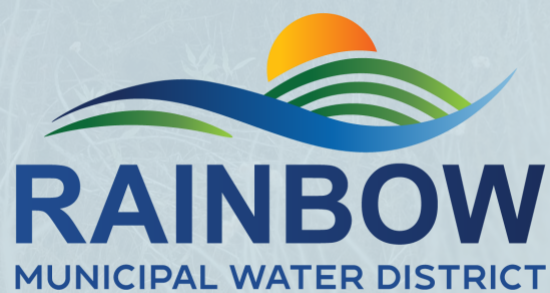


Request for Proposal

Total Rewards Study 2025



RESPONSES REQUESTED
BY 4:00 PM
JANUARY 27, 2025

RAINBOWMWD.CA.GOV

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TOTAL REWARDS STUDY

Request for Proposals

Rainbow Municipal Water District (the "District") seeks proposals from qualified consultants to conduct a comprehensive Total Rewards Study, encompassing analysis of base pay, special compensation, benefits, and other employment rewards. This study aims to assess the competitiveness of the District's compensation structure, including pay and benefits, in comparison to a selected set of comparator agencies. The goal is to ensure the District's ability to attract and retain talent while maintaining fiscal responsibility.

Background and Agency Challenges

Rainbow Municipal Water District (Rainbow Water) is a special District that provides water distribution and wastewater collection services over approximately 82 square miles of the Northernmost area of San Diego County, including the communities of Rainbow, Bonsall, Pala Mesa, and portions of Fallbrook, Vista, and Oceanside. A five-member elected Board of Directors governs the District.

Rainbow Water serves approximately 23,000 residents and anticipates residential growth over the next five years. Despite recent growth in residential accounts, there has been a simultaneous decline in agricultural water sales, resulting in a significant decline in volumetric sales and substantial rate pressure to maintain solvency.

The workforce comprises 56 full-time employees, one part-time employee, and two interns. Full-time staff are represented by three bargaining units: Rainbow Employees Association and Rainbow Association of Supervisory and Confidential Employees represent hourly employees, and the Exempt Employee Group represents all FLSA-exempt classifications except for the General Manager.

Negotiations on Cost-of-Living Adjustments (COLAs) and benefits cost-sharing formulas with all three bargaining units and a full successor Memorandum of Understanding (MOU) with the Exempt group will commence in early 2025. There are 40 job classifications, including 24 series classifications; 35 classifications have incumbents in place or are included in the approved fiscal year 2025 budget.

Rainbow Water strives to offer competitive pay and benefits packages to optimize the recruitment and retention of skilled employees while remaining fiscally responsible, considering steadily declining water sales and rate pressures. To do so effectively, it requires accurate and timely data on how our current total rewards structures align with those of comparable agencies and the general labor market.



PROJECT OBJECTIVES AND SCOPE

The study will analyze the District’s compensation practices against the recruiting talent pool and overall labor market, which includes four immediately neighboring water agencies, one neighboring city that provides water and wastewater services, and an additional four water agencies in the region that are frequent competitors for qualified talent. The selected consultant/firm may recommend adding comparator agencies and general labor market data sources based on best compensation benchmarking practices. This RFP seeks a consultant to provide a detailed analysis of the comparative labor market and the District's total compensation system, including the following:

Compensation Comparison

Analyze the District’s 40 job classifications with incumbents against those of comparator agencies and comparable internal positions. The District specifically seeks the following:

- **Total salary progression** by base pay percentage at each comparator agency from fiscal years 2021 to 2024, broken down by adjustments for Cost-of-Living Adjustments (COLAs), merit increases, market adjustments, and in-series promotional increases.
- **Supplemental pay** types including auto allowances, bilingual pay, standby stipends, tuition reimbursement, or PTO cash-out pay. Calculate a “supplemental pay” rate for each comparator agency and job classification to enable meaningful comparison of total cash compensation between job classifications at comparator agencies, rather than just base pay.
- **An Excel sheet** for each benchmark showing surveyed comparator agencies, job matches, salary range minimums, midpoints, and maximums, along with the mean and percentile rankings of each benchmark's pay range.
- **Future planned COLAs and merit budgets** for comparator agencies who have negotiated these terms in their labor agreements for future years.
- **Compensation policy line**, if a formal compensation policy exists for the comparator agency.

Benefits Comparison

Research and compare benefits offerings at comparator agencies and provide an analysis of the following:

- **The total cost of benefits**, including employer social security contributions, expressed as a “benefits load,” or percentage of total compensation for each position and agency.
- **Cost-sharing ratios** for employer/employee contributions to health insurance premiums.
- **Employer matching** on 457b or other deferred compensation plans.
- **Paid leave** policies, including sick, vacation, PTO, holiday, and bereavement policies.
- **Disability plans**, including participation in state disability or private plans, short- and long-term disability coverage amounts, as a percent of regular wages and weekly or monthly maximums.
- **Life insurance** coverage formula for employees, including coverage caps.
- **Education assistance**, including tuition reimbursement and student loan reimbursement.



Non-Monetary Rewards

Research and compare other employment rewards at comparator agencies and provide an analysis of the following:

- **Work Environment and Culture:** Assessment of organizational culture, inclusivity, and employee engagement using survey data and publicly available information such as workplace awards.
- **Career Development Opportunities:** Availability of training, professional development, mentorship, and clear career progression paths for internal promotion.
- **Recognition Programs:** Evaluation of formal and informal employee recognition initiatives, such as annual awards or peer-to-peer recognition.
- **Work-Life Balance Initiatives:** Policies like flexible work arrangements, remote work options, and wellness programs.
- **Commuting Conditions:** Average employee commute time and distance at comparator agencies.

Analysis and Recommendations

Recommend adjustments to compensation practices based on market data, best practices, internal equity, and District goals for balancing competitiveness with fiscal responsibility. Specific recommendations sought include:

- Recommend a practical methodology for job leveling and analysis of internal and external pay equity, considering compensable factors like knowledge, skills, certifications/licenses, impact, innovation, and autonomy.
- Analysis of pay equity under the California Equal Pay Act and California Fair Pay Act, and recommendations for corrections, if applicable.
- Identify the District's current base pay, benefits load, supplemental pay ratios, and total rewards practice lines relative to the defined labor market.
- Recommend target practice lines to recruit experienced talent from other agencies and retain key District staff while remaining fiscally responsible.
- Recommend either maintaining the current pay grade structure or adjustments to the pay grades, including the recommended distance between grades, the width of salary ranges, and placement of each job classification in the ranges based on the market conditions, internal equity, and delta between current practice lines and the recommended practice lines to achieve the District's recruitment and retention goals.



ANTICIPATED WORK PLAN AND TARGET TIMELINE

The consultant will undertake the following key tasks. The target dates represent the District's ideal timeline and is open to negotiation based on the selected consultant's availability and recommendations. Meetings may take place via video conference.

- **Project Kickoff:** Meet with the District's Administrative Services Manager and General Manager to discuss the project scope, objectives, and timeline. Target timeline: Week 1
- **Comparator Agency Review:** Review and validate the selected comparator agencies, proposing any necessary revisions. Target date: Week 1-2
- **Development of Job Leveling System:** Collaborate with the Administrative Services Manager to develop a practical system for evaluating job classifications. Target date: Weeks 2-3
- **Job Matching Confirmation:** Ensure accurate job matching between the District's classifications and those of comparator agencies before proceeding with the research phase. Target date: Weeks 3-5
- **Research, Analysis, and Reporting:** Conduct thorough research and compile findings sought in the project objectives and scope into a comprehensive report. Target date: Weeks 6-10
- **Presentation of Findings:** Present the final report to the District's management team, Board of Directors, and employee groups. Target date: Weeks 11-12



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 Project Delivery Timeline

The proposal shall contain a detailed explanation of the project as viewed by the proposal author. Do not reiterate the contents of the RFP. The information should represent the author's knowledge of job and total rewards analysis practices, and relevant industry trends. If the consultant recommends a project approach that differs from the anticipated work plan and project timeline outlined in the Request for Proposals, the recommendations should be offered within this section.

1. **Project Approach:** The proposal shall describe the management approach and logistics necessary to accomplish the work described in the detailed scope of work, including subcontractors and meetings.
2. **Detailed Scope of Work:** The proposal shall be responsive to the needs of the Scope of Services and contain adequate detail to demonstrate that the work can be accomplished efficiently and timely.
 - a. Describe the work activities (tasks) showing timelines, milestones, or benchmarks for major reports/products.
 - b. A description of the information and support required of District staff. (Timeline, payment schedule, and deliverables)
 - c. The name of the principal or project manager in the firm who will serve as Project Manager and have direct and continued responsibility for the project.
 - d. Project Schedule: The proposal shall contain elements of work corresponding to the Detailed Scope of Work and proposed completion dates.

Project Team Qualifications

Identification and background of project team members, including:

- **Firm Overview:** A description of the consultant firm, organization structure, location of principal offices, number of professional personnel, and other pertinent information, including the names and experience of all staff members who will work on the project.
- **Professional Qualifications of Project Team:** Provide a summary of the qualifications and certifications held by each team member. The project team shall include the Project Manager and any other individual or sub-consultant having more than five percent hourly involvement, excluding clerical activities. Describe each project team member's level of responsibility, scope of work, and relevant experience.
- **Government Experience:** Outline your qualifications and project experience working with Special Districts, Cities, Counties, and other Local Government Agencies. Similar projects and expertise with governmental agencies and related projects will be weighed heavily, although other projects requiring similar skills and expertise will also be considered.



Estimated Project Costs

The District prefers a flat fee structure for the entire project but will also consider proposals based on an hourly rate with a not-to-exceed amount. To ensure flexibility within our \$50,000 budget, proposers are asked to provide a breakdown of costs by project components. This will allow the District to evaluate options for reducing the scope of work or deferring portions of the project to the next fiscal year if needed to keep the project within budget.

Cost breakdowns should include:

1. Base Pay Analysis

- Costs for analyzing exempt classifications.
- Costs for analyzing non-exempt classifications.
- Comparative base-pay analysis, including each position's percentile rankings and market alignment.

2. Benefits Analysis

- Costs for researching comparator agency benefits offerings.
- Analysis of benefits as a percentage of base pay (benefits load).
- Recommendations for aligning the District's benefits with market practices.

3. Comparator Agency Policies

- Analysis of Cost-of-Living Adjustments (COLAs) and merit increase trends.
- Identification of comparator agency pay progression policies and factors influencing recent adjustments.

4. Job Matching and Classification

- Development of a points-based system for job classification comparisons.
- Verification and refinement of job matches with comparator agencies.

5. Final Report and Presentation

- Costs for compiling findings into a comprehensive report.
- Preparation and delivery of presentations to the District's management and Board of Directors.

Proposers are encouraged to identify which elements could be deferred or trimmed while still delivering meaningful results that can help inform upcoming labor negotiations. Additionally, proposers should indicate whether cost savings could be achieved by eliminating certain portions of the project scope (e.g., excluding benefits analysis or deferring non-exempt classifications) or through other creative solutions.

The District appreciates the proposer's understanding and flexibility as we balance our organizational needs with budgetary constraints.



List of Client References

Please list clients for whom your firm has performed similar services within the last five years. Include:

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

Proposal Formatting

Proposals shall be concise, well organized, and error-free and demonstrate the consultant's qualifications and experience applicable to the recruitment project. They should be signed by an individual authorized to execute the legal document on behalf of the Consultant.

Pre-Submittal Activities

No pre-proposal meeting is planned to be held regarding this RFP. Questions concerning this Request for Proposals (RFP) should be directed in writing by email with the subject stating "Total Rewards Study RFP" to kharp@rainbowmwd.ca.gov or:

RAINBOW MUNICIPAL WATER DISTRICT
ATTN: Karleen Harp, Administrative Services Manager
3707 Old Highway 395
Fallbrook, CA 92028

Proposal Submission Requirements

Interested consultants should submit their proposals electronically by 4:00 PM on January 27, 2025 to kharp@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 760-728-1178 ext. 138 to confirm receipt of emailed proposals.

Evaluation Criteria

Proposals will be evaluated based on the following criteria:

- **Experience and Qualifications:** Demonstrated expertise in conducting classification and compensation studies for public agencies.
- **Proposed Methodology:** Clarity and appropriateness of the proposed approach to the project.
- **Cost:** Competitiveness and transparency of the cost proposal.
- **References:** Feedback from past clients.

The District anticipates selecting a consultant 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. Suppose the District cannot reach an agreement with the first selected firm. In that case, the District will terminate negotiations with the selected firm and initiate negotiations with the second-ranked firm.



After negotiating a fair and reasonable proposed agreement, the General Manager will execute the contract, or if the contracted amount is above \$50,000, the General Manager will make the final recommendation to the District's Board of Directors concerning the proposed agreement.

CONDITIONS FOR PROPOSERS

District Rights

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:

- Reject any or all proposals and issue a new RFP.
- Cancel, modify, withdraw, or extend this RFP.
- Issue updates or changes to the RFP.
- Adjust the proposal process and notify proposers of changes.
- 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 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.

Special Conditions

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, in part or its entirety, this RFP including, but not limited to, 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.



ADDENDUM A: BENCHMARK POSITIONS

Current Classifications (**Bold** have incumbents in place or are budgeted in FY25)

1. **Accounting Specialist I/II**
2. **Administrative Assistant I/II**
3. **Administrative Analyst I/II**
4. **Administrative Services Manager**
5. Associate/Engineer/Sr Engineer
6. **Billing Specialist I/II**
7. Construction Supervisor
8. **Construction and Meters Supervisor**
9. **Crew Leader - Construction**
10. **Cross Connection Control/Backflow Technician**
11. **Customer Service Representative I/II**
12. **Customer Service Supervisor**
13. **Executive Assistant/Board Secretary/District Secretary**
14. **Electrical Technician I/II**
15. **Engineering Inspector I/II/Senior**
16. **Engineering & CIP Program Manager**
17. **Finance Manager/CFO**
18. Human Resources Manager
19. **Human Resources Specialist I/II**
20. Information Technology Applications Analyst/Senior
21. **Information Technology Manager**
22. **Information Technology Specialist I/II/III**
23. Management Analyst/Senior
24. **Mechanic I/II/Senior**
25. **Project Manager/Sr Project Manager**
26. **Pumps & Motors Technician I/II**
27. Purchasing Warehouse Representative, I/II
28. **Purchasing & Facilities Lead**
29. Senior Accountant
30. **Safety and Risk Management Officer/Senior**
31. **System Operator I/II/III**
32. **Utility Line Locator/Senior**
33. **Utility Worker Construction & Maintenance I/II/III**
34. **Utility Worker Valve Maintenance I/II/III**
35. **Utility Worker Wastewater Services I/II/III**
36. **Utility Worker Meter Services I/II/Senior**
37. **Wastewater Superintendent**
38. **Operations Manager/COO**
39. **Water Operations Supervisor**
40. Water Quality Technician I/II



ADDENDUM B: PROFESSIONAL SERVICES AGREEMENT

PROJECT: TOTAL REWARDS STUDY
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

