



# STANDARD CONSULTANT AGREEMENT

Terms and Conditions Template (Capital)  
6/1/2024 – 12/31/2025

This agreement (Agreement) is effective once fully executed (Effective Date), by and between SANTA CLARA VALLEY WATER DISTRICT (Valley Water or District), and **BROWN AND CALDWELL, 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), Scope of Services, 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 Service described in an attached Schedule(s) must be performed by Consultant, or at its direction, 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 in engineering, asset management, operations, and maintenance units to be made aware of Valley Water operational 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.

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## 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 the Scope of Services.

## 3. Licensing

Services performed by Consultant will be undertaken only by persons appropriately licensed, certified, or registered in California, as applicable to the Services described herein, when required by statutes or regulations, as well as pursuant to the relevant standard of care as described in Section Two, Duties of Consultant, subsection 11. Standard of Care. Examples of such Services include those performed by: California State Licensed Contractors, Professional Engineers and Architects, Inspectors, and Surveyors. Consultant shall make available upon Valley Water's request documentation of qualifications and licensing of personnel performing Services described herein. Consultant must be registered with the California Department of Labor Standards Enforcement if the Services or a portion thereof is determined to be "Public Works" pursuant to California Labor Code §1720(a)(1).

## 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

The Services may include preparation of deliverables by Consultant to be implemented in a public works construction project. Consultant is responsible for any direct or actual damages incurred by Valley Water which result from Consultant's errors or omissions in Consultant's deliverables, including, but not limited to, any increase in Valley Water's payment(s) due to its construction contractor, which increase is directly attributable to required revisions to the construction Contract Documents to the extent caused by Consultant's negligent acts, errors, or omissions. The foregoing does not limit Consultant's indemnification obligations set forth in Section 8 of this Agreement.

## 6. Valley Water Standardization Requirements

- A. 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 and Autodesk Civil 3D software that is compatible with Valley Water's current Microsoft Office software and Autodesk software used at the time(s) Valley Water issues a Notice to Proceed pursuant to this Agreement.
- B. Engineering drawings prepared by Consultant must be in compliance with Valley Water's Computer-Aided Design and Drafting (CADD) standards including line types, line weights, text sizes, text orientation, dimensioning, labeling/numbering system for detailed plan views and detailed section views. Drawings prepared using different CADD software and versions must be converted to be compatible with Valley Water's CADD

software at no additional cost to Valley Water. Prior to acceptance, Valley Water reserves the right to test the submitted CADD files to verify that the files are not corrupted or missing linkages (for blocks, etc., used in the drawings) and that the standards are retained during the conversion process used by Consultant.

## **7. Consultant's Key Staff and Subconsultants**

- A. Consultant's Key Staff and firms subcontracted by Consultant (Subconsultants) assigned to perform the Services are identified in the Schedule(s), 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's authorized representative 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.
- H. Consultant's Subconsultants
  - 1) Valley Water's authorized representative may approve any revisions to Consultant's list of authorized Subconsultants when the Subconsultant is deleted from the list and the Scope of Services is deleted from the Agreement or such services are assumed by the Consultant; such approval will be confirmed in writing.
  - 2) Valley Water's authorized representative may approve any revisions to Consultant's list of authorized Subconsultants when a listed Subconsultant is replaced (to perform the same Scope) or a new Subconsultant is added (to perform new Scope), provided

the firm complies with all insurance requirements established by Valley Water for such work; 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 Professional Land Surveyors Act; 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 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 and its contractors who are performing any of the Services as Subconsultants will perform such Services as an independent contractor, and neither Consultant nor Subconsultants 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, agents, or Subconsultants.

## 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 negligent 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.

## 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 Project Manager at each milestone identified in the Schedule(s) and at such other time(s) at the discretion of Valley Water.
- 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, as determined by Valley Water, 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 Fixed 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 hourly rates, subject to the Total Fixed Not-to-Exceed (NTE) Fees stated in the Schedule, Attachment One, Fees and Payments, for completion of the associated tasks. Valley Water will make payments to Consultant according to the terms provided for herein and in the Schedule, Attachment One, 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, and reimbursable expenses, incurred by the Consultant to perform the Services.
- B. Upon the written approval of Valley Water Deputy Operating Officer referenced herein, remaining funds previously budgeted for tasks that are completed, reduced, or deleted, may be reallocated to tasks that have not yet been completed, provided the Agreement Total Not-to-Exceed Fee is not exceeded. Transferring funds 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, revised, or deleted. If the Scope of Services of a task is reduced or deleted, the portion of the funds attributed to

that reduced or eliminated task may be reallocated to existing tasks, or transferred to a Supplemental Services task, if provided for herein.

- D. Any reduction or deletion of tasks and any inter-task transfers will be clearly noted and described in the subsequent monthly progress report to Valley Water.
- E. Services to be performed pursuant to the Supplemental Services task, if provided for herein, will commence only after issuance of a fully executed Task Order.
- F. Automobile travel mileage expenses will be paid at the current Internal Revenue Services (IRS) rate. Valley Water will not reimburse Consultant nor its Subconsultants for mileage nor travel time to and from Valley Water Headquarters and surrounding campus located at 5700 Almaden Expressway, San Jose, California. However, Valley Water will reimburse Consultant and its Subconsultants for mileage incurred from Valley Water Headquarters or Consultant's and Subconsultants' firm addresses, whichever is closer to the destination, to Project site(s) and, if directed or authorized by Valley Water, to meeting locations such as with regulatory agencies, for community outreach activities and meetings, for partnering meetings, and Dispute Review Board meetings.

## **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) A description of the site where Services were performed, if applicable;
  - 4) The name of Valley Water staff requesting Services;
  - 5) The dates when Services were performed;
  - 6) Other direct charges and expenses by Service task;
  - 7) Other direct charges and expenses must reflect actual fees versus the Agreement Not-to-Exceed Fees as stated in the Schedule(s), Attachment One, Fees and Payments, and/or Task Orders; and
  - 8) 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 both the Consultant and its Subconsultants.

- B. Before submitting monthly invoices, a draft invoice (in Adobe PDF format) will be provided in electronic format by the Consultant for preliminary review by Valley Water Project Manager. Upon preliminary approval by Valley Water, Consultant will email the complete, signed, and dated electronic copy invoice, including all supporting documentation. Valley Water's preliminary review of the draft invoice does not represent final approval of the electronic copy invoice, but is intended to reduce potential for re-submittals of electronic copy invoice by Consultant.
- C. Each monthly invoice must include a monthly progress report that documents whether or not the Services are on schedule to be completed in accordance with the Schedule, Attachment Two, Schedule of Completion, which applies to the specific Scope of Services, and within the Agreement NTE Fees in accordance with the Schedule, Attachment One, Fees and Payments. The progress report shall document Services completed, the execution of the tasks described in this Services, and enable Valley Water to evaluate the Consultant's progress and performance towards completion of the Services.
- 1) The monthly progress report shall include:
- a. An assessment of actual versus planned progress in completing the Services, including a description of the tasks and deliverables completed to date;
  - b. A look-ahead schedule listing deliverables and activities planned for the next two months;
  - c. A statement that progress towards completion of the Services is on schedule and will be completed within the timeline set forth in the Schedule of Completion; or, if completion of the Services is not on schedule, then a statement of the anticipated length of the delay, the cause of the delay, measures proposed or taken to prevent or minimize the delay, and the schedule for implementation of such measures;
  - d. A summary of performed tasks to date, an updated Project work plan including estimate of work required to complete this Agreement, explanation of any major variances in percentage of services to be completed compared to percentage of this Agreement NTE fees remaining, and any anticipated changes to this Agreement that may be necessary to complete the Services;
  - e. For any proposed change to the Scope of Services, provide a summary of the proposed changes, including supporting rationale for such change;
  - f. For each task, the percentage of the fees incurred for the task compared to dollar amount allocated to the task, the percentage of services performed versus the percentage of Agreement NTE fees incurred for such task, and explanation of any significant variances in percentage of services performed compared to percentage of fees incurred;

- g. A statement that all tasks, as specified in this Agreement, shall be completed within the NTE amount of the Agreement;
  - h. Level of Small Business Enterprise (SBE) participation, if applicable, documenting the level of SBE participation throughout the Project; and
  - i. Any changes in Consultant's key staff or Subconsultants.
- D. Invoices will include a summary of labor expenditures, direct costs, and billed Subconsultant charges. Invoices, transmitted separately from the monthly progress reports, will be organized such that the billing categories correspond with the Services tasks.
- E. Consultant shall email all invoices to: [APinvoices5750@valleywater.org](mailto:APinvoices5750@valleywater.org)  
  
Valley Water mailing address for invoices, if needed:  
  
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 monthly progress report, Consultant must also ensure that each invoice and corresponding attachments contain 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 emailed);
  - 6) Detailed description of Services provided, including the "distribution account(s)" for those Services;
  - 7) Number of hours spent by each person performing services and a brief description of the services performed by each person; and
  - 8) 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 the Schedule, Attachment One, Fees and Payments, which applies to the specific Scope of Services.

- H. Valley Water 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 Project Manager.
- I. Invoice Disputes
  - 1) Valley Water may in good faith assert a bona fide dispute as to all or a portion of fees specified in any invoice. If any portion of an amount due to Consultant pursuant to this Agreement is subject to a bona fide dispute between the Parties, within 30 calendar days of Consultant's submission of an invoice in which a disputed amount is included, Valley Water will notify Consultant in writing of the specific items in dispute, and will describe Valley Water's reason(s) for disputing each such item.
  - 2) Consultant and Valley Water Project Manager must act in good faith to resolve the dispute in a timely manner. If the dispute is not resolved by Consultant and Valley Water Project Manager within 30 calendar days of Consultant receiving Valley Water's written notice of dispute, Consultant and Valley Water will attempt to resolve the dispute pursuant to the Standard Consultant Agreement, Appendix Two, Dispute Resolution.
- J. Consultant's services will be performed by its staff members and Subconsultants' staff members at the lowest hourly and unit rates commensurate with the complexity of the required Services.
- K. Consultant shall ensure that its personnel performing Services pursuant to this Agreement document their time doing so.

**3. Prevailing Wages - NOT APPLICABLE**

- A. A portion of the Services to be performed pursuant to this Agreement may be considered "Public Works" subject to California Labor Code §1771, et. seq. and the applicable implementing regulations. If Consultant's Services includes such work, Consultant and its Subconsultants must comply with all Labor Codes applicable to prevailing wages.
- B. Labor Code §1720 provides as follows:

"(a) As used in this chapter, "public works" means all of the following:

- (1) Construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds, except work done directly by a public utility company pursuant to order of the Public Utilities Commission or other public authority. For purposes of this paragraph, "construction" includes work performed during the design, site assessment, feasibility study, and other preconstruction phases of construction, including, but not limited to, inspection and land surveying work, regardless of whether any further construction work is conducted, and work performed during the postconstruction phases of construction, including, but not limited to, all cleanup work at the jobsite. For purposes of this

paragraph, "installation" includes, but is not limited to, the assembly and disassembly of freestanding and affixed modular office systems."

- C. Consultant and its Subconsultants shall not engage in the performance of public work, as defined in California Labor Code §1771.1, unless currently registered and qualified to perform public work pursuant to California Labor Code §1725.5.
- D. The General Prevailing Wage Rates issued by the California Department of Industrial Relations may be adjusted by the State throughout the term of this Agreement. Notwithstanding any other provision of this Agreement, Consultant will not be entitled to any adjustment in compensation rates in the event there are adjustments to the General Prevailing Wage Rates.
- E. This Agreement is subject to compliance monitoring and enforcement by the State of California Department of Industrial Relations. Upon request, Consultant and Subconsultants must furnish the records specified in Labor Code §1776 directly to the Labor Commissioner, in a format prescribed by the Labor Commissioner.
- F. All records or documents required to be kept verifying statutory compliance with the prevailing wage requirement, such as certified payroll records, must be made available for audit at no cost to Valley Water, in electronic or hard copy format, at Valley Water's discretion, and hard copies made available at any time during regular business hours, upon written request by Valley Water.
- G. **California State Department of Industrial Relations Contractor and Sub-Contractor Registration Requirements**

Prior to Valley Water executing a Task Order for Services involving public works, as defined herein, Consultant, and its Subconsultant(s) performing public works, must provide evidence, in the form required by Valley Water, that Consultant and its Subconsultant(s) are in compliance with the California State Department of Industrial Relations Contractor and Sub-Contractor Registration Requirements.

#### 4. Retention

- A. Unless otherwise specified in the Schedule(s), Attachment One, Fees and Payments, when the total compensation payable pursuant to this Agreement, ten percent of each invoice will be withheld by Valley Water and not paid to Consultant until 30 calendar days after the assigned Valley Water representative signs the final approval for all Services/deliverables as stated in the applicable Schedule, Attachment Two, Schedule of Completion, and Section Three, Duties of Valley Water, subsection 2. Review of Deliverables.
- B. Provided that at any time after 50% of the work has been completed, Valley Water may, at its sole discretion, determine that satisfactory progress is being made in the completion of the Agreement, and prospectively make the remaining progress payments in full. The retention previously withheld on the first 50% of the work will continue to be

withheld until final Agreement close out.

- C. Consultant may request, and Valley Water may consider and approve, release of retention withheld by Valley Water.

## **SECTION FIVE**

### **SCHEDULE OF COMPLETION**

#### **1. Performance of Tasks**

Consultant will commence performing the tasks described in this Agreement, in accordance with the attached Schedule(s), Scope of Services, 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 Services in accordance with the Project Schedule table (Project Schedule) as stated in the Schedule, Attachment Two, Schedule of Completion. Consultant will coordinate services with Valley Water to provide the timeline of all tasks and subtasks, 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 Schedule, Attachment Two, 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, Valley Water may, at its discretion, grant a reasonable adjustment in the Project Schedule.

#### **5. Changes to the Project Schedule**

Valley Water 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 and expenses cannot be incurred 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 or to any individual Task Order. Valley Water may subsequently terminate this Agreement or any Task Order 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 or Task Order.
- B. Termination for Convenience: Valley Water may, by written notice to Consultant, terminate all or part of this Agreement or any Task Order 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 or any Task Order is so terminated, Consultant will be compensated as set forth in Section Seven, Term and Termination, 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 a Task Order, or if Consultant fails to fulfill in a timely and proper manner its obligations pursuant to this Agreement or any Task Order, 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 and any or all uncompleted Task Orders 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 or expenses beyond the specified termination date.
- D. If, after notice of termination for breach of this Agreement or any Task Order, it is determined that Consultant did not breach the Agreement or Task Order, the termination will be deemed to have been implemented 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, this Agreement, or a Task Order.

### **3. Consultant's Compensation upon Termination or Suspension**

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

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

- 1. 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.
- 2. The foregoing does not limit any strict liability imposed on 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, and comply with all provisions stated therein.

## **SECTION TEN**

### **OWNERSHIP AND REUSE OF DELIVERABLES**

#### **1. Valley Water Ownership**

All deliverables and other materials prepared by Consultant, including computer programs and media developed by the 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**

If Valley Water desires to reuse the completed plans, specifications, or other deliverables, in total or in part, on project sites associated with this Agreement, or any other site, or to complete any incomplete portion of construction documentation which Valley Water has already paid Consultant, Valley Water will release Consultant from any liability incurred by Valley Water from reusing said deliverables.

#### **3. Copies of Data**

Copies of data exchanged by, through, 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 computer-generated material is 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, designs, plans, specifications, data compilations, computer programs, or drawings 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 belongs to Valley Water.

## 6. Copyright Claims

Co-venturers, subcontractors, Subconsultants, suppliers, and vendors to Consultant are likewise bound by these copyright terms. Valley Water makes no copyright claim and requires no release for copyrighted material or trademarked names used incidentally by Consultant.

# 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

Consultant’s policy must be in conformance with applicable state and federal guidelines including the Federal Equal Opportunity Clause, 41 Code of Federal Regulations, Part 60-1, §60-1.4; 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.

### 3. Investigation of Claims

Technical Support Services for State and Federal  
Funding Opportunities for Water Reuse

Agreement No. A5379A / PB File No. VW0511

Standard Consultant Agreement-Capital Project-Non-PMIS-FED/USBR  
Ver.: 4.24.25

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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), Schedule(s)' Attachments, and all executed Task Orders, represents the entire understanding between the Parties hereto relating to the Services described in this Agreement and its executed Task Orders, which are incorporated herein by this reference, 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 this Agreement between the Parties requires accomplishment of the following, as applicable:
  - 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) as provided in the Schedule(s), Attachment Four, 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**

Technical Support Services for State and Federal  
Funding Opportunities for Water Reuse

Agreement No. A5379A / PB File No. VW0511

Standard Consultant Agreement-Capital Project-Non-PMIS-FED/USBR  
Ver.: 4.24.25

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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. 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. Notwithstanding the aforementioned Confidentiality requirements, upon the request of Valley Water Project Manager, Consultant, and its Subconsultants shall execute Valley Water's most current Non-Disclosure Agreement in effect at that time.
- F. 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, 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; or
    - 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 any time there is a need to correct or change 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 an Annual Statement in a manner prescribed by Valley Water, during the 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 with Valley Water when one of the following occurs:
  - a. Upon termination of this Agreement; or
  - 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 §81000 et. seq. and §1090. If any of Consultant's employees, officers, agents, Subconsultants, and subcontractors are disqualified from providing services, on written notice from Valley Water Project Manager, Consultant will have 15 calendar days to remove said 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

- A. Some tasks and Services may be assigned to the Consultant through issuance of Task Orders. After the tasks and Services are identified and communicated to the Consultant by Valley Water Project Manager, Consultant will prepare a proposed Task Order (see Standard Consultant Agreement, Appendix Three, Task Order Template). The proposed Task must identify the following:
  - 1) Description of the Services, including deliverables;
  - 2) The total Not-to-Exceed Fees for Consultant to complete the Services, including estimated number of hours per assigned staff to complete the Services;

- 3) Proposed staff that will be assigned to complete the Services, including resumes if not previously provided to Valley Water's Project Manager;
  - 4) Estimated cost of each other direct cost and reimbursable expense, including any applicable fees;
  - 5) Schedule for completing the Services; and
  - 6) Copies of applicable state and federal permits required to complete the services, unless previously provided to Valley Water.
- B. Consultant agrees that the Not-to-Exceed Fees specified in a proposed Task Order will be the product of a good faith effort in exercising its professional judgment. After an agreement has been reached on the negotiable items, the finalized Task Order will be signed by both Valley Water's authorized representative referenced in the Standard Consultant Agreement, Appendix One, Additional Legal Terms, and Consultant's authorized representative.
- C. Consultant must not commence performance of work or services on a Task Order until it has been approved by Valley Water's authorized representative and Notice to Proceed has been issued by Valley Water Project Manager. No payment will be made for any services performed prior to approval or after the period of performance of the Task Order. The period of performance for Task Orders will be in accordance with dates specified in the Task Order. No Task Order will be written which extends beyond the expiration date of this Agreement. The total amount payable by Valley Water for an individual Task Order will not exceed the amount agreed to in the Task Order.
- D. Prevailing Wage Requirements: The Scope of Services may be considered by Valley Water to be "Public Works" requiring the payment of prevailing wages. See the Standard Consultant Agreement, Section Four, Fees and Payments, subsection 3. Prevailing Wages, and Appendix Three, Task Order Template.

#### **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**

Unless otherwise expressly stated herein or in an executed Task Order, Consultant represents and warrants that it has investigated the need for, and has or will procure, at its cost, and in its own name to the extent allowed by law, all governmental permits, notifications, approvals and inspections required for the performance of the Services. Consultant shall promptly notify Valley Water if any such permit or approval lapses or is modified or revoked. If, pursuant to applicable law, any such permits or approvals must be

procured in Valley Water's name, Consultant shall promptly so inform Valley Water and assist Valley Water in obtaining such permits or approvals.

## **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. 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.

## **19. 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.

## **20. 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.

## **21. Notices**

Unless otherwise specified in this Agreement, all requests for written approval or legal notices must be sent to the representatives below. All notices are 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 the attached Schedule, Scope of Services, Section 1. Representatives.

CONSULTANT:

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

**22. Appendices**

The following list of 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
- Appendix Four - Insurance Requirements

**23. Schedule(s) and Attachments**

Schedule S, Scope of Services, and the following listed 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

*(SIGNATURES TO FOLLOW NEXT PAGE)*

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**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

**BROWN AND CALDWELL**  
Consultant

By: \_\_\_\_\_  
Tony Estremera  
Chair, Board of Directors

Signed by:  
By:  \_\_\_\_\_  
E663A70094EC4D5...  
Anup Sran  
Sr. Director, VP

Date: \_\_\_\_\_

Date: 5/12/2025

ATTEST:  
  
\_\_\_\_\_  
Candice Kwok-Smith  
Clerk, Board of Directors

Consultant's Address:  
111 W Saint John St, Ste 1040  
San Jose, CA 95113

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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, or any of its Subconsultants, shall not submit a proposal independently or as part of a team:

- A. For any agreement to be awarded for services recommended by Consultant without significant and substantive intervening review by Valley Water or as otherwise prohibited pursuant to Government Code Section 1090, et seq. "Significant and substantive intervening review" means Valley Water's review of Consultant's work in which it independently verifies the Consultant's information, recommendation, advice, etc. that constitutes project manager responsibilities that lead to a decision by Valley Water to seek procurement of the services; or ;
- 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) Outreach Program Participation**

This Agreement provides for the Consultant to include California Department of General Services certified Small/Micro Businesses in the performance of the Services, estimated to TBD% or more of the Total Not-to-Exceed Fees stated in the Standard Consultant Agreement, Attachment One Fees and Payments, to the Schedule(s), and Consultant agrees to use its best efforts to meet this goal.

**4. Task Order Approvals**

- A. Services to be performed pursuant to a Task Order may only commence once a specific Notice to Proceed for that Task Order has been issued by Valley Water.
- B. Task Orders are subject to approval by Valley Water Deputy Operating Officer unless delegated to an Assistant Operating Officer and/or Unit Manager.
- C. Valley Water Assistant Operating Officer is authorized to approve individual Task Orders in an amount not-to-exceed \$[authorization amount]. - NOT USED

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

- D. Valley Water Unit Manager is authorized to approve individual Task Orders in an amount not-to-exceed \$[authorization amount]. - NOT USED
- E. The total not-to-exceed amount for any one Task Order shall not exceed \$[NTE Amount]. - NOT USED

**5. Federally Required Clauses**

This Agreement is funded by a grant Valley Water received from the United States Bureau of Reclamation (USBR). Because those grant funds are being used to pay for the Services, Consultant is required to adhere to certain Federal Contract Provisions, which are attached hereto as Appendix One (Additional Legal Terms as Exhibit A, Federal Requirements), and incorporated into this Agreement by this reference. Consultant agrees to adhere to such applicable Federal Contract Provisions.

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**STANDARD CONSULTANT AGREEMENT  
EXHIBIT A  
FEDERAL REQUIREMENTS**

**1. INSPECTION**

Reclamation has the right to inspect and evaluate the work performed or being performed under this Agreement, and the premises where the work is being performed, at all reasonable times and in a manner that will not unduly delay the work. If Reclamation performs inspection or evaluation on the premises of the Recipient or a subrecipient, the Recipient shall furnish and shall require sub-recipients to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

**2. DEBARMENT AND SUSPENSION (2 CFR 1400)**

Consultant must comply with subpart C of OMB Guidance in 2 CFR Part 180 which adopts the common rule for the governmentwide system of debarment and suspension for nonprocurement activities. All contracts made by Consultant in furtherance of this Agreement must require compliance with subpart C of OMB Guidance in 2 CFR Part 180.

**3. TRAFFICKING VICTIMS PROTECTION ACT OF 2000 (2 CFR 175.15)**

Consultant and its employees may not:

- (i) Engage in severe forms of trafficking in persons;
- (ii) Procure a commercial sex act during the term of this Agreement; or
- (iii) Use forced labor in the performance of this Agreement.

This Agreement may be terminated without notice, if Consultant is determined to have violated this Section 8.

**4. NEW RESTRICTIONS ON LOBBYING (43 CFR 18)**

As part of performing the Services rendered under this Agreement, Consultant certifies that it will not influence or attempt to influence an officer or employee of an agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

The above certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into.

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Consultant certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Consultant must disclose to Valley Water any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

**STANDARD CONSULTANT AGREEMENT  
EXHIBIT A  
FEDERAL REQUIREMENTS**

**5. ADDITIONAL ACCESS TO RECIPIENT RECORDS**

In addition to any other existing examination-of-records authority, the Federal Government is authorized to examine any records of the recipient and its subawards or contracts to the extent necessary to ensure that funds, including supplies and services, available under this Agreement are not provided, directly or indirectly, to a person or entity that is actively opposing United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, except for awards awarded by the Department of Defense on or before Dec 19, 2017 that will be performed in the United States Central Command (USCENTCOM) theater of operations.

**6. CLEAN AIR ACT**

Consultant must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act as amended (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency (Department of Interior) and the Regional Office of the Environmental Protection Agency (EPA).

**7. PROCUREMENT OF RECOVERED MATERIALS**

In the course of performing services through this Agreement, Consultant must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**8. DEPARTMENT OF THE INTERIOR STANDARD AWARD TERMS AND CONDITIONS**

The Department of the Interior (DOI) Standard Award Terms and Conditions found at <https://www.doi.gov/sites/doi.gov/files/doi-award-terms-and-conditions-version-3-effective-june-1-2023.pdf> are hereby incorporated by reference as though set forth in full text. These terms and conditions are in addition to the assurances and certifications made as part of the award and terms, conditions or restrictions reflected in this Agreement. Consultant must comply with all DOI terms and conditions.

Consultant's failure to comply with the general terms and conditions outlined below can result in the DOI taking one or more of remedies described in 2 CFR parts 200.339, Remedies for Noncompliance and 200.340, Termination, and 200.321, Contracting with

**STANDARD CONSULTANT AGREEMENT**

**EXHIBIT A**

**FEDERAL REQUIREMENTS**

*Small Businesses, Minority Businesses, Women's Business Enterprises, Veteran-Owned Businesses, and Labor Surplus Area Firms.*

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**STANDARD CONSULTANT AGREEMENT  
APPENDIX TWO  
DISPUTE RESOLUTION**

**1. Consultant's Questions and Concerns**

Questions regarding the Terms, 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 paid for by Valley Water unless the Parties agree otherwise.

**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.

**I. Authority of Mediator**

Technical Support Services for State and Federal  
Funding Opportunities for Water Reuse

Agreement No. A5379A / PB File No. VW0511

Standard Consultant Agreement-Capital Project-Non-PMIS-FED/USBR  
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**STANDARD CONSULTANT AGREEMENT  
APPENDIX TWO  
DISPUTE RESOLUTION**

- 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 confidential information disclosed to a mediator 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.

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

Task Order No. \_\_\_\_\_

Title: \_\_\_\_\_

Agreement: Standard Consultant Agreement \_\_\_\_\_ (“Agreement”) Between the Santa Clara Valley Water District (“Valley Water”) and \_\_\_\_\_ (“Consultant”), dated \_\_\_\_\_.

Valley Water: \_\_\_\_\_

Consultant: \_\_\_\_\_

**Dollar Amount of Task Order: Not-to-Exceed \$ \_\_\_\_\_**

1. Upon full execution of this Task Order No. \_\_\_\_\_, as set forth in the Standard Consultant Agreement, Section Twelve, Miscellaneous Provisions, subsection 13. Task Orders, and the issuance of a Notice to Proceed by Valley Water Project Manager, the Consultant is hereby authorized to perform the Services described in Attachment A to this Task Order. Any costs incurred, Services performed or expenditures by the Consultant before this Task Order is executed or before the issuance of the Notice to Proceed will be considered outside the contracted Scope of Services and will not be eligible for payment.
2. Both the Scope of Services to be performed and the deliverables to be provided in accordance with this Task Order are described in Attachment A which is attached hereto and incorporated by this reference. Attachment A shall include at a minimum the following:
  - A. The Consultant personnel to be assigned to perform the Services, including resumes if not previously provided to Valley Water;
  - B. The total not-to-exceed fees amount for Consultant to complete the Services, including estimated number of hours required to perform the Services assigned to each Consultant classification;
  - C. Estimated cost of each other direct cost and reimbursable expense, including any applicable fees; and
  - D. The distribution detail for each service, direct cost, and reimbursable expense. This information must be included in the invoice for the services authorized pursuant to this Task Order; and
  - E. Project schedule for completing the Scope of Services.
3. Consultant shall be compensated at fixed fees or at the hourly rates established in Schedule S, Attachment One, Fees and Payments. Consultant agrees that it will provide all equipment and furnish all materials, except as may be otherwise noted in the Attachment A.

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

- 4. This Task Order becomes effective on the date of full execution by authorized representatives of the Parties and remains in effect until the earlier of: completion of the tasks set forth in Attachment A or [expected completion date].
- 5. Copies of applicable local, state and federal permits required to perform the Services described in Attachment A are attached to this Task Order, unless the Consultant previously provided the appropriate permits to Valley Water.
- 6. Consultant shall perform all Services described in Attachment A to this Task Order in accordance with the Terms and Conditions of the Agreement.
- 7. Prevailing Wage Requirements [NOT USED]
  - A. The Scope of Services described in this Task Order may be considered to be "Public Works" requiring the payment of prevailing wages. See the Standard Consultant Agreement, Section Four, Fees and Payments, subsection 3. Prevailing Wages.
  - B. In accordance with prevailing wage laws, the Director of the California Department of Industrial Relations (Director) has ascertained the general prevailing rate of wages and employer payments for health and welfare, pension, vacation, and similar purposes available to the particular craft, classification, or type of workers employed on the Project. These rates are set forth in the latest determination obtained from the Director, which is on file in Valley Water's Office of the Clerk of the Board of Directors and incorporated herein by reference the same as though set forth in full. The rates are also available on the State of California Department of Industrial Relations website at <http://www.dir.ca.gov>.

8. Signatures:

Signature:

\_\_\_\_\_  
 NAME OF CONSULTANT FIRM  
 [PRINT NAME]  
 [PRINT TITLE]

\_\_\_\_\_  
DATE

Signature:

\_\_\_\_\_  
 SANTA CLARA VALLEY WATER DISTRICT  
 [PRINT NAME]  
 [PRINT TITLE]

\_\_\_\_\_  
DATE

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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. The District will not be responsible for time lost or costs incurred due to failure to comply with these requirements. Please note the check-list 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 District 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 District before the Agreement is executed.** In the event of a claim or dispute, District 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.

If your insurance broker has any questions about the above requirements, please advise him/her to email Valley Water Risk Manager at [RiskManager@valleywater.org](mailto:RiskManager@valleywater.org).

**Certificates of Insurance**

Consultant shall furnish the District 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 District Contract Administrator and email a copy to [valleywater@ebix.com](mailto: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/PB No. A5379A/ VW0511**

**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. District 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 District 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, District, 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 the District 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](mailto: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/PB No. A5379A/ VW0511**

**IMPORTANT: The agreement or PB number must be included.**

**STANDARD CONSULTANT AGREEMENT  
APPENDIX FOUR  
INSURANCE REQUIREMENTS**

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

**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. 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**

Technical Support Services for State and Federal  
Funding Opportunities for Water Reuse

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**STANDARD CONSULTANT AGREEMENT  
APPENDIX FOUR  
INSURANCE REQUIREMENTS**

Statutory California Workers' Compensation coverage covering all work to be performed for the District.

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 the District. **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 the District, its Directors, its officers, agents and employees, and the District's coverage must not be called upon to contribute or share in the loss. **NOTE:** This section does not apply to the Workers' Compensation or Professional Liability 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 the District.
4. **Acceptability of Insurers:** All coverages must be issued by companies admitted or authorized 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 the District'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 the District. At the option of the District, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the District, its officers, officials, employees and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the Entity guaranteeing payment of losses

**STANDARD CONSULTANT AGREEMENT  
APPENDIX FOUR  
INSURANCE REQUIREMENTS**

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.

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 the District.
7. **Amount of Liability not Limited to Amount of Insurance:** The insurance procured by Consultant for the benefit of the District must not be deemed to release or limit any liability of Consultant. Damages recoverable by the District 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 the District 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:** The District 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**

**CHECK LIST OF DOCUMENTS NEEDED**

<b>General Liability:</b>	A.	Limits <b>(\$1,000,000)</b>	
	B.	Additional Insured (Endorsement)	
	C.	Waiver of Subrogation (COI, Endorsement or policy language)	
	D.	Primacy (COI, Endorsement or policy language)	
	E.	Cancellation Endorsement	

<b>Auto Liability:</b>	A.	Limits <b>(\$1,000,000)</b>	
	B.	Additional Insured (Endorsement)	
	C.	Waiver of Subrogation (COI, Endorsement or policy language)	
	D.	Primacy (COI, Endorsement or policy language)	
	E.	Cancellation Endorsement	

<b>Umbrella:</b>	A.	Limits (\$)	
	B.	Primacy (Endorsement or policy language)	

<b>Workers Comp:</b>	A.	Limits <b>(\$1,000,000)</b>	
	B.	Waiver of Subrogation (Endorsement or policy language)	
	C.	Cancellation Endorsement	

<b>Professional Liability:</b>	A.	Limits <b>(\$1,000,000)</b>	
	B.	Cancellation Endorsement	

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## SCHEDULE S 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).

Dave Tucker (Valley Water Project Manager)  
Senior Water Resources Specialist  
Water Supply Division  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118-3638

Phone: (408) 630-3203  
Email: [DTUCKER@valleywater.org](mailto:DTUCKER@valleywater.org)

Hossein Ashktorab  
Recycled & Purified Water Manager  
Water Supply Division  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118-3638

Phone: (408) 630-2291  
Email: [hashktorab@valleywater.org](mailto:hashktorab@valleywater.org)

Kirsten Struve  
Water Supply Division  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118-3638

Phone: (408) 630-3138  
Email: [KStruve@valleywater.org](mailto:KStruve@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.

Seema B Chavan  
Sr. Director, Strategic Funding  
111 W. St. John St. Ste 1040  
San Jose, CA 95113

Phone: (415) 205-2582  
Email: [Schavan@Brwncald.com](mailto:Schavan@Brwncald.com)

## **SCHEDULE S SCOPE OF SERVICES**

- C. Consultant's Principal Officer for this Agreement is as listed below. As per the Agreement, Section Twelve, Miscellaneous Provisions, subsection 21. Notices, all notices pertaining to this Agreement must be submitted to Consultant's Principal Officer.

Anup Shah  
Sr. Director, VP  
111 W. St. John St. Ste 1040 San Jose, CA 95113

Phone: 925 210 2224  
Email: AS Shah@BrwnCald.com

### **2. Scope of Services**

- A. This Schedule S, Scope of Services describes the professional services to be performed by Consultant for Valley Water's Technical Support Services for State and Federal Funding Opportunities for Water Reuse (Project) to obtain funding strategies, develop technical studies, application assistance for federal and state government grant funds and grant implementation and monitoring for potential Non-Potable Reuse (NPR), Indirect Potable Reuse (IPR) and Direct Potable Reuse (DPR) projects at Valley Water. Valley Water reserves the right to initiate a new consultant agreement selection process for services for any subsequent phase(s) and/or utilize Valley Water staff to perform such services.
- B. Consultant shall develop a funding strategy to optimize selection of the most cost-effective funding assistance for the highest priority projects.
- C. Consultant shall develop grant applications and provide ongoing support to adapt to changing funding requirements and project components. Dependent upon the nature of these applications, submission of either a Feasibility Study (that may be Developed by Consultant) or Technical Studies (Developed by Valley Water Staff) might be required.
- D. Consultant may develop Feasibility Studies that evaluate specific Water Reuse or Desalination projects and general programs for Water Reuse within Santa Clara County.
- E. This Agreement is funded by a grant Valley Water received from the United States Bureau of Reclamation (Reclamation). Because these grant funds are being used to pay for the Services, Consultant is required to adhere to certain Federal Contract Provisions, which are stated in Appendix One (Additional Legal Terms as Exhibit A, Federal Requirements), and incorporated into this Agreement by this reference. Consultant agrees to adhere to such applicable Federal Contract Provisions. Full compliance with all applicable laws and regulations will be required of the Consultant.

## SCHEDULE S SCOPE OF SERVICES

### 3. Project Objectives

- A. Develop a funding strategy that will maximize Valley Water's ability to secure funding from a broad range of potential grants and loan opportunities, including State and Federal, to establish funding priorities based on Valley Water's objectives and develop a funding strategy.
- B. Adapt funding strategy in response to potential changes in funding priorities and Valley Water needs.
- C. Assist in pursuing grant and loan opportunities that may include but are not limited to the following:
  - 1) United States Bureau of Reclamation (Reclamation) Large Scaled Recycled Water Program and Title XVI/WIIN Water Recycling Program
  - 2) Reclamation Water and Energy Program
  - 3) State Water Resources Control Board (SWRCB) Water Recycling Funding Program (Propositions 13 and 1)
  - 4) Department of Water Resources (DWR) Integrated Regional Water Management (IRWM) Implementation Grant Program (Proposition 84)
  - 5) SWRCB Clean Water State Revolving Fund Program
  - 6) DWR State Drinking Water/Contaminant Removal (Proposition 84)
  - 7) Consultant may be requested to begin applications with confirmation of availability of and eligibility for Federal and potential State or other grants that will drive program strategy.
  - 8) The funding strategy shall target the largest Funding Programs and supplemented with smaller funding opportunities. Consultant shall continue to monitor and respond to other smaller funding opportunities.
  - 9) Consultant may be requested to support funding applications and monitor funding agencies requirements and deadline to ensure application timeliness.
- D. Perform Grant Management split into the following three phases:
  - 1) **Grant Application Submission.** Each application requires a precise project narrative (scope), schedule, and budget. Each grant has additional requirements, depending on the granting agency. Orderly record-keeping will be required in case of an audit, and to centralize communication with grantors.

**SCHEDULE S  
SCOPE OF SERVICES**

- 2) **Grant Compliance.** This phase begins once a grant application receives an award letter. The compliance process requires Consultant to create digital compliance binders for all grants using the terms and conditions and grant agreement, showing how each department across Valley Water agrees to comply with these rules. The terms and conditions and grant agreement may reference Codes of Federal Regulation (CFRs) with highly specific government policies.
- 3) **Grant Claims and Reporting.** Nearly all grant dollars are given as expense reimbursements. Valley Water’s Grants and Claims Management Unit will work with project team and Consultant to submit reimbursement claims and progress reports on a quarterly and annual basis for all active grants across Valley Water.

E. Create Feasibility Studies and other documentation to support grant application process for the following projects as directed:

- 1) Direct Potable Reuse Demonstration Facility
- 2) Large-Scale Water Recycling Projects
- 3) South County Water Recycling Program
- 4) Research and Special Studies Projects
- 5) Saltwater Desalination

**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 and commuters. 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](http://www.valleywater.org).
- B. To continue providing Santa Clara County with reliable and drought-resistant water, Valley Water recognized that alternative water supplies must be considered. Therefore, the Board of Directors set an initial goal to meet 10% of Santa Clara County’s total water demands with recycled water for non-potable reuse and purified water for potable reuse. In the long-term, the objective is to expand potable reuse capabilities to produce up to 24,000 acre-feet per year (AFY) of purified water by 2035.

In collaboration with recycled water producers, stakeholders, regulators, and an independent advisory panel, the Countywide Water Reuse Master Plan (CoRe Plan), was created to identify feasible water reuse opportunities for expanding Valley Water’s water supply portfolio. The CoRe Plan provides a framework for achieving water supply goals identified in Valley Water’s Water Supply Master Plan. As directed by its Board of Directors, Valley Water staff is currently proceeding with the design and/or construction of several of these projects and therefore requires funding across their varying stages of implementation.

## SCHEDULE S SCOPE OF SERVICES

- C. Valley Water requires technical support related to pursuing competitive funding opportunities for the planning, design, and/or construction of these identified large-scale recycled and purified water projects. Consultant will support Valley Water's preparation of applications by addressing evaluation criteria cited for the respective funding opportunity and responding to questions and comments that may arise. Further, Valley Water seeks assistance with the development of feasibility studies consistent with applicable requirements and guidelines of the respective funding opportunity along with any other special studies that may be needed for either grant or loan application.

### 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, Autodesk 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.
  - a. Valley Water Standardization Requirements
    - (1) 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 and Autodesk Civil 3D software that is compatible with Valley Water's current Microsoft Office software and Autodesk software used at the time(s) Valley Water issues a Notice to Proceed pursuant to this Agreement.
    - (2) Engineering drawings prepared by Consultant must be in compliance with Valley Water's Computer-Aided Design and Drafting (CADD) standards including line types, line weights, text sizes, text orientation, dimensioning, labeling/numbering system for detailed plan views and detailed section views. Drawings prepared using different CADD software and versions must be converted to be compatible with Valley Water's CADD software at no additional cost to Valley Water. Prior to acceptance, Valley Water reserves the right to test the submitted CADD files to verify that the files are not corrupted or missing linkages (for blocks, etc., used in the drawings) and that the standards are retained during the conversion process used by Consultant.

## SCHEDULE S SCOPE OF SERVICES

- 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) **Valley Water Quality Environmental Management System.** Valley Water maintains a Quality Environmental Management System (QEMS) which has procedures, guidelines, and work instructions for the performance of various Valley Water work. If requested, Consultant will perform the applicable Agreement tasks and/or sub-tasks in accordance with the QEMS framework. In such situations, the VWPM will provide Consultant with the specific QEMS procedure, guideline, and/or work instruction prior to the preparation of such deliverables.
- 5) **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.
- 6) **Document Control.** Consultant must utilize the document control system designated by Valley Water (Capital Project Management and Project Control's Program).
- 7) **File Exchange Service.** Consultant must utilize the file exchange service designated by Valley Water (Capital Project Management and Project Controls Program), accessible to all parties as designated by Valley Water, to facilitate communications.

### B. Project-Specific Assumptions and Requirements

Consultant will have experience in developing State and Federal grant application materials and supporting documentation (e.g., Feasibility Studies) for Purified and Recycled Water and Desalination projects and funding experience under the Title XVI Water Reclamation and Reuse Program.

## 6. Scope of Services Tasks

### Task 1 - Project Management

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

#### 1.1 Kickoff Meeting

Technical Support Services for State and Federal  
Funding Opportunities for Water Reuse

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## SCHEDULE S SCOPE OF SERVICES

Consultant will attend kickoff meeting with Valley Water. The purpose of the kickoff meeting is to introduce key Valley Water and Consultant team members to one another, acquaint participants with the purpose of and expectations for the Project, describe team members' roles and responsibilities, describe Project procedures, and summarize scope and schedule.

- 1.2 Project Work Plan.** Consultant will prepare a Project Work Plan in accordance with this Scope of Services.
- 1.2.1 The Project Work Plan shall include Project objectives, requirements, constraints, a detailed Project Schedule (showing major tasks and deliverables), a breakdown of Consultant 's costs for the major tasks, a list of Consultant's team members and their roles and responsibilities, communication protocols (internal and external), document control procedures, and other administrative procedures.
- 1.2.2 The Project Work Plan shall include a Project Quality Assurance and Quality Control (QA/QC) Plan documenting Consultant's procedures for conducting Consultant's services and deliverables based on Valley Water requirements and accepted practices and standards of Consultant's profession. Valley Water reserves the right to request and review Consultant's Project documentation demonstrating its adherence with their own quality assurance procedures.
- 1.3 Progress Meetings and Workshops.** Valley Water and Consultant key staff and subconsultants, as determined necessary and appropriate by Consultant, subject to VWPM approval, or at Valley Water's direction, will coordinate and attend periodic progress meetings and workshops with Valley Water staff, regulatory and resource agencies, and review boards, as needed, to review, and discuss progress of the work. For each meeting or workshop, Consultant will prepare the meeting agenda and notes and submit them for review by Valley Water.
- 1.4 Project Management and Bi-Weekly Progress Meetings.** Consultant will provide project management services including oversight of project staff, budget, and schedule; project administration and accounting; and monthly progress reports with invoices.

Consultant's Project Manager (PM) and Deputy Project Manager (DPM) and VWPM will hold bi-weekly check-in calls (up to 30 minutes per call) to discuss project status and work requests. At these meetings, Consultant may provide updates of the following: Consultant's work activities conducted within the schedule; future funding milestones; upcoming funding and grant opportunities; and the issues and actions that require Valley Water's attention, in meetings/conference calls with the VWPM. The frequency of these meetings and calls will be as directed by Valley Water.

## SCHEDULE S SCOPE OF SERVICES

### Task 1 - Deliverables

1. Project Work Plan including QA/QC Plan (Draft, Final Draft and Final)
2. Meeting Agendas, Minutes, and Presentations
3. Meeting /Conference Calls attendance and notes

### Task 1 - Assumptions

1. Project schedule is assumed to be for 12 months duration for the initial phase with monthly invoices and project coordination activities.
2. Scope assumes 30-minute bi-weekly progress meetings (virtual) with the VWPM for routine check ins. Meetings will be attended by Consultant's PM and Deputy PM.
3. For Task 1.1, kick off meeting will be held at Valley Water's HQ with Consultant's PM and Deputy PM in attendance (in-person) and the rest of the Consultant team members attending remotely (virtual).
4. VWPM to coordinate Valley Water staff and consultant attendance at meetings, as appropriate.
5. Valley Water will provide a single set of collated comments using a comment log. Consultant will document follow-up actions or rationale (if not revising a work product to incorporate one or more Valley Water comment[s]) in the comment log.

### Task 2 - Financial Assistance Strategy

**2.1** Consultant shall develop a federal and state financial assistance strategy for Valley Water's non-potable and potable reuse projects identified below and considering current and projected state and federal grant and loan opportunities. This strategy will evaluate project priorities and project grouping that may provide Valley Water the greatest financial assistance value. This strategy will also evaluate how to effectively incorporate public and private partnerships into the funding strategy. The end goal of this exercise is to determine and prioritize which grants/loans to potentially pursue. The funding strategy shall target the identified largest external funding programs and be supplemented by smaller funding opportunities. Consultant shall continue to monitor and respond to other funding opportunities and provide quarterly funding status update reports. Consultant shall provide quarterly funding status update reports to the VWPM for their review and discussion.

2.1.1 The following projects will be considered:

- a. South County Water Reuse Program.
- b. San Jose Large Scale Water Recycling Project
- c. Direct Potable Reuse Demonstration Facility

2.1.2 The following funding opportunities (if available) will be considered:

- a. Reclamation Title XVI Water Recycling and Desalination Program
- b. Reclamation Large Scale Recycled Water Program
- c. Reclamation Water and Energy Efficiency Program, Drought Resiliency Projects, Small Storage
- d. Environmental Protection Agency (EPA) Water Infrastructure Finance and Innovation Act

## **SCHEDULE S SCOPE OF SERVICES**

- e. State Water Resources Control Board (SWRCB) Water Recycling Funding Program
- f. SWRCB Clean Water and Drinking Water State Revolving Fund Program
- g. Department of Water Resources (DWR) IRWM Implementation Grant Program
- h. DWR Safe Drinking Water/Contaminant Removal
- i. Federal Emergency Management Agency (HMGP and Flood Mitigation Programs)
- j. Congressionally Directed Spending Requests
- k. California Office of Planning and Research grants

### **2.2 - Strategy Workshop**

Consultant shall conduct a workshop with Valley Water to present the proposed funding assistance strategy for discussion. The three non-potable and potable reuse projects identified above will be outlined, including project benefits, opportunities for partnerships, and opportunities to enhance funding competitiveness.

- 2.2.1 Consultant shall discuss and confirm Valley Water funding priorities with VWPM.
- 2.2.2 Consultant shall evaluate the Projects with respect to Valley Water priorities and grant requirements. These evaluations shall become part of the Strategic Technical Memorandum discussed below.

### **2.3 - Strategic Funding Technical Memorandum**

Following the Workshop, Consultant shall prepare a Strategic Funding Technical Memorandum (TM) that will:

- a. Establish the project priorities and project grouping that may provide Valley Water the greatest financial value; and
- b. Identify critical path items that need to be initiated for Valley Water to be prepared to take advantage of funding opportunities. A schedule for the critical path items will be incorporated into a Baseline Schedule; and
- c. Identify possible project enhancements that can be considered to increase funding competitiveness.

### **Task 2 - Deliverables**

- 1. Federal and State Financial Assistance Strategy Report provided in electronic form (One Draft and Final)
- 2. Quarterly Funding Status Reports (provided in electronic format)
- 3. Funding Assistance Strategy Workshop held virtually or in person as directed by VWPM

### **Task 2 - Assumptions**

- 1. Financial assistance strategy will take into consideration available Valley Water funding capacity and contributions (cash, reserves, bonds) and available State and Federal low interest loans and grants.
- 2. Task assumes development of a strategy document for up to three projects. Strategy development will focus on identifying possible external funding opportunities and aligning

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## SCHEDULE S SCOPE OF SERVICES

available sources with the identified projects by phase (planning, design and construction). Technical details for the projects will be developed under future task orders under this project or will be provided by Valley Water.

3. Consultant team will provide quarterly updates to Valley Water regarding available funding for 12 months.
4. Project scope of work does not include developing Opinion of Probable Construction Costs (OPCC) or programmatic project implementation costs, nor project schedules.
5. VWPM will be responsible for identifying and inviting the right stakeholders from Valley Water and partner agencies to each meeting for effective and efficient decision making.

### Task 3 - Supplemental Services

Valley Water may require, and Consultant will perform, Supplemental Services on an as-needed basis. Prior to performing any Supplemental Services, Consultant must receive an approved Task Order issued by Valley Water and executed by both Parties. Refer to the Standard Consultant Agreement, Section Twelve, Miscellaneous Provisions, subsection 13. Task Orders, and Appendix Three, Task Order Template.

Specific examples include, but are not limited to the following:

- a. Development of Additional Financial Assistance Strategies
- b. Financial and Technical Studies
- c. Federal and State Low Interest Loan/ Grant Program Applications
- d. Additional Feasibility Studies
- e. Post Application Submittal Support Services (e.g. RFIs, Agreement support, other)
- f. Congressional Directed Spending Requests/Advocacy Support
- g. Debriefing with Funding Agency
- h. Letters of Support
- i. Stakeholder Engagement
- j. Provide assistance during crosswalk discussions
- k. Compile Report on Rationale for Rejected Applications
- l. Technical Guidance
- m. Grant Administration and Monitoring
- n. Grant Reporting and Disbursements

Specific professional services, as described below, may be assigned to Consultant through issuance of Task Orders (see Appendix Three, Task Order Template). Once specific professional services to be performed under this Agreement have been identified and communicated to Consultant in writing by Valley Water, Consultant shall prepare a proposed Task Order for Valley Water's subsequent review and approval. The proposed Task Order must identify, at a minimum, the following:

- a. Description of the proposed services, including deliverables,
- b. Total not-to-exceed amount for Consultant to complete the services, including estimated number of staff hours assigned to complete the services,
- c. Proposed staff that will be assigned to complete the services,
- d. Estimated cost of each reimbursable expense, including any applicable fees
- e. Time schedule for completing the services.
- f. Draft report(s) to be submitted to VWPM for review with comments incorporated as needed.

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## **SCHEDULE S SCOPE OF SERVICES**

### **Task 3.1 - Financial and Technical Studies**

Consultant shall develop the financial and technical studies for Valley Water to request financial assistance from identified federal or state grant and loan opportunities.

Valley Water may direct Consultant to develop a feasibility study for each of the following Projects:

- a. San José-Santa Clara Purified Water Program
- b. South County Water Reuse Program
- c. Direct Potable Reuse Demonstration Facility
- d. Saltwater Desalination Program

Title XVI or Large-Scale Recycled Water Feasibility Studies shall include, at a minimum, the following:

- a. Introductory Information
- b. Statement of Problems and Needs
- c. Water Reclamation, Recycling and/or Desalination Opportunities
- d. Description of Alternatives
- e. Economic Analysis
- f. Selection of the Proposed Water Reclamation, Recycling or Desalination Project
- g. Environmental Consideration and Potential Effects
- h. Legal and Institutional Requirements
- i. Financial Capability of Sponsor
- j. Research Needs
- k. Independent Peer Review *(only required for Large Scale Recycled Water Program Projects)*

Under a separate task order, Consultant will update the Feasibility or Technical Study to reflect any recent changes or developments.

Consultant will maintain a single log of key decisions made by Valley Water and changes directed by Valley Water over the course of this task. Consultant will document follow-up actions or rationale (if not revising work product to incorporate one or more Valley Water comment[s]) in the comment log.

Consultant shall identify Project deficiencies or Program requirements that may jeopardize funding competitiveness or Program eligibility. These gaps may include technical justification, environmental documentation, land acquisition, permitting status, delivery methods, construction or operating agreements, Valley Water policies, or other project-related factors that affect the project readiness or competitiveness for funding.

### **Task 3.2 - Grant and Loan Applications**

Valley Water anticipates the need for as-requested technical support related to seeking federal and/or state funding related to Recycling and Purified Water and Desalination Programs and Projects, which may include any of the following:

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## **SCHEDULE S SCOPE OF SERVICES**

- a. Direct Potable Reuse Demonstration Facility
- b. Large-Scale Water Recycling Projects
- c. South County Water Recycling Program
- d. Technical and Special Studies Projects
- e. Saltwater Desalination Program

Consultant will provide technical guidance to Valley Water and develop funding strategy for the Project, review funding guidelines, prepare entire or portions of applications as directed by Valley Water, and ancillary documentation to meet funding requirements. The funding opportunities may include, but are not limited to those listed in Task 2.

Once a funding opportunity is identified and a Valley Water project is determined eligible by Consultant, Valley Water will determine if Consultant shall proceed in developing the technical, financial, and environmental components of the funding applications as directed. The Technical Proposal may include:

- a. Technical Project Description
- b. Documentation and Justification of Quantifiable Water Supply and Water Quality Benefits
- c. Contribution to Long-Term Drought Preparedness
- d. Status and Readiness of Project
- e. Environmental Benefits
- f. Renewable Energy and Energy Efficiency Benefits
- g. Cost per Acre-Foot of Water
- h. Water Market and Regional Supply Benefits
- i. Any Additional Information Required by the Funding Programs

Ancillary Application Components which Consultant would assist with may include:

- a. Mandatory Federal Forms
  - i. Application for Federal Assistance
  - ii. Budget Information Form
  - iii. Assurances Form
- b. Project Budget
- c. Environmental and Cultural Resources Compliance
- d. Required Permits or Approvals
- e. Overlap or Duplication of Effort Statement
- f. Conflict of Interest Disclosure Statement
- g. Uniform Audit Reporting Statement
- h. Letters of Support
- i. Any Additional Components Required by the Funding Programs

### **Task 3.3 - Technical Guidance**

Consultant shall provide technical guidance on eligibility criteria for funding and on how Valley Water's current and future water projects can best be positioned or described to qualify for funding.

## SCHEDULE S SCOPE OF SERVICES

### Task 3.4 - Grant Administration and Monitoring

As directed, Consultant shall coordinate administration and reporting with Valley Water, the primary fiscal agent. Administration consists of assisting involved agencies with completing the grant agreements and preparing updates and progress reports.

As each project proposed for funding progresses, Consultant shall work with the appropriate Valley Water identified Funding Sponsor to gather and review updated information to allow coordination between the project and statutory and programmatic requirements.

Consultant shall assist Valley Water in developing a system to comply with these reporting requirements.

**3.4.1 Registration with Award Management Systems.** Before submitting funding applications, Consultant will confirm with Valley Water Staff that Valley Water is registered in Award Management Systems relevant to each funding opportunity and accurately identify the required supporting documents and conditions. Valley Water will be responsible for maintaining active registration with current information throughout the entire application and funding process.

**3.4.2 Financial Reports.** If selected for grant funding, Consultant may assist in preparation of Financial Reports on a semi-annual basis.

**3.4.3 Interim Performance Reports.** Consultant may assist in the preparation of Interim Performance Reports that include:

- a. A comparison of actual accomplishments to the milestones established by the Financial Assistance Agreement for the period of work
- b. The reasons why established milestones were not met, if applicable
- c. The status of milestones from the previous reporting period that were not met, if applicable
- d. Whether the project is on schedule and within the original cost estimate
- e. Any additional pertinent information or issues related to the status of the Project

**3.4.4 Final Performance Report.** Consultant may assist in the preparation of a Final Performance Report that encompasses the entire period of performance. Final Reports are public documents, and therefore may be made available on Funding Agency websites. These Reports must include, but are not limited to, the following information:

- a. A brief description of the components of the Project and the work completed, including each element of the scope of work and the work completed at each stage of the Project
- b. The goals and objectives of the Project and whether each of these were met, the reasons why goals and objectives were not met (if appropriate), and identified problems, delays encountered in conducting the work of the Project, and whether or not the Project was conducted within cost
- c. Future tracking of Project benefits

## **SCHEDULE S SCOPE OF SERVICES**

- d. A description of how the Project demonstrates collaboration, stakeholder involvement or the formation of partnerships, if applicable
- e. Other issues involving the Project

### **Task 3.5 - Additional Services**

Consultant will provide additional quantities of previously identified services as requested by Valley Water. Consultant will provide additional services for any quantity of tasks and deliverables beyond those stated in Task 1 through Task 2 as Task 3.5 Additional Services, to include but not be limited to:

- 3.5.1 Additional meetings;
- 3.5.2 Additional time allotted for meetings;
- 3.5.3 Additional status/progress reports;
- 3.5.4 Additional Funding related services; and
- 3.5.5 Additional Technical and Financial Analyses and Documents

### **Task 3 - Deliverables**

- 1. To be determined on a Task Order Issuance basis.

### **Task 3 - Assumptions**

- 1. Valley Water will provide direction and work requests to Consultant in writing. After receiving the request, Consultant shall provide an email with the proposed scope, schedule, and budget for the requested activity within 5 business days.
- 2. Task Order specific assumptions to be delineated in Task Order.

### **7. Attachments**

The following Standard Consultant Agreement listed 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

**SCHEDULE S  
ATTACHMENT ONE  
FEES AND PAYMENTS**

**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 **\$2,500,000** (Not-to-Exceed Fees or NTE). Under no conditions will the total compensation to Consultant exceed this NTE payment amount without prior written approval in the form of an amendment to this Agreement executed by Valley Water’s Board of Directors (Board), or Chief Executive Officer, or designee, as authorized by the Board.

**2. Cost Breakdown**

The NTE total compensation of this Agreement consists of the following task fee breakdown. No services will be performed or fees paid by Valley Water to Consultant for Supplemental Services without written authorization by Valley Water as stated in this Agreement.

**COST BREAKDOWN**

<b>Task</b>	<b>Description</b>	<b>Not-to-Exceed Fees</b>
1	Project Management	\$79,060
2	Financial Assistance Strategy	\$163,818
3	Supplemental Services	\$2,257,122
<b>Total Not-to-Exceed Fees</b>		<b>\$2,500,000</b>

**3. Terms and Conditions**

- A. Payments for Services performed, as defined in this 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 schedule of rates for professional, technical, and administrative personnel as well as materials and supplies as listed below in the Hourly/Unit Rate Schedule.
  - 2) The stated hourly rates are effective for the term of this Agreement unless otherwise revised as indicated. After 12 months from the date this Agreement is entered into by parties (“anniversary date”), and each 12 months thereafter, these hourly rates may be negotiated by Consultant and Valley Water, provided Consultant submits written notice to Valley Water of Consultant’s request to revise the hourly rates 90) calendar days prior to the anniversary date of this Agreement. Both Parties will use as a benchmark for negotiations the percent change for the previous 12 months of the “Employment Cost Index (ECI), for total compensation for private industry workers, for the San Francisco-Oakland-San Jose, CA CSA Census region and metropolitan area (not seasonally adjusted)” as published by the U.S. Department of Labor, Bureau of Labor Statistics, or 3% whichever is less. A negative index will result in rates remaining the same. Such rate revisions are subject to written approval by Valley Water’s Deputy Operating Officer.

**SCHEDULE S  
ATTACHMENT ONE  
FEES AND PAYMENTS**

**B. Reimbursable Expenses**

- 1) All reimbursable expenses not already covered in overhead may include, but are not limited to, mapping, rendering, printouts, leased equipment, mailing and delivery services, printing services, film and processing, plotting, and supplies. These other direct expenses as approved by Valley Water Project Manager (VWPM) will be billed on a monthly basis at actual cost linked to each Agreement Task, provided that the Task total NTE amount is not exceeded. Consultant shall provide detailed receipts for each other direct expense item(s) with monthly invoices submitted. No markup will be applied to reimbursable expenses, either by Consultant or by its subconsultants, subcontractors, or vendors. Consultant shall provide invoices for all such services regardless of cost.
- 2) Equipment purchased on behalf of Valley Water that costs \$50 or more must receive the prior written approval of Valley Water Project Manager (VWPM). All equipment purchased on behalf of Valley Water and paid for by Valley Water shall become the property of Valley Water and be delivered to Valley Water prior to expiration of this Agreement.
- 3) Travel expenses are reimbursed at actual costs. Travel and overnight accommodations, including per diem, required for performance of this Agreement will be paid at reasonable cost not to exceed the U.S. General Services Agency Per Diem Rates for Sunnyvale/Palo Alto/San Jose, California area, provided prior approval has been obtained from Valley Water Project Manager (VWPM). For air travel, Valley Water will pay the cost of a coach class or equivalent ticket. Where air travel is required, Valley Water will pay the total cost of taxi, rideshare, public transportation, or a rental car, which may include insurance, gas, car fee, and taxes and will be paid at the actual costs incurred. Vehicle rental is limited to a compact or economy model, unless prior approval has been obtained from Valley Water Project Manager (VWPM) for a different type of vehicle.
- 4) Expenses incurred by Consultant, including for subconsultants, subcontractors and vendors, including lab services, will be reimbursed at actual cost plus 5%. Consultant shall provide invoices for all such services regardless of cost.
- 5) For staff with rates exceeding the rate of \$[RATE LIMIT]/hr, the Consultant must obtain written approval from the Valley Water Project Manager (VWPM) as to the numbers of hours per task prior to that individual working on the Project. - NOT USED

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

*(HOURLY UNIT RATE TABLES TO FOLLOW NEXT PAGE)*

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**SCHEDULE S  
ATTACHMENT ONE  
FEES AND PAYMENTS**

**HOURLY/UNIT RATE TABLES**

**Table 1**

<b>CLASSIFICATION/STAFF</b>	<b>HOURLY/ UNIT RATE</b>
<b>CONSULTANT:</b>	
Project Manager	371
Deputy Project Manager	261
Project Analyst	200
Principal In Charge	366
Quality Control Manager	337
Grant Support	159
Funding Strategy & Grant Development	304
Strategic Advisor	350
Private Equity (P3) Evaluator	375
Feasibility Studies Lead	314

**Table 2**

<b>Engineering Staff</b>	<b>Technical/ Scientific Staff</b>	<b>Administrative Staff</b>	<b>HOURLY/UNIT RATE</b>
--	--	Office/ Support Services I	80
Drafter Trainee	Field Service Technician I	Word Processor I Office/Support Services II	89
Assistant Drafter	Field Service Technician II	Word Processor II Office/Support Services III	104
Drafter Engineering Aide Inspection Aide	Field Service Technician III	Accountant I Word Processor III Office/Support Services IV	108
Engineer I Senior Drafter Senior Illustrator Inspector I	Geologist/Hydrogeologist I Scientist I Senior Field Service Technician	Accountant II Word Processor IV	122
Engineer II Inspector II Lead Drafter Lead Illustrator	Geologist/ Hydrogeologist II Scientist II	Accountant III Area Business Operations Mgr. Technical Writer Word Processing Supervisor	147

**SCHEDULE S  
ATTACHMENT ONE  
FEES AND PAYMENTS**

<b>Engineering Staff</b>	<b>Technical/ Scientific Staff</b>	<b>Administrative Staff</b>	<b>HOURLY/UNIT RATE</b>
Engineer III Inspector III Senior Designer Supervising Drafter Supervising Illustrator	Geologist/ Hydrogeologist III Scientist III	Accountant IV Administrative Manager	168
Senior Engineer Principal Designer Senior Construction Engineer	Senior Geologist/ Hydrogeologist Senior Scientist	Senior Technical Writer	186
Principal Engineer Principal Construction Engineer Supervising Designer	Principal Geologist/ Hydrogeologist Principal Scientist	Corp. Contract Administrator	231
Supervising Engineer Supervising Constr. Engineer	Supervising Scientist Supervising Geologist/ Hydrogeologist	Assistant Controller	278
Managing Engineer	Managing Geologist/ Hydrogeologist Managing Scientist	Area Bus Ops Mgr. IV	319
Chief Engineer Executive Engineer	Chief Scientist Chief Geologist/ Hydrogeologist	Corp Marketing Comm. Mgr.	340

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**SCHEDULE S  
ATTACHMENT TWO  
SCHEDULE OF COMPLETION**

1. This Agreement commences on the Effective Date, subject to accomplishment of all of the conditions to formation of an agreement listed in the Standard Consultant Agreement, Section Twelve, Miscellaneous Provisions, subsection 2. Formation of Agreement.
2. This Agreement expires **36 months**, after the Effective Date, unless, prior to its expiration, its term is modified by a written amendment hereto signed by both Parties. Upon execution of an amendment, the Parties may extend the Agreement for two (2) additional one (1) year term extensions, if it is the best interest of Valley Water.
3. Valley Water's Project Manager 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	Financial Assistance Strategy	Duration of Agreement
3	Supplemental Services	Duration of Agreement

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**SCHEDULE S  
ATTACHMENT THREE  
CONSULTANT'S KEY STAFF AND SUBCONSULTANTS**

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

<b>Team Member</b>	<b>Classification</b>	<b>Project Role</b>	<b>Contact Information</b>
Seema Chavan	Vice President	Project Manager (PM)	111 W Saint John St, Ste 1040, San Jose, CA 95113 (408) 703-2539 SChavan@BrwnCald.com
Rene Guillen	Supervising Engineer	Deputy PM	201 North Civic Dr, Ste 300, Walnut Creek, CA 94596 (925) 210-2464 RGuillen@BrwnCald.com
Anup Shah	Vice President	Principal-In-Charge	111 W Saint John St, Ste 1040, San Jose, CA 95113 (925) 210-2224 AShah@Brwncald.com
Ellen Yuska	Senior Engineer	Grant Support	201 North Civic Dr, Ste 300, Walnut Creek, CA 94596 (925) 210-2221 Eyuska@BrwnCald.com

2. The following Subconsultants and Subcontractors are authorized to perform Services pursuant to this Agreement:

<b>Firm</b>	<b>Project Role</b>	<b>Contact Information</b>
NHA Advisors	Financial Analysis	4040 Civic Center Drive, Suite 200 San Rafael, CA 94903 (415) 785-2025 x2007 Christian@nhaadvisors.com
Hydroscience Engineers Inc.	Conveyance Hydraulics Feasibility Studies	741 Allston Way, Berkeley, CA 94710 (510) 403-4636 Clam@hydroscience.com
Gutierrez Consultants Inc.	Funding Strategy	118 Diablo Ranch Ct, Danville, CA 94506-2072 (925) 766-5294 Lidia@gutierrezconsultants.com

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**SCHEDULE S  
ATTACHMENT FOUR  
REFERENCE MATERIALS**

Ref No.	Description
1	Santa Clara Valley Water District Non-Disclosure Agreement (NDA)
2	Santa Clara Valley Water District (Valley Water) Standards for GIS Products April 2021 version: <a href="http://gis.valleywater.org/Download/GIS_PRODUCT_STANDARDS.pdf">http://gis.valleywater.org/Download/GIS_PRODUCT_STANDARDS.pdf</a>
3	Valley Water’s Countywide Water Reuse Master Plan (aka CoRe Plan)
4	Reclamation Grant FOA R23AS00076 – WaterSMART: Water Recycling and Desalination Planning Funding For Fiscal Year 2023 – “South County Water Reuse Program Feasibility Study”
5	Reclamation Grant FOA R23AS00076 – WaterSMART: Water Recycling and Desalination Planning Funding For Fiscal Year 2023 – “San Jose-Santa Clara Purified Water Program Feasibility Study”

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