary to ensure the report continues to meet the program's requirements.



3. Annual Report of Financial Transactions of Special Districts

The auditor shall prepare and submit the Annual Report of Financial Transactions of Special Districts to the California State Controller's Office, pursuant to Government Code Section 26909. The report shall be completed within the required statutory deadlines and submitted to the District for review prior to transmittal.

4. Internal Control Evaluation

As part of the audit process, the auditor shall obtain an understanding of the District's internal control structure and evaluate the design and effectiveness of key internal controls related to financial reporting. The auditor shall identify any material weaknesses, significant deficiencies, or opportunities for improvement.

5. Management Letter

The auditor shall prepare a separate management letter summarizing observations and recommendations related to:

- Internal control structure
- Accounting policies and procedures
- Financial reporting processes
- Compliance with District policies
- Opportunities for operational improvements

The management letter shall be presented to District management and discussed during the exit conference.

6. Compliance Review

The audit shall include a review of compliance with relevant laws, regulations, and District policies that may have a material effect on the financial statements. This may include review of compliance with the District's investment policy and other financial management policies.

The District does not currently anticipate requiring a Single Audit under federal requirements; however, the auditor should identify if federal funding thresholds are exceeded during the audit period.

7. Audit Conferences

The selected auditor shall conduct the following meetings with District staff:

- Pre-Audit Conference
Prior to the start of fieldwork, the auditor shall meet with District staff to discuss the audit plan, timing of fieldwork, required schedules, and responsibilities of both parties.
- Exit Conference
Upon completion of fieldwork, the auditor shall conduct an exit conference with District management to review audit findings, internal control observations, and any recommendations.



8. Board of Directors Presentation

The auditor shall present a summary of the final audit report to the District's Board of Directors at a regularly scheduled Board meeting. The presentation shall include a discussion of the audit opinion, financial results, internal control observations, and any significant accounting issues identified during the audit.

9. Deliverables

At the conclusion of each annual audit, the auditor shall provide the following deliverables to the District:

- Independent Auditor's Report
- Final audited financial statements
- Management letter
- Required communications with those charged with governance
- Electronic copies of all reports and supporting documents

The auditor shall coordinate closely with District staff to ensure the audit is completed within the required reporting deadlines and presented to the Board of Directors in a timely manner.



ANTICIPATED WORK PLAN AND TARGET TIMELINE

The District anticipates that the selected auditor will follow a structured work plan that allows for the timely completion of the annual audit while minimizing disruption to District operations. The following timeline represents the District's preferred schedule for the audit engagement for each fiscal year.

Engagement Execution

Upon selection and approval by the District, the audit engagement will be formally executed. During this phase, the auditor will coordinate with District management to finalize the engagement letter, confirm the audit approach, establish communication protocols, and identify schedules and documentation required from District staff.

Target Timeline: May 2026

Interim Fieldwork

The auditor may conduct interim fieldwork prior to the fiscal year end. Interim procedures typically include reviewing internal controls, performing preliminary analytical procedures, and testing selected transactions. Conducting interim work improves the efficiency of the year-end audit and allows early identification of potential issues.

Target Timeline: May to June of each year

Year-End Fieldwork

Year-end audit fieldwork will occur after the close of the fiscal year and completion of the District's preliminary financial close. During this phase, the auditor will test account balances, review financial statement disclosures, evaluate internal controls, and verify supporting documentation for financial statement amounts.

Target Timeline: September of each year

Draft ACFR Review

Following completion of fieldwork, the auditor will review the draft Annual Comprehensive Financial Report (ACFR) prepared by District staff and provide the Independent Auditor's Report. District management and the auditor will coordinate to address any review comments, finalize disclosures, and prepare the final report.

Target Timeline: October of each year

Board Presentation

The auditor shall present the results of the annual audit to the District's Board of Directors at a regularly scheduled meeting. The presentation will summarize the audit opinion, financial results, internal control observations, and any recommendations for improvements.

Target Timeline: November to December of each year



Summary of Target Schedule

Phase	Target Timeline
Engagement Execution	May 2026
Interim Fieldwork	May to June
Year-End Fieldwork	September
Draft ACFR Review	October
Board Presentation	November to December

The District expects the selected auditor to maintain regular communication with District staff throughout the engagement to ensure the audit is completed efficiently and in accordance with all applicable reporting deadlines.

AUDIT ASSISTANCE PROVIDED BY DISTRICT STAFF

District staff will assist the selected auditor to facilitate the efficient completion of the audit engagement. The District’s Finance Department will prepare schedules, reports, and supporting documentation commonly required for governmental audits.

The District will provide, at a minimum, the following information and assistance:

- Trial balances and general ledger reports
- Financial statement schedules and supporting documentation
- Bank reconciliations and investment schedules
- Accounts receivable and accounts payable schedules
- Capital asset listings and depreciation schedules
- Debt schedules and supporting documentation
- Pension and OPEB reporting schedules and actuarial reports
- Budget and financial variance reports
- Copies of Board resolutions, agreements, and other relevant documents

District staff will also make available personnel from the Finance Department and other departments, as necessary, to respond to audit inquiries and provide clarification regarding financial transactions or operational processes.

The District’s Finance Department operates with a **lean staffing structure**, consisting of **four accounting staff members** responsible for financial reporting, accounting operations, and support of other District financial functions. Due to the limited size of the accounting team, the District will rely on the selected auditor to perform the majority of the audit procedures independently and to provide clear guidance regarding required documentation and audit schedules.

Effective **coordination, planning, and scheduling** will be essential to ensure the audit is completed efficiently and within the established timeline. The District expects the selected auditor to provide a **Prepared by Client (PBC) request list** well in advance of fieldwork so that staff can prepare required documentation in a timely manner.



In addition, District staff currently operate under a **hybrid work schedule**, with some employees working remotely on designated days. The selected auditor should plan audit coordination and meetings accordingly and be prepared to conduct portions of the audit remotely using secure electronic document exchange and virtual meetings when appropriate.

The District will provide suitable workspace for audit staff during on-site fieldwork if required and will coordinate scheduling to ensure timely access to records and staff.



PROPOSAL REQUIREMENTS

The proposal should include the following sections for easy reference. At the consultant's discretion, additional sections deemed necessary for a complete proposal may be added.

Understanding of Project and the Project Delivery Timeline

The proposal shall include a detailed explanation of the audit engagement from the proposer's perspective. The proposer should not simply reiterate the contents of this Request for Proposals. The information should demonstrate the firm's understanding of governmental auditing standards, financial reporting requirements for special districts, and relevant industry practices.

If the proposer recommends an audit approach that differs from the anticipated work plan and project timeline outlined in this Request for Proposals, those recommendations should be presented within this section.

1. **Project Approach:** The proposal shall describe the management approach and logistics necessary to accomplish the work described in the Scope of Services. This section should include a description of the firm's audit methodology, planning procedures, and coordination with District staff.
2. **Detailed Scope of Work:** The proposal shall be responsive to the provided Scope of Services and contain sufficient detail to demonstrate that the work can be accomplished efficiently and in a timely manner.
 - a. Describe the work activities and audit procedures to be performed, including timelines, milestones, and key deliverables.
 - b. Provide a description of the information, schedules, and support expected from District staff during the audit process.
 - c. Identify the principal or engagement partner who will serve as the Project Manager and have direct and continuing responsibility for the engagement.
 - d. **Project Schedule:** The proposal shall include a schedule aligned with the Scope of Services and anticipated completion dates for each phase of the audit.

QUALIFICATIONS OF THE AUDITOR AND PROJECT TEAM

To be considered for this engagement, the proposing firm must meet the following minimum qualifications.

Firm Overview: Provide a description of the auditing firm, including organizational structure, location of principal offices, number of professional personnel, and other relevant information, including the following:

- **Licensing:** The proposer must be a firm of Certified Public Accountants licensed to practice in the State of California. The firm must also be authorized to perform governmental auditing services.



- **Government Auditing Standards:** The firm must have experience conducting audits in accordance with Government Auditing Standards (Yellow Book) issued by the Comptroller General of the United States.
- **Peer Review:** The firm must have undergone a peer review within the past three years as required by Government Auditing Standards. A copy of the most recent peer review report and letter of comments, if any, must be included with the proposal.
- **Independence:** The proposing firm must be independent of the District as defined by generally accepted auditing standards and Government Auditing Standards. The firm must disclose any potential conflicts of interest that may affect its independence.
- **Governmental Audit Experience:** The firm must demonstrate substantial experience auditing local government entities, including special districts, municipal utilities, or enterprise funds. Experience auditing water or wastewater utilities will be considered advantageous.

Professional Staff

The engagement partner and key personnel assigned to the audit must possess appropriate professional qualifications and experience in governmental accounting and auditing. The proposal shall include the identification and background of the project team members, including the following information:

- **Professional Qualifications of Project Team:** Provide a summary of each team member’s qualifications and certifications for the engagement. The project team shall include the engagement partner, audit manager, and other staff with significant involvement in the audit. For each team member, describe their level of responsibility, scope of work, and relevant experience with governmental audits.

Estimated Project Costs

The District requests that proposers provide a clear and transparent fee structure for the audit services described in this RFP. Proposals should include a total all-inclusive annual fee for each fiscal year of the engagement covering fiscal years ending June 30, 2026 through June 30, 2030. The proposed fee should include all direct and indirect costs associated with the engagement, including travel, administrative costs, and out-of-pocket expenses.

The fee proposal should include:

1. **Annual Financial Statement Audit**
 - Estimated personnel hours by staff classification
 - Hourly billing rates by staff level
 - Total annual audit fee
2. **Preparation of Annual Report of Financial Transactions**
 - Estimated cost associated with preparing and filing the report with the California State Controller’s Office.
3. **Management Letter and Internal Control Review**
 - Costs associated with internal control review and preparation of the management letter.



4. **Board Presentation**
 - Costs associated with preparing and presenting the audit results to the District’s Board of Directors.
5. **Optional Services (if applicable)**
 - Additional advisory services
 - Implementation guidance related to new GASB pronouncements
 - Other audit-related consulting services requested by the District.

The District encourages proposers to provide a multi-year pricing schedule showing the proposed fee for each fiscal year of the engagement.

List of Client References

Please provide a list of clients for whom your firm has performed similar governmental auditing services within the last five years. Include:

- **Client Names**
- **Project Descriptions**
- **Contact Information for References**

Proposal Formatting

Proposals shall be concise, well-organized, and free of errors. Proposals should clearly demonstrate the proposer’s qualifications and experience performing governmental audit services. Each proposal shall be signed by an individual authorized to execute the legal document on behalf of the proposing firm.

Pre-Submittal Activities

No pre-proposal meeting is planned for this Request for Proposals.

Questions concerning this RFP should be submitted in writing by email with the subject line **“Audit Services RFP”** to kshilkov@rainbowmwd.ca.gov:

RAINBOW MUNICIPAL WATER DISTRICT
ATTN: Konstantin Shilkov, CPA, Chief Financial Officer
3707 Old Highway 395
Fallbrook, CA 92028

Proposal Submission Requirements

Interested consultants should submit their proposals electronically by 4:00 PM on April 14, 2026, to kshilkov@rainbowmwd.ca.gov and cc JWiley@rainbowmwd.ca.gov. Proposals must be submitted in PDF format and include all sections this RFP outlines. It is recommended to call 760-505-0161 to confirm receipt of emailed proposals.



Evaluation Criteria

Proposals will be evaluated based on the following criteria:

- **Experience and qualifications in performing governmental audits**
- **Demonstrated expertise with enterprise fund accounting and GASB reporting**
- **Proposed methodology and audit approach**
- **Cost and fee structure**
- **References from prior clients**

The District anticipates selecting a firm based on the proposals received, but reserves the right to interview selected firms.

If necessary, the District will negotiate final terms with the selected firm. If the District cannot reach an agreement with the highest-ranked firm, negotiations may be terminated and initiated with the next-ranked firm.

After negotiating a fair and reasonable agreement, the General Manager may execute the contract, or if the contracted amount exceeds the District's approval authority, the General Manager will make a recommendation to the District's Board of Directors for final approval.



SPECIAL CONDITIONS

District Rights

This RFP does not commit the District to awarding a contract, defraying any costs incurred in preparing a proposal under this RFP, or procuring or contracting for work. All proposals submitted in response to this RFP become the property of the District, are public records, and may, as such, be subject to public review.

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

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

The District reserves the right to investigate the qualifications of any proposer, verify the information provided, and request additional evidence of qualifications to perform the work outlined in this RFP. At its sole discretion, the District may:

- Appoint a selection committee and evaluation teams, and consult external experts to review proposals.
- Approve or deny the use of specific subcontractors or changes in proposals.
- Revise evaluation criteria or methods before the proposal deadline and notify all registered proposers of any changes. If these changes are significant, the District may extend the deadline.
- Hold meetings or exchange correspondence with proposers to clarify or improve proposal evaluations. If individual meetings are held, all responsive proposers will have the same opportunity.
- Gather additional data from any source to improve the understanding and evaluation of proposals.
- Disqualify proposals that fail to meet RFP requirements, but may waive minor omissions or irregularities at its discretion.
- Reject proposals from teams that alter their submissions after the deadline without following proper procedures or obtaining written approval.
- Reject proposals.



ADDENDUM A: PROFESSIONAL SERVICES AGREEMENT

PROJECT: External Audit Services
Contract No. 25-01

THIS AGREEMENT (“Agreement”) is made and entered into this _____ day of Month, 2025 by and between the RAINBOW MUNICIPAL WATER DISTRICT, a municipal water district, hereinafter designated as "DISTRICT", and _____, a California corporation [or other type of organization], hereinafter designated as "CONSULTANT"

RECITALS

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

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. PROFESSIONAL SERVICES PROVIDED BY CONSULTANT.

- 1.1. The professional services to be performed by CONSULTANT shall include the following:_____
_____. The scope of services is particularly defined in Exhibit “A”, attached and made a part hereof. Any additional professional services will be requested in writing as outlined in Section 19.
- 1.2. In performing the services outlined in Exhibit “A”, CONSULTANT shall work closely with DISTRICT’S General Manager or Authorized Representative and staff in performing services under this Agreement to receive clarification as to the result that DISTRICT expects to be accomplished by CONSULTANT. The General Manager or Authorized Representative shall be DISTRICT’S authorized representative in interpreting and enforcing all services performed in connection with this Agreement.
- 1.3. CONSULTANT represents that its employees have the qualifications and skills necessary to perform the services under this Agreement in a competent, professional manner, without the advice or direction of DISTRICT. This means CONSULTANT can fulfill the requirements of this Agreement. Failure to perform all services required under this Agreement constitutes a material breach of the Agreement.

2. TERM AND TIMING REQUIREMENTS.



- 2.1. This Agreement will become effective on the date stated above. It will continue in effect until the earlier completion of services provided for in this Agreement or until terminated as provided under Section 14 of this Agreement.
- 2.2. CONSULTANT’S performance of services under this Agreement shall be per the schedule outlined below unless otherwise modified in writing as outlined in Section 19. Failure by CONSULTANT to strictly adhere to these timing requirements may result in termination of this Agreement by DISTRICT.

Task	Due Date
Notice to Proceed	TBD
Progress Report	TBD
Final Submittal	TBD

- 2.3. CONSULTANT shall submit all requests for extensions of time for performance in writing to the General Manager or Authorized Representative no later than two (2) business days after the commencement of the cause of any unforeseeable delay beyond CONSULTANT’S control and in all cases before the date on which performance is due if possible. The General Manager or Authorized Representative shall review all such requests and may grant reasonable time extensions for unforeseeable delays beyond the consultant's control.
- 2.4. For all periods not specifically set forth herein, CONSULTANT shall respond in the most expedient and appropriate manner under the circumstances by telephone, hand delivery, e-mail, or mail.

3. STUDY CRITERIA AND STANDARDS. All services shall be performed in accordance with applicable DISTRICT, county, state, and federal Codes and criteria. In the performance of its professional services, CONSULTANT shall use the degree of care and skill ordinarily exercised by CONSULTANTs performing the same or similar work under similar conditions.

4. INDEPENDENT CONTRACTOR.

- 4.1. CONSULTANT'S relationship to DISTRICT shall be that of an independent contractor in performing all services hereunder. DISTRICT will not exercise any control or direction over the methods by which CONSULTANT shall perform its services and functions. DISTRICT’S sole interest and responsibility is to ensure that the services covered in this Agreement are performed competently, satisfactorily, and legally. The parties agree that no services, act, commission, or omission of CONSULTANT or its employee(s) under this Agreement shall be construed to make CONSULTANT or its employee(s) the agent, employee, or servant of DISTRICT. CONSULTANT and its employee(s) are not entitled to receive from DISTRICT vacation pay, sick leave, retirement benefits, Social Security, workers’ compensation, disability, unemployment, or any other employee benefit.
- 4.2. CONSULTANT shall be solely responsible for paying all federal and state employment and income taxes, carrying workers’ compensation insurance, and otherwise complying with all other employment requirements concerning CONSULTANT or its employee(s). CONSULTANT agrees to indemnify, defend, and hold DISTRICT harmless from any and all liability, damages, or



losses (including attorney's fees, costs, penalties, and fines) DISTRICT suffers as a result of CONSULTANT'S failure to comply with the foregoing.

- 4.3. CONSULTANT shall be solely responsible for the performance of any of its employees, agents, or subcontractors under this Agreement. CONSULTANT represents and warrants that CONSULTANT customarily engages in the independently established trade and business of the same nature as the work to be performed under this Agreement.
- 4.4. CONSULTANT shall have no authority, express or implied, to act on behalf of, as an agent, or bind DISTRICT to any obligation unless specifically authorized in writing by the General Manager or Authorized Representative. If CONSULTANT'S services relate to an existing or future DISTRICT construction contract, CONSULTANT shall not communicate directly with, nor in any way direct the actions of, any bidder for that construction contract without the prior written authorization by the General Manager or Authorized Representative.

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

6. INDEMNIFICATION, HOLD HARMLESS AND DEFENSE.

- 6.1. All officers, agents, employees and subcontractors, and their agents, who are employed by CONSULTANT to perform services under this Agreement, shall be deemed officers, agents, and employees of CONSULTANT. To the extent and in any manner permitted by law, CONSULTANT shall defend, indemnify, and hold DISTRICT, its directors, officers, employees, authorized volunteers, and agents, and each of them free and harmless from any claims, demands, liability from loss, damage, or injury to property or persons, including wrongful death, that arise out of, pertaining to, or relate to the negligence, recklessness or willful misconduct of CONSULTANT, including CONSULTANT'S officers, employees and agents, in connection with the services required by this Agreement, including without limitation, the payment of reasonable attorneys' fees and costs. In no event shall the cost to defend charged to the CONSULTANT exceed the CONSULTANT'S proportionate percentage of fault, as determined by a court of law. The foregoing indemnity, hold harmless, and defense obligation of CONSULTANT shall apply except to the extent the sole negligence or willful misconduct of an indemnified party causes the loss, damage, or injury.
- 6.2. To the extent and in any matter permitted by law, CONSULTANT shall defend, indemnify, and hold DISTRICT, its directors, officers, employees, authorized volunteers, and agents, and each of them free and harmless from and against any and all actions, proceedings, damages, costs, expenses, penalties or liabilities, in law or equity, of every kind or nature whatsoever, arising out of, related to or incident to a breach of any governmental law or regulations, compliance with which is the responsibility of CONSULTANT, except any violation of law due to the DISTRICT'S negligence or willful misconduct.
- 6.3. CONSULTANT shall defend, at CONSULTANT'S own cost, expense, and risk, any and all such aforesaid claims, suits, actions, or other legal proceedings of every kind that may be brought or instituted against DISTRICT or DISTRICT'S directors, officers, employees, authorized volunteers and agents, and each of them. DISTRICT shall be consulted regarding and approve of the selection of defense counsel.



- 6.4. CONSULTANT shall pay and satisfy any judgment, award, or decree that may be rendered against DISTRICT or its directors, officers, employees, authorized volunteers, and agents, and each of them, in any and all such aforesaid claims, suits, action, or other legal proceeding. CONSULTANT shall not agree, without DISTRICT'S prior written consent, to any settlement which would require DISTRICT to pay any money or perform some affirmative act, including in the case of intellectual property infringement any payment of money or performance of some affirmative act to continue using CONSULTANT Products.
- 6.5. CONSULTANT'S indemnification, hold harmless, and defense obligation shall survive the termination or expiration of this Agreement.

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

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

9. INSURANCE.

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

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

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



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

- 9.1.2.1. Professional Errors and Omissions Liability - One million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) annual aggregate.
- 9.1.2.2. Professional Errors and Omissions Liability is required if the CONSULTANT provides or engages in any type of professional services, including, but not limited to, engineers, architects, and construction management.
- 9.1.2.3. General Liability - One million dollars (\$1,000,000) per occurrence for bodily injury, personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit or products-completed operations aggregate limit is used, either the general aggregate limit shall apply separately to the project/location (with the ISO CG 2503 or ISO CG 2504, or the insurer's equivalent endorsement provided to DISTRICT) or the general aggregate limit and products-completed operations aggregate limit shall be twice the required occurrence limit.
- 9.1.2.4. Automobile Liability - One million dollars (\$1,000,000) for bodily injury and property damage each accident limit.
- 9.1.2.5. Workers' Compensation insurance with statutory limits as required by California law and Employer's Liability insurance with a limit of no less than One Million Dollars (\$1,000,000) per accident for bodily injury or disease.

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

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

9.3. **PROFESSIONAL WARRANTY.**

- 9.3.1. CONSULTANT represents and warrants that: (a) the Professional Services will be performed in a professional and workmanlike manner with a degree of care, skill and



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

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

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

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

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

9.7. **EVIDENCE OF INSURANCE.**

9.7.1. Before executing this Agreement, CONSULTANT shall furnish DISTRICT with original certificates and amendatory endorsements or copies of the applicable insurance language, effecting coverage required by this Agreement. All certificates and endorsements are to be received and approved by DISTRICT before services commence. However, failure to obtain the required documents before the services begin shall not waive the CONSULTANT’S obligation to provide them.

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

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

10. **NO CONFLICT OF INTEREST.** If CONSULTANT is providing services related to a DISTRICT project, CONSULTANT shall not be financially interested in any other contract necessary for undertaking the



project. For the limited purposes of interpreting this section, CONSULTANT shall be deemed a "district officer or employee", and this section shall be interpreted by California Government Code Section 1090. In the event that CONSULTANT becomes financially interested in any other contract necessary for the undertaking of the project, this Agreement shall be null and void, and DISTRICT shall be relieved of any responsibility whatsoever to provide compensation under the terms and conditions of any such contract for those services performed by CONSULTANT.

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

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

13. COMPENSATION.

13.1. For services performed by CONSULTANT under this Agreement, DISTRICT shall pay CONSULTANT per the schedule of billing rates outlined in Exhibit "A", attached hereto and incorporated herein by reference. CONSULTANT'S compensation for all services performed under this Agreement shall not exceed the total contract price of \$_____. CONSULTANT shall perform no services above the total contract price without prior written approval of the General Manager or Authorized Representative. CONSULTANT shall obtain approval from the General Manager or Authorized Representative before performing any services that result in incidental expenses to the DISTRICT.

13.2. CONSULTANT shall maintain accounting records, including the following information:

13.2.1. The names and titles of employees or agents, the types of services performed, and the times and dates of all services performed in connection with the Agreement that are billed on an hourly basis are included.

13.2.2. All incidental expenses, including reproductions, computer printing, postage, mileage billed at the current Internal Revenue Service ("IRS") Rate, and subsistence.

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

13.4. CONSULTANT shall submit monthly invoices to DISTRICT. DISTRICT will make partial payments to CONSULTANT not to exceed the total contract price within thirty (30) days of receipt of invoice, subject to the approval of the General Manager or Authorized



Representative. *Each application for partial payment shall be accompanied by a Progress Report summarizing the status of the services performed.*

- 13.5. DISTRICT reserves the right to withhold payments for services to cover potential or nonconforming services. Additionally, the DISTRICT may elect not to make a particular payment if any of the following exists:
 - 13.5.1. CONSULTANT, with or without knowledge, misrepresented substantial and material nature concerning any information furnished to DISTRICT.
 - 13.5.2. CONSULTANT took action without receiving DISTRICT'S prior approval as required under this Agreement.
 - 13.5.3. CONSULTANT is in default of a term or condition of this Agreement.
- 13.6. CONSULTANT shall ensure that any official report generated under this Agreement shall comply with Government Code Section 7550.

14. TERMINATION OF AGREEMENT.

14.1. TERMINATION FOR CAUSE.

- 14.1.1. If DISTRICT ("demanding party") has a good faith belief that CONSULTANT is not complying with the terms of this Agreement or is deemed non-responsive or non-responsible, DISTRICT will give written notice of the default (with reasonable specificity) to CONSULTANT and demand the default to be cured within ten (10) calendar days of the notice. Responsive is defined as conforming with material requirements and responsible is defined as possessing the attributes of trustworthiness, quality, fitness, capacity, and experience to perform the contract satisfactorily.
- 14.1.2. If CONSULTANT fails to cure the default within ten (10) calendar days of the notice, or if more than ten (10) calendar days are reasonably required to cure the default, and CONSULTANT fails to give adequate assurance and due performance within ten (10) calendar days of the notice, DISTRICT may terminate this Agreement upon written notice to CONSULTANT. In the event of a material breach of any representation or term of this Agreement by CONSULTANT that is not curable or results in a threat to health or safety, DISTRICT may immediately terminate this Agreement by providing written notice and without a cure period.
- 14.1.3. Upon termination, DISTRICT will pay CONSULTANT for any services completed up to and including the date of termination of this Agreement, in accordance with the compensation Section 13. DISTRICT will be required to compensate CONSULTANT only for services performed in accordance with the Agreement up to and including the date of termination. DISTRICT shall not pay for loss profit or overhead/extended overhead fees and at its sole discretion may deduct fees for any non-conforming or non-complying work.

14.2. TERMINATION FOR CONVENIENCE.

- 14.2.1. DISTRICT will have the express right to terminate this Agreement at any time without cause by giving seven (7) consecutive days advanced written notice to CONSULTANT. This Agreement shall be automatically terminated without further action of any party upon expiration of the seven (7) day period.
- 14.2.2. Promptly upon receipt of any termination notice from the DISTRICT, CONSULTANT shall cease all further work and services, except as otherwise expressly directed by the



DISTRICT in the written termination notice. In the event the DISTRICT exercises its termination right, CONSULTANT shall be paid only for work and services performed and approved by the DISTRICT to the date this Agreement terminates. The DISTRICT will have the express right to withhold any payment otherwise due CONSULTANT to correct any labor or materials determined to be defective by the DISTRICT at the time of termination.

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

15. ASSIGNMENT AND DELEGATION.

- 15.1. This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of CONSULTANT'S duties be delegated or subcontracted, without the express written consent of DISTRICT. Any attempt to assign or delegate this Agreement without the express written consent of DISTRICT shall be void and of no force or effect. Consent by DISTRICT to one assignment shall not be deemed to be consent to any subsequent assignment.
- 15.2. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

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

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

18. INTERPRETATION OF THE AGREEMENT.

- 18.1. The interpretation, validity, and enforcement (including, without limitation, provisions concerning limitations of actions) of the Agreement shall be governed by and construed under the laws of the State of California, notwithstanding any conflict-of-laws doctrines of such state or other jurisdiction to the contrary and without the aid of any canon, custom or rule requiring construction against the draftsman. The Agreement does not limit any other rights or remedies available to DISTRICT.
- 18.2. CONSULTANT shall be responsible for complying with all applicable local, state, and federal laws whether or not said laws are expressly stated or referred to herein.
- 18.3. Should any provision herein be found or deemed invalid, the Agreement shall be construed as not containing such provision, and all other otherwise lawful provisions shall remain in full force and effect. To this end, the provisions of this Agreement are severable.



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

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

20. DISPUTE RESOLUTION.

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

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

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



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

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

CONSULTANT: _____

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

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

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

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

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

CONSULTANT

RAINBOW MUNICIPAL WATER DISTRICT

By _____
CONSULTANT

By _____
JAKE WILEY, GENERAL MANAGER

PRINT NAME

Date: _____

Date: _____

Attest: District Secretary

