

**AGREEMENT FOR SERVICES**

This agreement is to be used for  
Service Providers

**THIS AGREEMENT FOR SERVICES** (“Agreement”) is made this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by and between \_\_\_\_\_ (hereinafter referred to as "Contractor") and Truckee Meadows Water Authority (hereinafter referred to as "TMWA").

**RECITALS**

*WHEREAS*, TMWA is authorized to engage the services of persons as independent contractor; and

*WHEREAS*, Contractor has represented it is duly qualified and licensed in the State of Nevada and Washoe County for the purposes of performing the Scope of Work herein;

*WHEREAS*, TMWA wishes to retain Contractor to perform certain professional services for TMWA and Contractor is willing to perform these services in accordance with the terms and provisions of this Agreement

**1. DEFINITIONS.** “TMWA” means the Truckee Meadows Water Authority, its directors, officers, employees and immune contractors (other than Contractor) as defined in NRS 41.0307.

**2. SCOPE OF WORK**

**2.1. Description of Work.** Contractor shall provide and perform the services set forth in Exhibit A and any Scope(s) of Work attached hereto and incorporated herein by reference for and on behalf of TMWA (collectively the “Services”) during the term of the Agreement.

**2.2. Competence to Perform Services.** Contractor represents that it and/or the persons it may employ possess all skills and training necessary to perform the Services described herein and required hereunder. Contractor shall perform the Services faithfully, diligently, in a timely and professional manner, and to the best of its ability, and in such a manner as is customarily performed by a person who is in the business of providing such services in similar circumstances. Contractor represents that neither the execution and delivery of this Agreement, nor the rendering of services by the Contractor hereunder, will violate the provisions of, or constitute a default under, any other contract or agreement to which the Contractor is a party or by which the Contractor is bound, or which would preclude the Contractor from performing the services required of the Contractor hereunder, or which would impose any liability or obligation upon TMWA for

accepting such services. Contractor shall be responsible for the professional quality and technical accuracy of all Services furnished by Contractor to TMWA.

**2.3 Time of Completion.** This contract continues until either party gives notice as provided for in Section 5 of this Agreement.

**2.4 Licenses, Permits and Regulations.** Before commencing with the performance of any work under this Agreement, the Contractor shall obtain all necessary permits and licenses as may be necessary.

**3. TERM.** This Agreement shall commence on the date first written above and shall terminate upon the completion of the Services, unless sooner terminated by either party as specified in Section 5.

**4. COMPENSATION.**

**4.1 Amount.** As compensation for all of Contractor's Services hereunder, TMWA agrees to pay Contractor in accordance with the Schedule of Compensation attached hereto as Exhibit "B" hereinafter called the "**Contract Sum**". The Contract Sum represents full and adequate compensation for the completed work, and includes all expenses, direct or indirect, connected with the proper execution of the work

**4.2 Payment.** Payment by TMWA for services rendered by Contractor shall be due within thirty days upon receipt of invoices. If payment is not made in a timely manner, Contractor may, in the event TMWA fails to cure the deficiency after seven days written notice from Contractor, suspend the services under this Agreement until Contractor has been paid in full. TMWA does not agree to and will not reimburse Contractor for expenses unless specifically provided otherwise in this Agreement.

**4.3 Funding Out Clause.** TMWA reasonably believes that funds can be obtained sufficiently to make all payments during the term of this agreement. If the TMWA does not allocate funds to continue the function performed by the Contractor obtained under this Agreement, this Agreement shall be terminated when appropriated funds expire.

**5. TERMINATION.**

**5.1. Termination Without Cause.** This Agreement may be terminated by TMWA with or without cause upon ten (10) days written notice to Contractor. If this Agreement is so terminated, Contractor shall be paid for all services satisfactorily rendered and expenses incurred to the date of receipt of notice of termination.

**6. INDEPENDENT CONTRACTOR.** Contractor is associated with TMWA only for the purposes and to the extent specified in this Agreement, and in respect to

performance of the contracted services pursuant to this Agreement, Contractor is and shall be an independent contractor and, subject only to the terms of this Agreement, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Agreement. Nothing contained in this Agreement shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for TMWA whatsoever with respect to the indebtedness, liabilities, and obligations of Contractor or any other party. Contractor shall be solely responsible for, and TMWA shall have no obligation with respect to: (1) withholding of income taxes, FICA or any other taxes or fees; (2) industrial insurance coverage; (3) participation in any group insurance plans available to employees of TMWA; (4) participation or contributions by either Contractor or TMWA to the Public Employees Retirement System; (5) accumulation of vacation leave or sick leave; (6) unemployment compensation coverage provided by TMWA. Contractor shall indemnify and hold TMWA harmless from, and defend TMWA against, any and all losses, damages, claims, costs, penalties, liabilities, and expenses arising or incurred because of, incident to, or otherwise with respect to any such taxes or fees. Neither Contractor nor its employees, agents, or representatives shall be considered employees, agents, or representatives of TMWA. TMWA and Contractor shall evaluate the nature of services and term negotiated in order to determine "independent contractor" status and shall monitor the work relationship throughout the term of the Agreement to ensure that the independent contractor relationship remains as such.

**7. INDEMNIFICATION BY CONTRACTOR.** To the fullest extent permitted by law, Contractor shall indemnify, hold harmless and defend, not excluding TMWA's right to participate, TMWA from and against any and all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising in whole or in part out of any alleged negligent or willful acts or omissions of Contractor, its officers, employees and agents, excepting therefrom any liability arising out of the sole negligence of TMWA.

**8. LIMITED LIABILITY.** TMWA will not waive and intends to assert available NRS chapter 41 liability limitations and other liability limitations available at law in all cases. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise specified in this Agreement or any incorporated attachments. Damages for any TMWA breach shall never exceed the amount of funds appropriated for payment under this Agreement, but not yet paid to Contractor, for the fiscal year budget in existence at the time of the breach. Contract damages for any Contractor breach shall not exceed 150% of the contract maximum "not to exceed" value. Contractor's tort liability shall not be limited. Neither party shall be responsible for the negligent acts of the other party in the performance of this Agreement.

**9. INSURANCE.**

**9.1 By Contractor.** Unless expressly waived in writing by TMWA, Contractor, as an independent contractor and not an employee of TMWA, must obtain

and maintain policies of insurance in amounts specified in this Section 11 and pay all taxes and fees incident hereunto. TMWA shall have no liability except as specified in this Agreement. Contractor shall, at Contractor's sole expense, procure, maintain and keep in force the following insurance conforming to the minimum requirements specified below. Unless specifically specified herein or otherwise agreed to by TMWA, the required insurance shall be in effect prior to the commencement of work by Contractor.

**9.2 Form of Coverage.** Any insurance or self-insurance available to TMWA shall be excess of and non-contributing with any insurance required from Contractor. Contractor's insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by TMWA, Contractor shall provide TMWA with renewal or replacement evidence of insurance no less than thirty (30) days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by the Agreement, an insurer or surety shall fail to comply with the requirements of this Agreement, as soon as Contractor has knowledge of any such failure, Contractor shall immediately notify TMWA and immediately replace such insurance or bond with an insurer meeting the requirements.

**9.2.1. Additional Insured:** By endorsement to all liability policies, except Worker's Compensation and Professional Liability, evidenced by Contractor, TMWA, its officers, employees and immune Contractors as defined in NRS 41.0307, if any, shall be named as additional insureds for all liability arising from the Agreement.

**9.2.2. Waiver of Subrogation:** Each liability insurance policy shall provide that the insurance company waives all right of recovery by way of subrogation against TMWA, its officers, employees and immune contractors in connection with damage covered by any policy.

**9.2.3. Deductibles and Self-Insured Retentions:** Insurance maintained by Contractor shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by TMWA. Such approval shall not relieve Contractor from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed \$5,000 per occurrence, unless otherwise approved by TMWA.

**9.2.4. Approved Insurer:** Each insurance policy shall be (i) issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers acceptable to TMWA and having agents in Nevada upon whom service of process may be made, and (ii) currently rated by A.M. Best as "A-VII" or better.

### **9.3 Policies Required.**

**9.3.1 Professional Malpractice/Liability/Errors & Omissions Insurance.** Contractor shall procure and maintain, during the term of this Agreement, professional liability/errors and omissions insurance in the amount of

not less than One Million Dollars (\$1,000,000) per claim. The policy shall have a retroactive date prior to commencement of the performance of this Agreement and a discovery period at least three (3) years after the later of termination or the date of substantial completion of the project.

**9.4 Evidence of Insurance.** Prior to the start of any Work, Contractor must provide the following documents to TMWA, Attention: Purchasing & Contracts, P.O. Box 30013, Reno, NV 89520-3013:

**9.4.1 Certificate of Insurance.** Contractor must provide a Certificate of Insurance form to TMWA to evidence the insurance policies and coverage required of Contractor.

**9.4.2 Additional Insured Endorsements.** An original Additional Insured Endorsement, signed by an authorized insurance company representative, must be submitted to TMWA, by attachment to the Certificate of Insurance, to evidence the endorsement of TMWA as additional insured.

**9.4.3 Policy Cancellation Endorsement.** Except for ten days notice for non-payment of premium, each insurance policy shall be endorsed to specify that without thirty (30) days prior written notice to TMWA, the policy shall not be cancelled, non-renewal or coverage and/or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by certified mailed to the address specified above. A copy of this signed endorsement must be attached to the Certificate of Insurance.

Compliance with the insurance requirements of this Agreement shall not limit the liability of Contractor or its sub-contractors, employees or agents to TMWA or others, and shall be in addition to and not in lieu of any other remedy available to TMWA under this Agreement or otherwise. TMWA reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

**10. GOVERNMENT OBLIGATIONS.** Contractor shall be responsible for all applicable federal, state, and local government obligations. Contractor will be responsible to pay all taxes, assessments, fees, premiums, permits, and licenses required by law. Real property and personal property taxes are the responsibility of Contractor in accordance with NRS Chapter 361. Contractor warrants that it has a valid business license. Contractor agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Agreement. TMWA may set-off against consideration due any delinquent government obligation.

**11. NOTICE.** All notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party as indicated on Page 12 of this agreement.

**12. PUBLIC RECORDS.** Pursuant to NRS 239.010, information or documents received from Contractor may be open to public inspection and copying. TMWA will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests. Contractor may clearly label individual documents as a “trade secret” or “confidential” provided that Contractor thereby agrees to indemnify and defend TMWA for honoring such a designation. The failure to so label any document that is released by TMWA shall constitute a complete waiver of any and all claims for damages caused by any release of the records. If a public records request for a labeled document is received by TMWA, TMWA will notify Contractor of the request and delay access to the material until seven working days after notification to Contractor. Within that time delay, it will be the duty of Contractor to act in protection of its labeled record. Failure to so act shall constitute a complete waiver.

**13. MISCELLANEOUS.**

**13.1 Force Majeure.** Neither party shall be deemed to be in violation of this Agreement if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Agreement after the intervening cause ceases.

**13.2 Remedies.** Except as otherwise provided for by law or this Agreement, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing party reasonable attorneys’ fees and costs.

**13.3 Waiver of Breach.** Failure to declare a breach or the actual waiver of any particular breach of the Agreement or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

**13.4 Severability.** If any provision contained in this Agreement is held to be unenforceable by a court of law or equity, this Agreement shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Agreement unenforceable.

**13.5 Assignment.** Contractor shall neither assign, transfer nor delegate any rights, obligations or duties under this Agreement without the prior written consent of TMWA.

**13.6 Proper Authority.** Each party represents that all required authorizations have been obtained to execute this grant and for the compliance with each and every term hereof. Each person signing this Agreement warrants and represents to the other party that he or she has actual authority to execute this Agreement on behalf of the party for whom he or she is signing.

**13.7 Arbitration.** Any controversy of claim arising out of or relating to this Agreement, or the breach thereof, provided both parties agree, may be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association and judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

**13.8 Jurisdiction.** This Agreement and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada. Contractor consents to the jurisdiction of the Nevada district courts for enforcement of this Agreement. In the event the arbitration award is challenged, or the controversy proceeds to litigation instead of arbitration, any action or proceedings seeking to do so must be brought in the courts of the State of Nevada, County of Washoe, or if a party can acquire subject-matter jurisdiction, in the United States District Court for the District of Nevada. Each of the parties consents to the personal jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to venue laid therein.

**13.9 No Unfair Employment Practices.** In connection with the performance of work under this Agreement, Contractor agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, sexual orientation or age. Such Agreement shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Contractor further agrees to insert this provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials. Any violation of these provisions by Contractor shall constitute a material breach of contract. As used in this Article, sexual orientation means having or being perceived as having an orientation for heterosexuality, homosexuality or bi-sexuality.

**13.10 Entire Contract and Modification.** This Agreement and its integrated attachment(s) constitute the entire agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Agreement specifically displays a mutual intent to amend a particular part of this Agreement, general conflicts in language between any such attachment and this Agreement shall be construed consistent with the terms of this Agreement. Unless otherwise expressly authorized by the terms of this Agreement, no modification or amendment to this Agreement shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto.

The signature page follows this page.

*IN WITNESS WHEREOF*, the parties hereto have caused this Agreement to be signed and intend to be legally bound thereby. All required insurance must be provided before this agreement is fully executed. This agreement becomes effective once all parties have signed.

**CONTRACTOR**

Company Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Cont: \_\_\_\_\_  
Phone: \_\_\_\_\_  
FAX: \_\_\_\_\_  
E-mail: \_\_\_\_\_  
By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Dated: \_\_\_\_\_  
Business License #: \_\_\_\_\_  
Expires: \_\_\_\_\_

This agreement was requested:

By: \_\_\_\_\_  
\_\_\_\_\_

**TMWA**

TRUCKEE MEADOWS WATER  
AUTHORITY FOR ALL PROJECTS OVER  
\$25,000

By: Lori Williams, General Manager

\_\_\_\_\_

Dated: \_\_\_\_\_

**TMWA MANAGER**

By: \_\_\_\_\_  
\_\_\_\_\_

Dated: \_\_\_\_\_

Correspondence Address:

TMWA  
P.O. Box 30013  
Reno, NV 89520-30013  
Attention: Justine Chambers, Contract Admin.  
Ph: 775-834-8056  
Fax: 775-834-8153

**Exhibit A**  
**Services**

**This page can be replaced with a scope of work that is titled Exhibit A.**