



STANDARD CONSULTANT AGREEMENT

(For Administrative (General) Consultant Contracts)
Terms and Conditions Template
Rev. B 5/11/2020-6/30/2021

This agreement (Agreement) is effective once fully executed (Effective Date), by and between SANTA CLARA VALLEY WATER DISTRICT (Valley Water), and CARPI & CLAY INCORPORATED, a California corporation (Consultant), individually the Party or collectively the Parties.

WHEREAS, Valley Water desires certain services hereinafter described and Consultant affirms it has the requisite experience and expertise, and desires to provide such services.

NOW, THEREFORE, Valley Water and Consultant, for the consideration and upon the Terms and Conditions specified, agree as follows:

SECTION ONE

SCOPE OF SERVICES

The Scope of Services (Services) to be performed pursuant to this Agreement is described in the Schedule(s), attached hereto and incorporated herein by this reference (Schedule(s)). Services described in each Schedule are considered a Scope of Services that is separate and apart from the Scope of Services described in another Schedule.

SECTION TWO

DUTIES OF CONSULTANT

1. Performance

- A. Each Scope of Services described in an attached Schedule(s) must be performed by Consultant, or at its direction, in a manner sufficient to meet the purposes specified in this Agreement. References to "Consultant" herein include those performing any portion of the Services at its direction such as Subconsultants, vendors, suppliers, subcontractors, and other business entities and individuals. Consultant will collaborate with Valley Water staff to be made aware of Valley Water constraints, procedures, or preferences relevant to Consultant's performance of the Services described in the attached Schedule(s).
- B. Unless the requirements for the Services described in the attached Schedule(s) are specifically modified in writing, Consultant must perform services and provide all deliverables as required.
- C. Consultant shall not undertake any Services not described in the attached Schedule(s) unless authorized in writing by Valley Water prior to the performance of such Services by issuance of a Task Order or pursuant to an amendment to this Agreement signed by both Parties.

2. Consultant Controlled Areas

Consultant is responsible for the security and safety of the area(s) it controls wherein it is required to perform field operations pursuant to a Scope of Services.

3. Licensing – NOT USED

4. Valley Water's Approval of Deliverables

Deliverables prepared by Consultant, notwithstanding acceptance and approval by Valley Water, which Valley Water determines must subsequently be modified due to errors or omissions, will be corrected at no additional cost to Valley Water.

5. Errors and Omissions – NOT USED

6. Valley Water Standardization Requirements

Consultant shall perform the Services utilizing Valley Water nomenclature, standardized forms, software requirements, documented procedures, and best management practices. Consultant shall use Microsoft Office software that is compatible with Valley Water Microsoft Office software used at the time(s) Valley Water issues a Notice-to-Proceed (NTP) pursuant to this Agreement.

7. Consultant Key Staff

- A. Consultant's Key Staff assigned to perform the Services are identified in the Scope of Services, Attachment Three, Consultant's Key Staff and Subconsultants.
- B. The Project team organization chart and delegated responsibilities of each team member will be submitted to Valley Water for concurrence.
- C. Consultant may utilize Subconsultants, subcontractors, suppliers, or vendors it deems appropriate to the complexity and nature of the required Services.
 - 1) Consultant must obtain Valley Water's approval of all Subconsultants. Upon Valley Water's request, Consultant must provide copies of all Subconsultant agreements.
 - 2) Consultant must require its delegates or Subconsultants to agree, in writing, to adhere to Terms and Conditions of this Agreement.
- D. Any delegation or use of Subconsultants by Consultant will not operate to relieve Consultant of its responsibilities as described in this Agreement.
- E. If any of Consultant's designated key staff persons or Subconsultants fail to perform to the satisfaction of Valley Water, on written notice from Valley Water, Consultant will have 15 calendar days to remove that person from the Project and provide a replacement acceptable to Valley Water.
- F. Consultant will not charge Valley Water for the time it takes Consultant's replacement personnel to obtain Valley Water-specific Project knowledge in the possession of the person(s) being replaced.

- G. Consultant's Key Staff: Valley Water Project Manager may approve any revisions to Consultant's list of key staff assigned to the Project as an administrative modification to this Agreement, and such approval will be confirmed in writing.

8. Compliance with All Laws

- A. Consultant's performance must be in compliance with the most current versions of any and all laws relevant to the Services it performs pursuant to this Agreement, including, but not limited to adherence to: all applicable governmental laws, statutes, ordinances, rules, codes, regulations, orders, and other requirements; governmental requirements applicable to state and federal compliance with the state and federal Endangered Species Act; state and federal water quality laws; and all other state and federal laws or regulations regarding environmental protection and compliance, health, safety, wages, hours, equal employment opportunity, nondiscrimination, working conditions, and transportation. In the event that Valley Water's assistance is necessary to achieve such compliance, Consultant shall promptly notify Valley Water.
- B. Consultant shall provide, at Valley Water's request, documentation demonstrating Consultant's compliance with all laws as described herein. After reasonable notice and according to reasonable conditions, Valley Water has the right to inspect and copy any records of Consultant regarding such compliance.
- C. Consultant represents and warrants that neither Consultant nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any state or federal government department or agency.

9. Occupational Safety and Health

- A. Consultant will perform the Services in compliance with the most current versions of all laws, standards, rules, and regulations of the Occupational Safety and Health Act, and all state and federal laws and regulations relating to safety and health standards. Consultant shall perform the Services in compliance with, will furnish only supplies, articles, and equipment that comply with such laws, standards, and regulations.
- B. Consultant shall immediately notify Valley Water in the event of any personal injury accident or occurrence occurring during the performance of the Services. Upon Valley Water's request, Consultant shall provide Valley Water with documentation fully describing the accident and injury and the actions implemented to prevent similar occurrences.

10. Consultant as Independent Contractor

Consultant will perform all services as an independent contractor and not an agent or employee of Valley Water. Consultant represents and warrants that it will perform such services as an independent contractor, and neither Consultant nor their employees are the servants, agents or employees of Valley Water. Except as expressly provided in this Agreement, Valley Water exercises no direction, supervision or control over Consultant, its employees, or agents.

11. Standard of Care

- A. Consultant must possess and maintain during the term of this Agreement, all certifications, licenses, permits, and qualifications to perform the Services and prepare all deliverables. Consultant must perform all services and prepare all deliverables in accordance with those standards and practices of care, skill, and diligence that are generally recognized and customarily observed by competent persons in Consultant's area of specialty in the State of California at the time such services are rendered.
- B. Consultant shall perform the Services and prepare all deliverables without any errors or omissions, and in accordance with Section Two, Duties of Consultant, subsection 8, Compliance with All Laws.
- C. Consultant and its Subconsultants must perform the Services in compliance with all applicable written federal, state and local codes, statutes, laws, regulations, and ordinances, including, but not limited to, environmental, energy conservation, and disabled access requirements as per the provisions of Section Two, Duties of Consultant, subsection 8, Compliance with All Laws.
- D. Consultant warrants that: all work under this Agreement shall be Consultant's original work and none of the services or inventions or any development, use, production, distribution or exploitation thereof will infringe, misappropriate or violate any intellectual property or other right of any person or entity (including, without limitation, Consultant); and Consultant has the full right to allow it to provide Valley Water with the assignments and rights provided for herein.

SECTION THREE

DUTIES OF VALLEY WATER

1. Available Data

Valley Water will make available to Consultant all data and information in its possession and control and which it deems necessary to the preparation of the deliverables specified in the Schedule(s). Valley Water will actively aid and assist Consultant in obtaining such information from other agencies and individuals as it deems necessary. Valley Water is not responsible for providing data and information that it does not possess.

2. Review of Deliverables

- A. Valley Water will designate a Project Manager (Valley Water Project Manager) for purposes of administering and managing this Agreement.
- B. Consultant's progress in completing the Services will be reviewed by Valley Water's Project Manager at each milestone identified in the Schedule(s) and at such other time(s) at the discretion of Valley Water.

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- C. Consultant must notify Valley Water in writing when it completes each deliverable described in the Schedule(s) and provide Valley Water with said deliverable. Deliverables deemed satisfactory and in compliance with this Agreement are subject to approval by Valley Water. Within 30 calendar days of receipt of each deliverable, Valley Water will either (1) notify Consultant that Valley Water accepts the deliverable, or (2) notify the Consultant that the deliverable is not acceptable and must be revised.
- D. If Valley Water advises Consultant that a deliverable must be revised due to errors or omissions by the Consultant, Consultant must correct, at no cost to Valley Water, those deficiencies as soon as possible and shall notify Valley Water upon completion of the revised deliverable and submit to Valley Water.
- E. Valley Water will then review the revised deliverable and within 30 calendar days of receipt, advise the Consultant if the revised deliverable is acceptable. All deficient deliverables will be revised at no cost to Valley Water and this process will continue until Consultant has corrected all deficiencies identified by Valley Water.
- F. None of the proposed changes or revisions or anything else in this Agreement will be construed to relieve the Consultant of professional or legal responsibility for the performance of the services as otherwise required by the Terms and Conditions of this Agreement. Corrections to any deliverable as a result of Consultant's errors or omissions will not result in additional costs or expenses to Valley Water.

3. Access to Valley Water Facilities

Valley Water will facilitate access to Valley Water facilities as required for the Consultant to perform the Services.

SECTION FOUR

FEES AND PAYMENTS

1. Total Not-to-Exceed Fees

- A. Payment for all Services performed by Consultant to the satisfaction of Valley Water, as described in the Schedule(s) will be based on the Total Not-to-Exceed (NTE) Fees stated in Attachment One to the Schedule(s), Fees and Payments, for completion of the associated tasks. Valley Water will make payments to the Consultant according to the terms provided for herein and in Attachment One to the Schedule(s), Fees and Payments. Payments made by Valley Water to the Consultant for Services rendered will be considered full compensation for all personnel, materials, supplies, Subconsultant(s), equipment, reimbursable travel and per diem expenses incurred by the Consultant to perform the services.
- B. Upon the written approval of Valley Water Deputy Operating Officer referenced herein, unused fees from a completed or cancelled task may be re-allocated to a task that has not yet been completed, provided the Agreement Total Not-to-Exceed Fees is not exceeded. Transferring fees from a task not yet completed to a different task is not permitted.

- C. Upon the written approval of Valley Water Deputy Operating Officer referenced herein, the Scope of Services described in a task may be reduced or eliminated. If the Scope of Services of a task is reduced or eliminated, the portion of the fees attributable to that reduced or eliminated task may be allocated to revised existing tasks, or transferred to a Supplemental Services task, if provided for herein.
- D. Any reduction or elimination of tasks and any inter-task transfers will be clearly noted and described in the subsequent monthly progress report to Valley Water.

2. Consultant Monthly Invoices

- A. Consultant's monthly invoices will be prepared in accordance with the terms of this Agreement, Section Four, Fees and Payments, and represent Services performed and reimbursable costs incurred during the identified billing period. Invoices must be consistent with Scope of Services described in the Schedule(s) attached hereto; and include the following:
 - 1) Employee classification and name itemized with all labor charges by Service task,
 - 2) Summary of the amount Consultant has been billed by their Subconsultants and further detailed by Service task,
 - 3) Other direct charges and expenses by Service task,
 - 4) Other direct charges and expenses must reflect actual fees versus the Agreement Not-to-Exceed Fees as stated in Attachment One to Schedule(s), Fees and Payments, and
 - 5) To the extent that the Consultant is adding an administrative, processing, overhead or mark-up fee, Valley Water will not pay for such duplication of costs for the Consultant.
- B. Before submitting monthly invoices, a progress report and draft invoice (in Adobe PDF format) will be provided by the Consultant for preliminary review by Valley Water Project Manager. Upon preliminary approval by Valley Water, the Consultant will mail the complete signed and dated hardcopy invoice, including all supporting documentation. Valley Water's preliminary review of the draft invoice does not represent final approval of the hardcopy invoice but is intended to reduce potential for re-submittals of hardcopy
- D. Invoices will include a summary of labor expenditures and direct costs. Invoices, transmitted separately from the monthly progress reports, will be organized such that the billing categories correspond with the Services tasks.
- E. Consultant shall send all invoices to:
 - 1. Electronic copies to be sent via email: APinvoice5750@valleywater.org;
 - 2. Hard Copies to be sent to:

Santa Clara Valley Water District
Attention: Accounts Payable
P.O. Box 20670
San Jose, CA 95160-0670

- F. In addition to ensuring that each invoice is accompanied with a progress report, Consultant must also ensure that each invoice contains the following information:
- 1) Agreement Number;
 - 2) Full Legal Name of Consultant/Firm;
 - 3) Payment Remit-to Address;
 - 4) Invoice Number;
 - 5) Invoice Date (the date invoice is mailed);
 - 6) Detailed description of services provided, including the "distribution account(s)" for those services; and
 - 7) Beginning and end date for billing period that services were provided.
- G. Consultant shall invoice for its performance of the Services on a monthly basis consistent with the task fee breakdown stated in Attachment One to the Schedule(s), Fees and Payments, which applies to the specific Scope of Services.
- H. Valley Water's Project Manager will review Consultant's written invoice within five Valley Water business days of receipt, address any questions with Consultant's Contact-Principal Officer and approve the undisputed amount of the invoice within ten working days of receipt of the invoice. Valley Water will pay undisputed invoice amounts within 30 calendar days from date invoice is received by Valley Water's Project Manager.

3. Prevailing Wages – NOT USED

4. Retention – NOT USED

SECTION FIVE

SCHEDULE OF COMPLETION

1. Performance of Tasks

Consultant will commence performing the tasks described in the Scope of Services of the attached Schedule(s) to this Agreement upon receipt of the Notice-to-Proceed (NTP) issued by Valley Water.

2. Project Schedule Table

Consultant will perform and complete the services described in the Scope of Service in accordance with the Project Schedule table (Project Schedule) as stated in Attachment Two to the Schedule(s), Schedule of Completion. Consultant will coordinate services with Valley Water to provide the timeline of all tasks and sub-tasks including the site visits, document review, meetings, and deliverables.

3. Monitoring of Project Schedule

The approved Project Schedule will be monitored monthly. Changes to the schedule for performance of tasks and deliverables are subject to advance written approval by Valley Water.

4. Project Delays

Consultant will make all reasonable efforts to comply with the Project Schedule as stated in the Attachment Two to the Schedule(s), Schedule of Completion. In the event the Project Schedule will be delayed, Consultant will notify Valley Water Project Manager as soon as possible, providing the reason why, the length of the delay, and a description of the actions being taken to address the delay. In the event Consultant is delayed in performance of its services by circumstances beyond its control, District may at its discretion grant, a reasonable adjustment in the Project Schedule.

5. Changes to the Project Schedule

District's Project Manager and Consultant may agree to modify the Project Schedule specified for Consultant's performance as an administrative modification to the Agreement and will confirm such modifications in writing.

SECTION SIX

AGREEMENT MODIFICATIONS

The Parties may agree to modify the Terms and Conditions of this Agreement by executing a written amendment hereto.

SECTION SEVEN

TERM AND TERMINATION

1. Term & Automatic Termination

This Agreement encompasses all Services that Consultant is responsible to perform within the time limits and Not-to-Exceed Fees set forth herein. Consultant will not undertake to provide Services where it reasonably appears that the Services cannot be provided within said total compensation limit and the applicable Not-to-Exceed Fees of any Task Order.

2. Valley Water Rights

- A. Suspension: Valley Water may, by written notice to Consultant, suspend any or all Services pursuant to this Agreement. Valley Water may subsequently terminate this Agreement for convenience, or determine to proceed. If a decision to proceed is not made within 90 days from the date of the notice of suspension, any decision to proceed must be conditioned upon execution of a new Notice-to-Proceed.

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- B. Termination for Convenience: Valley Water may, by written notice to Consultant, terminate all or part of this Agreement at any time for Valley Water's convenience. Upon receipt of such notice, Consultant will immediately cease all work as specified in the notice. If this Agreement is so terminated, Consultant will be compensated as set forth in subsection 3, Consultant's Compensation upon Termination or Suspension.
- C. Termination for Breach: If Consultant violates any of the covenants, agreements or stipulations of this Agreement, or if Consultant fails to fulfill in a timely and proper manner its obligations pursuant to this Agreement, and does not cure such failure or violation within 30 days (or a reasonable extension thereof, if requested, which extension will not be unreasonably withheld) after receipt of written notice from Valley Water specifying such failure or violation, Valley Water will thereupon have the right to terminate this Agreement by giving written notice to Consultant of such termination. Such notice will specify the effective date thereof, and Consultant will not be entitled to compensation for services beyond the specified termination date.
- D. If, after notice of termination for breach of this Agreement, it is determined that Consultant did not breach the Agreement, the termination will be deemed to have been effected for Valley Water's convenience, and Consultant will receive payment that is allowed by this Agreement for a termination for convenience.
- E. The rights and remedies provided herein to Valley Water are in addition to any other rights and remedies provided by law or this Agreement.

3. Consultant's Compensation Upon Termination or Suspension

In the event of termination of this Agreement or suspension of Services by Valley Water, Consultant shall receive compensation based on satisfactory performance, accepted by Valley Water, as follows:

- A. For Direct Labor: Consultant shall be entitled to receive compensation for all authorized direct labor performed prior to termination or suspension pursuant to the provisions of this Agreement and all authorized labor expenses incurred to demobilize from the Project after the date of termination or suspension;
- B. For Other Direct Costs and Expenses: Consultant shall be entitled to receive compensation for all authorized other direct costs and expenses incurred prior to termination or suspension and all authorized expenses incurred to demobilize from the Project after the date of termination or suspension; and
- C. In no event shall the total compensation paid for any item of Service exceed the payment specified in the Agreement for that item of Service.

4. Survival

The Terms and Conditions of this Agreement, that by their context and a standard of reasonableness, are intended to survive termination, suspension, completion, and expiration of this Agreement, shall survive, including but not limited to, the following Sections and subsections: Independent Contractor Status, Confidentiality, Indemnification, Insurance Requirements, and Dispute Resolution, as well as any Consultant representations and warranties.

SECTION EIGHT

INDEMNIFICATION

Notwithstanding any other provision of this Agreement, Consultant agrees to indemnify, defend and hold harmless Valley Water, its agents, officers, directors, and employees from and against any and all demands, claims, damages, losses and reasonable expenses, including but not limited to liabilities, obligations, claims, costs, reasonable expenses (including without limitation interest, penalties and reasonable attorney's fees), fines, taxes, levies, imposts, assessment, demands, damages or judgments of any kind or nature, whether in law or equity (including without limitation, death or injury to any person, property damage, administrative and judicial orders and consents, or any other loss) to the extent they arise out of, pertain to, or relate to the Consultant's negligence, recklessness, or willful misconduct. The foregoing does not limit any strict liability imposed onto the Consultant by law. The rights, duties, and obligations of the Parties as set forth above in this Section Eight, Indemnification, survive termination, expiration, completion, and suspension of this Agreement.

SECTION NINE

INSURANCE REQUIREMENTS

Insurance requirements applicable to this Agreement are set forth in the Standard Consultant Agreement, Appendix Four, Insurance Requirements. Consultant must provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, all insurance coverages as detailed in the Standard Consultant Agreement, Appendix Four, Insurance Requirements to the Standard Consultant Agreement, and comply with all provisions stated therein.

SECTION TEN

OWNERSHIP AND REUSE OF DELIVERABLE

1. Valley Water Ownership

All deliverables and other materials prepared by Consultant to perform the Services during the term of this Agreement will be and remain the property of Valley Water following payment in full to Consultant for each task or portion of a completed task, or in accordance with Section Seven, Term and Termination. In the event the work is not completed, the completed portions thereof will become the property of Valley Water. Consultant will provide Valley Water with such deliverables and material at appropriate times during this Agreement. Consultant may retain a copy for its records. Consultant does not convey, assign, or transfer the intellectual property rights it has so as to limit its ability or right to develop, design, or provide services on other projects of or for its other clients.

2. Reuse of Instruments of Service – NOT USED

3. Copies of Data

Copies of data exchanged by, thru, and between Valley Water and Consultant that may be relied upon are limited to printed copies. Computer-generated files, disks, or tapes of text, data or graphics that are furnished are only for the mutual convenience of the Parties.

4. Computer-Generated Material

Any risk of translation or reliance on information obtained or derived from the computer-generated material will be at the user's sole risk, and no representations are made, either express or implied, as to the long-term performance of data thus transferred.

5. Work for Hire

Any and all original correspondence, memoranda, reports, plans, data compilations, or computer programs, delivered to Valley Water by Consultant according to the Terms of this Agreement, in or by any medium is deemed to be "work for hire" according to the copyright laws of the United States and the copyright will belong to Valley Water.

6. Copyright Claims – NOT USED**SECTION ELEVEN****EQUAL OPPORTUNITY****1. Equal Opportunity Employer**

Valley Water is an equal opportunity employer and requires its consultants to have and adhere to a policy of equal opportunity and non-discrimination. In the performance of the Agreement, Consultant will comply with all applicable federal, state, local laws and regulations, and will not discriminate against any subcontractor, employee, or applicant for employment in the recruitment, hiring, employment, utilization, promotion, classification or reclassification, transfer, recruitment advertising, evaluation, treatment, demotion, layoff, termination, rates of pay or other forms of compensation, and selection for professional development training (including apprenticeship), or against any other person, on the basis of sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), race, religion, color, national origin (including language use restrictions), ancestry, religious creed (including religious dress and grooming practices), political affiliation, disability (mental and physical, including HIV or AIDS), medical condition (cancer and genetic characteristics), genetic information, marital status, parental status, gender, age (40 and over), pregnancy, military and veteran status, sexual orientation, gender identity and gender expression, the exercise of family and medical care leave, the exercise of pregnancy disability leave, or the request, exercise, or need for reasonable accommodation.

2. Compliance with Applicable Equal Opportunity Laws

The Consultant's policy must conform with applicable state and federal guidelines including the Federal Equal Opportunity Clause, "Section 60-1.4 of Title 41, Part 60 of the Code of Federal Regulations," Title VII of the Civil Rights Act of 1964 as amended; the Americans with Disabilities Act of 1990; the Rehabilitation Act of 1973 (§503 and §504); the Age Discrimination Act of 1975 (42 U.S.C. §6101 et seq.); the California Fair Employment and Housing Act (Government Code §12900 et. seq.); and California Labor Code §1101 and §1102.

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3. Investigation of Claims

Consultant must designate a specific position within its organization to be responsible for investigating allegations of non-compliance with the anti-discrimination and anti-harassment provisions of this Agreement. Consultant must conduct a fair, prompt, and thorough investigation of all allegations directed to Consultant by Valley Water. In cases where such investigation results in a finding of discrimination, harassment, or hostile work environment, Consultant must take prompt, effective action against the offender.

SECTION TWELVE

MISCELLANEOUS PROVISIONS

1. Entire Agreement

This Agreement, which includes the Terms and Conditions, Appendices, the Schedule(s), Attachments to the Schedule(s), and all executed Task Orders, represents the entire understanding between the Parties hereto relating to the Services described in this Agreement and supersedes any and all prior proposals or agreements, whether written or oral, that may exist between the Parties. This Agreement may not be modified or amended except in writing as stated herein. To the extent that any Schedule conflicts with this Agreement, this Agreement shall control.

2. Formation of Agreement

- A. No agreement between the Parties is formed until all applicable actions have been completed to the satisfaction of Valley Water. Valley Water Project Manager will not issue a Notice to Proceed until all required documents have been submitted and accepted by Valley Water.
- B. Formation of an Agreement between the Parties requires accomplishment of the following:
 - 1) Execution of the Agreement by Consultant;
 - 2) Submission by the Consultant, and acceptance by Valley Water, of evidence of all required insurance coverages and documents;
 - 3) Submission by the Consultant, and acceptance by Valley Water, of evidence of all required Form 700 documents, if applicable;
 - 4) Submission by the Consultant, and acceptance by Valley Water, of all required Non-Disclosure Agreements (NDA) documents as provided in Attachment Four to the Schedule(s), Reference Materials, if applicable;
 - 5) Submission by the Consultant, and acceptance by Valley Water, of a Health and Safety Plan, if applicable;
 - 6) Any other requirements that are deemed necessary by Valley Water; and
 - 7) Execution of the Agreement by Valley Water.

3. No Assignment

- A. The expertise and experience of Consultant are material considerations for Valley Water's award and execution of this Agreement. Consultant will not assign or transfer any interest in this Agreement nor the performance of any of Consultant obligations hereunder, without prior written consent of Valley Water in the form of an amendment executed by the Parties, and any attempt to so assign this Agreement, or any rights, duties or obligations arising hereunder, will be void and of no effect. Any assignment of monies due or to become due in accordance with this Agreement, will be to the extent permitted by law, and will be subject to all proper set-offs, deductions, and withholdings in favor of Valley Water.
- B. In no event, shall an assignment of any interest in this Agreement release the Consultant from its duties and responsibilities as described in this Agreement nor shall the Consultant be released from liability created by the provision of Services as described in this Agreement until such assignment takes effect. Any attempted or purported assignment without Valley Water's written consent in the form of an amendment executed by the Parties is null and void.

4. Reasonableness

Discretionary actions or approvals to be performed by the Parties will be exercised in a reasonable manner.

5. Gifts

Consultant hereby acknowledges that Valley Water policy prohibits the acceptance by Valley Water personnel of gifts of any kind from its contractors, consultants, suppliers or vendors. Consultant shall honor this policy by not sending or bringing gifts to Valley Water.

6. Audits

Consultant agrees that Valley Water and its agent(s) have the right to review, obtain, and copy all records pertaining to performance of this Agreement. Consultant agrees to provide Valley Water and its agent(s) with any relevant information requested, in electronic and hard copy format, at Valley Water's discretion, and will permit Valley Water and its agent(s) access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees (alternatively, by phone at Valley Water's discretion) and inspecting or copying books, records, accounts, computerized records, and other materials that may be relevant to the matter under investigation or subject to audit, such as by a government agency providing Valley Water with grant funds to pay for Consultant's services, for the purpose of determining compliance with this Agreement. Consultant further agrees to maintain such records for a period of three years after final payment as provided for in this Agreement.

7. Force Majeure

Neither Party will be held responsible for delays caused by acts beyond its control, such as acts of God or public enemies, utility or communication delays, or failures not caused by such Party's negligence or fault, accidents not caused by such Party's negligence or fault,

labor disputes, war, or failure of the other Party to provide data as required pursuant to this Agreement.

8. Binding Effect

This Agreement is binding on the heirs, executors, administrators, successors and assigns of the Parties.

9. Choice of Law and Venue

The Parties agree that this Agreement is to be governed, construed and enforced in accordance with the laws of the State of California. The Parties also agree that the venue of any litigation arising out of or connected with this Agreement will lie exclusively in the state trial court or Federal District Court located in Santa Clara County in the State of California, and the Parties consent to jurisdiction over their persons and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

10. Confidentiality

- A. Due to the nature of the services Consultant will provide pursuant to this Agreement, there may be disclosures made to Consultant of detailed information about Valley Water's operations, including on a need-to-know basis information which may be protected from public disclosure by confidentiality laws, the attorney-client privilege, and/or other provisions of law which govern the nature and timing of disclosure of public information.
- B. Consultant understands and acknowledges that Valley Water staff members providing information to the Consultant do so with the understanding that such information will be handled appropriately.
- C. In the event Consultant receives such restricted or confidential information, Consultant will limit access to the information to only those of Consultant's employees, its subcontractors and its Subconsultants authorized by Valley Water to have the information.
- D. Consultant will notify Valley Water immediately of any request by any third party to have access to confidential information, and will not disclose the requested information without first receiving express written authorization from Valley Water.
- E. The requirements stated herein will survive completion, expiration, suspension, and termination of this Agreement.

11. Release of Information Prohibited

Consultant is not permitted to provide any information concerning the Project to the media nor anyone other than authorized Valley Water personnel. Consultant will not release any information pertinent to the Project for publication, public disclosure, or in any other manner without first obtaining clearance and a release in writing from Valley Water. Any media inquiry at any time to Consultant relating to any matter concerning Services provided or requested to be provided pursuant to this Agreement will be referred immediately to Valley Water. Consultant will not communicate with the media regarding any such matter.

12. Conflict of Interest

- A. Consultant represents that there exists no actual or potential conflict of interest concerning the services to be performed pursuant to this Agreement.
- B. Consultant represents that Consultant's performance required as stated in this Agreement does not require the breach of any agreement or obligation to keep in confidence the proprietary information of another party. Consultant will not bring to Valley Water, or use in the performance of Consultant's duties as described in this Agreement, any materials or documents of another party considered confidential or proprietary unless Consultant has obtained written authorization from such party, and the informed consent of Valley Water, for the possession and use of such materials.
- C. Consultant represents and warrants that during the term of the Agreement, Consultant, Consultant's parent company, Consultant's subsidiaries, or any affiliated entity sharing substantially similar ownership of or control with Consultant shall not act as a Consultant or expert for any party in support of any potential or active claim or legal action against Valley Water by such party.
- D. CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION STATEMENT OF ECONOMIC INTEREST FORM 700 ("FORM 700"): Upon Valley Water's request, Consultant employees, officers, agents, Subconsultants, and subcontractors shall complete, execute, and submit a Form 700 as follows:
 - 1) Consultant employees, officers, agents, Subconsultants, and subcontractors assigned to perform services pursuant to this Agreement, shall file, with Valley Water in a manner prescribed by Valley Water an Assuming Office Statement. The Assuming Office Statement shall be filed:
 - a. Within 30 calendar days of the effective date of this Agreement; and
 - b. Within 30 calendar days of Consultant hiring, adding, or promoting to a designated filer position employees, officers, agents, Subconsultants, and subcontractors to perform services pursuant to this Agreement.
 - 2) Consultant employees, officers, agents, Subconsultants, and subcontractors assigned to perform services pursuant to this Agreement that filed an Assuming Office Statement shall file in a manner prescribed by Valley Water an amendment to their Form 700 anytime there is a change to their disclosure information.
 - 3) Consultant employees, officers, agents, Subconsultants, and subcontractors assigned to perform services pursuant to this Agreement that filed an Assuming Office Statement shall file with Valley Water an Annual Statement in a manner prescribed by Valley Water during Valley Water's annual filing season, as determined by Valley Water.
 - 4) Consultant employees, officers, agents, Subconsultants, and subcontractors assigned to perform Services pursuant to this Agreement, that filed an Assuming Office Statement, shall file, in a manner prescribed by Valley Water, a Leaving Office Statement when one of the following occurs:

- a. Upon termination of this Agreement; and
 - b. Within 30 calendar days of Consultant employees, officers, agents, Subconsultants, and subcontractors vacating a designated filing position (i.e., removed from the Project, promotion, demotion, transfer to non-designated position, end of employment, or as a result of changes in designated filer positions in Valley Water's Conflict of Interest Code).
- 5) Consultant understands and agrees that its employees, officers, agents, Subconsultants, and subcontractors may be disqualified from providing services to Valley Water pursuant to the California Political Reform Act, Government Code (GC) §81000 et. Seq. and GC §1090. If any of Consultant's employees, officers, agents, Subconsultants, and subcontractors are disqualified from providing services, on written notice from Valley Water's Project Manager, Consultant will have 15 calendar days to remove that employee(s), officer(s), agent(s), Subconsultant(s)', and subcontractor(s)' employee(s) from the Project and provide a replacement acceptable to Valley Water.
- 6) The failure of Consultant's employees, officers, agents, Subconsultants, and subcontractors to file an Assuming Office, Annual, Amended, or Leaving Office Statement within the time prescribed by Valley Water is deemed a material breach and may result in termination of the Agreement for cause.

13. Task Orders – NOT USED

14. Good Neighbor

Valley Water always strives to be a good neighbor to the community adjacent to its facilities. Consultant will ensure that disturbance to neighbors is minimized. Consultant, its staff, and Subconsultants will always interact with the members of the public in a polite and professional manner.

15. Governmental Permits and Notifications – NOT USED

16. Taxes and Benefits

Consultant has full and exclusive liability for the payment of, and Consultant will pay, any and all taxes and contributions for unemployment insurance, retirement benefits, workers' compensation insurance or benefits, life insurance, pensions, annuities and similar benefits and any other employment-related costs, obligations, and duties that may now or hereafter be imposed by law, collective bargaining agreements or otherwise with respect to persons employed by Consultant for the performance of Services pursuant to this Agreement.

17. Nonwaiver of Rights

The failure of either Party to this Agreement to object to or to take affirmative action with respect to any conduct of the other Party that is in violation of the terms of this Agreement will not be construed as a waiver thereof, or as waiver of any future breach or subsequent wrongful conduct.

18. Notices

Unless otherwise specified in this Agreement, all requests for written approval or legal notices must be sent to the representatives below. All notices will be deemed to have been given when made in writing and when delivered or mailed to the representatives of Valley Water and Consultant at their respective addresses as follows:

VALLEY WATER:

Deputy Operating Officer, as listed in Section 1. Representatives, of the attached Schedule(s), Scope of Services.

CONSULTANT:

Consultant Principal Officer, as listed in Section 1. Representatives, of the attached Schedule(s), Scope of Services.

19. No Third-Party Beneficiaries

Nothing in this Agreement, whether express or implied, shall be construed to give any person or entity, other than the Parties hereto, any legal or equitable right, remedy, or claim under or in respect of this Agreement or any covenants, conditions, or provisions contained herein.

20. Severability

If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.

21. Debt Limitation

This Agreement is contingent on the appropriation of sufficient funding by Valley Water for the services described in this Agreement. Valley Water is subject to laws or policies which limit its ability to incur debt in future years. Nothing in this Agreement shall constitute an obligation of future legislative bodies of Valley Water to appropriate funds for purposes of this Agreement.

22. Appendices

The following Standard Consultant Agreement Appendices are incorporated herein by this reference as though set forth in full:

Appendix One - Additional Legal Terms

Appendix Two - Dispute Resolution

Appendix Three - Task Order Template – **NOT USED**

Appendix Four - Insurance Requirements

23. Schedule(s) and Attachments

Schedule A-GEN, Scope of Services, and its Attachments, are incorporated herein by this reference as though set forth in full:

Attachment One - Fees and Payments
Attachment Two - Schedule of Completion
Attachment Three - Consultant's Key Staff
Attachment Four - Reference Materials

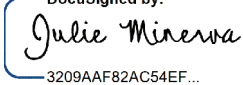
IN WITNESS WHEREOF, THE PARTIES HAVE SET FORTH BELOW THEIR CONSENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT THROUGH THE SIGNATURES OF THEIR DULY AUTHORIZED REPRESENTATIVES.

SANTA CLARA VALLEY WATER DISTRICT
Valley Water

By:  _____
DocuSigned by:
494EFB72AD8C4F9...
Rick L. Callender, Esq.
Chief Executive Officer

Date: 6/28/2022 _____

CARPI & CLAY
Consultant

By:  _____
DocuSigned by:
3209AAF82AC54EF...
Julie Minerva
Partner

Date: 6/15/2022 _____

Consultant's Address:
601 New Jersey Ave, NW, Suite 300
Washington, DC 20001

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**STANDARD CONSULTANT AGREEMENT
APPENDIX ONE
ADDITIONAL LEGAL TERMS**

1. Conflict of Interest for Future Services

Consultant, Consultant's parent company, Consultant's subsidiaries, or any affiliated entity sharing substantially similar ownership of or control with Consultant shall not submit a proposal:

- A. For any agreement to be awarded for any project that is related to the services provided pursuant to this Agreement; NOT USED
- B. In response to any request for proposal or Valley Water solicitation developed or prepared by or with the assistance of Consultant, Consultant's parent company, Consultant's subsidiaries, or any affiliated entity sharing substantially similar ownership of or control with Consultant; or
- C. For any single or sole source products/services related to the Services pursuant to this Agreement or have a financial stake in any single or sole source products/services resulting from this Agreement.

2. Dispute Resolution

If a dispute occurs between the Parties as a result of this Agreement, then the Parties agree to use the Dispute Resolution process outlined in the Standard Consultant Agreement, Appendix Two, Dispute Resolution.

3. Small Business Enterprise (SBE) Participation - NOT USED

4. Task Order Approvals - NOT USED

**STANDARD CONSULTANT AGREEMENT
APPENDIX TWO
DISPUTE RESOLUTION**

1. Consultant's Questions and Concerns

Questions regarding the Terms and Conditions, and Services relating to this Agreement will be decided by Valley Water who will furnish the decisions to Consultant in writing within 30 days after receiving a written request from Consultant.

2. Dispute Resolution

A. Alternate Dispute Resolution

Valley Water intends to use Alternate Dispute Resolution (ADR) techniques including partnering and mediation to resolve disputes relating to the Project.

B. Consultant and its Subconsultants are expected to participate in all ADR efforts.

C. The cost of partnering training facilities and facilitator will be borne by Valley Water.

3. Negotiations Before and During Mediation

Negotiations to resolve disputes before and during mediation are initiated for settlement purposes only, are confidential, and are not binding unless otherwise agreed by Valley Water and Consultant.

4. Voluntary Mediation

A. Initiation of Mediation

Any Party to a dispute or claim may initiate mediation by notifying the other Party or Parties in writing.

B. Request for Mediation

A request for mediation must contain a brief written statement of the nature of the dispute or claim, and the names, addresses, and phone numbers of all parties to the dispute or claim, and those who will represent them, if any, in the mediation.

C. Selection of Mediator

- 1) Upon receipt of a written request for mediation, unless otherwise agreed by the Parties, within 14 days, the Parties will confer to select an appropriate mediator agreeable to all Parties.
- 2) If the Parties cannot agree on a mediator, they hereby agree to accept a mediator appointed by a recognized association such as the American Arbitration Association.

**STANDARD CONSULTANT AGREEMENT
APPENDIX TWO
DISPUTE RESOLUTION**

D. Qualifications of a Mediator

- 1) Any mediator selected must have expertise in the area of the dispute and be knowledgeable in the mediation process.
- 2) No person shall serve as a mediator in any dispute in which that person has any financial or personal interest in the result of the mediation.
- 3) Before accepting an appointment, the prospective mediator must disclose any circumstances likely to create a presumption of bias or prevent a prompt meeting with the Parties. Upon receipt of such information, the Parties will confer and decide whether to select another mediator.

E. Vacancies

If any mediator becomes unwilling or unable to serve, another mediator will be selected unless the Parties agree otherwise.

F. Representation

- 1) Any Party may be represented by person(s) of their choice who must have full authority to negotiate.
- 2) The names and addresses of such person(s) must be communicated in writing to both Parties and to the mediator.

G. Time and Place of Mediation

- 1) The mediator will set the time of each mediation session.
- 2) The mediation will be held at a convenient location agreeable to the mediator and the Parties, as determined by the mediator.
- 3) All reasonable efforts will be made by the Parties and the mediator to schedule the first session within 60 days after selection of the mediator.

H. Identification of Matters in Dispute

- 1) Parties shall comply with the process as required by the mediator with regard to providing the mediator with a memorandum setting forth its position with regard to the issues that need to be resolved. At the discretion of the mediator, or otherwise agreed by the Parties, the Parties may mutually exchange such memoranda.
- 2) At the first session, the Parties will be expected to produce all information reasonably required for the Mediator to understand the issue(s) presented. The mediator may require each Party to supplement such information.

**STANDARD CONSULTANT AGREEMENT
APPENDIX TWO
DISPUTE RESOLUTION**

I. Authority of Mediator

- 1) The mediator does not have authority to impose a settlement on the Parties but will attempt to assist the Parties in reaching a satisfactory resolution of their dispute.
- 2) The mediator is authorized to conduct joint and separate meetings with the Parties and to make oral and written recommendations for settlement.
- 3) Whenever necessary, the mediator may also obtain expert advice concerning technical aspects of the dispute, provided the Parties agree and assume the expenses of obtaining such advice. Arrangements for obtaining such advice will be made by the mediator or the Parties, as determined by the mediator.
- 4) The mediator is authorized to end the mediation whenever, in the mediator's judgment, further efforts at mediation would not contribute to a resolution of the dispute between the Parties.

J. Privacy

- 1) Mediation sessions are private.
- 2) The Parties and their representatives may attend mediation sessions.
- 3) Other persons may attend only with the permission of the Parties and with the consent of the mediator.

K. Confidentiality

Except as provided by California or federal law or regulation:

- 1) The mediator will not divulge any confidential information disclosed by the Parties or by witnesses in the course of the mediation.
- 2) All records, reports, or other documents received by a mediator while serving as mediator, are confidential.
- 3) The mediator must not be compelled to divulge such records or to testify in regard to the mediation in any adversary proceeding or judicial forum.
- 4) The Parties must maintain the confidentiality of the mediation and must not rely on, or introduce as evidence in any arbitration, judicial or other proceedings:
 - a. Views expressed, or suggestions made by the other Party with respect to a possible settlement of the dispute;
 - b. Statements made by the other Party in the course of the mediation proceedings;
 - c. Proposals made or views expressed by the mediator; and

**STANDARD CONSULTANT AGREEMENT
APPENDIX TWO
DISPUTE RESOLUTION**

- d. Whether the other Party had or had not indicated willingness to accept a proposal for settlement made by the mediator.

L. No Stenographic Record

There shall be no stenographic record of the mediation.

M. Termination of Mediation

The mediation shall be terminated:

- 1) By the execution of a Settlement Agreement by the Parties;
- 2) By a written declaration of the mediator to the effect that further efforts at mediation are no longer worthwhile; or
- 3) By a written declaration of a Party or Parties to the effect that the mediation proceedings are terminated.

N. Exclusion of Liability

No mediator shall be a necessary Party in judicial proceedings related to the mediation.

O. Interpretation and Application of These Mediation Provisions

The mediator will interpret and apply these mediation provisions insofar as they relate to the mediator's duties and responsibility.

P. Expenses

- 1) The expenses of witnesses for each Party must be paid by the Party producing the witnesses.
- 2) All other expenses of the mediation, including required travel and other expenses of the mediator, and the expenses of any witness called by the mediator, or the cost of any proofs or expert advice produced at the direct request of the mediator, will be apportioned as the mediator finds appropriate or as otherwise agreed to by the Parties.

5. Compensation for Participation in Mediation

Neither Consultant nor Valley Water is entitled to compensation for time spent in or for negotiations or mediation to resolve questions or disputes between Consultant and Valley Water arising out of this Agreement.

**STANDARD CONSULTANT AGREEMENT
APPENDIX THREE
TASK ORDER TEMPLATE**

NOT USED

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STANDARD CONSULTANT AGREEMENT APPENDIX FOUR INSURANCE REQUIREMENTS

Please Note: Failure to comply with the instructions below could result in a delay in receiving the Notice to Proceed. Valley Water will not be responsible for time lost or costs incurred due to failure to comply with these requirements. Please note the checklist of documents needed at the end of this Appendix Four Insurance Requirements.

Without limiting the Consultant's indemnification of, or liability to, the Santa Clara Valley Water District ("District" or "Valley Water"), the Consultant must provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the following insurance coverages and provisions as listed below.

Consultant must provide its insurance broker(s)/agent(s) with a copy of these requirements and warrants that these requirements have been reviewed by Consultant's insurance agent(s) and/or broker(s), who have been instructed by Consultant to procure the insurance coverage required herein.

In addition to certificates, Consultant must furnish Valley Water with copies of all original endorsements affecting coverage required by this Appendix Four Insurance Requirements. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. **All endorsements and certificates are to be received and approved by Valley Water before the Agreement is executed.** In the event of a claim or dispute, Valley Water has the right to require Consultant's insurer to provide complete, certified copies of all required pertinent insurance policies, including endorsements affecting the coverage required by this Appendix Four Insurance Requirements document.

If your insurance broker has any questions about the above requirements, please advise him/her to call Mr. David Cahen, Valley Water Risk Manager at (408) 630-2213.

Certificates of Insurance

Consultant shall furnish Valley Water with a Certificate of Insurance. The certificates will be issued on a standard ACORD Form.

Consultant shall instruct their insurance broker/agent to submit all insurance certificates and required notices electronically in PDF format to the designated Valley Water Contract Administrator and email a copy to valleywater@ebix.com

The certificates will:

1. Identify the underwriters, the types of insurance, the insurance limits, the deductibles and the policy term;
2. Include copies of all the actual policy endorsements required herein; and
3. In the "Certificate Holder" box include:

**Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118
Agreement A4648G / PB No. VW0136**

**STANDARD CONSULTANT AGREEMENT
APPENDIX FOUR
INSURANCE REQUIREMENTS**

IMPORTANT: The agreement or PB number must be included.

In the Description of Operations/Locations/Vehicles/Special Items Box:

1. Certificate Holder shall be named as Additional Insured;
2. Valley Water agreement or project number shall appear;
3. The list of policies scheduled as underlying on the Umbrella policy shall be listed; and
4. Waiver of Subrogation must be indicated as endorsed to all policies.

If Consultant receives any notice that any of the insurance policies required by this Appendix Four Insurance Requirements may be cancelled or coverage reduced for any reason whatsoever, Consultant or insurer shall immediately provide written notice to the designated Valley Water Contract Administrator that such insurance policy required by this Appendix Four Insurance Requirements is canceled or coverage is reduced.

Maintenance of Insurance

If Consultant fails to maintain such insurance as is called for herein, Valley Water, at its option, may suspend payment for work performed and/or may order Consultant to suspend all Consultant's work at Consultant's expense until a new policy of insurance is in effect.

Renewal of Insurance

Consultant will provide Valley Water with a current Certificate of Insurance and endorsements within thirty (30) business days from the expiration of insurance.

Consultant shall instruct its insurance broker/agent to:

1. Submit all renewals of insurance certificates and required notices electronically in PDF format to: valleywater@ebix.com
2. Provide the following information in the "Certificate Holder" box:

**Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118
Agreement A4648G / PB No. VW0136**

IMPORTANT: The agreement or PB number must be included.

Consultant must, at its sole cost and expense, procure and maintain during the entire period of this Agreement the following insurance coverage(s).

**STANDARD CONSULTANT AGREEMENT
APPENDIX FOUR
INSURANCE REQUIREMENTS**

Required Coverages

1. Commercial General/Business Liability Insurance with coverage as indicated:

\$1,000,000 per occurrence / **\$1,000,000** aggregate limits for bodily injury and property damage

General Liability insurance must include:

- a. Coverage at least as broad as found in standard ISO form CG 00 01.
- b. Contractual Liability expressly including liability assumed under this contract.
- c. If Consultant must be working within fifty (50) feet of a railroad or light rail operation, any exclusion as to performance of operations within the vicinity of any railroad bridge, trestle, track, roadbed, tunnel, overpass, underpass, or crossway must be deleted, or a railroad protective policy in the above amounts provided.
- d. Severability of Interest.
- e. Broad Form Property Damage liability.

2. Business Auto Liability Insurance with coverage as indicated:

\$1,000,000 combined single limit for bodily injury and property damage per occurrence, covering all owned, non-owned and hired vehicles.

3. Professional/Errors and Omissions Liability with coverage as indicated:

\$1,000,000 per claim/ **\$1,000,000** aggregate

Professional/Errors and Omission Liability appropriate to the Consultant's profession, and must include:

- a. If coverage contains a deductible, or self-insured retention, it shall not be greater than one hundred thousand dollars (\$100,000) per occurrence/event.
- b. Coverage shall include contractual liability
- c. If coverage is claims-made:
 - i. Certificate of Insurance shall clearly state that the coverage is claims-made.
 - ii. Policy retroactive date must coincide with or precede the Consultant's start of work (including subsequent policies purchased as renewals or replacements).
 - iii. Policy must allow for reporting of circumstances or incidents that might give rise to future claims.
 - iv. Insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract of work.

4. Workers' Compensation and Employer's Liability Insurance

Statutory California Workers' Compensation coverage covering all work to be performed for Valley Water.

**STANDARD CONSULTANT AGREEMENT
APPENDIX FOUR
INSURANCE REQUIREMENTS**

Employer Liability coverage for not less than \$1,000,000 per occurrence.

General Requirements

With respect to all coverages noted above, the following additional requirements apply:

1. **Additional Insured Endorsement(s):** Consultant must provide an additional insured endorsement for Commercial General/Business Liability (for both on-going and completed operations) and Business Automobile liability coverage naming the **Santa Clara Valley Water District, its Directors, officers, employees, and agents, individually and collectively**, as additional insureds, and must provide coverage for acts, omissions, etc. arising out of the named insureds' activities and work. Other public entities may also be added to the additional insured endorsement as applicable and the Consultant will be notified of such requirement(s) by Valley Water. **NOTE:** This section does not apply to the Workers' Compensation and Professional Liability policies.

(**NOTE:** Additional insured language on the Certificate of Insurance is **NOT** acceptable without a separate endorsement such as Form CG 20 10, CG 2033, CG 2037, or CG 2038. Editions dated 07/04 are not acceptable.)

2. **Primacy Clause:** Consultant will provide evidence (either through the Certificate of Insurance, endorsement or language in the insurance contract) that consultant's insurance is primary with respect to any other insurance which may be carried by Valley Water, its Directors, its officers, agents and employees, and the Valley Water's coverage must not be called upon to contribute or share in the loss. **NOTE:** This section does not apply to the Workers' Compensation policies.
3. **Cancellation Clause:** Consultant will provide endorsements for all policies stating that the policy will not be cancelled without 30 days prior notification to Valley Water.
4. **Acceptability of Insurers:** All coverages must be issued by companies admitted to conduct business in the State of California, which hold a current policy holder's alphabetic and financial size category rating of not less than A- V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by Valley Water's Risk Manager. Non-Admitted companies may be substituted on a very limited basis at the Risk Manager's sole discretion.
5. **Self-Insured Retentions or Deductibles:** Any deductibles or self-insured retentions must be declared to and approved by Valley Water. At the option of Valley Water, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects Valley Water, its officers, officials, employees and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the Entity guaranteeing payment of losses and related investigations, claim administration, and defense expenses. Consultant agrees that in the event of a claim they will pay down any agreed upon SIR in a prompt manner as soon as bills are incurred in order to trigger the insurance related to the SIR.

**STANDARD CONSULTANT AGREEMENT
APPENDIX FOUR
INSURANCE REQUIREMENTS**

6. **Subconsultants:** The Consultant shall secure and maintain or shall be responsible for ensuring that all subconsultants performing the Contract Services secure and maintain all insurance coverages appropriate to their tier and scope of work in a form and from insurance companies reasonably acceptable to Valley Water.
7. **Amount of Liability not Limited to Amount of Insurance:** The insurance procured by Consultant for the benefit of Valley Water must not be deemed to release or limit any liability of Consultant. Damages recoverable by Valley Water for any liability of Consultant must, in any event, not be limited by the amount of the required insurance coverage.
8. **Coverage to be Occurrence Based:** Except for Professional Liability, all coverage must be occurrence-based coverage. Claims-made coverage is not allowed.
9. **Waiver of Subrogation:** Consultant agrees to waive subrogation against Valley Water to the extent any loss suffered by Consultant is covered by any Commercial General Liability policy, Automobile policy, Workers' Compensation policy described in **Required Coverages** above. Consultant agrees to advise its broker/agent/insurer and agrees to provide evidence (either through the Certificate of Insurance, endorsement or language in the insurance contract) that subrogation has been waived by its insurer.
10. **Non-compliance:** Valley Water reserves the right to withhold payments to the Consultant in the event of material noncompliance with the insurance requirements outlined above.

**STANDARD CONSULTANT AGREEMENT
APPENDIX FOUR
INSURANCE REQUIREMENTS**

CHECKLIST OF DOCUMENTS NEEDED

General Liability:	A.	Limits (\$1,000,000)	
	B.	Additional Insured (Endorsement)	
	C.	Waiver of Subrogation (COI, Endorsement or policy language)	
	D.	Primacy (COI, Endorsement or policy language)	
	E.	Cancellation Endorsement	
Auto Liability:	A.	Limits (\$1,000,000)	
	B.	Additional Insured (Endorsement)	
	C.	Waiver of Subrogation (COI, Endorsement or policy language)	
	D.	Primacy (COI, Endorsement or policy language)	
	E.	Cancellation Endorsement	
Umbrella:	A.	Limits (\$)	
	B.	Primacy (Endorsement or policy language)	
Workers Comp:	A.	Limits (\$1,000,000)	
	B.	Waiver of Subrogation (Endorsement or policy language)	
	C.	Cancellation Endorsement	
Professional Liability:	A.	Limits (\$1,000,000)	
	B.	Cancellation Endorsement	

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SCHEDULE A-GEN SCOPE OF SERVICES

1. Representatives

- A. Valley Water's representatives are as listed below. Unless otherwise provided in this Agreement, all correspondence to Valley Water must be addressed to Valley Water Project Manager (VWPM).

Beckie Zisser
Senior Management Analyst
Office of Government Relations
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118-3638

Phone: (408) 630-2713
Email: bzisser@valleywater.org

Marta Lugo
Deputy Administrative Officer
Office of Government Relations
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118-3638

Phone: (408) 613-9129
Email: mlugo@valleywater.org

Rachael Gibson
Chief of External Affairs
External Affairs Division
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118-3638

Phone: (408) 630-2884
Email: rgibson@valleywater.org

- B. Consultant's Project Manager is as listed below. All Valley Water questions pertaining to this Agreement shall be referred to Consultant's Project Manager.

Julie Minerva (Consultant Project Manager)
Partner, Carpi & Clay
601 New Jersey Ave, NW, Suite 300
Washington, DC 20001

Phone: (202) 822-8300
Email: jminerva@carpiclay.com

SCHEDULE A-GEN SCOPE OF SERVICES

All Valley Water questions pertaining to this Agreement shall be referred to Consultant's Project Manager. All correspondence to Consultant shall be addressed to the address set forth above.

- C. Consultant's Principal Officer for this Agreement is as listed below. As per the Agreement, Section Twelve, Miscellaneous Provisions, subsection 18. Notices, all notices pertaining to this Agreement must be submitted to Consultant's Principal Officer.

Julie Minerva (Consultant Principal Officer)
Partner, Carpi & Clay
601 New Jersey Ave, NW, Suite 300
Washington, DC 20001

Phone: (202) 822-8300
Email: jminerva@carpiclay.com

2. Scope of Services

- A. The objective of this Agreement for Admin-Gen is for Consultant to perform Washington, D.C. Representation Services - Administrative Agencies and Executive Branch Focus 2022 (Project).

3. Project Objectives

- A. Consultant will partner with the Valley Water Project Manager (VWPM) to provide Valley Water with federal lobbying assistance and representation in Washington, D.C., to influence federal administrative agencies and the Executive Branch to ensure that Valley Water's point of view and interests are well represented and advanced.

4. Project Background

- A. The mission of the Santa Clara Valley Water District, now known as Valley Water, is to provide Silicon Valley safe, clean water for a healthy life, environment, and economy.

Valley Water is a public agency providing water supply, flood protection, and stream stewardship for Santa Clara County. Valley Water manages an integrated water resources system that includes the supply of clean safe water, flood protection and stewardship of streams on behalf of Santa Clara County's 2 million residents. Valley Water effectively manages ten dams and surface water reservoirs, three water treatment plants, a state-of-the-art water quality laboratory, and more than 275 miles of streams. For information about Valley Water, visit www.valleywater.org.

- B. The Office of Government Relations (OGR) advocates with local, regional, state, and federal government officials to advance Valley Water's priority flood protection and water supply projects. At the federal level, OGR works to secure funding for these projects and advocates for policies that further Valley Water's mission. OGR is managed by the Deputy Administrative Officer and includes several staff based in San Jose and a Sacramento office of State Government Relations.

SCHEDULE A-GEN SCOPE OF SERVICES

5. Assumptions and Requirements

A. General Assumptions and Requirements

- 1) **Manage Scope of services.** Consultant shall manage the Scope of Services such that the work is completed within the Not-to-Exceed Fees limit and in accordance with the Project schedule and ensure that all services and deliverables meet Valley Water and Project objectives and requirements.
- 2) **Deliverable Format.** Consultant shall submit deliverables in both electronic and hardcopy format, if requested. Deliverables shall be submitted in PDF and native (editable) format, including Word documents, Excel spreadsheets, PowerPoint files, etc. The hard copy deliverables shall be printed in professional quality presentation and submitted in 5 (five) copies, if requested. Valley Water may require original copies of signed documents and/or scanned (Adobe PDF) versions.
- 3) **Review of Deliverables.** Valley Water will review and comment on all Project deliverables and forward to Consultant for revision and preparation of final versions. As determined by Valley Water, some of the deliverables may also be subject to review and comment from regulatory agencies and stakeholders following Valley Water review process. For each deliverable, Valley Water will collect comments from all Valley Water stakeholders and provide a single set of consolidated comments to Consultant. The comments provided by Valley Water staff during the workshops will be documented by Consultant as meeting minutes and will be included in the next revision of the documents.
- 4) **Consultant Responsibility.** Consultant, with its expertise in performing the Services described herein, is responsible for making the appropriate assumptions in each task to complete each task's deliverables and to achieve the Project objectives of this Agreement as described in Section 3. Project Objectives.
- 5) **Document Control.** Consultant is responsible for establishing and maintaining its own document control system to execute this Scope of Services. An internal document control system for this Project is maintained by Valley Water.
- 6) **File Exchange Service.** Consultant will provide a file exchange service, accessible to all parties as designated by Valley Water, to facilitate communications; particularly of large files over three megabytes. Difficulties in using and transmitting information with this exchange service shall be resolved by Consultant. In the event that transmitting or receiving information does not occur in a timely manner, Valley Water will not be responsible for delays in completing Project work. Consultant may need to coordinate with Valley Water's Information Technology Division to address any firewall issues and/or permissions required to allow for these communications.

SCHEDULE A-GEN SCOPE OF SERVICES

6. Scope of Services

Task 1 - Project Management

The purpose of this task is for Consultant to manage this Scope of Services such that the work is completed within the not-to-exceed fees limit stated in Schedule A-GEN, Attachment One, Fees and Payments, and in accordance with the Project Schedule stated in Schedule A-GEN, Attachment Two, Schedule of Completion, while ensuring that all services and deliverables by the Consultant meet Valley Water and Project requirements.

1.1 Manage Project Team

This task provides for project management of Consultant team activities and interaction with Valley Water staff.

- A. Consultant will manage the efforts of their project team including staff assignments, delegating responsibilities, reviewing work progress, and directing the progress of work to achieve a satisfactory performance of the Scope of Services and production of deliverables, within the Fixed Fee Payment Schedule stated in Attachment Two, Fees and Payments, and in a timely manner.
- B. Consultant, with its expertise in the provision of the listed services, is responsible for making the appropriate assumptions in each task to complete each task's deliverables and to achieve the Project objectives of this Agreement as described in Section 5, Preliminary Scope of Services.
- C. Consultant will communicate regularly with the Valley Water Project Manager (VWPM) by telephone or by e-mail on all pertinent issues.
- D. Consultant will travel to Valley Water's offices in San José, California, in January of each year during the term of the Agreement to present a legislative and administrative outlook to the Board of Directors and meet with staff to develop legislative and policy priorities for the coming calendar year.
- E. Consultant is responsible for establishing and maintaining its own document control system to execute this Scope of Services. An internal document control system for this project is maintained by Valley Water.

Task 1 - Deliverables

- 1. Travel to Valley Water's offices in San José, California, in January of each year during the term of the Agreement to present a legislative and administrative outlook to the Board of Directors and meet with staff to develop legislative and policy priorities for the coming calendar year. If in-person travel is not an option due to emergency circumstances, the Consultant shall, to the best of his/her ability, participate in these meetings electronically.

SCHEDULE A-GEN SCOPE OF SERVICES

Task 2 - Federal Lobbying Services

2.1 Contact Newly Appointed Officials

Consultant will contact newly appointed federal officials, as appropriate, for a briefing on Valley Water issues and issues of mutual concern within 30 calendar days of the official taking office.

2.2 Liaise with Administration and Executive Branch Officials

Consultant will develop and maintain ongoing relationships with Administration and Executive Branch officials to keep them apprised of Valley Water's positions on public policy issues, and, where appropriate, generate support for all high-priority policy issues as communicated by the VWPM.

2.3 Coordinate Meetings in Washington, D.C.

Consultant will coordinate meetings with Administration and Executive Branch officials at least twice annually for Valley Water's Washington, D.C. visits by members of Valley Water Board of Directors and staff. One visit will be in the fall and one visit will be in the spring. Other visits will occur as necessary and may be in coordination with other organizations. Consultant shall provide a list of recommended meetings at least one (1) month in advance of each trip for the VWPM's concurrence prior to scheduling.

2.4 Advocate for Valley Water Projects

Consultant will regularly strategize with the VWPM on advocacy activities with the Administration and Executive Agencies. Consultant will utilize all approved advocacy tools to generate support for Valley Water projects, the Board of Directors' Legislative Policy Proposals and Guiding Principles, and other issues including negotiating with stakeholders and preparing letters for high priority policy issues.

2.5 Participate in Strategic Organizations' Meetings

Consultant will participate with Valley Water staff in meetings of strategic associations, regional and multilevel policymaking and stakeholder groups, and coalitions as directed by the VWPM.

2.6 Report on Unanticipated Policy Issues

As appropriate and necessary, Consultant will promptly advise the VWPM regarding emerging and/or unanticipated policy issues.

2.7 Other Assignments

Consultant will perform other specific assignments consistent with this Agreement as requested by Valley Water at the direction of the VWPM.

Task 2 - Deliverables

1. Coordinate and attend meetings with Administration and Executive Branch officials for Valley Water's Washington, D.C. trips.
2. Provide written summary reports on Valley Water's Washington, D.C. visits with Administration and Executive Branch officials, and draft letters of appreciation to be addressed to individuals with whom Valley Water met. Both deliverables must be received by Valley Water within fourteen (14) calendar days after the end of the visit.

SCHEDULE A-GEN SCOPE OF SERVICES

3. Provide additional reports and memoranda as needed to communicate issues and accomplishments will be sent to Valley Water within fourteen (14) calendar days of receipt of request from the VWPM.
4. Participate in strategic organizations' meetings as directed by the Valley Water VWPM.

7. Attachments

The following Schedule A-Gen Attachments are incorporated herein by this reference as though set forth in full:

Attachment One - Fees and Payments

Attachment Two - Schedule of Completion

Attachment Three - Consultant's Key Staff and Subconsultants

Attachment Four - Reference Materials

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**SCHEDULE A-GEN
ATTACHMENT TWO
SCHEDULE OF COMPLETION**

1. Total Authorized Funding

Total payment for Services performed, to the satisfaction of Valley Water, as described in the Schedule(s) will not exceed a total amount of **\$192,000** (Not-to-Exceed Fixed Fee or NTE). This fixed fee amount includes all expenses and costs related to the Consultant's performance of the Scope of Services. Under no circumstances will the total compensation to the Consultant exceed this amount, unless modified by a written amendment executed by the Parties. The Consultant guarantees that it will complete the contracted Scope of Services for the Total Agreement Amount stated herein.

2. Cost Breakdown

The fixed fee compensation of this Agreement consists of the following task fee breakdown.

COST BREAKDOWN

Task	Description	Not-to-Exceed Fixed Fees
1	Project Management	\$16,000 flat fee per month for Tasks 1 – 2
2	Federal Lobbying Services	
Total Not-to-Exceed Fixed Fees		\$192,000

3. Terms and Conditions

A. Payments for Services performed, as described in this attached Schedule, which applies to the specific Services, will be based on the following terms:

- 1) Valley Water will pay for Services provided by Consultant according to the fixed fee amount for all professional, technical, and administrative personnel, and all as well as materials and supplies.

B. **Reimbursable Expenses** – NOT USED

C. **Prevailing Wage Requirements** – NOT USED

**SCHEDULE A-GEN
ATTACHMENT TWO
SCHEDULE OF COMPLETION**

1. This Agreement commences on the Effective Date, subject to accomplishment of all conditions to formation of an agreement listed in the Agreement at Section Twelve, Miscellaneous Provisions, subsection 2. Formation of Agreement.
2. This Agreement expires 12 months, after the Effective Date, with two one-year renewal options that may be exercised at the sole discretion of Valley Water. The exercise of the option must be in the form of a written amendment signed by both Parties. Any such amendment should address any changes to the Total Authorized Funding.
3. Valley Water and Consultant may agree to modify the schedule specified for Consultant's performance as an administrative modification to the Agreement and will confirm such modification in writing.

PROJECT SCHEDULE

Task	Description	Duration From Notice to Proceed (months)
1	Project Management	Duration of Agreement
2	Federal Lobbying Services	Duration of Agreement

**SCHEDULE A-GEN
ATTACHMENT THREE
CONSULTANT'S KEY STAFF AND SUBCONSULTANTS**

1. Consultant's key staff assigned to the Project are as follows:

Team Member	Classification	Project Role	Contact Information
Julie Minerva	Partner	Team Leader	601 New Jersey Ave., NW, Suite 300 Washington, DC 20001 202-822-8144 jminerva@carpiclay.com
Laura Morgan-Kessler	Principal		601 New Jersey Ave., NW, Suite 300 Washington, DC 20001 202-851-4756 lmorgan-kessler@carpiclay.com

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**SCHEDULE A-GEN
ATTACHMENT FOUR
REFERENCE MATERIALS**

Ref No.	Description
1	Santa Clara Valley Water District (Valley Water) Non-Disclosure Agreement (NDA) (FC 1650)
2	Quality and Environmental Management System (QEMS) Factsheet.

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