



STANDARD ON-CALL CONSULTANT AGREEMENT

Terms and Conditions Template (General Administration)

4/1/2023 – 4/30/2024]

This agreement (Agreement) is effective once fully executed (Effective Date), by and between SANTA CLARA VALLEY WATER DISTRICT (Valley Water or District), PLANTE MORAN, PLLC d/b/a Plante Moran a Michigan limited liability partnership (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, Scope of Services, attached hereto and incorporated herein by this reference (Schedule). Valley Water may require Consultant to provide all or a portion of these services (Services) through subsequently executed task orders (Task Orders). Task Orders will be in the form of the template described in Section Twelve, subsection 13. Task Orders and in the Standard On-Call Consultant Agreement, Appendix Three, Task Order Template. These Services will be provided on an on-call basis (On-Call).

SECTION TWO

DUTIES OF CONSULTANT

1. Performance

- A. Each Scope of Service described in an attached Schedule 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.
- B. Unless the requirements for the Services described in the attached Schedule 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 unless authorized in writing by Valley Water prior to the performance of such Services by issuance of a Task Order or pursuant to an amendment to this Agreement signed by both Parties.

2. Consultant Controlled Areas

Consultant is responsible for the security and safety of the area(s) it controls wherein it is required to perform field operations pursuant to 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 subsection 11, Standard of Care.

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

Consultant is responsible for any direct or actual damages incurred by Valley Water that are proximately caused by Consultant's breach of this Agreement in the performance of Services, if, and to the extent, so determined by a court of competent jurisdiction or, where agreed, through alternative dispute resolution which Valley Water determines result from Consultant's errors or omissions in Consultant's deliverables.

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 in accordance with applicable professional standards. Consultant shall use Microsoft Office software at the time(s) Valley Water issues a Notice to Proceed pursuant to this Agreement.

7. Consultant's Key Staff and Subconsultants

A. Consultant's and firms subcontracted by the Consultant (Subconsultants) assigned to perform the Services are identified in Attachment Three to the Scope of Services, 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 it deems appropriate to the complexity and nature of the required Services.
 - 1) Consultant must obtain Valley Water's approval of all Subconsultants. Upon Valley Water's request, Consultant must provide copies of all Subconsultant agreements.
 - 2) Consultant must require its delegates or Subconsultants to agree, in writing, to adhere to Terms and Conditions of this Agreement.
- D. Any delegation or use of Subconsultants by Consultant will not operate to relieve Consultant of its responsibilities as described in this Agreement.
- E. If any of Consultant's designated key staff persons or Subconsultants fail to perform to the satisfaction of Valley Water, on written notice from Valley Water, Consultant will have 15 calendar days to remove that person from the Project and provide a replacement acceptable to Valley Water.
- F. Consultant will not charge Valley Water for the time it takes Consultant's replacement personnel to obtain Valley Water-specific Project knowledge in the possession of the person(s) being replaced.
- G. Consultant's Key Staff: Valley Water Project Manager may approve any revisions to Consultant's list of key staff assigned to the Project as an administrative modification to this Agreement, and such approval will be confirmed in writing.

H. Consultant's Subconsultants

- 1) Valley Water Project Manager 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 that apply to it in the performance of the Services it performs pursuant to this Agreement, including, but not limited to adherence to: all applicable governmental laws, statutes, ordinances, rules, codes, and regulations. 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 applicable laws as described herein.
- 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, in each case to the extent applicable to Consultant. 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 to Plante Moran or Contractor staff assigned to perform Services, or becomes aware 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 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.

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. 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 an executed Task Order or at such other time(s) at the discretion of Valley Water.
- C. Consultant must notify Valley Water in writing when it completes and has submitted to Valley Water each deliverable as per an executed Task Order. 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. Valley Water's review of deliverables under this section shall not infringe upon Consultant's independence as an auditor or its compliance with recognized auditing standards."
- 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.

3. 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. **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 will be based on fixed rates within 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 the Consultant according to the terms provided for herein and in 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 travel expenses incurred by the Consultant to perform the Services. All Service requests will be made by Valley Water on an as-needed basis, subject to future Task Order(s) executed by Valley Water and Consultant.
- B. It is understood and agreed that this total is an estimate, and that the actual amount of Services requested by Valley Water may be less. There is no guarantee, either expressed or implied, as to the actual dollar amount that will be authorized under this Agreement.
- C. The Schedule, Attachment One, Fees and Payments, sets forth the hourly rates and fixed fee amounts, if any, for Services Consultant may perform pursuant to an executed Task Order.
- D. Services to be performed pursuant to a Task Order will commence only after written approval by both Valley Water's authorized representative referenced in the Standard On-Call Consultant Agreement, Appendix One, Additional Legal Terms, and Consultant's authorized representative.
- E. Notwithstanding any other provision of this Agreement, Valley Water agrees to pay Consultant in accordance with the terms set forth in an executed Task Order. Consultant represents and warrants that the amounts charged to Valley Water for Services do not exceed the amounts normally charged by Consultant to other customers for similar Services.
- F. Upon the written approval of Valley Water, the Services described in a Task Order task may be reduced, revised or eliminated.

G. 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 address, 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 Invoices

A. Consultant's 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 and executed Task Orders; 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 reimbursable expenses by Task Order task;
- 7) Other direct charges and expenses must reflect actual fees versus the Task Order not-to-exceed fees as stated in the Schedule(s), Attachment One, Fees and Payments; and/or Task Orders;
- 8) The total amount due for completing the Services specified in that Task Order, which must not exceed the not-to-exceed amount specified in that Task Order; and
- 9) 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. Invoices will include a summary of labor expenditures, direct costs, and billed Subconsultant charges. Invoices will be organized such that the billing categories correspond with the Task Order.

C. Notwithstanding language to the contrary in an executed Task Order, the Consultant must invoice Valley Water for a Task Order within 30 calendar days of Valley Water accepting the deliverables of that Task Order.

D. Consultant shall email all invoices to: APinvoice5750@valleywater.org

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

E. Consultant must also ensure that each invoice and corresponding attachments contains the following information:

- 1) Agreement Number;
- 2) Task Order Number;
- 3) Full Legal Name of Consultant/Firm;
- 4) Payment Remit-to Address;
- 5) Invoice Number;
- 6) Invoice Date (the date invoice is mailed);
- 7) Detailed description of Services provided, including the "distribution account(s)" for those Services
- 8) Number of hours spent by each person performing services and a brief description of the Services performed by each person; and
- 9) Beginning and end date for billing period that services were provided.

F. Consultant shall invoice for its performance of the Services as stated in an executed Task Order on a monthly basis consistent with the task fee breakdown stated in Attachment A to the Task Order(s). Unless otherwise specified in a Task order, Consultant will be paid for the Services as described in an executed Task Order.

G. 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.

H. 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 under this Agreement is subject to a bona fide dispute between the Parties, within 30 calendar days of Consultant's delivery of the invoice on which a disputed amount appears, 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 this dispute in a timely manner. If the dispute is not resolved by the 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 Appendix Two to the Standard On-Call Consultant Agreement, Dispute Resolution.
 - I. Consultant's Services will be performed by its staff members and Subconsultants' staff members based on the fixed rates within the Total Fixed Not-to-Exceed (NTE) Fees stated in the Schedule, Attachment One, Fees and Payments, for completion of the associated tasks.
 - J. Consultant shall ensure that its personnel performing services pursuant to this Agreement document their time doing so.

3. Prevailing Wages – NOT USED

4. Retention – NOT USED

SECTION FIVE

SCHEDULE OF COMPLETION

1. Performance of Tasks

Consultant will commence performing the tasks described in the Scope of Services of an executed Task Order upon receipt of the Task Order Notice to Proceed (NTP) issued by Valley Water.

2. Task Order Schedule

Consultant will perform and complete the Services in accordance with the schedule (Schedule) as described in each Task Order. 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. Project Delays

Consultant will make all reasonable efforts to comply with the Schedule as stated in a Task Order. In the event the Task Order 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 will be delayed in performance of its Services by circumstances beyond its control, Valley Water may, at its discretion, grant a reasonable adjustment in the Schedule.

4. Changes to the Schedule.

Valley Water's Project Manager and Consultant may agree to modify the Schedule specified for Consultant's performance in an executed Task Order as an administrative modification to the Task Order 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.

No Task Order will be written which extends beyond the expiration date of this Agreement. Consultant will not undertake to provide Services where it reasonably appears that the Services cannot be performed and completed within the Term of this Agreement. Uncompleted and/or unfinished Task Orders will co-terminate with this Agreement.

2. Valley Water and Consultant 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 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. Consultant will not be entitled to compensation for Services rendered 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 effected for Valley Water's convenience, and Consultant will receive payment that is allowed by this Agreement for a termination for convenience.
- E. The rights and remedies provided herein to Valley Water and Consultant 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. Valley Water's acceptance shall not be unreasonably withheld. Such compensation shall be 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; and
- 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;
- 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

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 caused by or allegedly caused by Consultant's negligence, recklessness, or willful misconduct. The foregoing does not limit any strict liability imposed onto the Consultant by law. The rights, duties, and obligations of the Parties as set forth above in this Section Eight, Indemnification, survive termination, expiration, completion, and suspension of this Agreement.

SECTION NINE

INSURANCE REQUIREMENTS

Insurance requirements applicable to this Agreement are set forth in the Standard On-Call 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 On-Call 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 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 – NOT USED

6. Copyright Claims – NOT USED

SECTION ELEVEN

EQUAL OPPORTUNITY

1. Equal Opportunity Employer

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

2. Compliance with Applicable Equal Opportunity Laws

The Consultant's policy must conform with applicable Michigan and other legal requirements including 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); and the Age Discrimination Act of 1975 (42 U.S.C. §6101 et seq.).

3. Investigation of Claims

Consultant must designate a specific position within its organization to be responsible for investigating allegations of non-compliance with 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 Attachments to the Schedule, 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 incorporated herein by this reference hereto 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) documents as provided in Attachment Four to the Schedule, Reference Materials, if applicable;
 - 5) Any other requirements that are deemed necessary by Valley Water; and

6) 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 electronic copies of Consultant records related to this Agreement for the purpose of determining compliance with this Agreement. Consultant further agrees to maintain such records for a period of three years after final payment as provided for in this Agreement.

7. Force Majeure

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

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

8. Binding Effect

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

9. Choice of Law and Venue

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

10. Confidentiality

- A. Due to the nature of the services Consultant will provide pursuant to this Agreement, there may be disclosures made to Consultant of detailed information about Valley Water's operations, including on a need-to-know basis information which may be protected from public disclosure by confidentiality laws, the attorney-client privilege, and/or other provisions of law which govern the nature and timing of disclosure of public information.
- B. Consultant understands and acknowledges that Valley Water staff members providing information to the Consultant do so with the understanding that such information will be handled appropriately.
- C. In the event Consultant receives such restricted or confidential information, Consultant will limit access to the information to only those of Consultant's employees, its subcontractors and its Subconsultants authorized by Valley Water to have the information.
- D. Consultant will notify Valley Water immediately of any request by any third party to have access to confidential information, unless legally restricted from doing so, and will not disclose the requested information without first receiving express written authorization from Valley Water unless disclosure is legally required. Where the Consultant determines disclosure is legally required, it shall not disclose the requested information without Valley Water written authorization until it has allowed Valley Water reasonable time in which to obtain judicial relief.
- 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, shall not act as a Consultant or expert for any party in support of any active legal action against Valley Water by such party. However, Consultant may testify in any legal proceeding in response to a subpoena.

13. Task Orders

- A. Some tasks and Services will 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 On-Call Consultant Agreement, Appendix Three, Task Order Template). The proposed Task Order 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 On-Call 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.

14. Good Neighbor

Valley Water always strives to be a good neighbor to the community adjacent to its facilities. To the extent, and while, Consultants performs the Services at Valley Water's premises, Consultant, its staff, and Subconsultants will always interact with any members of the public at Valley Water's premises in a polite and professional manner.

15. Governmental Permits and Notification – NOT USED

16. Taxes and Benefits

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

17. Nonwaiver of Rights

The failure of either Party to this Agreement to object to or to take affirmative action with respect to any conduct of the other Party that is in violation of the terms of this Agreement

will not be construed as a waiver thereof, or as waiver of any future breach or subsequent wrongful conduct.

18. 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 upon delivery when delivered by hand or three business days after being 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, of 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 Standard On-Call Consultant Agreement Appendices are incorporated herein by this reference as though set forth in full:

On-Call Management Services for Auditing Support
Standard On-Call Consultant Agreement-Admin-Gen
Ver. 6/20/23

Agreement No. A4820G / PB File No. VW0163

Appendix One - Additional Legal Terms
Appendix Two - Dispute Resolution/NOT USED
Appendix Three - Task Order Template
Appendix Four - Insurance Requirements

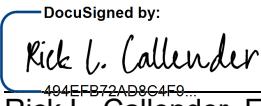
23. Schedule and Attachments

Schedule OC, Scope of Services, and the following list of 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

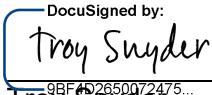
IN WITNESS WHEREOF, THE PARTIES HAVE SET FORTH BELOW THEIR CONSENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT THROUGH THE SIGNATURES OF THEIR DULY AUTHORIZED REPRESENTATIVES.

SANTA CLARA VALLEY WATER DISTRICT
Valley Water

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

Date: 7/6/2023

PLANTE MORAN, PLLC D/B/A PLANTE MORAN
Consultant

By: 
Troy Snyder
98F4D2650072475...
Partner
Date: 6/21/2023

Consultant's Address:
3000 Town Center, Suite 100
Southfield, Michigan 48075

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On-Call Management Services for Auditing Support
Standard On-Call Consultant Agreement-Admin-Gen
Ver. 6/20/23

Agreement No. A4820G / PB File No. VW0163

STANDARD ON-CALL CONSULTANT AGREEMENT
APPENDIX ONE
ADDITIONAL LEGAL TERMS

1. Conflict of Interest for Future Services

Consultant shall not submit a proposal:

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

2. Dispute Resolution – NOT USED

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

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's Deputy Operating Officer unless delegated to an Assistant Operating Officer or Unit Manager.
- C. District Unit Manager(s) is authorized to approve individual Task Orders in an amount not-to-exceed \$ [Authorization Amount]. [NOT USED]
- D. The total not-to-exceed amount for any one Task Order shall not exceed \$ [NOT-TO-EXCEED AMOUNT]. [NOT USED]
- E. Consultant must acknowledge receipt and respond to Valley Water's request to submit a Cost Proposal within five (5) business days or within the time specified in Valley Water's request.

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STANDARD ON-CALL CONSULTANT AGREEMENT
APPENDIX TWO
DISPUTE RESOLUTION

NOT USED

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On-Call Management Services for Auditing Support
Standard On-Call Consultant Agreement-Admin-Gen
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Agreement No. A4820G / PB File No. VW0163

**STANDARD ON-CALL CONSULTANT AGREEMENT
APPENDIX THREE
TASK ORDER TEMPLATE**

Task Order No. _____

Title: _____

Agreement: Standard On-Call Consultant Agreement _____ (Agreement) by and 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 On-Call 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;
 - D. The distribution detail for each service, direct cost, and reimbursable expense. This information must be included in the invoice for the services authorized under 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 OC, Attachment One, Fees and Payments, of the Agreement. Consultant agrees that it will

STANDARD ON-CALL CONSULTANT AGREEMENT
APPENDIX THREE
TASK ORDER TEMPLATE

provide all equipment, furnish all materials, except as may be otherwise noted in the Attachment A.

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]
8. Signatures:
Signature: _____ DATE
[NAME OF CONSULTANT FIRM]
[PRINT NAME]
[PRINT TITLE]

- Signature: _____ DATE
SANTA CLARA VALLEY WATER DISTRICT
[PRINT NAME]
[PRINT TITLE]

STANDARD ON-CALL 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.

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 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 call Mr. David Cahen, District Risk Manager at (408) 630-2213.

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 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

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 No. A4820G / PB No. VW0163

IMPORTANT: The agreement or CAS number must be included

STANDARD ON-CALL CONSULTANT AGREEMENT
APPENDIX FOUR
INSURANCE REQUIREMENTS

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:

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

**Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118
Agreement No. A4820G /PB No. VW0163**

IMPORTANT: The agreement or PB number must be included.

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

STANDARD ON-CALL CONSULTANT AGREEMENT
APPENDIX FOUR
INSURANCE REQUIREMENTS

Required Coverages

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

Commercial general liability
Each occurrence \$1,000,000
Damage to rented premises (each occurrence)
\$1,000,000
Med exp (any one person) \$1,000,000
General aggregate \$2,000,000
Products – Comp/op agg \$2,000,000

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:

Automobile liability – hired and non-owned vehicles only
Combined single limit (each accident)
\$1,000,000

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

Professional/Errors and Omissions Liability
Per claim \$1,000,000

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

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

STANDARD ON-CALL CONSULTANT AGREEMENT
APPENDIX FOUR
INSURANCE REQUIREMENTS

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

Workers' compensation statutory

E.L. each accident \$1,000,000

E.L. disease – ea employee \$1,000,000

E.L. disease – policy limit \$1,000,000

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 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 to conduct business in the State of California, which hold a current policy holder's alphabetic

On-Call Management Services for Auditing Support

Agreement No. A4820G / PB File No. VW0163

Standard On-Call Consultant Agreement-Admin-Gen

Ver. 6/20/23

STANDARD ON-CALL CONSULTANT AGREEMENT
APPENDIX FOUR
INSURANCE REQUIREMENTS

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 Valle Water. 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 require 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 ON-CALL CONSULTANT AGREEMENT
APPENDIX FOUR
INSURANCE REQUIREMENTS

CHECK LIST OF DOCUMENTS NEEDED

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

Appendix Four ConsultantGL1AL1PL1_rev. 07.20.20/6.20.23

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SCHEDULE OC 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's Project Manager (VWPM).

K. Anthony Mendiola (Valley Water Project Manager)
Program Administrator
Continual Improvement Team
Financial Planning & Management Services Division
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118-3638

Phone: (408) 630-2437
Email: AMendiola@valleywater.org

Darin Taylor
Chief Financial Officer
Financial Planning & Management Services Division
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118-3638

Phone: (408) 630-3068
Email: Dtaylor@valleywater.org

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

Troy Snyder, CICA (Consultant Project Manager or CPM)
Engagement Partner
Plante Moran
3000 Town Center, Suite 100
Southfield, MI 48075

Phone: (248) 223-3273
Email: troy.snyder@plantemoran.com

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

Adam Rujan (Consultant Principal Officer)

SCHEDULE OC SCOPE OF SERVICES

Partner
Plante Moran
3000 Town Center, Suite 100
Southfield, MI 48075

Phone: (248) 352-2500
Email: adam.ruian@plantemoran.com

2. Scope of Services

The objective of this Agreement for on-call Services is for the Consultant to perform On-Call Management Services for Auditing Support (Project).

The Consultant's project services will support the Board Audit Committee in fulfilling its duties, responsibilities and program objectives as follows:

A. General Board Audit Committee services

- 1) Conduct performance audits as directed by the Board Audit Committee.
- 2) Prepare and deliver formal and informal audit reports and presentations.
- 3) Attend Board Audit Committee and Board meetings as needed.
- 4) Meet with Valley Water staff as needed.
- 5) Provide additional staff resources as determined by the Board Audit Committee.

B. Specific Audit Services

The Consultant will conduct certain performance audits as directed by the Board through the Board Audit Committee.

- 1) Following the completion of any audit the auditor shall issue a report that contains at a minimum:
 - a. An executive summary of the audit.
 - b. Methodology and data used.
 - c. The accuracy and fair representation of any financial transactions.
 - d. Compliance with applicable laws, regulations, voter mandates, and policies.
 - e. Effectiveness of internal controls governing Valley Water operations and finances.
 - f. Material strength and weaknesses of programs reviewed by the auditor.
 - g. Recommended improvements, if any.
- 2) Reports will be provided in an unalterable electronic format and/or written format as requested for use by Valley Water.
- 3) All final audit reports are public documents under state and federal law and are to be made available upon any public request.

C. Audit Plan & Priorities List

The Board Audit Committee's Multi-Year Audit Work Plan and current Risk Assessment will be provided by Valley Water.

SCHEDULE OC SCOPE OF SERVICES

3. Project Objectives

- A. The performance audits should entail objective and systematic examination of evidence to provide an independent assessment of the performance and management of a program or function against objective criteria including best industry practices where applicable.
- B. The performance audits may entail a broad or narrow scope of work, apply a variety of methodologies, and involve various levels of analysis, research, or evaluation.
- C. The performance audits could encompass a wide variety of objectives, including assessing program effectiveness and results, economy and efficiency, internal control, compliance with legal or other requirements or other analysis.
- D. The performance audits will provide information to improve program operations and facilitate decision making by parties with responsibility to oversee or initiate corrective actions and improve public accountability.
- E. All Services required pursuant to this Agreement will be provided only on an as-needed/as-requested basis by the issuance of an authorized Task Order by Valley Water to the Consultant(s). A project scope will be developed for each task order, including deliverables for a total not-to-exceed amount. No work will be performed without a task order. Any necessary references needed for work under a Task Order will be provided along with issuance of a Task Order. The Consultant(s) will perform services on a Task Order Basis as authorized by the VWPM, as set forth in the Standard On-Call Consultant Agreement, Section Twelve, Miscellaneous Provisions, subsection 13. Task Orders.

4. Background

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

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

- B. The Santa Clara Valley Water District (Valley Water) is the wholesale provider of water in Santa Clara County. A Board of Directors elected by the citizens of Santa Clara County, governs Valley Water through a variety of methods ranging from public meetings and workshops to advisory committees and sub-committees. The Board's Audit Committee consists of three members of the Board. The Board Audit Committee develops a plan and initiates audits to evaluate and review various programs and functions of Valley Water. The Committee also develops a Risk Assessment and provides guidance to staff regarding audit prioritization for Board audits. The audit work

SCHEDULE OC SCOPE OF SERVICES

plan and Risk Assessment are presented to the full Board for its consideration and approval.

The Board of Directors has established the following Board Committees to assist in developing and recommending policies, and providing comment on activities in the implementation of Valley Water's mission for board consideration:

<https://www.valleywater.org/how-we-operate/committees/board-committees>

5. Intent

- A. Valley Water intends to award one or more separate consultants to perform on-call, as needed, on-call technical support on a variety of water supply and planning issues during the same timeframe, each for a three-year term and as outlined herein. Task orders will be issued on a competitive basis when conflicts of interest do not exist. There is no guarantee of any amount of work that will be given to the selected firms.
- B. Task Orders will not be issued to Consultant when Consultant cannot perform the Services due to a conflict of interest or if all funds in this Agreement have been expended.
- C. Conflict of Interest. In addition to Valley Water's General Terms and Conditions, the following will apply with regard to conflict of interest:
 - 1) Consultant may be awarded multiple Task Orders pursuant to this agreement, for the same Valley Water project.
 - 2) Consultant is precluded from performing services for any other entity, or in any other capacity for Valley Water, on the same Valley Water project, for which a Task Order has been issued.
 - 3) If Consultant is already performing services on a Valley Water project, unrelated to this Agreement, in any capacity, a Task Order related to that project will not be issued pursuant to this Agreement.

6. 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 electronic format and/or hardcopy format, if requested. Deliverables shall be submitted in PDF and native (editable) format, including Word documents, Excel spreadsheets, PowerPoint files, AutoCAD files, etc. The hard copy deliverables shall be printed in professional

SCHEDULE OC SCOPE OF SERVICES

quality presentation and submitted in 5 (five) copies, if requested. Valley Water may require original copies of signed documents and/or scanned (Adobe PDF) versions.

- 3) **Review of Deliverables.** Valley Water will review and comment on all Project deliverables and forward to the 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 the Consultant. The comments provided by Valley Water staff during the workshops will be documented by the 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, the Consultant will perform the applicable Agreement tasks and/or sub-tasks in accordance with the QEMS framework. In such situations, the VWPM will provide the 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.** The Consultant is responsible for establishing and maintaining its own document control system to execute this Scope of Services. An internal document control system for this Project is maintained by Valley Water.
- 7) **File Exchange Service.** Consultant will provide a file exchange service, accessible to all parties as designated by Valley Water, to facilitate communications; particularly of large files over three megabytes. Difficulties in using and transmitting information with this exchange service shall be resolved by the Consultant. In the event that transmitting or receiving information does not occur in a timely manner, Valley Water will not be responsible for delays in completing Project work. Consultant may need to coordinate with Valley Water's Information Technology Division to address any firewall issues and/or permissions required to allow for these communications.

B. Project-Specific Assumptions and Requirements

- 1) **Auditing Standards to be Followed:** To meet requirements of this request for proposal, the audit shall be performed in accordance with generally accepted auditing standards as set forth by the American Institute of Certified Public Accountants, the standards for financial audits set forth in the U.S. Government Accountability Office's Government Auditing Standards (July 2007 Revision), the provisions of the Single Audit Act Amendments of 1996, the provisions of

SCHEDULE OC SCOPE OF SERVICES

U.S. Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, and the International Organization for Standardization (ISO) 9001:2015, Quality Management System, and ISO 14001:2015, Environmental Management System.

- 2) Working Paper Retention and Access to Working Papers
 - a) All working papers and reports must be retained, at the auditor's expense, for a minimum of three years (3), unless the firm is notified in writing by the SCVWD of the need to extend the retention period. The auditor will be required to make working papers available, upon request, to the following parties or their designee:
 - (1) Intentionally omitted
 - (2) Auditors or entities of which the SCVWD is a sub recipient of grants
 - (3) State of California
 - (4) Parties designated by the SCVWD as part of an audit quality review process
- 3) In the required reports on internal controls, the auditor shall communicate any reportable conditions found during the audit. A reportable condition shall be defined as "a significant deficiency in the design or operation of the internal control structure which could adversely affect the organization's ability to record, process, summarize, and report program and financial data consistent with the assertions of management." Reportable conditions that are also material weaknesses shall be identified as such in the report.
- 4) Non-reportable conditions discovered by the auditors shall be reported in a separate letter to management, which shall be referred to in the reports on internal controls.
- 5) Reports on compliance shall include all instances of noncompliance. Auditors shall be required to make an immediate written report of all irregularities and illegal acts of which they become aware to the following parties: Chairperson of the Board Audit Committee, District Counsel, Chief Administrative Officer.
- 6) Upon completion of the audit and prior to issuing any audit reports or the management letter, the auditor will participate in an exit conference with the Board Audit Committee. Such exit conference will be scheduled as part of a regular public meeting of the committee. The Board Audit Committee may request additional public presentations on any and all audits.

C. Valley Water Contract and Resources: The auditor's principal management contact at Valley Water will be the Program Administrator of the Continual Improvement Team. The Program Administrator will be available to assist the Board Audit Committee and the

SCHEDULE OC SCOPE OF SERVICES

auditor in completing the activities as outlined in this request for proposal. The Program Administrator will act as liaison between the Board Audit Committee and the auditor and assist in coordinating the activities of the Board Audit Committee.

- 1) The Clerk of the Board is responsible for scheduling and posting all meetings of the Board Audit Committee in compliance with state law.
- 2) The Finance Department staff will be available to assist the auditor by providing financial information, documentation and explanations.
- 3) The staff of the Santa Clara Valley Water District and responsible management personnel will be available to assist the auditor by providing program information, documents and explanations as needed to complete any and all audits.

D. The consultant auditor will be expected to provide their own office workspace and equipment. The District may provide reasonable workspace, access to telephones and photocopying services.

7. Scope of Services Tasks

The On-Call Scope of Services will generally include, but is not limited to the following below. Tasks and deliverables will be determined on a task order basis.

Task 1 - General Audit Services

- 1.1** The Consultant shall manage the Scope of Services such that the work is completed within the fixed not-to-exceed fee limit stated in a Task Order and in accordance with the schedule and ensure that all services and deliverables meet the Internal Audit Program requirements.
- 1.2** Valley Water maintains a Quality Environmental Management System (QEMS) which has procedures, guidelines, and work instructions for the performance of various Valley Water work. The Consultant shall perform the contract tasks and/or subtasks in accordance with the QEMS framework. As needed, Valley Water Project Manager will provide the Consultant with the specific QEMS procedure, guideline, and/or work instruction prior to the production of deliverables.
- 1.3** Specific Sub-Tasks
 - 1.3.1** Project Management and Coordination. Provide project management and coordination of assigned task orders, conduct project meetings with VWPM and Valley Water staff to review progress of assigned task orders. Prepare monthly status reports detailing progress of assigned task orders. Meeting Agendas, Minutes, and Presentations.
- 1.4** The Consultant's project services will support the Board Audit Committee in fulfilling its duties, responsibilities and program objectives as follows:
 - 1.4.1** Conduct performance audits as directed by Board Audit Committee.

SCHEDULE OC SCOPE OF SERVICES

- 1.4.2 Prepare and deliver formal and informal audit reports and presentations.
- 1.4.3 Attend Board Audit Committee and Board Meetings, if requested.

Task 1 - Deliverables

1. Formal and informal performance audit reports and presentations.
2. Attendance and participation at Board Audit Committee and Board Meetings as requested.

Task 2 - Specific Audit Services

The Consultant will conduct certain audits as directed by the Board through the Board Audit Committee.

2.1 Following the completion of any audit the auditor shall issue a report that contains at a minimum:

- 2.1.1 An executive summary of the audit.
- 2.1.2 The methodology and data used.
- 2.1.3 A discussion/analysis of the accuracy and fair representation of any financial transactions within the audit.
- 2.1.4 A discussion/analysis of program compliance with applicable laws, regulations, voter mandates, and policies.
- 2.1.5 The effectiveness of internal controls governing District operations and finances.
- 2.1.6 The material strengths and weaknesses of programs reviewed by the auditor.
- 2.1.7 Recommended improvements, if any.

2.2 Reports will be provided in a written and an unalterable electronic format for use by Valley Water.

- 2.2.1 All final audit reports are public documents under state and federal law and are to be available upon any public request.

Task 2 - Deliverables

1. Audit reports

8. Attachments

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

**SCHEDULE OC
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 and in all approved Task Orders will not exceed a total amount of **\$000,000** (Not-to-Exceed or NTE). Under no conditions will the total compensation to the 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. It is understood and agreed that this total is an estimate, and the total amount of Services to be requested by Valley Water may be less. **There is no guarantee, either expressed or implied, as to the actual dollar amount that will be authorized pursuant to this Agreement.**

2. Terms and Conditions

A. Payments for Services performed, as described in each Task Order, which applies to the specific Services, will be based on the following terms:

- 1) Valley Water will pay for Services provided by the Consultant according to the 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.

A. 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 receipts for each other direct expense item(s) with monthly invoices submitted.
- 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

**SCHEDULE OC
ATTACHMENT ONE
FEES AND PAYMENTS**

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) No markup will apply for Consultant to manage Subconsultants, subcontractors and vendors, including lab services.
- 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]

B. Prevailing Wage Requirements – NOT USED

HOURLY/UNIT RATE SCHEDULE

CLASSIFICATION/STAFF	HOURLY/UNIT RATE YEAR 1	HOURLY/UNIT RATE YEAR 2	HOURLY/UNIT RATE YEAR 3
Consultant: Plante Moran, PLLC	\$250	\$262	\$268
Subconsultant: Talson Solutions, LLC	\$250	\$262	\$268

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**SCHEDULE OC
ATTACHMENT TWO
SCHEDULE OF COMPLETION**

1. This Agreement commences on the Effective Date, subject to accomplishment of all conditions to formation of an agreement listed in the Agreement at Section Twelve, Miscellaneous Provisions, subsection 2. Formation of Agreement.
2. This Agreement has a three (3) year term, with two one-year renewal options that may be exercised at the sole discretion of Valley Water. The exercise of the options must be in the form of a written amendment signed by both Parties
3. Each Task Order will state the schedule for Consultant's performance of that Task Order.
4. Valley Water and Consultant may agree to modify the schedule specified for Consultant's performance in an executed Task Order, as an administrative modification to the Task Order and will confirm such modification in writing.

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SCHEDULE OC
ATTACHMENT THREE
CONSULTANT'S KEY STAFF AND SUBCONSULTANTS

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

Team Member	Classification	Project Role	Contact Information
Troy Snyder	Engagement Partner	Partner	3000 Town Center, Suite 100 Southfield, MI 48075 troy.snyder@plantemoran.com (248) 223-3273
Adam Rujan	Colleague Partner	Partner	3000 Town Center, Suite 100 Southfield, MI 48075 adam.rujan@plantemoran.com
Matthew Bohdan	Engagement Principal	Principal	3000 Town Center, Suite 100 Southfield, MI 48075 matthew.bohdan@plantemoran.com
F. Alex Brown	Cybersecurity Principal/SME	Principal	3000 Town Center, Suite 100 Southfield, MI 48075 alex.brown@plantemoran.com
Caroline Smythe	Engagement Manager	Manager	3000 Town Center, Suite 100 Southfield, MI 48075 caroline.smythe@plantemoran.com
Emily Fletcher	Cybersecurity Staff	Senior Consultant	3000 Town Center, Suite 100 Southfield, MI 48075 emily.fletcher@plantemoran.com
Briana Solorio	Internal Audit	Consultant	3000 Town Center, Suite 100 Southfield, MI 48075 briana.solorio@plantemoran.com
Holly Morgan	Internal Audit	Consultant	3000 Town Center, Suite 100 Southfield, MI 48075 holly.morgan@plantemoran.com

2. The following Subconsultants are authorized to perform Services for this Agreement:

Firm	Team Member	Project Role	Contact Information
Talson Solutions, LLC	Robert Bright Kenneth Brozozwski Jennifer Venth Yvette Suarez Vasquez Ethan Johnston Emily Olinsky	Capital/Construction Audit/SME	-

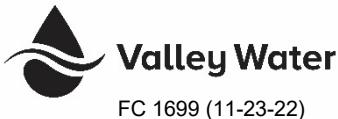
**SCHEDULE OC
ATTACHMENT FOUR
REFERENCE MATERIALS**

Ref No.	Description
1	Santa Clara Valley Water District Non-Disclosure Agreement (NDA) (FC 1650)
2	ISO 9001 and 14001 standards (to be provided after award)
3	Annual Audit Work Plan as of 01/11/2022 https://scvwd.legistar.com/LegislationDetail.aspx?ID=5366628&GUID=20E9ACC9-E180-4CE5-921A-40BDA7D7F13C&Options=&Search=

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On-Call Management Services for Auditing Support
Standard On-Call Consultant Agreement-Admin-Gen
Ver. 6/20/23

Agreement No. A4820G / PB File No. VW0163



Project Manager: K. Anthony Mendiola
Extension: 2437
Date: June 22, 2023

AGREEMENT APPROVAL REQUEST

CAS/PB FILE NO.: VW0163

CONTRACT NAME:

Standard On-Call Agreement (Agreement) between the Santa Clara Valley Water District and Plante Moran, PLLC

RECOMMENDATION:

Approve and execute the Agreement between the Santa Clara Valley Water District (Valley Water) and Plante Moran, PLLC (Consultant) for the On-Call Management Services for Auditing Support (Project).

EL-5 COMPLIANCE:

EL-5.1.2 provides: A Board Appointed Officer (BAO) shall not make a single Consultant Service contract greater than \$225,000 unless authorized by the Valley Water Board of Directors. The recommended action is in full compliance with EL-5.1.2 as the total amount of the Agreement is not greater than \$225,000.

CEQA COMPLIANCE:

The recommendation action does not constitute a project under the California Environmental Quality Act (CEQA) because it does not have the potential to result in direct or reasonably foreseeable indirect physical change in the environment.

SUMMARY:

With this agreement, the Consultant will serve as the second on-call auditor for the Board of Director's Audit Committee (Board Audit Committee), in addition to Moss Adams, to complement the Chief Audit Executive (CAE), currently held by Sjoberg Evashenk Consulting, Inc. in fulfilling its duties, responsibilities, and functions. Specifically, the Consultant will conduct performance audits as directed by the Board Audit Committee, prepare and deliver formal and informal audit reports and presentations, and attend Board Audit Committee and Board meetings as needed. This action will help the Board Audit Committee meet the requirement in Article 3, Section 8 of its charter which says that "The Committee may recommend that the Independent Auditor perform individual audits but shall ensure that additional auditors are recommended for use in planned audits so that no single firm conducts a disproportionate number of audits in a given fiscal year.

Santa Clara Valley Water District (Valley Water) is the wholesale provider of water in Santa Clara County. A Board of Directors elected by the citizens of Santa Clara County, governs Valley Water through a variety of methods ranging from public meetings and workshops to advisory committees and sub-committees. The Board's Audit Committee consists of three members of the Board. The Board Audit Committee develops a plan and initiates audits to evaluate and review various programs and functions of Valley Water. The Committee also develops a Risk Assessment and provides guidance to staff regarding audit prioritization for Board audits. The audit work plan and Risk Assessment are presented to the full Board for its consideration and approval.

Consultant Selection Process:

Prior to publishing the RFP, staff conducted outreach to 318 firms that were registered under National Institute of Governmental Purchasing, Inc. (NIGP) Category Codes; under category code 91804 –

Contract Name: Standard On-Call Agreement (Agreement) between the Santa Clara Valley Water District and Plante Moran, PLLC

Accounting/Auditing/Budget Consulting, category, which is one of 8 targeted categories within Valley Water's Procurement Portal, Planet Bids (PB) prior to publishing the RFP. Staff also issued advertisements in the SJ Post and SBEINC.com prior to publishing the RFP.

On July 13, 2022, staff published a Request for Proposals (RFP) for On-Call Management Services for Auditing Support by sending it to 332 firms that were registered under NIGP Category Codes; 91804 – Accounting/Auditing/Budget Consulting, which is one of 8 targeted categories within Valley Water's Procurement Portal PB.

A total of two (2) proposals were received on August 2, 2022, from the following firms, Moss Adams LLP and Plante Moran, PLLC. Of the total 332 firms informed of the solicitation, 25 firms confirmed to be prospective bidders in the Valley Water Procurement Portal.

An Evaluation Committee (EC), consisting of three panelists from Valley Water with subject matter expertise, evaluated and ranked the written proposals and oral interviews. Based on combined written and oral rating score, the EC recommended that staff undertake contract negotiations with Moss Adams LLP. Staff subsequently decided to award a second agreement to the next highest ranked firm which is currently in negotiations.

Staff recommended Board approval of the Standard Consultant Agreement with Moss Adams LLP to provide On-Call Management Services for Auditing Support, for a not-to-exceed fee of \$500,000. Board approval of the Standard Consultant Agreement with Moss Adams LLP was on March 23, 2023.

Staff completed negotiations with the next highest ranked firm, Plante Moran, PLLC. Staff recommends award of the second on-call agreement with the second highest ranked firm for CEO approval.

Consultant Agreement and Scope of Services:

The Agreements include the following required tasks:

Task 1 – General Audit Services

Task 2 – Specific Audit Services

There is no guarantee of any minimum of work or compensation to the Consultant under the Agreement. The top-ranked consultant, Moss Adams LLP, will provide as-needed consulting services for up to \$500,000 in fees, for an initial three-year term, with two one-year renewal options that may be exercised at the sole discretion of Valley Water. The second-ranked firm, Plante Moran, PLLC will provide as-needed consulting services for up to \$225,000 in fees, for an initial three-year term, with two one-year renewal options that may be exercised at the sole discretion of Valley Water in the event that Moss Adams LLP has a conflict of interest with performing services on a particular project or Moss Adams LLP does not have adequate resources to meet VW's needs.

ENVIRONMENTAL JUSTICE IMPACT:

There are no Environmental Justice impacts associated with this item.

FINANCIAL IMPACT:

The not-to-exceed amount of the agreement is \$225,000. No funds will be encumbered at this time. On-Call services will be charged in accordance with each approved task order to budgeted funds from the respective project.

Contract Name: Standard On-Call Agreement (Agreement) between the Santa Clara Valley Water District and Plante Moran, PLLC

ATTACHMENTS:

1. Standard On-Call Consultant Agreement between Santa Clara Valley Water District and Plante Moran, PLLC (original will be executed in DocuSign)

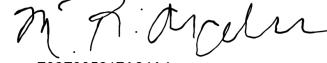
APPROVALS:

DocuSigned by:

Darin Taylor
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Darin Taylor
Chief Financial Officer
Financial Planning and Management Services

6/26/2023

Date

DocuSigned by:

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Melanie Richardson, P.E.
Assistant Chief Executive Officer

7/3/2023

Date

DocuSigned by:

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Rick L. Callender, Esq.
Chief Executive Officer

7/6/2023

Date