



**Metro Finance Committee
REGULAR MEETING**

(Finance Advisory Committee to Metro JPA)

Physical Location: 9192 Topaz Way, San Diego, MOC II Conference Room 2B

TO: Finance Committee Members and Metro JPA

DATE: Tuesday, April 23, 2024

TIME: 10:00 a.m.

Note: Any member of the public may attend this meeting and provide comments to the Metro Finance Committee on any agenda item, or on a matter not appearing on the agenda, but within the jurisdiction of the Committee. Public comments must be submitted in either of the following manners:

1. Written Comments. Written public comments must be submitted prior to the start of the meeting to Lorimetrojpa@gmail.com. Please indicate whether your comment is on a specific agenda item or a non-agenda item. Comments are limited to four hundred (400) words. It is requested that comments and other information be provided at least two (2) hours before the start of the meeting. All comments received by such time will be provided to the Committee members in writing. In the discretion of the Chair, the first five (5) comments received on each agenda item, or on non-agenda matters, may be read into the record at the meeting. Comments received after the two (2) hour limit will be collected, sent to the Finance Committee members in writing, and be part of the public record.

2. Providing Oral Comments During the Meeting. For those attending in person, please complete a speaker slip and submit it to the Board Secretary prior to the start of the meeting, if possible, or in advance of the specific item being called. To provide comments remotely during the meeting, join the Teams meeting by computer, mobile phone, or dial-in number and use the "Raise Hand" feature. This will notify the Chair that you wish to provide public comments in real time during a specific item on the agenda or during the general Public Comment portion of the meeting. If joining the meeting using the TEAMS dial-in number, you can raise your hand by pressing *9. Comments will be limited to three (3) minutes. When providing comments to the Finance Committee, it is requested that you provide your name and city of residence for the record. Those commenting are requested to address their comments to the Finance Committee members through the Chair. If you have anything that you wish to be distributed to the JPA/Commission, please provide it to the Secretary via lorimetrojpa@gmail.com, who will distribute the information to the members.

The public may choose to participate in person or remotely by virtual means. For audio of meeting use the call-in phone numbers below and for video use the Teams link below.

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THIS NOTICE HAS BEEN DISTRIBUTED TO THE METRO FINANCE COMMITTEE MEMBERS and METRO DIRECTORS (for information)

1. **Roll Call**

2. **Public Comments**

Persons speaking during Public Comment may address the Metro Finance Committee on any subject matter within the jurisdiction of the Metro Finance Committee that is not listed as an agenda item. Comments are limited to three (3) minutes.

3. **ACTION:** Approval of Board Member Request for Remote Appearance (Adriana Ochoa)

4. **ACTION:** Approval of Agenda (FC Chair De Hoff)

5. **ACTION:** Consideration and Possible Action to Approve the Minutes from the March 27, 2024 Finance Committee Regular Meeting (**Attachment**)

6. **ACTION:** Consideration and Possible Action to Recommend to the Metro Wastewater JPA Approval of a Revision of the Metro Wastewater JPA Reserve Policy to Incorporate the Role of the Executive Director (Adriana Ochoa) (**Attachment**)

7. **ACTION:** Consideration and Possible Action to Recommend to the Metro Wastewater JPA Approval of the FY 2025 JPA Budget (Karyn Keze/Lee Ann Jones-Santos) (**Attachment Forthcoming**)

8. **ACTION:** Consideration and Possible Action to Recommend to the Metro Wastewater JPA Approval of the Following Items Relating to FY 2025 JPA Budget:

- a. Discussion and Recommendation Regarding Change in Treasurer Position and Designation of JPA Auditor (Adriana Ochoa)
- b. Letter of Termination for El Cajon Treasurer Contract effective June 30, 2024 (Adriana Ochoa) (**Attachment**)

- c. Professional Services Agreement with Rodney Greek CPA for Treasurer Services with Lee Ann Jones-Santos (Adriana Ochoa/Karyn Keze) **(Attachment)**
 - d. Professional Services Agreement with The Gavares Group for Consulting Services for the Metro Wastewater Joint Powers Authority Strategic Planning Process (Adriana Ochoa/Karyn Keze) **(Attachment)**
 - e. Professional Services Agreement with Rising Tide Partners for Communications Services (Adriana Ochoa/Karyn Keze) **(Attachment)**
- 9. Review of Items to be Brought Forward to the Metro JPA/Commission
 - 10. Other Business of the Finance Committee
 - 11. Adjournment

The Metro Finance Committee may act on any item listed on the agenda whether it is listed “for action” or not.

Materials provided to the Metro Finance Committee related to any open-session item on this agenda are available for public review by contacting Executive Director Karyn Keze (619) 733-8876 during normal business hours.

In compliance with the AMERICANS WITH DISABILITIES ACT

Persons with disabilities that require modifications or accommodations, please contact General Counsel Adriana Ochoa at adriana.ochoa@procopio.com by no later than two hours prior to the meeting to request reasonable modifications or accommodations consistent with the Americans with Disabilities Act and Metro JPA/Commission shall promptly work with you to resolve the matter in favor of accessibility.



Metro Wastewater JPA Finance Committee
March 27, 2024
Minutes

The meeting was called to order: 10:00 a.m. by Committee Chair De Hoff

1. ROLL CALL

Committee Attendees:

Peter De Hoff, Poway (Chair)
Jerry Jones, Lemon Grove Sanitation District (Vice Chair)
Ditas Yamane, National City
Mark Robak, Otay Water District
Vacant
Jose Preciado, City of Chula Vista (Alternate)

Committee Members Absent:

None

Support Staff:

Karyn Keze, The Keze Group, LLC (attended remotely)
Adriana Ochoa, Procopio
Lee Ann Jones-Santos, Metro JPA Treasurer, El Cajon
Lori Anne Peoples, Metro Secretary

General Public:

There were no public members present.

2. PUBLIC COMMENT

There was no public comment.

3. ACTION: APPROVAL OF BOARD MEMBER REQUEST FOR REMOTE APPEARANCE

There was no request for remote appearance.

4. ACTION: APPROVAL OF THE AGENDA

ACTION: Motion by Vice Chair Jones, seconded by Director Yamane, to approve the agenda.
Motion carried as follows:

AYES: De Hoff, Jones, Preciado, Yamane, Robak

NAYS: None

ABSTAIN: None

ABSENT: None

5. ACTION: CONSIDERATION AND POSSIBLE ACTION TO APPROVE MINUTES FROM THE January 23, 2024, REGULAR FINANCE COMMITTEE MEETING

ACTION: Motion by Vice Chair Jones, seconded by Director Yamane, to approve the Minutes.
Motion carried as follows:

AYES: De Hoff, Jones, Preciado, Yamane, Robak

NAYS: None

ABSTAIN: None

ABSENT: None

6. ACTION: DISCUSSION AND APPROVAL OF MEETING SCHEDULE

ACTION: Motion by Vice Chair Jones, seconded by Director Yamane, to approve the regular meeting change to the fourth Tuesday at 10 am. Motion carried as follows:

AYES: De Hoff, Jones, Preciado, Yamane, Robak

NAYS: None

ABSTAIN: None

ABSENT: None

7. ACTION: CONSIDERATION AND POSSIBLE ACTION TO RECOMMEND APPROVAL OF THE SECOND AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN METRO WASTEWATER JOINT POWERS AUTHORITY AND THE KEZE GROUP

General Counsel Ochoa noted that this was a clean-up item relating to the organization change approved by the JPA in March, wherein they created an Executive Director position which replaced the Administrative Coordinator position and appointed Karyn Keze to the new role and defines her new duties. A new amendment to her contract is included in the agenda package, and her role in the position begins March 7, 2024, and ends on June 30, 2025. The amendment includes an increase of \$18,000/year with a new ceiling of \$168,000. Her position as As-Needed Technical, Financial, and Administrative support shall continue through the end FY 2026 as set forth in the original agreement dated July 1, 2022.

ACTION: Motion by Vice Chair Jones, seconded by Director Robak, to recommend approval of the second amendment to agreement with the Keze Group to the Metro Wastewater JPA.
Motion carried as follows:

AYES: De Hoff, Jones, Preciado, Yamane, Robak

NAYS: None

ABSTAIN: None

ABSENT: None

8. ACTION: CONSIDERATION AND POSSIBLE ACTION TO RECOMMEND APPROVAL TO RECOMMEND APPROVAL OF THE RESOLUTION OF THE METRO WASTEWATER JOINT POWERS AUTHORITY ADOPTING AN AMENDED CONFLICT OF INTEREST CODE PURSUANT TO THE POLITICAL REFORM ACT OF 1974

General Counsel Ochoa provided a brief overview of the item, a copy of which is included in the agenda package and stated that the Conflict-of-Interest code is required to be reviewed and/or updated biannually. This update is due to the new organization chart and positions which included the new executive director position and cleans up other position titles of those required to file 700 forms.

ACTION: Motion by Director Yamane, seconded by Director Robak, to recommend approval of the resolution adopting an amended conflict of interest code to the Metro Wastewater JPA. Motion carried as follows:

AYES: De Hoff, Jones, Preciado, Yamane, Robak

NAYS: None

ABSTAIN: None

ABSENT: None

9. ACTION: CONSIDERATION AND POSSIBLE ACTION TO RECOMMEND APPROVAL TO THE METRO JPA/COMMISSION OF THE YEAR-END FY 2023 FINANCIAL STATEMENTS (UNAUDITED)

Metro JPA Treasurer, Lee Ann Jones-Santos provided a brief verbal overview of the financial statements included in the agenda package. She stated that she and Executive Director Karyn Keze were working on clarifying details for future reports and have provided almost 90% of requested items to the JPA's auditors. Ms. Keze noted that the total operating expenses to date are within the adopted FY 2023 budget but that projected year-end cash is only \$30,000 in excess of the required operating reserve.

Director Preciado provided suggestions on how to introduce the item when it comes before the JPA.

ACTION: Motion by Vice Chair Jones, seconded by Director Yamane, to recommend approval to the JPA. Motion carried as follows:

AYES: De Hoff, Jones, Preciado, Yamane, Robak

NAYS: None

ABSTAIN: None

ABSENT: None

10. ACTION: CONSIDERATION AND POSSIBLE ACTION TO RECOMMEND APPROVAL TO THE METRO JPA/COMMISSION THE MID-YEAR FY 2024 FINANCIALS

Metro JPA Treasurer, Lee Ann Jones-Santos, provided a brief overview of the mid-year report, copy included in the agenda package.

Director Preciado stated he felt that if the fees paid by the PA's needed to be raised, they should be.

Executive Director Karyn Keze explained the normal process in which the fees are managed.

ACTION: Motion by Vice Chair Jones, seconded by Director Yamane, to recommend approval to the JPA. Motion carried as follows:

AYES: De Hoff, Jones, Preciado, Yamane, Robak

NAYS: None

ABSTAIN: None

ABSENT: None

11. DISCUSSION: REVIEW, DISCUSSION AND DIRECTION OF THE FY 2025 BUDGET

Executive Director Karyn Keze provided a brief verbal overview of the item, a copy of which was provided to the committee and posted prior to the meeting. She noted that as part of the budget process all of the consultant contracts are being reviewed and that some changes may need to be made once this review is complete. Ms. Keze then discussed the Treasurer position and requested the finance committee entertain keeping Lee Ann in the role of treasurer when she retires from the City of El Cajon July 1, 2024, and enters private industry as a consultant. She will be working under CPA Rod Greek who used to be a Deputy Director at the City of San Diego. Both she and Mr. Greek bring a depth of knowledge of San Diego staff and finance workings. Lee Ann is still with the City of El Cajon with whom the JPA entered into a contract until 2026, but there is a clause for early termination and the City has expressed no interest in continuing once Lee Ann retires. In addition, Ms. Keze discussed the request to include a Strategic Planning consultant in the budget.

Consensus of the committee was to include these items in a budget for FY 2025; terminate the Treasurer contract with the City of El Cajon effective June 30, 2024; begin negotiations with Mr. Greek for treasurer services from 7-1-2024 to 6-30-2025; provide options to the board and bring it back for the finance committees ultimate recommendation to go to the June JPA meeting.

Director Robak left the meeting at 11:40 a.m.

Ms. Keze then provided additional items requiring budget increases such as the Director per diems and mileage.

Vice Chair Jones requested consideration for a strategic plan as the last one was done in FY 2020 and the board is now deeply into SARA and Pure Water. A proposal of \$15,275 has been received from Mr. John Gavares who has aided the JPA in the past and done a wonderful job.

He noted that there were several ways to do this but with everyone's time constraints, the last one was done with an AdHoc committee vs. the entire board which he recommended consideration of again. Consensus of the committee was to recommend approval of the strategic plan and Mr. Gavares to the full board.

Discussion was then held regarding contingency reserve funding alternatives and whether to fund in a one-year or two-year model. Consensus was to recommend the one-year.

12. REVIEW OF ITEMS TO BE BROUGHT FORWARD TO THE METRO JPA/COMMISSION

Chair De Hoff noted that items 7, 8, 9 and 10 would be moving forward.

13. OTHER BUSINESS OF THE FINANCE COMMITTEE

There was none.

- 14. ADJOURNMENT:** There being no further business, Committee Chair De Hoff declared the meeting adjourned at 12:00 p.m.

RESOLUTION NO. 2024-2

**RESOLUTION OF THE METRO WASTEWATER JOINT POWERS AUTHORITY
BOARD OF DIRECTORS ESTABLISHING A RESERVE FUND POLICY**

WHEREAS, a key element of prudent financial planning is to ensure that sufficient funding is available for current and future operating, capital, and/or debt service needs;

WHEREAS, the Metro Wastewater Joint Powers Authority (“Metro”) Board of Directors endeavors at all times to have sufficient funds available to meet its financial obligations; and

WHEREAS, fiscal responsibility requires anticipating the likelihood of and preparing for unforeseen events; therefore, this Reserve Fund Policy outlines specific accounts to meet these planned and unforeseen obligations;

WHEREAS, the Metro organization has created an Executive Director position in order to have a primary report that will be responsible for the oversight, management and monitoring of Metro’s budgets, among other matters;

NOW, THEREFORE, BE IT RESOLVED:

1. General Provisions

The Metro Board of Directors (Board) desires to designate specific fund accounts and maintain minimum fund balances consistent with amounts determined to be in the best interest of Metro and intended to ensure Metro has sufficient funds to meet current and future financial needs.

Metro hereby establishes and will maintain the following reserve components:

- a) Operating Reserves Fund
- b) Contingency Reserves Fund

Fund balances will be reviewed on an annual basis by both the Metro Finance Committee for recommendation to the Board, and the Metro Board of Directors, in order to evaluate reconciliation of the fund balances and assess the financial capacity to accomplish identified activities and objectives.

The target balance established for each reserve component represents the baseline financial condition that is acceptable to Metro from a risk management and financial planning perspective. Maintaining funds at appropriate levels is an ongoing business process that consists of a periodic assessment of revenues and expenditure levels.

2. Reserve Components

- a) **Operating Reserve Fund:** The Operating Reserve Fund is designated by the Board

to maintain working capital for current operations to ensure continuity of operations during short-term fluctuations in cash flow due to slow or delayed payment by Metro Participating Agencies, demand volatility, unanticipated costs, or other factors. Metro's ~~Administrative Executive Director Coordinator~~ and Treasurer are hereby authorized to use funds from the Operating Reserve Fund for expenditures that are Designated Expenses/Uses as set forth below.

Any request by staff to use funds from the Operating Reserve that shall bring the reserve below the minimum fund balance set forth below must be approved by the Board of Directors and accompanied by a staff report explaining the need for the expenditure(s).

Source of Funds:

- Prior year ending balance carried forward
- Allocation of funds by Board action
- Net operating income

Designation of Expenses/Uses:

- Funding requirements due to short term revenue and expenditure imbalance (for example, increases in consultant costs)
- Intra-fiscal year cash flow timing without Board approval, so long as the fund balance is not impaired by fiscal year-end

Target Balance:

- The Operating Reserve target balance shall be in the amount of four (4) months average expenditures based on the current fiscal year's operating budget; with a minimum fund balance of one (1) month of average expenditures.

b) Contingency Reserve Fund: The Board of Directors endeavors to budget for all anticipated expenditures, but emergencies and unforeseen circumstances can occur during the course of the year. The Contingency Reserve Fund is intended to provide funding for expenditures that must be undertaken to address emergencies or unforeseen circumstances (such as responding to a spill event).

Any request by staff to use Contingency Reserve Funds is subject to prior approval by the Board of Directors at the next regular meeting, and accompanied by a staff report explaining the need for the expenditure(s). In instances where funds must be disbursed immediately, the Board hereby delegates to the ~~TAC Chair~~Executive Director, or if the ~~TAC Chair~~Executive Director is unavailable, to the ~~TAC Vice Chair~~Board ChairTreasurer, authority to evaluate and approve expenditures from the Contingency Reserve Fund, subject to a second approval by the Metro Auditor or a separate authorized signer underidentified the Invoice Payment Policy. The ~~TAC Chair~~Executive Director shall thereafter present a report regarding the expenditure for ratification at the following regular Board meeting.

Source of Funds:

- Prior year ending balance carried forward
- Allocation of funds by Board action
- Net operating income

Designation of Expenses/Uses:

- Emergencies/Unforeseen events

Target Balance:

- The Contingency Reserve target balance shall be in the amount of three (3) months average expenditures based on the current fiscal year's operating budget.

3. Delegation of Authority

The Metro Board of Directors has sole authority to amend or revise this Reserve Policy. Management responsibility for the Reserve Policy is hereby delegated to the Board Chair, who through approval of this Policy has established written procedures for the management of Metro's reserves.

4. Replacement and Supersession-

The previous Reserve Fund Policy is hereby rescinded, and this Resolution 2024-02 Establishing a Reserve Fund Policy replaces and supersedes it in its entirety.

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PASSED, APPROVED AND ADOPTED by the Board of Directors of the Metro Wastewater Joint Powers Authority at a meeting thereof held on the ____ day of _____, June, 20243.

Chairperson

ATTEST:

Board Secretary

METRO WASTEWATER JPA

May 2, 2024

Graham Mitchell
City Manager
City of El Cajon
200 Civic Center Way
El Cajon, CA 92020

Re: Termination of Agreement for Treasurer Services Between Metro Wastewater Joint Powers Authority and the City of El Cajon

Dear Mr. Mitchell:

I write on behalf of the Metro Wastewater Joint Powers Authority (“Metro JPA”) regarding the above-referenced agreement between Metro JPA and the City of El Cajon for treasurer services provided to Metro JPA by El Cajon (enclosed for reference). Please consider this correspondence as notification by Metro JPA of its decision to terminate the above-referenced agreement.¹

Per paragraph 4 of the agreement, “At any time, either Party may terminate this Agreement upon ninety (90) days’ written notice to the other Party.” In providing this notice, Metro JPA respectfully requests that El Cajon agree to termination of the agreement effective June 30, 2024, prior to the renewal date of July 1, 2024, and prior to the full 90-days following this notice.

At your earliest convenience, please confirm receipt of this notice, and your approval to termination of the agreement on June 30, 2024 subject to the footnote below.

Respectfully,

Karyn Keze
Executive Director
Metro Wastewater Joint Powers Authority

Encl. Agreement Between Metro JPA and El Cajon

¹ Please note that this letter assumes the Fourth Amendment to the Metro Joint Powers Agreement will be fully executed by June 30, 2024. However, if the Metro Wastewater JPA’s Participating Agencies have not unanimously approved the Fourth Amendment to the Metro Joint Powers Agreement by June 30, 2024, then we request that you postpone termination of the Agreement for Treasurer Services until the Fourth Amendment to the Metro Joint Powers Agreement is fully executed.

**PROFESSIONAL SERVICES AGREEMENT FOR TREASURER SERVICES
BETWEEN METRO WASTEWATER JOINT POWERS AUTHORITY
AND RODNEY GREEK, CPA**

This Professional Services Agreement (“**Agreement**”) is made on this _____ day of June, 2024 (“**Effective Date**”), between METRO WASTEWATER JOINT POWERS AUTHORITY (“**METRO JPA**”), and RODNEY GREEK, CPA (“**TREASURER**”), an independent contractor, collectively referred to herein as “**parties**” or individually as “**party**,” to furnish certain services as provided in this Agreement and upon the following terms and conditions.

**ARTICLE 1
TERM OF AGREEMENT**

1.01 The term of this Agreement shall commence on the Effective Date stated above, and will continue through June 30, 2025 or until terminated as provided under Article 7, whichever occurs first. At the Parties discretion, and pursuant to a written letter agreement, this Agreement may be extended by one optional year according to the terms set forth in Attachment A – Scope of Work (“**Attachment A**”) and herein. This Agreement may be further extended by a written amendment signed by both parties. Attachment A may contain further instructions regarding required timelines for performance of the Services to be provided under this Agreement. Time is of the essence for each and every provision of this Agreement.

**ARTICLE 2
SCOPE OF WORK**

Specific Services

2.01 TREASURER shall perform the services within the scope described in Attachment A and as authorized by METRO JPA (the “**Services**”). TREASURER will provide METRO JPA with periodic reports regarding the progress of Services performed, at METRO JPA’s request. Any changes to the scope of work or timeframes identified in Attachment A must be authorized by METRO JPA in writing and shall be set forth as an amendment to this Agreement.

2.02 TREASURER shall determine the method, details, and means of performing the above-described Services. TREASURER shall supply all labor, tools, materials, and equipment required to perform the Services under this Agreement.

Standard of Performance

2.03 TREASURER shall perform the Services required hereunder in accordance with the prevailing standard of care by exercising the skill and ability customarily exercised by reputable members of TREASURER’s profession providing the same or similar services in the State of California. While exercising its professional skill and expertise, TREASURER shall use reasonable diligence and best judgment, and shall perform the Services required hereunder in the best interests of METRO JPA. Acceptance by METRO JPA of reports, and incidental professional work or materials furnished hereunder, shall not in any way relieve TREASURER of responsibility for the adequacy of its work.

Personnel

2.04 METRO JPA has a primary interest in maintaining the individual services of the following key project team members:

1. Rodney Greek
2. Lee Ann Jones-Santos

2.05 No member of the project team shall be removed from the project team or reassigned by TREASURER without prior approval of METRO JPA. TREASURER shall immediately inform METRO JPA, in writing, should any of the key members become unavailable. TREASURER must submit the credentials for substitutes for key project members to METRO JPA for review and approval. At the discretion of METRO JPA, an interview may be required prior to approval of a substitute key project member.

ARTICLE 3 COMPENSATION

Compensation for Work Performed Under This Agreement

3.01 Compensation payable to TREASURER for Services performed under this Agreement shall not exceed **forty thousand dollars (\$40,000)** during fiscal year 2025 (July 1, 2024 - June 30, 2025), in the aggregate, and **fifty thousand dollars (\$50,000)** during **optional** fiscal year 2026 (July 1, 2025 - June 30, 2026), in the aggregate. This amount shall not be exceeded unless agreed upon through an amendment to this Agreement executed by both parties. Such amendment shall identify any change in compensation as a result of the change in scope of work. The parties agree that this compensation was developed in accordance with the customary and prevailing compensation level in the community and surrounding area for comparable services. TREASURER and METRO JPA agreed to this amount through an arm's length negotiation between the parties.

Payment of Expenses and Monthly Invoices

3.02 METRO JPA will reimburse TREASURER for all reasonable expenses incurred in performing Services under this Agreement as the work progresses, provided that such reasonable expenses shall be included in and subject to the maximum compensation amount stated above in this Article. TREASURER shall submit invoices to METRO JPA's Accounts Payable department once per month. Such invoices shall include a brief narrative description of the work performed, as well as detailed time expenditures on a task-by-task basis pursuant to Attachment A. The term "expenses" means telephone bills, and federal express charges, mailing charges and any other pre-approved expenses by METRO JPA. TREASURER will provide METRO JPA with receipts and proof of payment for all expenses. METRO JPA shall make payment to TREASURER within forty-five (45) days of receipt of an approved invoice.

3.03 METRO JPA shall have the right to withhold payment from TREASURER for any unsatisfactory Services until such time service is performed satisfactorily or as otherwise provided for in this Agreement.

ARTICLE 4 RELATIONSHIP OF PARTIES

Independent Contractor

4.01 It is expressly understood and agreed that TREASURER is an independent contractor and its employees are not employees of METRO JPA while engaged in carrying out this Agreement. TREASURER is free from the control and direction of METRO JPA in connection with the performance of the work, TREASURER performs work that is outside the usual course of METRO JPA business, and TREASURER is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed. The parties agree that no work, act, commission, or omission of

TREASURER or its employee(s) pursuant to this Agreement shall be construed to make TREASURER or its employee(s) the agent, employee, or servant of METRO JPA. TREASURER and its employee(s) are not entitled to receive from METRO JPA vacation pay, sick leave, retirement benefits, Social Security, workers' compensation, disability benefits, unemployment benefits, or any other employee benefit of any kind. TREASURER shall be solely responsible for paying all federal and state employment and income taxes, for carrying workers' compensation insurance, and for otherwise complying with all other employment law requirements with respect to TREASURER and its employee(s).

4.02 To the maximum extent allowable by law, TREASURER agrees to indemnify, defend and hold METRO JPA harmless from any and all liability, damages, or losses (including attorneys' fees, costs, penalties, and fines) that METRO JPA suffers as a result of (a) TREASURER's failure to meet its obligations under this Article, or (b) a third party's designation of TREASURER or its employee(s) as an employee of METRO JPA, regardless of any actual or alleged negligence by METRO JPA.

Non-Exclusive Relationship

4.03 TREASURER and METRO JPA acknowledge that the relationship between the parties is non-exclusive and TREASURER may perform or engage in any activity not inconsistent with this Agreement, including performing services for, or contracting with, other clients, persons, or companies as TREASURER sees fit. METRO JPA reserves the right to employ other contractors in connection with the Services described in Attachment A.

ARTICLE 5 OBLIGATIONS OF CONTRACTOR

Compliance with Laws/Rules

5.01 In performing the Services specified in this Agreement, TREASURER agrees to comply with all applicable laws, rules, regulations, and ordinances, whether federal, state, or local, including, specifically, the obligations of Treasurer delineated in Government Code 6505 and 6505.5, and any and all applicable METRO JPA policies, procedures, departmental rules, and other directives provided by METRO JPA to TREASURER. Any changes to METRO JPA policies and procedures that relate to TREASURER will be provided to TREASURER in writing. TREASURER agrees that, prior to entering into this Agreement, it has reviewed such policies, procedures, rules, and directives, the contents of which TREASURER will be deemed to have knowledge.

5.02 TREASURER shall ensure that any report generated under this Agreement complies with California Government Code section 7550.

Indemnity, Hold Harmless, and Defense

5.03 To the maximum extent allowable by law, TREASURER shall indemnify, defend, and hold harmless METRO JPA and its Member Agencies, and each of their respective officials, officers, directors, employees, agents and volunteers (collectively referred to as the "**Indemnified Parties**") against all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties, attorneys' fees, and costs (collectively referred to as "**Liabilities**") that such entities or persons may incur that pertain to, arise out of, or relate to TREASURER'S performance or obligations under this Agreement, or to TREASURER's negligence, recklessness, or willful misconduct, or a breach by TREASURER of any representation or agreement contained in this Agreement. TREASURER's obligation to indemnify, defend, and hold harmless METRO JPA shall extend to the acts or omissions, either directly or indirectly, by TREASURER's officers, officials, directors, employees, subcontractors, agents, representatives, volunteers, successors, assigns, or anyone for whom TREASURER is legally responsible. TREASURER's obligations to indemnify, defend, and hold METRO JPA harmless against any Liabilities

shall apply regardless of any negligence of Indemnified Parties, except to the extent caused by the sole negligence or willful misconduct of the Indemnified Parties.

5.03.1 TREASURER shall cooperate with and do whatever is necessary to protect Indemnified Parties from any such Liabilities.

5.03.2 TREASURER shall defend Indemnified Parties, at TREASURER's own cost, expense and risk, from any and all such aforesaid Liabilities asserted in claims, demands, actions, causes of action, arbitration, mediations or other proceedings of any kind that may be brought or instituted against Indemnified Parties. TREASURER and Indemnified Parties shall be jointly represented by legal counsel, unless there is a conflict of interest, and TREASURER shall pay Indemnified Parties' reasonable attorneys' fees and costs as they are incurred. Indemnified Parties shall be consulted regarding, and shall approve, the selection of legal counsel. Should separate legal counsel be necessary for Indemnified Parties, as determined by METRO JPA, TREASURER shall pay for the reasonable attorneys' fees and costs including expert witness fees, as such fees and costs are incurred and within thirty (30) days of receipt of an invoice, for Indemnified Parties' legal counsel in addition to TREASURER's own legal fees and costs. In all circumstances, Indemnified Parties reserve the right to retain their own attorneys. TREASURER shall not agree without Indemnified Parties' prior written consent to any settlement on Indemnified Parties' behalf.

5.03.3 If TREASURER is obligated to defend Indemnified Parties pursuant to this Article 5 and fails to do so after reasonable notice from METRO JPA, Indemnified Parties may defend themselves and/or settle such claims, suit or assertion, and TREASURER shall pay to Indemnified Parties any and all Liabilities incurred in relation to Indemnified Parties' defense and/or settlement of such proceeding.

5.03.4 TREASURER shall pay and satisfy any judgment, award, liability, or decree that may be awarded, imposed, or rendered against Indemnified Parties as a result of any claims, demands, suits, actions, causes of action, arbitrations, mediations, or other proceedings whether legal, administrative or otherwise, including any settlement related thereto.

5.03.5 TREASURER's obligation to indemnify, defend, and hold METRO JPA harmless against all Liabilities shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for TREASURER, subcontractor, supplier, or other person under workers' compensation acts, disability acts or other employee acts or the insurance required by this Agreement. TREASURER's obligation to indemnify, defend, and hold METRO JPA harmless against all Liabilities shall not be restricted to insurance proceeds, if any, received by TREASURER or Indemnified Parties. Provision of insurance coverage as required by this Agreement shall not affect TREASURER's indemnity obligations.

5.03.6 TREASURER's indemnification, hold harmless, and defense obligation shall survive the termination or expiration of this Agreement.

Notice of and Participation in Third Party Claims

5.04 TREASURER shall give METRO JPA written notice of any claim or liability asserted by a third party that arises from or relates to the Work performed under this Agreement ("Third-Party Claim"), as soon as possible upon the receipt of information of any possible Third-Party Claim or of the commencement of any Third-Party Claim. TREASURER shall not oppose any attempt by METRO JPA to intervene or otherwise participate in any such Third-Party Claim. TREASURER shall not settle any Third-Party Claim covered by this Section unless it has obtained the prior written consent of METRO JPA, which consent shall not be unreasonably withheld, conditioned or delayed. METRO JPA shall have no liability under this Section for any Third-Party Claim for which such notice is not provided or is not provided in a timely manner, including no liability for contribution, indemnification, reimbursement or penalties. TREASURER's obligations hereunder shall survive the termination or expiration of this Agreement.

Official Bond and Insurance

5.05 TREASURER shall file an official bond in the amount of \$25,000 pursuant to Government Code section 6505.1. Metro JPA shall reimburse the TREASURER for the cost of the bond; provided, however, that such reimbursement shall not exceed \$1,500.

5.06 TREASURER shall procure and maintain in full force and effect for the duration of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by TREASURER, its agents, representatives, employees, or subcontractors. Insurance policies shall be on an occurrence basis, and coverage shall be at least as broad and in the minimum amounts as follows:

5.06.1 California Workers' Compensation Insurance, as required by the State of California, with statutory limits, and Employer's Liability Insurance with limits of no less than One Million Dollars (\$1,000,000) per accident for bodily injury or disease.

5.06.2 General Liability Insurance [ISO Form CG 0001, or equivalent], covering products and completed operations, bodily injury, personal & advertising injury and property damage with limits no less than One Million Dollars (\$1,000,000) per occurrence. If a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

5.06.3 Automobile Liability Insurance [ISO Form CA 0001 covering code 1 (any auto), or if no owned autos, Code 8 (hired) and 9 (non-owned), or equivalent forms] with limits no less than One Million Dollars (\$1,000,000) per accident for bodily injury and property damage.

5.06.4 Error and Omissions (Professional Liability) Insurance appropriate to TREASURER's services, with limits no less than One Million Dollars (\$1,000,000) per occurrence or claim, and Two Million Dollars (\$2,000,000) aggregate.

5.07 The following are required provisions:

5.07.1 Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to Insured Parties.

5.08 TREASURER will furnish METRO JPA with certificates of insurance prior to the commencement of work under this Agreement, and as may be periodically requested by METRO JPA. TREASURER shall include all endorsements necessary to comply with this Agreement, including additional insured endorsements, signed by the insurer's representative. Such evidence shall include confirmation that coverage includes or has been modified to include all provisions required by this Agreement. TREASURER shall, upon request of METRO JPA at any time, deliver to METRO JPA complete, certified copies of the policies of insurance, including endorsements, and receipts for payment or premiums thereon, required by this Agreement. Failure to obtain the required documents prior to the work beginning shall not waive TREASURER's obligation to provide them.

5.09 If any of the required coverages expire during the term of this Agreement, TREASURER shall deliver the renewal certificate(s) including the general liability and auto liability additional insured endorsements to METRO JPA at least ten (10) days prior to the expiration date.

5.10 TREASURER shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and TREASURER shall ensure that METRO JPA is an additional insured on insurance required from subcontractors.

5.11 Claims Made Policies. If any of the required policies provide coverage on a claims-made basis:

5.11.1 The Retroactive Date must be shown and must be before the date of the Agreement or the beginning of contract work.

5.11.2 Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

5.11.3 If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the TREASURER must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.

Conflict of Interest

5.12 Upon the award of this Agreement and periodically thereafter, TREASURER shall be required to complete and file with METRO JPA a Statement of Economic Interest (Form 700), to be provided to TREASURER by METRO JPA.

Assignment/Subcontracting

5.13 TREASURER shall not subcontract or assign this Agreement nor any duties or obligations under this Agreement without the prior written consent of METRO JPA. TREASURER shall be responsible for the acts and omissions of and for payment to any subcontractor performing services under this Agreement, and shall bind any such subcontractor to TREASURER’s duties and obligations hereunder. METRO JPA shall have the right to approve any subcontractor agreements. Nothing contained in this Agreement will create any contractual relationship between METRO JPA any subcontractor of TREASURER.

ARTICLE 6 OBLIGATIONS OF METRO JPA

6.01 METRO JPA agrees to comply with all reasonable requests of TREASURER, including requests to access documents, data and facilities reasonably necessary for the performance of TREASURER’s duties under this Agreement, consistent with applicable law.

ARTICLE 7 TERMINATION OF AGREEMENT

Termination for Cause

7.01 If METRO JPA determines that TREASURER has failed to perform the Services under this Agreement in accordance its terms and conditions, METRO JPA may terminate all or part of the Agreement for cause. This termination shall become effective if TREASURER does not cure its failure to perform within 10 days (or more, if authorized in writing by METRO JPA) after receipt of a notice of intention to terminate from METRO JPA specifying the failure in performance. If a termination for cause does occur, METRO JPA shall have the right to withhold monies otherwise payable to TREASURER until the Services under this Agreement are completed. If METRO JPA incurs additional costs, expenses, or other damages due to the failure of TREASURER to properly perform under this Agreement, these costs, expenses, or other damages shall be deducted from the amounts withheld. Should the amounts withheld exceed the amounts deducted, the balance will be paid to TREASURER upon completion of the Services to be provided under this Agreement. If the costs, expenses, or other damages incurred by METRO JPA exceed the amounts withheld, TREASURER shall be liable to METRO JPA for the difference.

7.02 TREASURER may terminate this Agreement for cause if METRO JPA fails to cure a material default in performance within a period of 30 days, or such longer period as TREASURER may allow, after METRO JPA’s receipt from TREASURER of a written termination notice specifying the default in performance. In

the event of termination for cause by TREASURER, METRO JPA will pay TREASURER in accordance with Section 7.03.

Termination Without Cause

7.03 METRO JPA may terminate this Agreement for convenience at any time upon written notice to TREASURER, in which case, METRO JPA will pay TREASURER for all Services performed and all expenses incurred under this Agreement up to and including the effective date of termination less any costs, expenses, or other damages due to the failure of the TREASURER to properly perform pursuant to the Agreement. No compensation will be payable for anticipated profit on unperformed services.

ARTICLE 8 PROPRIETARY AND CONFIDENTIAL INFORMATION

8.01 Any written, printed, graphic, or electronically or magnetically recorded information furnished by METRO JPA for TREASURER's use is the sole property of METRO JPA. TREASURER and its employee(s) and subcontractor(s) will keep any confidential information provided by METRO JPA in the strictest confidence, and will not disclose it by any means to any person except with METRO JPA approval, and only to the extent necessary to perform the Services under this Agreement. On termination of this Agreement, TREASURER will promptly return to METRO JPA any confidential information in its possession.

ARTICLE 9 GENERAL PROVISIONS

Notices

9.01 Any notices required to be given under this Agreement by either party to the other may be affected by email and in writing via personal delivery or mail (first class, registered, or certified) with postage prepaid and return receipt requested. Mailed notices must be addressed to the parties at the addresses below, but each party may change the address by giving written notice in accordance with this Section. Any notice personally delivered or sent by email shall be deemed communicated upon receipt if received before 5:00 p.m. Pacific Standard Time ("PST") on a business day, or the following business day if received after 5:00 p.m. PST or on a Saturday, Sunday, or legal holiday. Any notice sent by overnight delivery service shall be deemed communicated on the next business day following delivery thereof to the overnight delivery service. Any notice given by mail shall be deemed communicated three (3) days after deposit in the United States mail.

To METRO JPA: Metro Wastewater JPA
P.O. Box 1072
National City, CA 91951
Email: ExecutiveDirector@metrojpa.org
Attention: [Executive Director](#)

To TREASURER: Rodney Greek, CPA
1325 N. Vulcan Ave.
Encinitas, CA 92024
Email: rjgreek@cox.net
Attention: Rodney Greek

Entire Agreement of the Parties

9.02 This Agreement, including any Attachments, contains the entire understanding between the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements and understandings, inducements, or conditions, express or implied, oral or written, except as herein contained.

The express terms hereof control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms hereof.

Amendment

9.03 This Agreement may not be modified or amended other than by a writing signed by the parties, including any changes to the scope of services or any timeframes identified in Attachment A.

Partial Invalidity

9.04 If any non-material provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

Attorneys' Fees

9.05 If any legal action, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which that party may be entitled.

Ownership of Documents and Materials

9.06 All original drawings, data, reports, documents and materials developed for the project, including detailed calculations, shall be furnished to and become the property of METRO JPA. METRO JPA agrees to indemnify TREASURER for claims, damages, or liabilities caused by any use by METRO JPA of the plans, drawings, specifications, and all information gathered by TREASURER on any project other than the one for which such plans, drawings, and specifications were prepared and information gathered by TREASURER.

Audits

9.07 This Agreement is subject to examination and audit of the State Auditor, at the request of METRO JPA or as part of any audit of METRO JPA, for a period of three (3) years after final payment under the Agreement. TREASURER shall cooperate with METRO JPA, including any authorized representative of METRO JPA, regarding such audit at no charge to METRO JPA.

Counterparts

9.08 This Agreement may be executed in counterparts and electronically, each of which shall constitute an original, but all of which together shall constitute one and the same agreement, and the signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.

Provisions Required by Law

9.09 Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein, and the Agreement shall be read and enforced as though they were included herein. If through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the request of either party, the Agreement shall forthwith be physically amended to make such insertion.

Governing Law

9.10 This Agreement and all questions relating to its validity, interpretation, performance, and enforcement (including, without limitation, provisions concerning limitations of actions), shall be governed by and construed in accordance with the laws of the State of California.

Jurisdiction and Venue

9.11 The proper jurisdiction and venue for any claims, causes of action or other proceedings arising out of or relating to this Agreement shall be in the County of San Diego, State of California, and the parties hereby waive any right providing for a change of jurisdiction or forum to any other location.

No Waiver

9.12 A waiver by either party of a breach of any provision of this Agreement shall not constitute a general waiver or prejudice the other party's right otherwise to demand strict compliance with that provision or any other provisions in this Agreement. Likewise, METRO JPA's acceptance of any reports, work, services or materials furnished pursuant to this Agreement, or METRO JPA's payment therefor, shall not operate as a waiver of any of METRO JPA's rights under this Agreement or of any cause of action or defense relating to the performance of this Agreement.

False Claims

9.13 In signing this Agreement, TREASURER certifies that TREASURER shall not submit a false claim in violation of the False Claims Act, section 12650 *et seq.* of the Government Code.

Signature Authority

9.14 METRO JPA and TREASURER do covenant that the individual executing this Agreement on their behalf is a person duly authorized and empowered to execute this Agreement for such party.

BY SIGNING BELOW THE PARTIES VOLUNTARILY ENTER INTO THIS AGREEMENT AND ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTAND THE TERMS SET FORTH HEREIN AND AGREE TO BE BOUND THEREBY.

**METRO WASTEWATER
JOINT POWERS AUTHORITY:**

RODNEY GREEK, CPA:

Signature

Signature

Name

Name

Title

Title

Date

Date

EXHIBIT "A"

SCOPE OF SERVICES

Fiscal Year one (FY 2025)

During Fiscal Year one (FY) 2025, Rodney Greek, CPA et al will provide professional Government Treasurer Accounting services to Metro JPA as follows:

- Monitor and manage separate bank accounts to include savings and checking.
- Maintain and reconcile bank accounts,
- Prepare Member Agency annual billings.
- Collect and deposit Member Agency billings.
- Make authorized expenditures related to conducting Metro Commission and Metro JPA business.
- Provide biannual unaudited financial reporting which reflects cash balances, outstanding receivables, and payables.
- Provide biannual unaudited income statement financial reporting. Financial reporting will separately track Metro Commission and Metro JPA receipts and expenditures.
- Accrual basis of accounting will be used to reveal outstanding receivables and payables to the extent known as of the financial statement date.
- Attend staff and Board meetings as desired by the Metro Commission and Metro JPA.
- Consult and respond to questions from member agencies concerning finances and billings.
- Other incidental services consistent with the Treasurer's position.

Optional - Fiscal Year two (FY 2026)

During Fiscal Year two (FY) 2026, Rodney Greek, CPA et al will provide professional Government Treasurer Accounting services, prepare auditable biennial financial statements, and manage audit services to be provided by a separate qualified CPA firm for Metro JPA as follows:

- Monitor and manage separate bank accounts to include savings and checking.
- Maintain and reconcile bank accounts,
- Prepare Member Agency annual billings.
- Collect and deposit Member Agency billings.
- Make authorized expenditures related to conducting Metro Commission and Metro JPA business.
- Provide biannual unaudited financial reporting which reflects cash balances, outstanding receivables, and payables.
- Provide biannual unaudited income statement financial reporting. Financial reporting will separately track Metro Commission and Metro JPA receipts and expenditures.
- Accrual basis of accounting will be used to reveal outstanding receivables and payables to the extent known as of the financial statement date.
- Attend staff and Board meetings as desired by the Metro Commission and Metro JPA.
- Consult and respond to questions from member agencies concerning finances and billings.

- Other incidental services consistent with the Treasurer's position.
- Coordination between Outside audit firm and Metro JPA via this Consultant to ensure deliverables are met in a timely manner with a target completion date for the FY2023-24/FY2024-25 audit of November 26, 2025.
- Preparation and review of the auditable Biennial Financial Report for the years ended June 30, 2024 and June 30, 2025 including:
 - Management Discussion and Analysis
 - Financial Statements
 - Statement of net Position
 - Statement of Revenues, Expenses, and Changes in Net Position
 - Statement of Cash Flows
 - Footnotes to the Basic Financial Statements
- Preparation and review of presentations of the Financial Statements to the Metro JPA (Metro Commission), Metro TAC and the JPA Finance Committee

Services will be billed monthly based on hours worked for each line item. Professional Government Accounting Services will be provided at billable rates as follows:

CPA - \$300.00 per hour

Senior Accountant - \$194.00 per hour

FY 2025 Services

Budgeted Hours are as follows:

TASK	Estimated Hours	Estimated Budget
Monthly Invoicing	15	\$3,228.00
Annual Agency Billing - issue bills, collect and deposit.	2.5	538.00
Maintain and Reconcile Bank Accounts	15	3,228.00
Mid-Year Financials	10	2,152.00
Year End Financials	12.5	2,690.00
Budget - review actuals and contracts, work with Executive Director on format.	20	4,304.00
Finance Meetings	18	4,446.00
Metro TAC Meetings	24	5,928.00
Metro Commission Meetings	24	5,928.00
Miscellaneous		6,000.00
TOTAL ESTIMATE:	141 Hours	\$38,442.00

Additional Meetings will be billed at a minimum 2 hours times billable rate.

OPTIONAL - FY 2026 Services

Budgeted Hours are as follows:

TASK	Estimated Hours	Estimated Budget
Monthly Invoicing	15	\$3,228.00
Annual Agency Billing - issue bills, collect and deposit.	2.5	538.00
Maintain and Reconcile Bank Accounts	15	3,228.00
Mid-Year Financials	10	2,152.00
Year End Financials - includes unaudited draft to Metro and submission of information to outside auditor	12.5	2,690.00
Biennial Audit	50	10,760.00
Budget - review actuals and contracts, work with Executive Director on format.	20	4,304.00
Finance Meetings	18	4,446.00
Metro TAC Meetings	24	5,928.00
Metro Commission Meetings	24	5,928.00
Miscellaneous		6,000.00
TOTAL ESTIMATE:	191 Hours	\$49,202.00

Additional Meetings will be billed at a minimum 2 hours times billable rate.

Consultant Contact Information:

Rodney Greek, CPA
 California CPA License # 75279
 Senior Accountant – Lee Ann Jones-Santos
 1325 N. Vulcan Ave.
 Encinitas, CA 92024

CPA's Office Phone: 760-809-0681
 CPA's Office Email: rigreek@cox.net
 Senior Accountant's Phone: 619-823-8129
 Senior Accountant's Email: lasantos8928@gmail.com

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
METRO WASTEWATER JOINT POWERS AUTHORITY
AND THE GAVARES GROUP**

This Professional Services Agreement (“**Agreement**”) is made on this ____ day of June, 2024 (“**Effective Date**”), between METRO WASTEWATER JOINT POWERS AUTHORITY (“**METRO JPA**”), and THE GARAVES GROUP (“**CONTRACTOR**”), an independent contractor, collectively referred to herein as “**parties**” or individually as “**party**,” to furnish certain services as provided in this Agreement and upon the following terms and conditions.

**ARTICLE 1
TERM OF AGREEMENT**

1.01 The term of this Agreement shall commence on the Effective Date stated above, and will continue through the completion of the Services provided for in this Agreement or until terminated as provided under Article 7, whichever occurs first. Attachment A – Scope of Work (“**Attachment A**”) may contain further instructions regarding required timelines for performance of the Services to be provided under this Agreement. Time is of the essence for each and every provision of this Agreement.

**ARTICLE 2
SCOPE OF WORK**

Specific Services

2.01 CONTRACTOR shall perform the services within the scope described in Attachment A and as authorized by METRO JPA (the “**Services**”). CONTRACTOR will provide METRO JPA with periodic reports regarding the progress of Services performed, at METRO JPA’s request. Any changes to the scope of work or timeframes identified in Attachment A must be authorized by METRO JPA in writing and shall be set forth as an amendment to this Agreement.

2.02 CONTRACTOR shall determine the method, details, and means of performing the above-described Services. CONTRACTOR shall supply all labor, tools, materials, and equipment required to perform the Services under this Agreement.

Standard of Performance

2.03 CONTRACTOR shall perform the Services required hereunder in accordance with the prevailing standard of care by exercising the skill and ability customarily exercised by reputable members of CONTRACTOR’s profession providing the same or similar services in the State of California. While exercising its professional skill and expertise, CONTRACTOR shall use reasonable diligence and best judgment, and shall perform the Services required hereunder in the best interests of METRO JPA. Acceptance by METRO JPA of reports, and incidental professional work or materials furnished hereunder, shall not in any way relieve CONTRACTOR of responsibility for the adequacy of its work.

ARTICLE 3 COMPENSATION

Compensation for Work Performed Under This Agreement

3.01 Compensation payable to CONTRACTOR for Services performed under this Agreement shall not exceed **fifteen thousand two hundred fifty Dollars (\$15,250)**, in the aggregate. This amount shall not be exceeded unless agreed upon through an amendment to this Agreement executed by both parties. Such amendment shall identify any change in compensation as a result of the change in scope of work. The parties agree that this compensation was developed in accordance with the customary and prevailing compensation level in the community and surrounding area for comparable services. CONTRACTOR and METRO JPA agreed to this amount through an arm's length negotiation between the parties.

Payment of Expenses and Monthly Invoices

3.02 METRO JPA will reimburse CONTRACTOR for all reasonable expenses incurred in performing Services under this Agreement as the work progresses, provided that such reasonable expenses shall be included in and subject to the maximum compensation amount stated above in this Article. CONTRACTOR shall submit invoices to METRO JPA's Accounts Payable department once per month. Such invoices shall include a brief narrative description of the work performed, as well as detailed time expenditures on a task-by-task basis pursuant to Attachment A. The term "expenses" means telephone bills, and federal express charges, mailing charges and any other pre-approved expenses by METRO JPA. CONTRACTOR will provide METRO JPA with receipts and proof of payment for all expenses. METRO JPA shall make payment to CONTRACTOR within forty-five (45) days of receipt of an approved invoice.

3.03 METRO JPA shall have the right to withhold payment from CONTRACTOR for any unsatisfactory Services until such time service is performed satisfactorily or as otherwise provided for in this Agreement.

ARTICLE 4 RELATIONSHIP OF PARTIES

Independent Contractor

4.01 It is expressly understood and agreed that CONTRACTOR is an independent contractor and its employees are not employees of METRO JPA while engaged in carrying out this Agreement. CONTRACTOR is free from the control and direction of METRO JPA in connection with the performance of the work, CONTRACTOR performs work that is outside the usual course of METRO JPA business, and CONTRACTOR is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed. The parties agree that no work, act, commission, or omission of CONTRACTOR or its employee(s) pursuant to this Agreement shall be construed to make CONTRACTOR or its employee(s) the agent, employee, or servant of METRO JPA. CONTRACTOR and its employee(s) are not entitled to receive from METRO JPA vacation pay, sick leave, retirement benefits, Social Security, workers' compensation, disability benefits, unemployment benefits, or any other employee benefit of any kind. CONTRACTOR shall be solely responsible for paying all federal and state employment and income taxes, for carrying workers' compensation insurance, and for otherwise complying with all other employment law requirements with respect to CONTRACTOR and its employee(s).

4.02 To the maximum extent allowable by law, CONTRACTOR agrees to indemnify, defend and hold METRO JPA harmless from any and all liability, damages, or losses (including attorneys' fees, costs, penalties, and fines) that METRO JPA suffers as a result of (a) CONTRACTOR's failure to meet its

obligations under this Article, or (b) a third party's designation of CONTRACTOR or its employee(s) as an employee of METRO JPA, regardless of any actual or alleged negligence by METRO JPA.

Non-Exclusive Relationship

4.03 CONTRACTOR and METRO JPA acknowledge that the relationship between the parties is non-exclusive and CONTRACTOR may perform or engage in any activity not inconsistent with this Agreement, including performing services for, or contracting with, other clients, persons, or companies as CONTRACTOR sees fit. METRO JPA reserves the right to employ other contractors in connection with the Services described in Attachment A.

ARTICLE 5 OBLIGATIONS OF CONTRACTOR

Compliance with Laws/Rules

5.01 In performing the Services specified in this Agreement, CONTRACTOR agrees to comply with all applicable laws, rules, regulations, and ordinances, whether federal, state, or local, and any and all applicable METRO JPA policies, procedures, departmental rules, and other directives provided by METRO JPA to CONTRACTOR. Any changes to METRO JPA policies and procedures that relate to CONTRACTOR will be provided to CONTRACTOR in writing. CONTRACTOR agrees that, prior to entering into this Agreement, it has reviewed such policies, procedures, rules, and directives, the contents of which CONTRACTOR will be deemed to have knowledge.

5.02 CONTRACTOR shall ensure that any report generated under this Agreement complies with California Government Code section 7550.

Indemnity, Hold Harmless, and Defense

5.03 To the maximum extent allowable by law, CONTRACTOR shall indemnify, defend, and hold harmless METRO JPA and its Member Agencies and each of their respective officials, officers, directors, employees, agents, and volunteers (collectively referred to as the "**Indemnified Parties**") against all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties, attorneys' fees, and costs (collectively referred to as "**Liabilities**") that such entities or persons may incur that pertain to, arise out of, or relate to CONTRACTOR'S performance or obligations under this Agreement, or to CONTRACTOR's negligence, recklessness, or willful misconduct, or a breach by CONTRACTOR of any representation or agreement contained in this Agreement. CONTRACTOR's obligation to indemnify, defend, and hold harmless METRO JPA shall extend to the acts or omissions, either directly or indirectly, by CONTRACTOR's officers, officials, directors, employees, subcontractors, agents, representatives, volunteers, successors, assigns or anyone for whom CONTRACTOR is legally responsible. CONTRACTOR's obligations to indemnify, defend, and hold METRO JPA harmless against any Liabilities shall apply regardless of any negligence of Indemnified Parties, except to the extent caused by the sole negligence or willful misconduct of the Indemnified Parties. The indemnification, hold harmless, and defense obligations set forth herein shall survive the termination or expiration of this Agreement.

Notice of and Participation in Third Party Claims

5.04 CONTRACTOR shall give METRO JPA written notice of any claim or liability asserted by a third party that arises from or relates to the Work performed under this Agreement ("Third-Party Claim"), as soon as possible upon the receipt of information of any possible Third-Party Claim or of the

commencement of any Third-Party Claim. CONTRACTOR shall not oppose any attempt by METRO JPA to intervene or otherwise participate in any such Third-Party Claim. CONTRACTOR shall not settle any Third-Party Claim covered by this Section unless it has obtained the prior written consent of METRO JPA, which consent shall not be unreasonably withheld, conditioned, or delayed. METRO JPA shall have no liability under this Section for any Third-Party Claim for which such notice is not provided or is not provided in a timely manner, including no liability for contribution, indemnification, reimbursement or penalties. CONTRACTOR's obligations hereunder shall survive the termination or expiration of this Agreement.

Insurance

5.05 CONTRACTOR shall carry all insurance required by federal, state, county, and local laws. CONTRACTOR shall procure and maintain in full force and effect for the duration of this Agreement, adequate insurance coverage, admitted to the State of California, to protect CONTRACTOR and METRO JPA from any liabilities and claims for injuries and damages to persons or property which may arise from, or in connection with, the performance of the work hereunder by CONTRACTOR, its agents, representatives, employees, or subcontractors. The nature and amount of insurance shall be discussed by the parties prior to executing this Agreement and the adequacy of which shall be determined by METRO JPA in its sole discretion. Insurance policies shall be on an occurrence basis.

5.05.1 CONTRACTOR will provide proof of insurance coverage upon request of METRO JPA. METRO JPA reserves the right to terminate this Agreement if CONTRACTOR fails to provide proof of adequate insurance coverage as required herein.

Conflict of Interest

5.06 Upon the award of this Agreement and periodically thereafter, CONTRACTOR may be required to complete and file with METRO JPA a Conflict of Interest form, to be provided to CONTRACTOR by METRO JPA.

Assignment/Subcontracting

5.07 CONTRACTOR shall not subcontract or assign this Agreement nor any duties or obligations under this Agreement without the prior written consent of METRO JPA. CONTRACTOR shall be responsible for the acts and omissions of and for payment to any subcontractor performing services under this Agreement, and shall bind any such subcontractor to CONTRACTOR's duties and obligations hereunder. METRO JPA shall have the right to approve any subcontractor agreements. Nothing contained in this Agreement will create any contractual relationship between METRO JPA any subcontractor of CONTRACTOR.

ARTICLE 6 OBLIGATIONS OF METRO JPA

6.01 METRO JPA agrees to comply with all reasonable requests of CONTRACTOR, including requests to access documents, data and facilities reasonably necessary for the performance of CONTRACTOR's duties under this Agreement, consistent with applicable law.

ARTICLE 7
TERMINATION OF AGREEMENT

Termination for Cause

7.01 If METRO JPA determines that CONTRACTOR has failed to perform the Services under this Agreement in accordance its terms and conditions, METRO JPA may terminate all or part of the Agreement for cause. This termination shall become effective if CONTRACTOR does not cure its failure to perform within 10 days (or more, if authorized in writing by METRO JPA) after receipt of a notice of intention to terminate from METRO JPA specifying the failure in performance. If a termination for cause does occur, METRO JPA shall have the right to withhold monies otherwise payable to CONTRACTOR until the Services under this Agreement are completed. If METRO JPA incurs additional costs, expenses, or other damages due to the failure of CONTRACTOR to properly perform under this Agreement, these costs, expenses, or other damages shall be deducted from the amounts withheld. Should the amounts withheld exceed the amounts deducted, the balance will be paid to CONTRACTOR upon completion of the Services to be provided under this Agreement. If the costs, expenses, or other damages incurred by METRO JPA exceed the amounts withheld, CONTRACTOR shall be liable to METRO JPA for the difference.

7.02 CONTRACTOR may terminate this Agreement for cause if METRO JPA fails to cure a material default in performance within a period of 30 days, or such longer period as CONTRACTOR may allow, after METRO JPA's receipt from CONTRACTOR of a written termination notice specifying the default in performance. In the event of termination for cause by CONTRACTOR, METRO JPA will pay CONTRACTOR in accordance with Section 7.03.

Termination Without Cause

7.03 METRO JPA may terminate this Agreement for convenience at any time upon written notice to CONTRACTOR, in which case, METRO JPA will pay CONTRACTOR for all Services performed and all expenses incurred under this Agreement up to and including the effective date of termination less any costs, expenses, or other damages due to the failure of the CONTRACTOR to properly perform pursuant to the Agreement. No compensation will be payable for anticipated profit on unperformed services.

ARTICLE 8
PROPRIETARY AND CONFIDENTIAL INFORMATION

8.01 Any written, printed, graphic, or electronically or magnetically recorded information furnished by METRO JPA for CONTRACTOR's use is the sole property of METRO JPA. CONTRACTOR and its employee(s) and subcontractor(s) will keep any confidential information provided by METRO JPA in the strictest confidence, and will not disclose it by any means to any person except with METRO JPA approval, and only to the extent necessary to perform the Services under this Agreement. On termination of this Agreement, CONTRACTOR will promptly return to METRO JPA any confidential information in its possession.

ARTICLE 9
GENERAL PROVISIONS

Notices

9.01 Any notices required to be given under this Agreement by either party to the other may be affected by email and hard copy via personal delivery or mail (first class, registered, or certified) with postage prepaid and return receipt requested. Mailed notices must be addressed to the parties at the addresses below,

but each party may change the address by giving written notice in accordance with this Section. Any notice personally delivered or sent by email shall be deemed communicated upon receipt if received before 5:00 p.m. Pacific Standard Time (“PST”) on a business day, or the following business day if received after 5:00 p.m. PST or on a Saturday, Sunday, or legal holiday. Any notice sent by overnight delivery service shall be deemed communicated on the next business day following delivery thereof to the overnight delivery service. Any notice given by mail shall be deemed communicated three (3) days after deposit in the United States mail.

To METRO JPA: Metro Wastewater JPA
P.O. Box 1072
National City, CA 91951
Email: ExecutiveDirector@metrojpa.com
Attention: Executive Director

To CONTRACTOR: The Gavares Group
3094 Olive St.
San Diego, CA 92104
Email:
Attention: John Gavares

Entire Agreement of the Parties

9.02 This Agreement, including any Attachments, contains the entire understanding between the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements and understandings, inducements, or conditions, express or implied, oral or written, except as herein contained. The express terms hereof control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms hereof.

Amendment

9.03 This Agreement may not be modified or amended other than by a writing signed by the parties, including any changes to the scope of services or any timeframes identified in Attachment A.

Partial Invalidity

9.04 If any non-material provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

Attorneys’ Fees

9.05 If any legal action, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorneys’ fees, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which that party may be entitled.

Ownership of Documents and Materials

9.06 All original drawings, data, reports, documents, and materials developed for the project, including detailed calculations, shall be furnished to and become the property of METRO JPA. METRO JPA agrees to indemnify CONTRACTOR for claims, damages, or liabilities caused by any use by METRO JPA of the

plans, drawings, specifications, and all information gathered by CONTRACTOR on any project other than the one for which such plans, drawings, and specifications were prepared and information gathered by CONTRACTOR.

Audits

9.07 If this Agreement involves an expenditure of public funds in excess of Ten Thousand Dollars (\$10,000), the Agreement is subject to examination and audit of the State Auditor, at the request of METRO JPA or as part of any audit of METRO JPA, for a period of three (3) years after final payment under the Agreement. CONTRACTOR shall cooperate with METRO JPA, including any authorized representative of METRO JPA, regarding such audit at no charge to METRO JPA.

Counterparts

9.08 This Agreement may be executed in counterparts and electronically, each of which shall constitute an original, but all of which together shall constitute one and the same agreement, and the signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.

Provisions Required by Law

9.09 Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein, and the Agreement shall be read and enforced as though they were included herein. If through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the request of either party, the Agreement shall forthwith be physically amended to make such insertion.

Governing Law

9.10 This Agreement and all questions relating to its validity, interpretation, performance, and enforcement (including, without limitation, provisions concerning limitations of actions), shall be governed by and construed in accordance with the laws of the State of California.

Jurisdiction and Venue

9.11 The proper jurisdiction and venue for any claims, causes of action or other proceedings arising out of or relating to this Agreement shall be in the County of San Diego, State of California, and the parties hereby waive any right providing for a change of jurisdiction or forum to any other location.

No Waiver

9.12 A waiver by either party of a breach of any provision of this Agreement shall not constitute a general waiver or prejudice the other party's right otherwise to demand strict compliance with that provision or any other provisions in this Agreement. Likewise, METRO JPA's acceptance of any reports, work, services, or materials furnished pursuant to this Agreement, or METRO JPA's payment therefor, shall not operate as a waiver of any of METRO JPA's rights under this Agreement or of any cause of action or defense relating to the performance of this Agreement.

False Claims

9.13 In signing this Agreement, CONTRACTOR certifies that CONTRACTOR shall not submit a false claim in violation of the False Claims Act, section 12650 *et seq.* of the Government Code.

Signature Authority

9.14 METRO JPA and CONTRACTOR do covenant that the individual executing this Agreement on their behalf is a person duly authorized and empowered to execute this Agreement for such party.

BY SIGNING BELOW THE PARTIES VOLUNTARILY ENTER INTO THIS AGREEMENT AND ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTAND THE TERMS SET FORTH HEREIN AND AGREE TO BE BOUND THEREBY.

**METRO WASTEWATER
JOINT POWERS AUTHORITY:**

THE GAVARES GROUP:

Signature

Signature

Name

Name

Title

Title

Date

Date

Attachment A – Scope of Work

Strategic Goal #1: Oversight of METRO JPA System Management and Operations

METRO JPA and Metro Technical Advisory Committee (MTAC) must continue their oversight of the City of San Diego’s management and operation of the METRO System on behalf of the Participating Agencies’ ratepayers.

Strategic Goal \$2: Oversight of the City of San Diego’s Water Reuse Planning (Pure Water San Diego)

As the City of San Diego expands the scope of its wastewater operations to include the Pure Water San Diego program, the scope of oversight provided by METRO JPA and MTAC expands, as well.

Desired Outcomes:

1. Develop understanding amongst the newer members of the Metro Commission as to the mission and history of Metro Commission/METRO JPA, the top issues on the horizon, and the strategic goals and initiatives of the Metro Commission/METRO JPA.
2. Review the 2020 Strategic Plan Goals and Initiatives and agree on any additions, deletions or modifications needed.
3. Develop a 2025 Strategic Planning document.

Scope of Services		
	Description	Hours/\$ (Range)
I.	Readiness Development	4 – 8 / \$1,000 - \$2,000
1	Review Written Materials: Reviewed the existing 2019 Strategic Plan and other support material to become familiar with the strategic goals and initiatives, and pertinent issues and developments.	1
2	February-March Meeting with the Chair: Meet with the METRO Commission Chair Jones and Karyn Keze in February-March to understand goals, top issues, and proposed approach, structure, and roles. Develop a summary of the key action items and agreements from the meeting.	1 - 2
3	Meeting Observation: Observe up to 3 meetings (e.g., Metro JPA meeting; TAC; Strategic Plan Ad Hoc Committee) to become familiar with the participants, the process and the top priority issues.	2 - 5
II.	Data Gathering and Data Feedback	12 – 19 / \$3,000 - \$4,750

1	Interviews: Conduct interviews with key members of the METRO Commission/JPA and METRO TAC.	0 - 6
2	Focus Group: Convene a focus group with the Strategic Plan Ad Hoc Committee. Gather input about challenges, opportunities, and Strategic Goals and Strategic Initiatives. Develop a Summary of Focus Group discussion.	3 - 4
3	Survey: Develop and administer a pre-workshop survey to METRO Commission/Wastewater JPA and METRO TAC members.	3
4	Analysis: Analyze Results and Develop Summary of Responses.	3
5	Data Feedback: Present Summary of Survey Responses to Chair and the Strategic Plan Ad Hoc Committee.	3
III.	Workshop #1: Design, Preparation and Facilitation	8 / \$2,000
1	Meeting with Chair: Meet with the METRO Commission Chair for review of final agenda (Includes prep).	1
2	Preparation: Finalize preparation, including development of handouts and PowerPoint slides.	2
3	Workshop: Facilitate Strategic Planning workshop.	2
4	Post-Workshop Follow-up: Create a written summary of agreements, action items and discussion notes.	2
5	Meeting with Chair: Meet with the METRO Commission Chair Jones for post-meeting debriefing and action planning.	1
IV.	Workshop #2: Preparation and Facilitation (if needed)	0 – 5 / \$0 - \$1,250
1	Meeting with Chair: Meet with the METRO Commission Chair for review of final agenda (Includes prep).	0 - 1
2	Preparation: Finalize preparation, including development of handouts and PowerPoint slides.	0 - 1
3	Workshop: Facilitate Strategic Planning workshop.	0 - 1
4	Post-Workshop Follow-up: Create a written summary of agreements, action items and discussion notes.	0 - 1
5	Meeting with Chair: Meet with the METRO Commission Chair Jones for post-meeting debriefing and action planning.	0 - 1
V.	Workshop #3: Preparation and Facilitation (if needed)	0 – 5 / \$0 - \$1,250
1	Meeting with Chair: Meet with the METRO Commission Chair for review of final agenda (Includes prep).	0 - 1
2	Preparation: Finalize preparation, including development of handouts and PowerPoint slides.	0 - 1
3	Workshop: Facilitate Strategic Planning workshop.	0 - 1
4	Post-Workshop Follow-up: Create a written summary of agreements, action items and discussion notes.	0 - 1

5	Meeting with Chair: Meet with the METRO Commission Chair Jones for post-meeting debriefing and action planning.	0 - 1
VI.	Finalize Strategic Plan Document Approval	5 – 16 / \$1,250 - \$4,000
1	Develop Document: Develop, in partnership with subject matter experts, the strategic planning document.	5 - 10
2	Present to TAC: Present draft 2020 Strategic Plan to the Metro TAC on Sept 8 th , getting approval for the proposed Strategic Goals and Initiatives.	0 - 2
3	Present to Metro JPA: Present draft 2020 Strategic Plan to Metro JPA.	0 - 2
4	Revise and resubmit the Strategic Plan document based on decisions and direction of Metro JPA.	0 - 2
	Total	29 – 61 / \$7,250 - \$15,250

The fee range for these services is between \$7,275 and \$15,275, including workshop materials (\$25). This fee range is based on a fee rate of \$2,000/day (\$250/hour), with a range of hours between 29 and 61 hours.

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
METRO WASTEWATER JOINT POWERS AUTHORITY
AND RISING TIDE PARTNERS**

This Professional Services Agreement (“**Agreement**”) is made on this ____ day of, June 2024 (“**Effective Date**”), between METRO WASTEWATER JOINT POWERS AUTHORITY (“**METRO JPA**”), and RISING TIDE PARTNERS (“**CONTRACTOR**”), an independent contractor, collectively referred to herein as “**parties**” or individually as “**party**,” to furnish certain services as provided in this Agreement and upon the following terms and conditions.

**ARTICLE 1
TERM OF AGREEMENT**

1.01 The term of this Agreement shall commence on the Effective Date stated above, and will continue through the completion of the Services provided for in this Agreement or until terminated as provided under Article 7, whichever occurs first. Attachment A – Scope of Work (“**Attachment A**”) may contain further instructions regarding required timelines for performance of the Services to be provided under this Agreement. Time is of the essence for each and every provision of this Agreement.

**ARTICLE 2
SCOPE OF WORK**

Specific Services

2.01 CONTRACTOR shall perform the services within the scope described in Attachment A and as authorized by METRO JPA (the “**Services**”). CONTRACTOR will provide METRO JPA with periodic reports regarding the progress of Services performed, at METRO JPA’s request. Any changes to the scope of work or timeframes identified in Attachment A must be authorized by METRO JPA in writing and shall be set forth as an amendment to this Agreement.

2.02 CONTRACTOR shall determine the method, details, and means of performing the above-described Services. CONTRACTOR shall supply all labor, tools, materials, and equipment required to perform the Services under this Agreement.

Standard of Performance

2.03 CONTRACTOR shall perform the Services required hereunder in accordance with the prevailing standard of care by exercising the skill and ability customarily exercised by reputable members of CONTRACTOR’s profession providing the same or similar services in the State of California. While exercising its professional skill and expertise, CONTRACTOR shall use reasonable diligence and best judgment, and shall perform the Services required hereunder in the best interests of METRO JPA. Acceptance by METRO JPA of reports, and incidental professional work or materials furnished hereunder, shall not in any way relieve CONTRACTOR of responsibility for the adequacy of its work.

ARTICLE 3 COMPENSATION

Compensation for Work Performed Under This Agreement

3.01 Compensation payable to CONTRACTOR for Services performed under this Agreement shall not exceed **twenty thousand Dollars (\$20,000)**, in the aggregate. This amount shall not be exceeded unless agreed upon through an amendment to this Agreement executed by both parties. Such amendment shall identify any change in compensation as a result of the change in scope of work. The parties agree that this compensation was developed in accordance with the customary and prevailing compensation level in the community and surrounding area for comparable services. CONTRACTOR and METRO JPA agreed to this amount through an arm's length negotiation between the parties.

Payment of Expenses and Monthly Invoices

3.02 METRO JPA will reimburse CONTRACTOR for all reasonable expenses incurred in performing Services under this Agreement as the work progresses, provided that such reasonable expenses shall be included in and subject to the maximum compensation amount stated above in this Article. CONTRACTOR shall submit invoices to METRO JPA's Accounts Payable department once per month. Such invoices shall include a brief narrative description of the work performed, as well as detailed time expenditures on a task-by-task basis pursuant to Attachment A. The term "expenses" means telephone bills, and federal express charges, mailing charges and any other pre-approved expenses by METRO JPA. CONTRACTOR will provide METRO JPA with receipts and proof of payment for all expenses. METRO JPA shall make payment to CONTRACTOR within forty-five (45) days of receipt of an approved invoice.

3.03 METRO JPA shall have the right to withhold payment from CONTRACTOR for any unsatisfactory Services until such time service is performed satisfactorily or as otherwise provided for in this Agreement.

ARTICLE 4 RELATIONSHIP OF PARTIES

Independent Contractor

4.01 It is expressly understood and agreed that CONTRACTOR is an independent contractor and its employees are not employees of METRO JPA while engaged in carrying out this Agreement. CONTRACTOR is free from the control and direction of METRO JPA in connection with the performance of the work, CONTRACTOR performs work that is outside the usual course of METRO JPA business, and CONTRACTOR is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed. The parties agree that no work, act, commission, or omission of CONTRACTOR or its employee(s) pursuant to this Agreement shall be construed to make CONTRACTOR or its employee(s) the agent, employee, or servant of METRO JPA. CONTRACTOR and its employee(s) are not entitled to receive from METRO JPA vacation pay, sick leave, retirement benefits, Social Security, workers' compensation, disability benefits, unemployment benefits, or any other employee benefit of any kind. CONTRACTOR shall be solely responsible for paying all federal and state employment and income taxes, for carrying workers' compensation insurance, and for otherwise complying with all other employment law requirements with respect to CONTRACTOR and its employee(s).

4.02 To the maximum extent allowable by law, CONTRACTOR agrees to indemnify, defend and hold METRO JPA harmless from any and all liability, damages, or losses (including attorneys' fees, costs, penalties, and fines) that METRO JPA suffers as a result of (a) CONTRACTOR's failure to meet its

obligations under this Article, or (b) a third party's designation of CONTRACTOR or its employee(s) as an employee of METRO JPA, regardless of any actual or alleged negligence by METRO JPA.

Non-Exclusive Relationship

4.03 CONTRACTOR and METRO JPA acknowledge that the relationship between the parties is non-exclusive and CONTRACTOR may perform or engage in any activity not inconsistent with this Agreement, including performing services for, or contracting with, other clients, persons, or companies as CONTRACTOR sees fit. METRO JPA reserves the right to employ other contractors in connection with the Services described in Attachment A.

ARTICLE 5 OBLIGATIONS OF CONTRACTOR

Compliance with Laws/Rules

5.01 In performing the Services specified in this Agreement, CONTRACTOR agrees to comply with all applicable laws, rules, regulations, and ordinances, whether federal, state, or local, and any and all applicable METRO JPA policies, procedures, departmental rules, and other directives provided by METRO JPA to CONTRACTOR. Any changes to METRO JPA policies and procedures that relate to CONTRACTOR will be provided to CONTRACTOR in writing. CONTRACTOR agrees that, prior to entering into this Agreement, it has reviewed such policies, procedures, rules, and directives, the contents of which CONTRACTOR will be deemed to have knowledge.

5.02 CONTRACTOR shall ensure that any report generated under this Agreement complies with California Government Code section 7550.

Indemnity, Hold Harmless, and Defense

5.03 To the maximum extent allowable by law, CONTRACTOR shall indemnify, defend, and hold harmless METRO JPA and its Member Agencies and each of their respective officials, officers, directors, employees, agents, and volunteers (collectively referred to as the "**Indemnified Parties**") against all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties, attorneys' fees, and costs (collectively referred to as "**Liabilities**") that such entities or persons may incur that pertain to, arise out of, or relate to CONTRACTOR'S performance or obligations under this Agreement, or to CONTRACTOR's negligence, recklessness, or willful misconduct, or a breach by CONTRACTOR of any representation or agreement contained in this Agreement. CONTRACTOR's obligation to indemnify, defend, and hold harmless METRO JPA shall extend to the acts or omissions, either directly or indirectly, by CONTRACTOR's officers, officials, directors, employees, subcontractors, agents, representatives, volunteers, successors, assigns or anyone for whom CONTRACTOR is legally responsible. CONTRACTOR's obligations to indemnify, defend, and hold METRO JPA harmless against any Liabilities shall apply regardless of any negligence of Indemnified Parties, except to the extent caused by the sole negligence or willful misconduct of the Indemnified Parties. The indemnification, hold harmless, and defense obligations set forth herein shall survive the termination or expiration of this Agreement.

Notice of and Participation in Third Party Claims

5.04 CONTRACTOR shall give METRO JPA written notice of any claim or liability asserted by a third party that arises from or relates to the Work performed under this Agreement ("Third-Party Claim"), as soon as possible upon the receipt of information of any possible Third-Party Claim or of the

commencement of any Third-Party Claim. CONTRACTOR shall not oppose any attempt by METRO JPA to intervene or otherwise participate in any such Third-Party Claim. CONTRACTOR shall not settle any Third-Party Claim covered by this Section unless it has obtained the prior written consent of METRO JPA, which consent shall not be unreasonably withheld, conditioned, or delayed. METRO JPA shall have no liability under this Section for any Third-Party Claim for which such notice is not provided or is not provided in a timely manner, including no liability for contribution, indemnification, reimbursement, or penalties. CONTRACTOR's obligations hereunder shall survive the termination or expiration of this Agreement.

Insurance

5.05 CONTRACTOR shall carry all insurance required by federal, state, county, and local laws. CONTRACTOR shall procure and maintain in full force and effect for the duration of this Agreement, adequate insurance coverage, admitted to the State of California, to protect CONTRACTOR and METRO JPA from any liabilities and claims for injuries and damages to persons or property which may arise from, or in connection with, the performance of the work hereunder by CONTRACTOR, its agents, representatives, employees, or subcontractors. The nature and amount of insurance shall be discussed by the parties prior to executing this Agreement and the adequacy of which shall be determined by METRO JPA in its sole discretion. Insurance policies shall be on an occurrence basis.

5.05.1 CONTRACTOR will provide proof of insurance coverage upon request of METRO JPA. METRO JPA reserves the right to terminate this Agreement if CONTRACTOR fails to provide proof of adequate insurance coverage as required herein.

Conflict of Interest

5.06 Upon the award of this Agreement and periodically thereafter, CONTRACTOR may be required to complete and file with METRO JPA a Conflict of Interest form, to be provided to CONTRACTOR by METRO JPA.

Assignment/Subcontracting

5.07 CONTRACTOR shall not subcontract or assign this Agreement nor any duties or obligations under this Agreement without the prior written consent of METRO JPA. CONTRACTOR shall be responsible for the acts and omissions of and for payment to any subcontractor performing services under this Agreement, and shall bind any such subcontractor to CONTRACTOR's duties and obligations hereunder. METRO JPA shall have the right to approve any subcontractor agreements. Nothing contained in this Agreement will create any contractual relationship between METRO JPA any subcontractor of CONTRACTOR.

ARTICLE 6 OBLIGATIONS OF METRO JPA

6.01 METRO JPA agrees to comply with all reasonable requests of CONTRACTOR, including requests to access documents, data and facilities reasonably necessary for the performance of CONTRACTOR's duties under this Agreement, consistent with applicable law.

ARTICLE 7
TERMINATION OF AGREEMENT

Termination for Cause

7.01 If METRO JPA determines that CONTRACTOR has failed to perform the Services under this Agreement in accordance its terms and conditions, METRO JPA may terminate all or part of the Agreement for cause. This termination shall become effective if CONTRACTOR does not cure its failure to perform within 10 days (or more, if authorized in writing by METRO JPA) after receipt of a notice of intention to terminate from METRO JPA specifying the failure in performance. If a termination for cause does occur, METRO JPA shall have the right to withhold monies otherwise payable to CONTRACTOR until the Services under this Agreement are completed. If METRO JPA incurs additional costs, expenses, or other damages due to the failure of CONTRACTOR to properly perform under this Agreement, these costs, expenses, or other damages shall be deducted from the amounts withheld. Should the amounts withheld exceed the amounts deducted, the balance will be paid to CONTRACTOR upon completion of the Services to be provided under this Agreement. If the costs, expenses, or other damages incurred by METRO JPA exceed the amounts withheld, CONTRACTOR shall be liable to METRO JPA for the difference.

7.02 CONTRACTOR may terminate this Agreement for cause if METRO JPA fails to cure a material default in performance within a period of 30 days, or such longer period as CONTRACTOR may allow, after METRO JPA's receipt from CONTRACTOR of a written termination notice specifying the default in performance. In the event of termination for cause by CONTRACTOR, METRO JPA will pay CONTRACTOR in accordance with Section 7.03.

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but each party may change the address by giving written notice in accordance with this Section. Any notice personally delivered or sent by email shall be deemed communicated upon receipt if received before 5:00 p.m. Pacific Standard Time (“PST”) on a business day, or the following business day if received after 5:00 p.m. PST or on a Saturday, Sunday, or legal holiday. Any notice sent by overnight delivery service shall be deemed communicated on the next business day following delivery thereof to the overnight delivery service. Any notice given by mail shall be deemed communicated three (3) days after deposit in the United States mail.

To METRO JPA: Metro Wastewater JPA
P.O. Box 1072
National City, CA 91951
Email: ExecutiveDirector@metrojpa.com
Attention: Executive Director

To CONTRACTOR: Rising Tide Partners
2683 Via de la Valle G #226
Del Mar, CA 92104
Email: [REDACTED]
Attention: Neal Bloom

Entire Agreement of the Parties

9.02 This Agreement, including any Attachments, contains the entire understanding between the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements and understandings, inducements, or conditions, express or implied, oral or written, except as herein contained. The express terms hereof control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms hereof.

Amendment

9.03 This Agreement may not be modified or amended other than by a writing signed by the parties, including any changes to the scope of services or any timeframes identified in Attachment A.

Partial Invalidity

9.04 If any non-material provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

Attorneys’ Fees

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plans, drawings, specifications, and all information gathered by CONTRACTOR on any project other than the one for which such plans, drawings, and specifications were prepared and information gathered by CONTRACTOR.

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9.07 If this Agreement involves an expenditure of public funds in excess of Ten Thousand Dollars (\$10,000), the Agreement is subject to examination and audit of the State Auditor, at the request of METRO JPA or as part of any audit of METRO JPA, for a period of three (3) years after final payment under the Agreement. CONTRACTOR shall cooperate with METRO JPA, including any authorized representative of METRO JPA, regarding such audit at no charge to METRO JPA.

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9.08 This Agreement may be executed in counterparts and electronically, each of which shall constitute an original, but all of which together shall constitute one and the same agreement, and the signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.

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Governing Law

9.10 This Agreement and all questions relating to its validity, interpretation, performance, and enforcement (including, without limitation, provisions concerning limitations of actions), shall be governed by and construed in accordance with the laws of the State of California.

Jurisdiction and Venue

9.11 The proper jurisdiction and venue for any claims, causes of action or other proceedings arising out of or relating to this Agreement shall be in the County of San Diego, State of California, and the parties hereby waive any right providing for a change of jurisdiction or forum to any other location.

No Waiver

9.12 A waiver by either party of a breach of any provision of this Agreement shall not constitute a general waiver or prejudice the other party's right otherwise to demand strict compliance with that provision or any other provisions in this Agreement. Likewise, METRO JPA's acceptance of any reports, work, services or materials furnished pursuant to this Agreement, or METRO JPA's payment therefor, shall not operate as a waiver of any of METRO JPA's rights under this Agreement or of any cause of action or defense relating to the performance of this Agreement.

False Claims

9.13 In signing this Agreement, CONTRACTOR certifies that CONTRACTOR shall not submit a false claim in violation of the False Claims Act, section 12650 *et seq.* of the Government Code.

Signature Authority

9.14 METRO JPA and CONTRACTOR do covenant that the individual executing this Agreement on their behalf is a person duly authorized and empowered to execute this Agreement for such party.

BY SIGNING BELOW THE PARTIES VOLUNTARILY ENTER INTO THIS AGREEMENT AND ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTAND THE TERMS SET FORTH HEREIN AND AGREE TO BE BOUND THEREBY.

**METRO WASTEWATER
JOINT POWERS AUTHORITY:**

RISING TIDE PARTNERS:

Signature

Signature

Name

Name

Title

Title

Date

Date

Attachment A – Scope of Work

Task 1: Internal Communication Consultation

Contractor will spend time with METRO JPA staff by attending meetings, meeting members, and partners. Contractor will observe and benchmark staff communication internally and externally.

Contractor will provide feedback by presenting notes and findings to staff.

This task will be billed on an hourly basis and will not exceed \$10,000.

Task #2: Build a Communication Plan

Based on the communication benchmarking, Contractor will create a Communication Plan that will document existing communication findings and a strategic plan going forward. There will be both strategy and tactics recommended over a given timeline to implement.

The document will be developed with staff input and presented for approval to the necessary parties.

This task will be billed on an hourly basis and will not exceed \$10,000.

Billing Rates

- | | |
|---------------------------|------------|
| - Communications Strategy | \$200/hour |
| - Graphic Design | \$130/hour |
| - Copy Editor | \$120/hour |
| - Project Management | \$100/hour |
| - Copywriting | \$75/hour |