Las Virgenes Municipal Water District
PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement") is entered into this ____ day of _____, 20XX by and between Las Virgenes Municipal Water District ("Agency"), and Consultant ("Consultant"). Agency and Consultant are sometimes individually referred to as "Party" and collectively as "Parties."

1. PURPOSE.

1.1 Project.

Consultant desires to perform and assume responsibility for the provision of certain professional services required by the Agency on the terms and conditions set forth in this Agreement and Agency desires to engage Consultant to render such services for project ("Project") as set forth in this Agreement and its attached exhibits.

Now therefore, in consideration of the mutual covenants and agreements set forth herein, the Parties do contract and agree as follows:

2. TERMS.

2.1 Scope of Services.

2.1.1 General Scope of Services. Consultant promises and agrees to furnish to the Agency all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional services necessary for the Project ("Services"). The Services are more particularly described in the attached **Exhibit "A"** ("Scope of Services"). All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules, and regulations.

2.1.2 Term. [*This Agreement shall commence on the date above written and shall continue until completion of the Services described above.*

*********Or********

*The term of this Agreement shall be from Date to Date, as set forth in the attached **Exhibit "B"** ("Fee Schedule") unless earlier terminated as provided herein. Consultant shall complete the Services within the term of this Agreement and shall meet any other established schedules and deadlines. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Services.*]

2.2 Consideration.

2.2.1 Compensation. *Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in the Fee Schedule. The total compensation shall not exceed* written dollar value *($*XXX.00*) without written approval by Agency. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.*

2.2.2 Payment. Consultant shall submit to Agency a monthly itemized statement which indicates work completed and hours of Services rendered by Consultant. The statement shall describe the Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. Agency shall pay all approved charges within thirty (30) days of receiving such statement.

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

2.3 Responsibilities of Consultant.

2.3.1 Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. Consultant is an independent contractor and not an employee of Agency. Except as Agency may specify in writing, Consultant shall have no authority, expressed or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall also not be employees of Agency and shall at all times be under Consultant's exclusive direction and control.

2.3.2 Payment of Subordinates. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

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

perform the Services. Consultant warrants that all employees and subconsultants shall have sufficient skill and experience to perform the Services assigned to them.

2.3.4 Licensing. Consultant represents that it, its employees and subconsultants have all licenses, permits, qualifications, and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement.

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

2.3.6 Substitution of Key Personnel. Consultant has represented to Agency that certain key personnel will perform and coordinate the Services under this Agreement. Key Consultant personnel to be assigned to this Agreement are identified in the List of Key Consultant Personnel set forth in the attached **Exhibit "C"** ("Key Personnel"). Key Personnel shall be available to perform under the terms and conditions of this Agreement immediately upon commencement of the term of this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of Agency. The Agency shall have the right to approve or disapprove the reassignment or substitution of Consultant key personnel listed in Exhibit C for any reason at its sole discretion. In the event that Agency and Consultant cannot agree as to the substitution of key personnel, Agency shall be entitled to terminate this Agreement for cause.

2.3.7 Unavailability of Key Personnel. In the event individual key personnel listed in Exhibit C are terminated either by the Consultant or the individual, with or without cause, or if individual key personnel are otherwise unavailable to perform services for the Consultant, the Consultant shall provide to the Agency written notification detailing the circumstances of the unavailability of the individual key personnel and designating replacement personnel prior to the effective date of individual key personnel termination or unavailability date, to the maximum extent feasible, but no later than five (5) business days after the effective date of the individual key personnel termination or unavailability. The Consultant shall propose replacement personnel that have a level of experience and expertise equivalent to the unavailable individual key personnel for Agency review and approval.

2.3.8 Removal of Consultant Personnel. The Consultant agrees to remove personnel from performing work under this Agreement if reasonably requested to do so by the Agency within 24 hours or as soon thereafter as is practicable.

2.3.9 Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with Services. If the Consultant performs any work knowing it to be contrary to such laws, rules, and regulations, Consultant shall be solely responsible for all costs arising therefrom.

2.3.10 Labor Code Provisions.

(a) Prevailing Wages. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. Consultant shall comply with all prevailing wage requirements under the California Labor Code and Consultant shall forfeit as penalty to the Agency a sum of not more than $200.00 for each calendar day, or portion thereof, for each worker paid less than the prevailing rates. This penalty shall be in addition to any shortfall in wages paid. The Agency has obtained the general prevailing rate of wages, as determined by the Director of the Department of Industrial Relations, a copy of which is on file in the Agency's office and shall be made available for viewing to any interested party upon request. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Services available to interested parties upon request and shall post copies at the Consultant's principal place of business and at the Project site.

(b) Registration and Labor Compliance. If the Services are being performed as part of an applicable "public works" or "maintenance" project, then, in addition to the foregoing, pursuant to Labor Code sections 1725.5 and 1771.1, the Consultant and all subconsultants must be registered with the Department of Industrial Relations ("DIR"). Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements, including the submission of payroll records directly to the DIR.

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

2.3.11 Accounting Records. Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of Agency during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

2.4 Representatives of the Parties.

2.4.1 Agency's Representative. The Agency hereby designates its General Manager, or his or her designee, to act as its representative for the performance of this Agreement ("Agency's Representative"). Consultant shall not accept direction or orders from any person other than the Agency's Representative or his or her designee.

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

2.5 Indemnification.

To the fullest extent permitted by law, Consultant shall immediately indemnify and hold the Agency, its directors, officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage, or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors, or omissions of Consultant, its officials, officers, employees, subcontractors, consultants, or agents in connection with the performance of the Consultant's Services, the Project, or this Agreement, including without limitation the payment of all consequential damages, attorneys' fees and costs, including expert witness fees. Notwithstanding the foregoing, to the extent Consultant's Services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant.

Consultant shall immediately defend, with Counsel of Agency's choosing and at Consultant's own cost, expense and risk, any and all claims, suits, actions, or other proceedings of every kind that may be brought or instituted against Agency or its directors, officials, officers, employees, volunteers, and agents. Consultant shall pay and satisfy any judgment, award, or decree that may be rendered against Agency or its directors, officials, officers, employees, volunteers, and agents as part of any such claim, suit, action, or other proceeding. Consultant shall also reimburse Agency for the cost of any settlement paid by Agency or its directors, officials, officers, employees, agents, or volunteers as part of any such claim, suit, action, or other proceeding. Such reimbursement shall include payment for Agency's attorneys' fees and costs, including expert witness fees. Consultant's obligation to defend and indemnify shall survive expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by the Agency, its directors, officials, officers, employees, agents, or volunteers.

2.6 Insurance.

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

2.6.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives, employees, or subconsultants. Consultant shall also require all of its subconsultants to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(a) Commercial General Liability. Coverage for commercial general liability insurance shall be at least as broad as Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG 0001). Consultant shall maintain limits no less than $2,000,000 per occurrence, or the full per occurrence limits of the policies available, whichever is greater, for bodily injury, personal injury, and property damage. If Commercial General Liability Insurance or other form with general aggregate limit or product-completed operations aggregate limit is used, including but not limited to form CG 2503, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit.

(b) Automobile Liability. Coverage shall be at least as broad as the latest version of the Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto). Consultant shall maintain limits no less than $1,000,000 per accident for bodily injury and property damage. The automobile liability policy shall cover all owned, non-owned, and hired automobiles.

(c) Workers' Compensation and Employer's Liability Insurance. Consultant shall maintain Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance in an amount no less than $1,000,000 per accident for bodily injury or disease. The insurer shall agree to waive all rights of subrogation against the Agency, its directors, officials, officers, employees, agents, and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

(d) Professional Liability. Consultant shall procure and maintain, and require its subconsultants to procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance appropriate to their 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. Consultant shall purchase a one-year extended reporting period: i) if the retroactive date is advanced past the effective date of this Agreement; ii) if the policy is canceled or not renewed; or iii) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement. Such insurance shall be in an amount not less than $2,000,000 per claim.

(e) Excess Liability (if necessary). The limits of Insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess coverage shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the Agency (if agreed to in a written contract or agreement) before the Agency's own primary or self-Insurance shall be called upon to protect it as a named insured. The policy shall be endorsed to state that the Agency, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insured at least as broad a form as CG 20 10 11 85 or the latest versions of both CG 20 10 and CG 20 37. The coverage shall contain no special limitations on the scope of protection afforded to the Agency, its directors, officials, officers, employees, agents, and volunteers.

2.6.3 All Coverages. The general liability and automobile liability policy shall include or be endorsed to state that: (1) the Agency, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insured with respect to work by or on behalf of the Consultant, including materials, parts, or equipment furnished in connection with such work using as broad a form as CG 20 10 11 85 or the latest versions of both CG 20 10 and CG 20 37; and (2) the insurance coverage shall be primary insurance as respects the Agency, its directors, officials, officers, employees, agents, and volunteers using as broad a form as CG 20 01 04 13, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the Agency, its directors, officials, officers, employees, agents, and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.

(a) The insurance policies required above shall contain or be endorsed to contain the following specific provisions:

(i) The policies shall contain a waiver of transfer rights of recovery ("waiver of subrogation") against Agency, its board members, officers, employees, agents, and volunteers, for any claims arising out of the work of Consultant.

(ii) Policies may provide coverage which contains deductible or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to Agency under such policies. Consultant shall be solely responsible for deductible and/or self-insured retention and Agency, at its option, may require Consultant to secure the payment of such deductible or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit. The insurance

policies that contain deductibles or self-insured retentions in excess of $25,000 per occurrence shall not be acceptable without the prior approval of Agency.

(iii) Prior to start of work under this Agreement, Consultant shall file with Agency evidence of insurance as required above from an insurer or insurers certifying to the required coverage. The coverage shall be evidenced on a certificate of insurance signed by an authorized representative of the insurer(s).

(iv) Each policy required in this section shall contain a policy cancellation clause that provides the policy shall not be cancelled or otherwise terminated by the insurer or the Consultant or reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Agency, Attention: Director of Finance & Administration.

(v) Insurance required by this Agreement shall be placed with insurers licensed by the State of California to transact insurance business of the types required herein. Each insurer shall have a current Best Insurance Guide rating of not less than A: VII unless prior approval is secured from the Agency as to the use of such insurer.

(vi) Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein. Consultant shall maintain evidence of compliance with the insurance requirements by the subcontractors at the job site and make them available for review by Agency.

2.6.4 Reporting of Claims. Consultant shall report to the Agency, in addition to Consultant's insurer, any and all insurance claims submitted by Consultant in connection with the Services under this Agreement.

2.7 Termination of Agreement.

2.7.1 Grounds for Termination. Agency may, by written notice to Consultant, terminate the whole or any part of this Agreement without liability to the Agency if Consultant fails to perform or commits a substantial breach of the terms hereof. Either Party may terminate this agreement on thirty (30) days' written notice for any reason. Upon termination, Consultant shall be compensated only for those Services which have been adequately rendered to Agency, and Consultant shall be entitled to no further compensation. If the Agreement is terminated by Consultant without cause, Consultant shall reimburse Agency for additional costs to be incurred by Agency in obtaining the work from another consultant.

2.8 Ownership of Materials and Confidentiality.

2.8.1 Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for Agency to copy, use, modify, reuse, or

sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data"). The Consultant shall deliver to Agency on demand or upon completion of the Project, all such Documents & Data which shall be and remain the property of the Agency. If the Agency uses any of the data, reports, and documents furnished or prepared by the Consultant for projects other than the project shown on Exhibit A, the Consultant shall be released from responsibility to third parties concerning the use of the data, reports, and documents. The Consultant may retain copies of the materials. The Agency may use or reuse the materials prepared by Consultant without additional compensation to Consultant.

2.8.2 Confidentiality. All Documents & Data, either created by or provided to Consultant in connection with the performance of this Agreement, shall be held confidential by Consultant. All Documents & Data shall not, without the prior written consent of Agency, be used or reproduced by Consultant for any purposes other than the performance of the Services. Consultant shall not disclose, cause, or facilitate the disclosure of the Documents & Data to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant that is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use Agency's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television, or radio production, or other similar medium without the prior written consent of Agency.

2.9 Subcontracting/Subconsulting.

2.9.1 Prior Approval Required. Consultant shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of Agency. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

3. General Provisions.

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

Agency:

Las Virgenes Municipal Water District
Attn: District Contact
4232 Las Virgenes Road
Calabasas, CA 91302

Consultant:

Consultant, Contact & Address

Such notice shall be deemed made when personally delivered or when mailed, upon deposit in the U.S. Mail, first class postage prepaid and registered or certified addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.1.2 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex, or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, or termination.

3.1.3 Time of Essence. Time is of the essence for each and every provision of this Agreement. The acceptance of late performance shall not waive the right to claim damages for such breach nor constitute a waiver of the requirement of timely performance of any obligations remaining to be performed.

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

3.1.5 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the Parties.

3.1.6 Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the Agency.

3.1.7 Amendment. This Agreement may not be altered or amended except in a writing signed by both Parties.

3.1.8 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition.

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

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

3.1.11 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Los Angeles County.

3.1.12 Attorneys' Fees. If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this

Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorneys' fees and all other costs of such action.

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

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

3.1.15 Integration. This Agreement represents the entire understanding of Agency and Consultant as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder.

IN WITNESS WHEREOF, the Parties hereby have caused this Agreement to be executed the date first written above:

APPROVED:	APPROVED:
Las Virgenes Municipal Water District	**CONSULTANT**
_____	_____
David W. Pedersen	Name
General Manager	Title

EXHIBIT A
SCOPE OF SERVICES

Choose a building block.

EXHIBIT B
FEE SCHEDULE

Choose a building block.

EXHIBIT C
KEY PERSONNEL

Choose a building block.