

**MUNICIPAL WATER DISTRICT OF ORANGE COUNTY
(MWDOC)**



REQUEST FOR PROPOSALS (RFP)

for

Financial Consultant Services

RFP No. FIN0117-002

RFP Release Date: March 15, 2017

Proposals Due: 5:00 pm; March 29, 2017

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SECTION 1 – NOTICE TO PROPOSERS

1. Sealed proposals for RFP No. FIN0117-002 – Financial Consultant Services, as described herein, will be received by the receptionist at Municipal Water District of Orange County (MWDOC) offices until **5:00 p.m. on March 29, 2017**.

Proposals shall be enclosed and sealed in an envelope, clearly marked **RFP No. FIN0117-002, on the outside of the envelope**, and addressed to Municipal Water District of Orange County.

2. **Proposals may be hand delivered or mailed via common carrier (e.g., UPS or FedEx) or U.S. Postal Service to:**

Municipal Water District of Orange County
Attn: FINANCE DEPARTMENT
18700 Ward Street
Fountain Valley, CA 92708

It is the Proposer’s sole responsibility to ensure that their proposal, inclusive of any or all addenda, is received at the proper place by the deadline. Postmarks will not validate proposals which arrive after the deadline listed above. Faxed proposals will not be accepted. Any proposal received after the deadline will be disqualified and not considered.

3. To facilitate the evaluation process, **five (5) printed copies of the proposal shall be provided**. These materials will be retained by MWDOC and considered public information. Be advised that all information contained in proposals submitted in response to this solicitation may be subject to the California Public Records Act (Government Code Section 6250et seq.).
4. **Any questions as to the meaning of the scope of work, proposal requirements or selection process must be submitted in writing and shall be directed to:**

Hilary Chumpitazi
hchumpitazi@mwdoc.com

To be given consideration, **questions must be received by 5:00 p.m. on March 22, 2017**. All questions asked by Proposers and answers provided in response will be posted to MWDOC’s website at <http://www.mwdoc.com/business/rfp>.

5. Under no circumstances may the Proposer contact any other staff member or board member of MWDOC or its member agencies to discuss this RFP or clarify any requirements herein. Failure to comply with this requirement may be grounds for immediate disqualification.

SECTION 2 – INTRODUCTION AND OVERVIEW

1. PURPOSE OF THE REQUEST FOR PROPOSALS

The Municipal Water District of Orange County (MWDOC) is seeking proposals from qualified financial consultants to assist in Governmental Accounting Standards Board (GASB) implementation, write policy and procedures to adhere to single audit guidelines, review annual financials and any other financial needs.

There is no expressed or implied obligation for the District to reimburse responding firms for any expenses incurred in preparing proposals in response to this request.

2. DISTRICT OVERVIEW

MWDOC is a wholesale, imported water supplier and resource planning agency as well as a Member Agency of the Metropolitan Water District of Southern California (MET). Formed on January 11, 1951 pursuant to the Municipal Water District Act of 1911 (Water Code Section 71000 et seq.) for the expressed purpose of importing MET water to Orange County, excluding the original three MET Member Agencies (cities of Anaheim, Fullerton and Santa Ana). Beyond the provision of MET water, our efforts focus on sound planning and appropriate investments in water reliability, water supply development, water use efficiency, public information, legislative advocacy, water education and emergency preparedness.

MWDOC purchases imported water through MET and delivers this water to its 28 member agencies (local water districts and city water departments), which provides retail water services to the public. MWDOC is governed by a Board of Directors consisting of seven elected board members and has four appointed MET directors. From among its members, the Board appoints a president, vice president and such other positions as it deems necessary. District operations are managed by an appointed General Manager.

MWDOC formed the Municipal Water District of Orange County Water Facilities Corporation (WFC) as a California nonprofit corporation on April 20, 1978. WFC is governed by seven members comprised of MWDOC board members. WFC was formed to assist in the financing of the Allen-McColloch Pipeline (AMP) and the Flow Augmentation Project (FAP) and as such has no employees. The WFC has had no activities since 1999 and is kept active for potential future financing arrangements.

MWDOC's reporting entity includes the accounts of MWDOC and WFC. MWDOC has accounted for WFC as a "blended" component unit. Despite being legally separate, this entity is intertwined with MWDOC and, in substance part of MWDOC's operations. Accordingly, the balance sheet accounts and operations of this component unit are reported within the financial statements of MWDOC. There are no separate audited financial statements for WFC.

For more information, please visit our website at www.mwdoc.com.

3. **BACKGROUND**

MWDOC’s operating revenue stream comes from a fixed meter charge for retail meter customers and a historical water purchase charge for our ground water customer since fiscal year 2015-16. In addition there are Choice services that are charged directly to the agencies as a “fee for service” on a subscription basis and grant funding (local, state and federal) that is primarily used as a pass thru for customer rebate funds.

4. **PROJECT TIMELINE**

The following table identifies and estimates the dates/timeframe for receipt, evaluation, and award.

<u>Description</u>	<u>Date</u>
Release of RFP to Vendors	March 15, 2017
Deadline for Written Questions Regarding RFP	March 22, 2017
Proposal Due Date	March 29, 2017
Proposal Review	March 30, 2017
<i>Vendor Interviews (Tentative, if needed)</i>	<i>Weeks of April 17 & 24, 2017</i>
Vendor Selections (Board approval)	May 17, 2017
Contract Execution	May 2017

SECTION 3 – SCOPE OF SERVICES

MWDOC seeks a financial consultant to provide financial services on an as needed basis for up to five (5) years. The consultant will be expected to be available as needed by MWDOC to assist from inception to completion in any project. The scope of work may include, but not limited to:

- The continued implementation of GASB 68 including postings and future GASB pronouncements
- Assist in preparing/reviewing the annual financials
- Assist in preparing for single audits including training and writing policy to adhere to Federal Regulations
- Provide state and federal grant compliance reviews

SECTION 4 – PROPOSAL REQUIREMENTS

1. The purpose of the proposal is to demonstrate the qualifications, competence and capacity of the firm seeking to undertake this opportunity. The proposal shall include, at a minimum, the following information:
 - a. Cover Letter
 - i. The cover letter should be no longer than two pages and summarize the key points of the firm's response.
 - b. Company name, address, telephone, fax number, contact name and e-mail address
 - i. The proposal should state the size of the firm and the location of the office from which the work on this engagement is to be performed.
 - ii. The proposal should describe any engagement which may interfere with your firm's ability to provide independent and unbiased advice to MWDOC. Provide a brief description of litigation pending against your firm. In addition, describe any public finance transaction during the past five (5) years in which your firm, if applicable, was removed or asked to resign from an assignment/project.
 - c. Key personnel who will participate on the engagement
 - i. The proposal should provide a brief description of your firm and its relevant experience as a financial consultant in matters relating to public finance and experience with municipal water agencies in California.
 - ii. The proposal should describe the qualifications and relevant experience for all personnel and other specialists who will be assigned to this engagement. The description should also include their role and responsibilities including who will be the individual charged with the day-to-day responsibility for this engagement. Provide brief resumes for each emphasizing recent relevant municipal utility financing experience. (Resumes may be included as an appendix).
 - d. Client References
 - i. List the most significant engagement (maximum of three) performed in the last two (2) years that are similar to the engagement described in this request for proposal. Indicate the scope of work, date, and name and telephone number of the principal client contact.

2. **BIDDING PROPOSAL**

The bidding proposal should contain all pricing information relative to performing this engagement as described in this request for proposal, including annual price estimates if the contract runs the maximum term of five (5) years. The bidding proposal should contain all direct and indirect costs including out-of-pocket expenses to arrive at an all-inclusive maximum price.

3. **SUBMITTAL REQUIREMENTS**

1. To facilitate the evaluation process, **five (5) printed copies of the proposal shall be provided.** See Section 1 for additional information.
2. Be advised that all information contained in proposals submitted in response to this solicitation is considered public information and may be subject to the California Public Records Act (Government Code Section 6250et seq.).

4. **STANDARD AGREEMENT FOR CONSULTANT SERVICES**

A copy of MWDOC's Standard Agreement for Consultant Services is provided as Exhibit A. Please review this agreement and identify any issues/concerns/edits your firm would need if selected for this work.

SECTION 5 – SELECTION PROCESS

Proposals submitted will be evaluated by an evaluation committee. Staff will review each proposal for completeness, project approach and understanding, professional qualifications and costs of services provided. If deemed necessary by the evaluation committee, interviews may be conducted the weeks of April 17 or April 24, 2017.

Based on review of the proposals, staff will present a recommendation to the Administration and Finance committee. MWDOC's Board of Directors will make a decision based on the finance committee's recommendations. Following notification of the financial consultant selected, it is expected that an engagement agreement will be executed between both parties. Proposing financial consultants should note that the lowest bid will not necessarily be the deciding factor in MWDOC's selection.

Submission of a proposal constitutes acceptance by the financial consultant of the conditions contained in this request for proposals unless clearly and specifically noted in the proposal submitted and confirmed engagement agreement.

MWDOC reserves the right to retain all proposals submitted and use any idea in a proposal regardless of whether that proposal is selected. MWDOC reserves the right to reject any and all proposals.

STANDARD AGREEMENT FOR CONSULTANT SERVICES

This **AGREEMENT** for consulting services dated _____, which includes all exhibits and attachments hereto, "**AGREEMENT**" is made on the last day executed below by and between **MUNICIPAL WATER DISTRICT OF ORANGE COUNTY**, hereinafter referred to as "**DISTRICT**," and, _____ hereinafter referred to as "**CONSULTANT**" for _____ hereinafter referred to as "**SERVICES**."¹ **DISTRICT** and **CONSULTANT** are also referred to collectively herein as the "**PARTIES**" and individually as "**PARTY**". The **PARTIES** agree as follows:

I **PURPOSE AND SCOPE OF WORK**

A. Consulting Work

DISTRICT hereby contracts with **CONSULTANT** to provide general or special **SERVICES** as more specifically set forth in **Exhibit "B"** attached hereto and incorporated herein. Tasks other than those specifically described therein shall not be performed without prior written approval of **DISTRICT's** General Manager.

B. Independent Contractor

CONSULTANT is retained as an independent contractor for the sole purpose of rendering professional and/or special **SERVICES** described herein and is not an agent or employee of **DISTRICT**. **CONSULTANT** shall be solely responsible for the payment of all federal, state and local income tax, social security tax, Workers' Compensation insurance, state disability insurance, and any other taxes or insurance **CONSULTANT**, as an independent contractor, is responsible for paying under federal, state or local law. **CONSULTANT** is thus not eligible to receive workers' compensation, medical, indemnity or retirement benefits, including but not limited to enrollment in CalPERS. Unless, expressly provided herein, **CONSULTANT** is not eligible to receive overtime, vacation or sick pay. **CONSULTANT** shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of **DISTRICT**. **CONSULTANT** shall have the sole and absolute discretion in determining the methods, details and means of performing the **SERVICES** required by **DISTRICT**. **CONSULTANT** shall furnish, at his/her own expense, all labor, materials, equipment and transportation necessary for the successful completion of the **SERVICES** to be performed under this **AGREEMENT**. **DISTRICT** shall not have any right to direct the methods, details and means of the **SERVICES**; however, **CONSULTANT** must receive prior written approval from **DISTRICT** before using any sub-consultants for **SERVICES** under this **AGREEMENT**.

CONSULTANT represents and warrants that in the process of hiring **CONSULTANT's** employees who participate in the performance of **SERVICES**, **CONSULTANT** conducts such lawful screening of those employees (including, but not limited to, background checks and Megan's Law reviews) as are appropriate and standard for employees who provide **SERVICES** of the type contemplated by this Agreement.

C. Changes in Scope of Work

If **DISTRICT** requires changes in the tasks or scope of work shown in **Exhibit "B"** or additional work not specified therein, **DISTRICT** shall prepare a written change order. If **CONSULTANT** believes work or materials are required outside the tasks or scope of work described in **Exhibit "B,"** it shall submit a written request for a change order to the **DISTRICT**. A change order must be approved and signed by the **PARTIES** before

¹ Pursuant to Section 8002 of the District's Administrative Code, the District's "Ethics Policy" set forth at sections 7100-7111 of the Administrative Code is attached hereto as Exhibit "A" and incorporated herein by this reference.

CONSULTANT performs any work outside the scope of work shown in **Exhibit "B."** **DISTRICT** shall have no responsibility to compensate **CONSULTANT** for such work without an approved and signed change order. Change orders shall specify the change in the budgeted amount for **SERVICES**.

II **TERM**

This **AGREEMENT** shall commence upon the date of its execution and shall extend thereafter for the period specified in **Exhibit "B"** or, if no time is specified, until terminated on thirty (30) days notice as provided herein.

III **BUDGET, FEES, COSTS, BILLING, PAYMENT AND RECORDS**

A. **Budgeted Amount for SERVICES**

CONSULTANT is expected to complete all **SERVICES** within the Budgeted Amount set forth on **Exhibit "B."** The total compensation for the **SERVICES** to be performed under this **AGREEMENT** shall not exceed the Budgeted Amount unless modified as provided herein. Upon invoicing the **DISTRICT** 80% of the Budgeted Amount, **CONSULTANT** shall prepare and provide to **DISTRICT** a "cost to complete" estimate for the remaining **SERVICES**. The **PARTIES** shall work together to complete the project within the agreed-upon Budgeted Amount, but the obligation to complete the **SERVICES** within the Budgeted Amount lies with the **CONSULTANT**.

B. **Fees**

Fees shall be billed per the terms and conditions and at the rates set forth on **Exhibit "B"** for the term of the **AGREEMENT**. Should the term of the **AGREEMENT** extend beyond the period for which the rates are effective, the rates specified in **Exhibit "B"** shall continue to apply unless and until modified by consent of the **PARTIES**.

C. **Notification Clause**

Formal notices, demands and communications to be given hereunder by either **PARTY** shall be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested and shall be deemed communicated as of the date of mailing. If the name or address of the person to whom notices, demands or communication shall be given changes, written notice of such change shall be given, in accordance with this section, within five(5) working days.

Notices shall be made as follows:

Municipal Water District of Orange County
Name: _____
Title: _____
18700 Ward Street, P.O.Box 20895
Fountain Valley, CA 92708

Company
Contact Name: _____
Title: _____
Address:
City, State, Zip:

D. Billing and Payment

CONSULTANT's fees shall be billed by the 25th day of the month and paid by **DISTRICT** on or before the 15th of the following month. Invoices shall reference the Purchase Order number from the **DISTRICT**.

DISTRICT shall review and approve all invoices prior to payment. **CONSULTANT** agrees to submit additional supporting documentation to support the invoice if requested by **DISTRICT**. If **DISTRICT** does not approve an invoice, **DISTRICT** shall send a notice to **CONSULTANT** setting forth the reason(s) the invoice was not approved. **CONSULTANT** may re-invoice **DISTRICT** to cure the defects identified in the **DISTRICT** notice. The revised invoice will be treated as a new submittal. If **DISTRICT** contests all or any portion of an invoice, **DISTRICT** and **CONSULTANT** shall use their best efforts to resolve the contested portion of the invoice.

E. Billing Records

CONSULTANT shall keep records of all **SERVICES** and costs billed pursuant to this **AGREEMENT** for at least a period of seven (7) years and shall make them available for review and audit if requested by **DISTRICT**.

IV DOCUMENTS

All **MATERIALS** as defined in Paragraph XI below, related to **SERVICES** performed under this **AGREEMENT** shall be furnished to **DISTRICT** upon completion or termination of this **AGREEMENT**, or upon request by **DISTRICT**, and are the property of **DISTRICT**.

V TERMINATION

Each **PARTY** may terminate this **AGREEMENT** at any time upon thirty (30) days written notice to the other **PARTY**, except as provided otherwise in **Exhibit "B."** In the event of termination: (1) all work product prepared by or in custody of **CONSULTANT** shall be promptly delivered to **DISTRICT**; (2) **DISTRICT** shall pay **CONSULTANT** all payments due under this **AGREEMENT** at the effective date of termination; (3) **CONSULTANT** shall promptly submit a final invoice to the **DISTRICT**, which shall include any and all non-cancelable obligations owed by **CONSULTANT** at the time of termination, (4) neither **PARTY** waives any claim of any nature whatsoever against the other for any breach of this **AGREEMENT**; (5) **DISTRICT** may withhold 125 percent of the estimated value of any disputed amount pending resolution of the dispute, consistent with the provisions of section III D above, and; (6) **DISTRICT** and **CONSULTANT** agree to exert their best efforts to expeditiously resolve any dispute between the **PARTIES**.

VI INSURANCE REQUIREMENTS

CONSULTANT shall obtain prior to commencing work and maintain in force and effect throughout the term of this **AGREEMENT**, all insurance set forth below.

A. Workers' Compensation Insurance

By his/her signature hereunder, **CONSULTANT** certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code, which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and that **CONSULTANT** will comply with such provisions before commencing the performance of the **SERVICES** under this **AGREEMENT**.

CONSULTANT and sub-consultant will keep workers' compensation insurance for their employees in effect during all work covered by this **AGREEMENT**. An ACORD certificate of insurance or other certificate of insurance satisfactory to **DISTRICT**, evidencing such coverage must be provided (1) by **CONSULTANT** and (2) by sub-consultant's upon request by **DISTRICT**.

B. Professional Liability Insurance

CONSULTANT shall file with **DISTRICT**, before beginning professional **SERVICES**, an ACORD certificate of insurance, or any other certificate of insurance satisfactory to **DISTRICT**, evidencing professional liability coverage of not less than \$1,000,000 per claim and \$1,000,000 aggregate, requiring 30 days notice of cancellation (10 days for non-payment of premium) to **DISTRICT**.

Such coverage shall be placed with a carrier with an A.M. Best rating of no less than A: VII, or equivalent. The retroactive date (if any) of such insurance coverage shall be no later than the effective date of this **AGREEMENT**. In the event that the **CONSULTANT** employs sub-consultants as part of the **SERVICES** covered by this **AGREEMENT**, **CONSULTANT** shall be responsible for requiring and confirming that each sub-consultant meets the minimum insurance requirements specified herein.

C. Other Insurance

CONSULTANT will file with **DISTRICT**, before beginning professional **SERVICES**, ACORD certificates of insurance, or other certificates of insurance satisfactory to **DISTRICT**, evidencing general liability coverage of not less than \$1,000,000 per occurrence for bodily injury, personal injury and property damage; automobile liability (owned, scheduled, non-owned or hired) of at least \$1,000,000 for bodily injury and property damage each accident limit; workers' compensation (statutory limits) and employer's liability (\$1,000,000) (if applicable); requiring 30 days (10 days for non payment of premium) notice of cancellation to **DISTRICT**. For the coverage required under this paragraph, the insurer(s) shall waive all rights of subrogation against **DISTRICT**, and its directors, officers, agents, employees, attorneys, consultants or volunteers. **CONSULTANT's** insurance coverage shall be primary insurance as respects **DISTRICT**, its directors, officers, agents, employees, attorneys, consultants and volunteers for all liability arising out of the activities performed by or on behalf of the **CONSULTANT**. Any insurance pool coverage, or self-insurance maintained by **DISTRICT**, and its directors, officers, agents, employees, attorneys, consultants or volunteers shall be excess of the **CONSULTANT's** insurance and shall not contribute to it.

The general liability coverage shall give **DISTRICT**, its directors, officers, agents, employees, attorneys, consultants and authorized volunteers additional insured status using ISO endorsement CG2010, CG2033, or equivalent. Coverage shall be placed with a carrier with an A.M. Best rating of no less than A: VII, or equivalents. In the event that the **CONSULTANT** employs sub-consultant as part of the work covered by the **AGREEMENT**, it shall be the **CONSULTANT's** responsibility to require and confirm that each sub-consultant meets the minimum insurance requirements specified herein.

D. Expiration of Coverage

If any of the required coverages expire during the term of the **AGREEMENT**, **CONSULTANT** shall deliver the renewal certificate(s) including the general liability additional insured endorsement to **DISTRICT** at least ten (10) days prior to the expiration date.

INDEMNIFICATION

To the fullest extent permitted by applicable law, **CONSULTANT** shall indemnify, defend and hold harmless **DISTRICT**, its officers, Directors and employees and authorized volunteers, and each of them from and against:

- a. When the law establishes a professional standard of care for the **CONSULTANT's** services, all claims and demands of all persons that arise out of, pertain to, or relate to the **CONSULTANT's** negligence, recklessness or willful misconduct in the performance (or actual or alleged non-performance) of the work under this agreement. **CONSULTANT** shall defend itself against any and all liabilities, claims, losses, damages, and costs arising out of or alleged to arise out of **CONSULTANT's** performance or non-performance of the **SERVICES** hereunder, and shall not tender such claims to **DISTRICT** nor its directors, officers, employees, or authorized volunteers, for defense or indemnity.
- b. Any and all actions, proceedings, damages, costs, expenses, penalties or liabilities, in law or equity, of every kind or nature whatsoever, arising out of, resulting from, or on account of the violation of any governmental law or regulation, compliance with which is the responsibility of **CONSULTANT**.
- c. Any and all losses, expenses, damages (including damages to the work itself), attorney's fees incurred by counsel of the **DISTRICT's** choice and other costs, including all costs of defense, which any of them may incur with respect to the failure, neglect, or refusal of **CONSULTANT** to faithfully perform the work and all of the **CONSULTANT's** obligations under the agreement. Such costs, expenses, and damages shall include all costs, including attorneys' fees, incurred by counsel of the **DISTRICT's** choice, incurred by the indemnified parties in any lawsuit to which they are a party.

CONSULTANT shall immediately defend, at **CONSULTANT's** own cost, expense and risk, any and all such aforesaid suits, actions, or other legal proceedings of every kind that may be brought or instituted against **DISTRICT** or its directors, officers, employees, or authorized volunteers with legal counsel reasonably acceptable to **DISTRICT**, and shall not tender such claims to **DISTRICT** nor its directors, officers, employees, or authorized volunteers.

CONSULTANT shall immediately pay and satisfy any judgment, award or decree that may be rendered against **DISTRICT** or its directors, officers, employees, or authorized volunteers, in any and all such suits, actions, or other legal proceedings.

CONSULTANT shall immediately reimburse **DISTRICT** or its directors, officers, employees, or authorized volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing indemnity herein provided.

CONSULTANT's obligation to indemnify shall survive the termination or completion of this agreement for the full period of time allowed by law and shall not be restricted to insurance proceeds, if any, received by **DISTRICT**, or its directors, officers, employees, or authorized volunteers.

VII FINANCIAL DISCLOSURE AND CONFLICTS OF INTEREST

Although **CONSULTANT** is retained as an independent contractor, **CONSULTANT** may still be required, under the California Political Reform Act and **DISTRICT's** Administrative Code, to file annual disclosure reports. **CONSULTANT** agrees to file such financial disclosure reports upon request by **DISTRICT**. Further, **CONSULTANT**

shall file the annual summary of gifts required by Section 7105 of the **DISTRICT's** Ethics Policy, attached hereto as **Exhibit "A."**

Failure to file financial disclosure reports upon request and failure to file the required gift summary are grounds for termination of this **AGREEMENT**. Any action by **CONSULTANT** that is inconsistent with **DISTRICT's** Ethics Policy current at the time of the action is grounds for termination of this **AGREEMENT**. The Ethics Policy as of the date of this **AGREEMENT** is attached hereto as **Exhibit "A."**

VIII **PERMITS AND LICENSES**

CONSULTANT shall procure and maintain all permits, licenses and other government-required certification necessary for the performance of its **SERVICES**, all at the sole cost of **CONSULTANT**. None of the items referenced in this section shall be reimbursable to **CONSULTANT** under the **AGREEMENT**. **CONSULTANT** shall comply with any and all applicable local, state, and federal regulations and statutes including Cal/OSHA requirements.

IX **LABOR AND MATERIALS**

CONSULTANT shall furnish, at its own expense, all labor, materials, equipment, tools, transportation and other items or services necessary for the successful completion of the **SERVICES** to be performed under this **AGREEMENT**. **CONSULTANT** shall give its full attention and supervision to the fulfillment of the provisions of this **AGREEMENT** by its employees and sub-consultant and shall be responsible for the timely performance of the **SERVICES** required by this **AGREEMENT**. All compensation for **CONSULTANT's** **SERVICES** under this **AGREEMENT** shall be pursuant to **Exhibit "B"** to the **AGREEMENT**.

Only those **SERVICES**, materials, administrative, overhead and travel expenses specifically listed in **Exhibit "B"** will be charged and paid. No other costs will be paid. **CONSULTANT** agrees not to invoice **DISTRICT** for any administrative expenses, overhead or travel time in connection with the **SERVICES**, unless agreed upon and listed in **Exhibit "B"**.

X **CONFIDENTIALITY AND RESTRICTIONS ON DISCLOSURE**

A. Confidential Nature of Materials

CONSULTANT understands that all documents, records, reports, data, or other materials (collectively "**MATERIALS**") provided by **DISTRICT** to **CONSULTANT** pursuant to the **AGREEMENT**, including but not limited to draft reports, final report(s) and all data, information, documents, graphic displays and other items that are not proprietary to **CONSULTANT** and that are utilized or produced by **CONSULTANT** pursuant to the **AGREEMENT** are to be considered confidential for all purposes.

B. No Disclosure of Confidential Materials

CONSULTANT shall be responsible for protecting the confidentiality and maintaining the security of **DISTRICT MATERIALS** and records in its possession. All **MATERIALS** shall be deemed

confidential and shall remain the property of **DISTRICT**. **CONSULTANT** understands the sensitive nature of the above and agrees that neither its officers, partners, employees, agents or sub-consultants will release, disseminate, or otherwise publish said reports or other such data, information, documents, graphic displays, or other materials except as provided herein or as authorized, in writing, by **DISTRICT's** representative. **CONSULTANT** agrees not to make use of such **MATERIALS** for any purpose not related to the performance of the **SERVICES** under the **AGREEMENT**. **CONSULTANT** shall not make written or oral disclosures thereof, other than as necessary for its performance of the **SERVICES** hereunder, without the prior written approval of **DISTRICT**. Disclosure of confidential **MATERIALS** shall not be made to any individual, agency, or organization except as provided for in the **AGREEMENT** or as provided for by law.

C. Protections to Ensure Control Over Materials

All confidential **MATERIALS** saved or stored by **CONSULTANT** in an electronic form shall be protected by adequate security measures to ensure that such confidential **MATERIALS** are safe from theft, loss, destruction, erasure, alteration, and any unauthorized viewing, duplication, or use. Such security measures shall include, but not be limited to, the use of current virus protection software, firewalls, data backup, passwords, and internet controls.

The provisions of this section survive the termination or completion of the **AGREEMENT**.

XI OWNERSHIP OF DOCUMENTS AND DISPLAYS

All original written or recorded data, documents, graphic displays, reports or other **MATERIALS** which contain information relating to **CONSULTANT's** performance hereunder and which are originated and prepared for **DISTRICT** pursuant to the **AGREEMENT** are instruments of service and shall become the property of **DISTRICT** upon completion or termination of the Project. **CONSULTANT** hereby assigns all of its right, title and interest therein to **DISTRICT**, including but not limited to any copyright interest. In addition, **DISTRICT** reserves the right to use, duplicate and disclose in whole, or in part, in any manner and for any purpose whatsoever all such data, documents, graphic displays, reports or other **MATERIALS** delivered to **DISTRICT** pursuant to this **AGREEMENT** and to authorize others to do so.

To the extent that **CONSULTANT** utilizes any of its property (including, without limitation, any hardware or software of **CONSULTANT** or any proprietary or confidential information of **CONSULTANT** or any trade secrets of **CONSULTANT**) in performing **SERVICES** hereunder, such property shall remain the property of **CONSULTANT**, and **DISTRICT** shall acquire no right or interest in such property.

CONSULTANT hereby assigns to **DISTRICT** or **DISTRICT's** designee, for no additional consideration, all **CONSULTANT's** intellectual property rights, including, but not limited to, copyrights, in all deliverables and other works prepared by the **CONSULTANT** under this agreement. **CONSULTANT** shall, and shall cause its employees and agents to, promptly sign and deliver any documents and take any actions that **DISTRICT** or **DISTRICT's** designee reasonably requests to establish and perfect the rights assigned to **DISTRICT** or its designee under this provision.

XII **EQUAL OPPORTUNITY**

DISTRICT is committed to a policy of equal opportunity for all and to providing a work environment that is free of unlawful discrimination and harassment. In keeping with this commitment, **DISTRICT** maintains a policy prohibiting unlawful discrimination and harassment in any form based on race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, pregnancy or childbirth, marital status, gender, sex, sexual orientation, veteran status or age by officials, employees and non-employees (vendors, contractors, etc.).

This policy applies to all employees, consultants and contractors of the **DISTRICT**. Appropriate corrective action will be taken against all offenders, up to and including immediate discharge or termination of this **AGREEMENT**. During, and in conjunction with, the performance of this **AGREEMENT**, **CONSULTANT** shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, marital status or national origin.

XIII **INTEGRATION OF ALL OTHER AGREEMENTS**

This **AGREEMENT**, including any Exhibits and Addenda, contains the entire understanding of the **PARTIES**, and there are no further or other agreements or understandings, written or oral, in effect between the **PARTIES** hereto relating to the subject matter hereof. Any prior understanding or agreement of the **PARTIES** shall not be binding unless expressly set forth herein and, except to the extent expressly provided for herein, no changes of this **AGREEMENT** may be made without the written consent of both **PARTIES**.

XIV **ATTORNEYS' FEES**

In any action at law or in equity to enforce any of the provisions or rights under this **AGREEMENT**, the prevailing **PARTY** shall be entitled to recover from the unsuccessful **PARTY** all costs, expenses and reasonable attorney's fees incurred therein by the prevailing **PARTY** (including, without limitations, such costs, expense and fees on any appeals), and if such prevailing **PARTY** shall recover judgment in any such action or proceeding, such costs, expenses, including those of expert witnesses and attorneys' fees, shall be included as part of this judgment.

XV **JURISDICTION AND VENUE SELECTION**

In all matters concerning the validity, interpretation, performance, or effect of this **AGREEMENT**, the laws of the State of California shall govern and be applicable. The **PARTIES** hereby agree and consent to the exclusive jurisdiction of the courts of the State of California and that venue of any action brought hereunder shall be in Orange County, California.

[For Agreements funded in whole or part by State grants, include the following provision XVI.]

XVI **DRUG-FREE WORKPLACE CERTIFICATION OF COMPLIANCE**

By signing this Agreement, **CONSULTANT** hereby certifies under penalty of perjury under the laws of the State of California compliance with the requirements of the Drug-Free Workplace Act of 1990 (Government Code 8350 et seq.) and has or will provide a drug-free workplace by taking the following actions:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying

actions to be taken against employees as required by Government Code Section 8355(a).

- i. Establish a Drug-Free Awareness Program, as required by Government Code Section 8355(a) (2), to inform employees about all of the following:
 - i. The dangers of drug abuse in the workplace,
 - ii. The **CONSULTANT's** policy of maintaining a drug-free workplace,
 - iii. Any available counseling, rehabilitation and employee assistance programs, and
 - iv. Penalties that may be imposed upon employees for drug abuse violations.
- ii. Provide, as required by Government Code Section 8355(a)(3), that every employee who works under this Agreement:
 - 1. Will receive a copy of the **CONSULTANT's** drug-free policy statement, and
 - ii. Will agree to abide by terms of the **CONSULTANT's** statement as a condition of employment.
- d. This Agreement may be subject to suspension of payments or termination, or both, and the **CONSULTANT** may be subject to debarment if the **DISTRICT** determines that:
 - i. **CONSULTANT** has made a false certification, or;
 - ii. **CONSULTANT** violates the certification by failing to carry out the requirements noted above.

IN WITNESS WHEREOF, the **PARTIES** have hereunto affixed their names as of the day and year thereafter, which shall be and is the effective date of this **AGREEMENT**.

APPROVED BY:

CONSULTANT ACCEPTANCE:

Date _____

Date _____

Robert Hunter, General Manager
Municipal Water District of Orange County
18700 Ward Street, P.O.Box 20895
Fountain Valley, CA 92708
(714) 963-3058

Name:
Address:
Phone:
Tax I.D. #

EXHIBIT "A"

ETHICS POLICY	§7100-§7111
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§7100 PURPOSE

The policy of MWDOC is to maintain the highest standards of ethics from its Board members, officers and employees (all shall be referred to as employees for the purposes of this section). The proper operation of MWDOC requires decisions and policy to be made in the proper manner, that public office not be used for personal gain, and that all individuals associated with MWDOC remain impartial and responsible toward the public. Accordingly, all employees are expected to abide by the highest ethical standards and integrity when dealing on behalf of MWDOC with fellow Board members or employees, vendors, contractors, customers, and other members of the public.

§7101 RESPONSIBILITIES OF BOARD MEMBERS

Board members are obliged to uphold the Constitution of the United States and the Constitution of the State of California and shall comply with all applicable laws regulating Board member conduct, including conflicts of interest and financial disclosure laws. No Board member or officer shall grant any special consideration, treatment, or advantage to any person or group beyond that which is available to every other person or group in the same circumstances.

§7102 PROPER USE OF MWDOC PROPERTY AND RESOURCES

Except as specifically authorized, no employee shall use or remove or permit the use or removal of MWDOC property, including MWDOC vehicles, equipment, telephones, office supplies, and materials for personal convenience or profit. No employee shall require another MWDOC employee to perform services for the personal convenience or profit of another employee. Each employee must protect and properly use any MWDOC asset within his/her control, including information recorded on paper or in electronic form. Employees shall safeguard MWDOC property, equipment, monies, and assets against unauthorized use or removal, as well as from loss due to criminal act or breach of trust.

Employees are responsible for maintaining written records, including expense reports, in sufficient detail to reflect accurately and completely all transactions and expenditures made on MWDOC's behalf. Creating a document with misleading or false information is prohibited.

Motion - 1/17/96;

§7103 CONFLICT OF INTEREST

All MWDOC Directors, officers, and employees at every level shall comply with the requirements of Section 1090 of the California Government Code which prohibits such persons from being financially interested in any contract made by them in their official capacity, or by any body or board of which they are members, or from being a purchaser at any sale or a vendor at any purchase made by them in their official capacity.

All Directors and employees designated under MWDOC's Conflict of Interest Code ("designated employees") and employees required to report under Chapter 7, Article 2 of the Political Reform Act (Government Code Section 7300 et seq.) shall promptly and fully comply with all requirements thereof.

MWDOC employees who are not designated employees under MWDOC's Conflict of Interest Code shall refrain from participating in, making a recommendation, or otherwise attempting to influence MWDOC's selection of a contractor, consultant, product, or source of supply if the non-designated employee, or an immediate family member, has a direct or indirect financial interest in the outcome of the selection process. No employee shall use his/her position with MWDOC in any manner for the purpose of obtaining personal favors, advantages or benefits for him/herself or an immediate family member from a person or entity doing business or seeking to do business with MWDOC. Such favors, advantages, or benefits would include, but are not limited to: 1) offers of employment; 2) free or discounted goods or services; or 3) gifts.

§7104 GIFTS

No employee shall accept, directly or indirectly, any compensation, reward or gift from any source except from MWDOC, for any action related to the conduct of MWDOC business, except as set forth below:

1. Acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a breakfast, luncheon or dinner meeting or other meeting or on an inspection tour where the arrangements are consistent with the transaction of official business.*
2. Acceptance of transportation, lodging, meals or refreshments, in connection with attendance at widely attended gatherings sponsored by industrial, technical or professional organizations; or in connection with attendance at public ceremonies or similar activities financed by nongovernmental sources where the employee's participation on behalf of MWDOC is the result of an invitation addressed to him or her in his/her official capacity, and the transportation, lodging, meals or refreshment accepted is related to, and is in keeping with, his/her official participation.*
3. Acceptance of unsolicited advertising or promotional materials such as pens, pencils, note pads, calendars, or other items of nominal value.*
4. Acceptance of plaques and commemorative mementoes, of nominal value, or of value only to the recipient, such as service pins, recognition awards, retirement mementoes.
5. Acceptance of incidental transportation from a private organization provided it is furnished in connection with an employee's official duties and is of the type customarily provided by the private organization.

* Nothing herein shall be deemed to relieve any Director or designated employee from reporting the value of such meals, transportation, lodging or gifts and abstaining from participation in any decision of MWDOC which could foreseeably have a material financial effect on the donor when the value of such gifts reaches the limits set forth in MWDOC's Conflict of Interest Code and the Political Reform Act.

In no event shall any employee accept gifts from any single source, the cumulative value of which exceeds the applicable gift limit under California law.

A gift or gratuity, the receipt of which is prohibited under this section, shall be returned to the donor. If return is not possible, the gift or gratuity shall be turned over to a public or charitable institution without being claimed as a charitable deduction and a report of such action and the reasons why return was not feasible shall be made on MWDOC records. When possible, the donor also shall be informed of this action.

Motion - 1/17/96;

§7105 PERSONS OR COMPANIES REPORTING GIFTS

All persons and companies doing business with MWDOC, with the exception of public agencies, shall submit a summary, by January 31 of each calendar year, of all gifts claimed for internal vendor audits (including meals) made to, or on behalf of, employees or Directors of MWDOC, or their immediate family members, that have occurred in the normal course of business during the previous calendar year. Failure to provide this information to MWDOC may result in the termination of MWDOC business with that person or company.

Motion - 7/21/93; Motion - 8/18/93;

§7106 USE OF CONFIDENTIAL INFORMATION

Confidential information (i.e., information which is exempt from disclosure under the California Public Records Act) shall not be released to unauthorized persons unless the disclosure is approved by the Board, President of the Board, or General Manager. Employees are prohibited from using any confidential information for personal advantage or profit.

§7107 POLITICAL ACTIVITIES

Employees are free to endorse, advocate, contribute to, or otherwise support any political party, candidate, or cause they may choose; however, employees are prohibited from soliciting political funds or contributions at MWDOC facilities. In any personal political activity an employee may be involved in, it shall be made clear that the employee is acting personally and not for MWDOC.

§7108 IMPROPER ACTIVITIES

Employees shall not interfere with the proper performance of the official duties of others, but are strongly encouraged to fulfill their own moral obligations to the public, MWDOC, and its member agencies by disclosing, to the extent not expressly prohibited by law, improper activities within their knowledge. No employee shall directly or indirectly use or attempt to use the authority or influence of his/her position for the purpose of intimidating, threatening, coercing, commanding, or influencing any person with the intent of interfering with that person's duty to disclose improper activity.

§7109 VIOLATION OF POLICY – STAFF AND STAFF OFFICERS

If an employee is reported to have violated MWDOC's Ethics Policy, the matter shall be referred to the General Manager for investigation and consideration of any appropriate action warranted which may include employment action such as demotion, reduction in salary, or termination. If a Board appointed officer (Secretary, Treasurer or General Manager) is reported to have violated MWDOC's Ethics Policy, the matter shall be referred to the Executive Committee for investigation and consideration of any appropriate action.

Motion - 1/17/96;

§7110 VIOLATION OF POLICY -- DIRECTORS

A perceived violation of this policy by a Director should be referred to the President of the Board or the full Board of Directors for investigation, and consideration of any appropriate action warranted. A violation of this policy may be addressed by the use of such remedies as are available by law to MWDOC, including, but not limited to: (a) adoption of a resolution expressing disapproval of the conduct of the Director who has violated this policy, (b) injunctive relief, or (c) referral of the violation to MWDOC Legal Counsel and/or the Grand Jury.

§7111 PERIODIC REVIEW OF CONFLICT OF INTEREST AND ADMINISTRATIVE GUIDELINES

During the first quarter of the year immediately following an election (every two years), the Board shall meet to review and/or receive a presentation that addresses principles relating to reporting guidelines on compensation, conflict of interest issues, and standards for rules of conduct.

Please note If using Consultant’s proposal as Exhibit “B” please attach the proposal or or complete the standard Exhibit “B” Form below, BOTH Parties must verify that all sections of this form are FULLY ADDRESSED and the appropriate Exhibit is attached and labeled accordingly

EXHIBIT "B"

**SCOPE OF WORK, TERMS OF AGREEMENT
AND TERMS AND CONDITIONS FOR BILLING**

Company: Name: Address: Phone: Tax I.D. #
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1. Term – Commencement (Insert Date) _____ Termination (Insert Date) _____

2. Fees/Rates to be billed - \$_____

4. Budgeted Amount – Compensation is to be on a “time and material” basis, not to exceed \$_____. **CONSULTANT's** fees shall be billed by the 25th day of the month and paid by **DISTRICT** on or before the 15th of the following month. Invoices shall reference the Purchase Order number from the **DISTRICT**

Upon invoicing **DISTRICT** 80% of the contract amount, **CONSULTANT** shall prepare and provide to **DISTRICT** a “cost to complete” estimate for the remaining work.

4. Scope of Work/Services – (Insert **SPECIFIC** description – do not list “refer to Exhibit “) _____

5. Consultant Representative: _____