

**AGREEMENT FOR PROFESSIONAL SERVICES
WITH THE INDIAN WELLS VALLEY GROUNDWATER AUTHORITY (“Authority”)**

Project Name/Description (“**Project**”): Imported Water Project Program Management Services

Consultant Name (“**Consultant**”): Blue Mountain Development, Inc.

Consultant Business Type: Corporation

Consultant Address: 2423 Sebald Ave., Redondo Beach, CA 90278

Consultant Representative Name and Title (“**Consultant Representative**”): Omar Dandashi

Consultant Representative Work Phone and Email: 909.268.9918 odandashi@blue-mt-development.com

Termination Date: December 30, 2026

Total Not-To-Exceed Contract Amount (“**Contract Sum**”): \$220,000 (Two Hundred and Twenty Thousand Dollars)

Authority Contact (“**Authority Contact**”): Click or tap here to enter text.

Authority Contact Work Phone and Email: Click or tap here to enter text.

RECITALS

The Authority desires to contract with a Consultant to provide professional services as more further set forth herein.

The Authority circulated a Request for Quotes or Proposals for the above-described professional services or determined that Consultant qualifies as a sole source provider for such services.

Consultant submitted a proposal to Authority to provide the above-described professional services.

Authority Staff has reviewed all the proposals and after considering the demonstrated competence of Consultant, the professional qualifications of Consultant, and the fairness and reasonableness of Consultant's proposed cost, staff has determined that an agreement to provide the required services should be awarded to Consultant.

Click or tap here to enter text.

**AGREEMENT FOR PROFESSIONAL SERVICES
WITH THE INDIAN WELLS VALLEY GROUNDWATER AUTHORITY (“Authority”)**

THIS AGREEMENT FOR SERVICES (“**Agreement**”) is made and entered into as of the effective on the date executed by the Authority by and between the INDIAN WELLS VALLEY GROUNDWATER AUTHORITY (“**Authority**”) and (“**Consultant**”). Authority and Consultant may be referred to individually as “**Party**” or collectively as “**Parties**.” In consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. SERVICES OF CONSULTANT

- 1.1 Scope of Services.** In compliance with all terms and conditions of this Agreement, Consultant shall provide those services specified in the “**Scope of Services**” attached hereto as Exhibit A and incorporated herein by this reference, which may be referred to herein as the “**services**” or “**work**” hereunder. As a material inducement to Authority entering into this Agreement, Consultant represents and warrants: a) it has the qualifications, experience, and facilities necessary to properly perform the Services required under this Agreement b) all services set forth in the Scope of Services will be performed in a competent and satisfactory manner; c) all materials used for services will be both of good quality as well as fit for the purpose intended; and, d) Consultant shall follow the highest professional standards and practices in performing the services required hereunder.
- 1.2 Compliance with Law.** All services rendered hereunder shall be provided in accordance with all ordinances, resolutions, statutes, rules and regulations of Authority and any federal, State or local governmental agency having jurisdiction in effect at the time services are rendered. Authority, and its officers, employees and agents, shall not be liable at law or in equity for failure of Consultant to comply with this Section.
- 1.3 Licenses, Permits, Fees and Assessments.** Consultant shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for Consultant’s performance of the services required by this Agreement, and shall indemnify, defend and hold harmless Authority against any such fees, assessments, taxes, penalties or interest levied, assessed or imposed against Authority hereunder.

- 1.4 Familiarity with Work.** By executing this Agreement, Consultant represents and warrants Consultant: a) has thoroughly investigated and considered services to be performed, b) has carefully considered how services should be performed, and c) fully understands the facilities, difficulties and restrictions attending performance of services under this Agreement.
- 1.5 Software and Computer Services.** If the Scope of Services includes the provision and/or installation of any software, computer system, or other computer technology, Consultant represents and warrants that it is familiar with and/or has inspected Authority's current infrastructure, equipment, computer system and software and that the software, computer system, or other computer technology provided and/or installed by Consultant under this Agreement is compatible, and shall be fully functional, with such infrastructure, equipment, computer system and software of Authority. Consultant acknowledges that Authority is relying on this representation by Consultant as a material consideration in entering into this Agreement.
- 1.6 Prevailing Wages.** If services include any "public work" as defined in California Labor Code section 1720 *et seq.* and California Code of Regulations, Title 8, section 16000 *et seq.*, and if the total compensation is \$1,000 or more, Consultant shall pay prevailing wages for such work and comply with the requirements in California Labor Code section 1770 *et seq.* and 1810 *et seq.*, and all other applicable laws.
- 1.7 Special Requirements.** Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit B and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit B and any other provisions of this Agreement, the provisions of Exhibit B shall govern.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT

- 2.1 Contract Sum.** Subject to any limitations set forth in this Agreement, Authority agrees to pay Consultant the rates specified in the "Schedule of Compensation" attached hereto as **Exhibit C** and incorporated herein by this reference. The total compensation for all work, including reimbursement for actual expenses, shall not exceed the Contract Sum set forth above. Compensation may include reimbursement, for actual and necessary expenditures, if both are specified in the Schedule of Compensation, as well as approved by Authority in advance.
- 2.2 Invoices.** Unless some other method of payment is specified in Exhibit C, Schedule of Compensation, in any month in which Consultant wishes to receive payment, no later than the first business day of such month, Consultant shall submit to Authority, in a form approved by Authority's Finance Director, an invoice for services rendered prior to the date of the invoice. By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of

this Agreement. Except as provided in Sections 7.3, 7.4 and 7.5, Authority shall pay Consultant for all expenses stated thereon which are approved by Authority pursuant to this Agreement generally within thirty (30) days, and Authority will use its best efforts to make payment no later than forty-five (45) days, from the submission of an invoice in an approved form. In the event any charges or expenses are disputed by Authority, the original invoice shall be returned by Authority to Consultant for correction and resubmission. Review and payment by Authority for any invoice provided by Consultant shall not constitute a waiver of any rights or remedies provided herein or any applicable law. Each invoice is to include (unless otherwise specified by Authority): 1) line items for all personnel describing the work performed, the number of hours worked, and the hourly rate; 2) line items for all materials and equipment properly charged to the Services; 3) line items for all other approved reimbursable expenses claimed, with supporting documentation; and 4) line items for all approved subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.

ARTICLE 3. PERFORMANCE SCHEDULE

3.0 Time of Essence. Time is of the essence in the performance of this Agreement.

3.1 Term. The Agreement shall commence and become effective upon the date executed by the Authority and will continue until the Termination Date.

Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of any ongoing services, which shall be no later than the Termination Date set forth above. Notwithstanding the foregoing, the Indemnification and Insurance provisions set forth in Article 5 shall survive the termination of this Agreement.

3.2 Schedule of Performance. Consultant shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed from Authority and shall perform all services within the time period(s) established in **Exhibit A**.

3.3 Force Majeure. The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of Consultant, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including Authority, if Consultant shall within ten (10) days of the commencement of such delay notify Authority in writing of the causes of the delay. Authority shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of Authority such delay is justified. Authority's determination shall be final and conclusive upon the Parties to this Agreement. In no event shall Consultant be entitled to recover damages against Authority for any

delay in the performance of this Agreement, however caused, Consultant's sole remedy being extension of this Agreement pursuant to this Section.

ARTICLE 4. COORDINATION OF WORK

- 4.1 Representative of Consultant.** The Consultant Representative is authorized to act on Consultant's behalf with respect to the work or services specified herein and to make all decisions in connection therewith. It is expressly understood that the experience, knowledge, capability and reputation of the representative was a substantial inducement for Authority to enter into this Agreement. Therefore, the representative shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the services hereunder. For purposes of this Agreement, the representative may not be replaced nor may their responsibilities be substantially reduced by Consultant without the express written approval of Authority.
- 4.2 Authority Contact.** The Authority Contact (or other person designated by the Authority General Manager) shall be the primary person on behalf of Authority responsible for the administration of the Agreement. It shall be Consultant's responsibility to assure that the Authority Contact is kept informed of both the progress of the performance of the services as well as any decisions which must be made by Authority.
- 4.3 Approvals from Authority.** Authority approvals or actions, pursuant to the authority of this Agreement, are to be made (unless otherwise specified) either by the Authority General Manager or by their delegate as provided for in writing.
- 4.4 Independent Contractor.** Neither Authority, nor any of its officers, employees or agents, shall have any control over the manner or means by which Consultant, or its officers, employees, agents or subcontractors, perform the services required herein, except as otherwise set forth herein. Consultant shall perform all services required herein as an independent contractor of Authority and shall remain under only such obligations as are consistent with that role. Consultant shall not at any time or in any manner represent that it, or any of its officers, employees, agents or subcontractors, are officers, employees or agents of Authority. Authority shall not in any way or for any purpose become or be deemed to be a partner of Consultant in its business or otherwise or a joint venturer or a member of any joint enterprise with Consultant. Consultant shall not incur or have the power to incur any debt, obligation or liability whatever against Authority, or bind Authority in any manner. Consultant represents and warrants that the personnel used to provide services to Authority pursuant to this Agreement shall at all times be under Consultant's exclusive control and direction. No Authority employee benefits shall be available to Consultant, its officers, employees, agents or subcontractors, in connection with the performance of this Agreement. Authority shall not be liable for compensation or indemnification to Consultant, its officers, employees, agents or subcontractors, for injury or sickness arising out of performing services hereunder. In the event that Consultant or any officer, employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a federal or

state agency, a court of competent jurisdiction, or the California Public Employees' Retirement System, to be classified as other than an independent contractor for Authority, then Consultant shall indemnify, defend, and hold harmless Authority for the payment of any and all assessed fines, penalties, judgments, employee and/or employer contributions, and any other damages and costs assessed to Authority as a consequence of, or in any way attributable to, the assertion that Consultant, or any officer, employee, agent, or subcontractor Consultant used to provide services under this Agreement, is/are employees of Authority.

- 4.5 Subcontracting or Assignment.** The experience, knowledge, capability and reputation of Consultant, its principals and employees were a substantial inducement for Authority to enter into this Agreement. Therefore, without express written approval of Authority, Consultant shall not contract with any other person or agency to perform in whole or in part services required hereunder without express written approval of Authority, and neither this Agreement nor any interest herein may be transferred or assigned. No approved transfer shall release Consultant, or any surety or insured of Consultant, of any liability hereunder without express written consent of Authority.

ARTICLE 5. INSURANCE AND INDEMNIFICATION

- 5.1 Insurance Coverages.** Prior to commencement of any services under this Agreement, and without limiting Consultant's indemnification obligation to Authority, Consultant shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to Authority, for the duration of the Agreement, primary policies of insurance of the type and amounts set forth in the "Insurance Requirements" attached hereto as **Exhibit D** and incorporated herein by this reference.

5.2 Indemnification.

(a) General Obligations. Consultant agrees, to the full extent permitted by law, to indemnify, defend and hold harmless Authority and its elected and appointed officers, employees and agents (each an "**Indemnitee**" and collectively, "**Indemnitees**") against, and will hold and save them and each of them harmless from, whether actual or threatened, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities (herein "**Claims or Liabilities**") that may be asserted or claimed by any person, firm or Authority arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Consultant, its officers, employees, agents, subcontractors, or invitees, or any individual or Authority for which Consultant is legally liable (each an "**Indemnitor**" and collectively, "**Indemnitors**"), or arising from Indemnitors' reckless or willful misconduct, or arising from Indemnitors' negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith: 1) Consultant will defend any action or actions filed or threatened in connection with any such Claims or Liabilities, or at option of Indemnitee(s) will reimburse

and pay for all costs and expenses, including legal costs and attorneys' fees, incurred by Indemnitee(s) in connection therewith; and, 2) Consultant will promptly pay any judgment rendered against Indemnitee(s) for any such Claims or Liabilities, and will save and hold Indemnitee(s) harmless therefrom.

(b) Further Provisions. The indemnity obligation herein shall be binding on successors, assigns and heirs of Consultant and shall survive termination of this Agreement. Consultant shall incorporate similar indemnity agreements as provided herein with its subcontractors, and if Consultant fails to do so Consultant shall be fully responsible to indemnify Authority hereunder therefor. Failure of Authority and/or Authority Parties (collectively "Authority" for solely this Section 5.2(b)) to monitor compliance with any of the indemnification provisions herein shall not be a waiver hereof. The indemnification provisions herein do not apply to claims or liabilities occurring as a result of Authority's sole negligence or willful misconduct, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from Authority's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnification provided herein includes Claims or Liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Indemnitors in the performance of professional services hereunder. Payment of invoices by Authority is not a condition precedent to enforcement of the indemnity obligation herein. In the event of any dispute between Consultant and Authority, as to whether liability arises from the sole negligence or willful misconduct of Authority, Consultant will be obligated to pay for Authority's defense until such time as a final judgment has been entered adjudicating Authority as solely negligent or responsible for willful misconduct. Consultant will not be entitled in the absence of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

(c) Pursuant to the full language of California Civil Code §2782, Design Professionals agree to indemnify, including the cost to defend, Authority and its officers, officials, employees, and volunteers from and against any and all claims, demands, costs, or liability that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of Design Professional and its employees or agents in the performance of services under this contract, but this indemnity does not apply to liability for damages arising from the sole negligence, active negligence, or willful acts of the Authority; and does not apply to any passive negligence of the Authority unless caused at least in part by the Design Professional. The Authority agrees that in no event shall the cost to defend charged to the Design Professional exceed that professional's proportionate percentage of fault. This duty to indemnify shall not be waived or modified by contractual agreement or acts of the parties.

5.3 Professional Liability. When the law establishes a professional standard of care for Consultant's services, to the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless Indemnitees against, and will hold and save them and each of them harmless from, whether actual or threatened, any and all

Claims and Liabilities, consistent with all obligations provided for in this Section 5.3, to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission, or reckless or willful misconduct of Indemnitors in the performance of professional services under this Agreement.

ARTICLE 6. RECORDS, REPORTS AND RELEASE OF INFORMATION

- 6.1 Records.** Consultant shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to Authority and services performed hereunder (“**books and records**”) as shall be necessary to perform the services required by this Agreement and enable Authority to evaluate the performance of such services. Any and all such books and records shall be maintained in accordance with generally accepted accounting principles, shall be complete and detailed, and shall be readily accessible. Authority shall have full and free access to such books and records at all times during normal business hours of Authority, including the right to inspect, copy, audit and make records and transcripts. Such books and records shall be maintained for a period of three (3) years following completion of the services hereunder. Authority shall have access to such books and records in the event any audit is required. Consultant shall fully cooperate with Authority in providing access to any and all Consultant records and documents if a public records request is made and disclosure is required by law including but not limited to the California Public Records Act.
- 6.2 Ownership of Documents.** All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (“**documents and materials**”) prepared by Consultant, its officers, employees, agents and subcontractors in the performance of this Agreement shall be the property of Authority and shall be delivered to Authority upon request of Authority and/or upon the termination of this Agreement, and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by Authority of its full rights of ownership, use, reuse, or assignment of the documents and materials hereunder. Consultant may retain copies of such documents and materials for its own use. Consultant shall have the right to use the concepts embodied therein. All subcontractors shall provide for assignment to Authority of any documents and materials prepared by them, and in the event Consultant fails to secure such assignment, Consultant shall indemnify Authority for all damages resulting therefrom. Moreover, with respect to any Consultant documents and materials that may qualify as “works made for hire” as defined in 17 U.S.C. § 101, such documents and materials are hereby deemed “works made for hire” for Authority.
- 6.3 Confidentiality and Release of Information.** All information gained or work product produced by Consultant in its performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than Authority without prior written authorization from Authority. Consultant, its officers, employees, agents or

subcontractors, shall not, without prior written authorization from Authority or unless requested by the Authority General Counsel, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered “voluntary” provided Consultant immediately gives Authority notice of such court order or subpoena. If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then Authority shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorney’s fees, caused by or incurred as a result of Consultant’s conduct. As concerning, regarding or related to, in any way, this Agreement and the work performed thereunder: a) Consultant shall immediately notify Authority should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party; b) Authority retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding; and, c) Consultant agrees to cooperate fully with Authority and to provide Authority with the opportunity to review any response to discovery requests provided by Consultant, however, this right to review any such response does not imply or mean the right by Authority to control, direct, or rewrite said response.

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

- 7.1 California Law.** This Agreement shall be interpreted, construed and governed both as to validity and to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Consultant agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. Authority Court, venue shall lie exclusively in the Central Authority of California, in the County of Riverside, State of California.
- 7.2 Suspension, or Termination, Prior to Expiration of Term.** This Section shall govern any termination of this Agreement except as specifically provided in Section 7.4 for termination for cause. Authority reserves the right to terminate or suspend this Agreement, or any portion hereof, at any time, for any reason, with or without cause, upon ten (10) days’ notice to Consultant, except that where termination or suspension is due to the fault of Consultant, the period of notice may be such shorter time as determined by Authority. Upon receipt of any notice of termination or suspension, Consultant shall immediately cease all services hereunder, unless the notice provides otherwise, or except such as specifically approved by Authority. Upon submittal of an invoice consistent with Section 2.2, Consultant shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination or suspension and for any services authorized by Authority thereafter in accordance with the Schedule of Compensation, or such as may be

approved by Authority, except as provided in Section 7.5. In event of termination, or suspension, without cause pursuant to this Section, there is no need to provide opportunity to cure pursuant to Section 7.3.

- 7.3 Default of Consultant and Opportunity to Cure.** In the event that Consultant is in default under the terms of this Agreement, Authority shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default. Instead, Authority may give notice to Consultant of the default and the reasons for the default. The notice shall include the timeframe in which Consultant may cure the default. This timeframe is presumptively ten (10) days, but may be extended, or reduced, if circumstances warrant, as determined by Authority. During the period of time that Consultant is in default, Authority shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices, without liability for interest. In the alternative, Authority may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Consultant does not cure the default by conclusion of noticed timeframe, Authority may immediately both terminate this Agreement with notice to Consultant as well as pursue the remedy in Section 7.4, without prejudice to any other remedy to which Authority may be entitled at law, in equity or under this Agreement. Any failure on the part of Authority to give notice of Consultant's default shall not be deemed to result in a waiver of Authority's legal rights or any rights arising out of any provision of this Agreement.
- 7.4 Termination for Default of Consultant.** If termination is due to the failure of Consultant to fulfill its obligations under this Agreement, Authority may, after compliance with the provisions of Section 7.3, take over the work and prosecute the same to completion by contract or otherwise, and Consultant shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that Authority shall use reasonable efforts to mitigate such damages), and Authority may withhold any payments to Consultant for the purpose of set-off or partial payment of the amounts owed Authority therefor.
- 7.5 Retention of Funds.** Consultant hereby authorizes Authority to deduct from any amount payable to Consultant (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate Authority for any losses, costs, liabilities, or damages suffered by Authority, and (ii) all amounts for which Authority may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, Authority may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of Authority to exercise such right to deduct or to withhold shall not, however,

affect the obligations of Consultant to insure, indemnify, and protect Authority as elsewhere provided herein.

- 7.6 Waiver.** Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by Authority of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement. Consultant acknowledges and agrees that any actual or alleged failure on the part of Authority to inform Consultant of non-compliance with any requirement of this Agreement imposes no additional obligations on Authority nor does it waive any rights hereunder. Payment to Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.
- 7.7 Rights and Remedies are Cumulative.** Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.
- 7.8 Legal Action.** In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant shall file a statutory claim pursuant to Government Code sections 905 *et seq.* and 910 *et seq.*, in order to pursue a legal action under this Agreement.
- 7.9 Attorneys' Fees.** If either Party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorneys' fees. Attorneys' fees shall include attorneys' fees on any appeal, and a Party entitled to attorneys' fees shall be entitled to all other reasonable costs for investigating such action, consultants' fees, taking depositions and discovery and all other necessary costs the court allows which are incurred in such

litigation. Such fees and costs shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 8. INDIVIDUAL LIABILITY, CONFLICTS AND NON-DISCRIMINATION

- 8.1 Non-liability of Authority Officers and Employees.** No officer or employee of Authority shall be personally liable to Consultant, or any successor in interest, in the event of any default or breach by Authority or for any amount which may become due to Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.
- 8.2 Conflict of Interest.** Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of Authority or which would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of Authority. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of Authority in the performance of this Agreement. Authority, in its sole discretion, shall determine the existence of a conflict of interest and may terminate this Agreement in the event such a conflict of interest exists upon sending Consultant written notice describing the conflict. No officer or employee of Authority shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to this Agreement which affects their financial interest or the financial interest of any corporation, partnership or association in which they are, directly or indirectly, interested, in violation of any State statute or regulation. Consultant warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.
- 8.3 Covenant Against Discrimination.** Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class.

ARTICLE 9. MISCELLANEOUS PROVISIONS

- 9.1 Notices.** Any notice or other communication either Party desires or is required to give to the other Party or any other person in regards to this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United

States Mail, certified mail, postage prepaid, return receipt requested, in the case of Authority addressed to Authority Contact at: Las Virgenes Municipal Water Authority, 100 West California Avenue, Ridgecrest, California 93555; and in the case of Consultant, to the person(s) at the address designated on the cover page of this Agreement. Either Party may change its address by notifying the other Party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

- 9.2 Interpretation.** The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement, headings used, or any other rule of construction which might otherwise apply.
- 9.3 Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, and such counterparts shall constitute one and the same instrument.
- 9.4 Integration; Amendment.** This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the Parties as to the Agreement. It is understood that there are no oral agreements between the Parties hereto affecting this Agreement, and this Agreement supersedes and cancels any and all prior and contemporaneous negotiations, arrangements, agreements and understandings, if any, between the Parties, concerning this Agreement, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by Consultant and by Authority.
- 9.5 Severability.** Should a portion of this Agreement be declared invalid or unenforceable by a judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining portions of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.
- 9.6 No Undue Influence.** Consultant declares and warrants that no undue influence or pressure was used against or in concert with any officer or employee of Authority in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of Authority has or will receive compensation, directly or indirectly, from Consultant, or from any officer, employee or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material

breach of this Agreement entitling Authority to remedies in Section 7.4 and any and all remedies at law or equity.

9.7 Corporate Authority. The persons executing this Agreement on behalf of the Parties hereto warrant that (i) such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) entering into this Agreement does not violate any provision of any other agreement to which said Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

9.8 Federal Funding. If federal funding is being utilized to fund any part of the Project, as indicated on the Cover Page of this Agreement, the terms of **Exhibit E** are hereby incorporated herein by this reference. If no federal funding is being utilized, Exhibit E may be omitted.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date and year first-above written.

Authority:

Indian Wells Valley Groundwater Authority

By: _____

Name: Click or tap here to enter text.

Effective Date:

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

Keith Lemieux, Board Counsel

CONSULTANT:

Two corporate officer signatures required when Consultant is a corporation, with one signature required from each of the following groups: 1) Chairperson of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. (Cal. Corp. Code § 313.) Appropriate attestations shall be included as may be required by the bylaws, articles of incorporation or other rules or regulations applicable to Consultant's business Authority.

By: _____

Name: Nicolas Biro

Title: President

Date:

EXHIBIT "A"

SCOPE OF SERVICES

I. Consultant will perform the following Services:

Click or tap here to enter text.

EXHIBIT "B"

**SPECIAL REQUIREMENTS
(Superseding Contract Boilerplate)**

Click or tap here to enter text.

EXHIBIT "C"

SCHEDULE OF COMPENSATION

I. Authority will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include

- A.** Line items for all personnel describing the work performed, the number of hours worked, and the hourly rate.
- B.** Line items for all materials and equipment properly charged to the Services.
- C.** Line items for all other approved reimbursable expenses claimed, with supporting documentation.
- D.** Line items for all approved subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.

II. The total compensation for all Services shall not exceed the Contract Sum as provided in the Cover Page of this Agreement.

III. Consultant's billing rates for any hourly Services are as set forth in Exhibit A or as attached as Exhibit C-1. In connection with the services provided pursuant to the terms of this Agreement, Authority will pay Consultant upon Authority's receipt of a written invoice provided by Consultant no more than monthly. Authority will pay Consultant for work completed, billed in increments of six minutes (0.1 hours), not to exceed the Contract Sum. The Authority will reimburse the Consultant for reasonable out-of-pocket expenses related to performing services on behalf of the Client that are approved in advance in writing by the Authority such as mileage, copies, binding costs, postage, parking, travel, and lodging expenses as part of the not to exceed Contract Sum. To receive reimbursements, the Consultant must provide the Authority with a receipt and a description of the expense incurred along with the invoice. No mark up on expenses may be added.

IV. Consultant's billing rates for fixed project costs shall be as set forth in Exhibit A.

EXHIBIT D

INSURANCE REQUIREMENTS

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$2,000,000 per occurrence**. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

2. Automobile Liability: Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$1,000,000 per accident for bodily injury and property damage**.

3. Workers’ Compensation insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than **\$1,000,000 per accident for bodily injury or disease**. (Not required if consultant provides written verification it has no employees)

5. Cyber: (Only if the Scope of Work includes the provision of software or hoisting services) Vendor/Consultant shall procure and maintain for the duration of the contract insurance against claims for security breaches, system failures, injuries to persons, damages to software, or damages to property (including computer equipment) which may arise from or in connection with the performance of the work hereunder by the Vendor, its agents, representatives, or employees. Vendor shall procure and maintain for the duration of the contract insurance claims arising out of their services and including, but not limited to loss, damage, theft or other misuse of data, infringement of intellectual property, invasion of privacy and breach of data.

If the Consultant maintains broader coverage and/or higher limits than the minimums shown above, the Authority requires and shall be entitled to the broader coverage and/or the higher limits maintained by the consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Authority.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The Authority, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Consultant including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Consultant's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).

Primary Coverage

For any claims related to this contract, the Consultant's **insurance coverage shall be primary and non-contributory** and at least as broad as ISO CG 20 01 04 13 as respects the Authority, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Authority, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.

Umbrella or Excess Policy

The Consultant may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Consultant's primary and excess liability policies are exhausted.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Authority.

Waiver of Subrogation

Consultant hereby grants to Authority a waiver of any right to subrogation which any insurer of said Consultant may acquire against the Authority by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Authority has received a waiver of subrogation endorsement from the insurer.

Self-Insured Retentions

Self-insured retentions must be declared to and approved by the Authority. The Authority may require the Consultant to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured

retention may be satisfied by either the named insured or Authority. The CGL and any policies, including Excess liability policies, may not be subject to a self-insured retention (SIR) or deductible that exceeds \$25,000 [fill in the amount for your comfort level for the specific Consultant and job – it could be much higher, or in the case of a very small Consultant, you might want it lower] unless approved in writing by Authority. Any and all deductibles and SIRs shall be the sole responsibility of Consultant or subcontractor who procured such insurance and shall not apply to the Indemnified Additional Insured Parties. Authority may deduct from any amounts otherwise due Consultant to fund the SIR/deductible. Policies shall NOT contain any self-insured retention (SIR) provision that limits the satisfaction of the SIR to the Named. The policy must also provide that Defense costs, including the Allocated Loss Adjustment Expenses, will satisfy the SIR or deductible. Authority reserves the right to obtain a copy of any policies and endorsements for verification.

Acceptability of Insurers

Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Authority.

Claims Made Policies (note – should be applicable only to professional liability, see below)

If any of the required policies provide claims-made coverage:

1. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided **for at least five (5) years after completion of the contract of work.**
3. If coverage is canceled or non-renewed, and not replaced **with another claims-made policy form with a Retroactive Date prior** to the contract effective date, the Consultant must purchase “extended reporting” coverage for a minimum of **five (5) years after completion of work.**

Verification of Coverage

Consultant shall furnish the Authority with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause **and a copy of the Declarations and Endorsements Pages of the CGL and any Excess policies listing all policy endorsements.** All certificates and endorsements and copies of the Declarations & Endorsements pages are to be received and approved by the Authority before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The Authority reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. Authority reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Subcontractors

Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that Authority is an additional insured on insurance required from subcontractors.

Duration of Coverage

CGL & Excess liability policies **for any construction related work, including, but not limited to, maintenance, service, or repair work**, shall continue coverage for a minimum of 5 years for Completed Operations liability coverage. Such Insurance must be maintained, and evidence of insurance must be provided **for at least five (5) years after completion of the contract of work**.

Special Risks or Circumstances

Authority reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.