



STANDARD CONSULTANT AGREEMENT

Terms and Conditions Template (Capital)
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), and PANORAMA ENVIRONMENTAL, INC., a Delaware corporation (Consultant), individually the Party or collectively the Parties.

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

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

SECTION ONE

SCOPE OF SERVICES

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

SECTION TWO

DUTIES OF CONSULTANT

1. Performance

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

2. Consultant Controlled Areas

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

3. Licensing

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

4. Valley Water's Approval of Deliverables

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

5. Errors and Omissions

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

6. Valley Water Standardization Requirements

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

7. Consultant's Key Staff and Subconsultants

- A. Consultant's Key Staff and firms subcontracted by the Consultant (Subconsultants) assigned to perform the Services are identified in the Schedule(s), Scope of Services, Attachment Three, Consultant's Key Staff and Subconsultants.
- B. The Project team organization chart and delegated responsibilities of each team member will be submitted to Valley Water for concurrence.
- C. Consultant may utilize Subconsultants, subcontractors, suppliers, or vendors it deems appropriate to the complexity and nature of the required Services.
 - 1) Consultant must obtain Valley Water's approval of all Subconsultants. Upon Valley Water's request, Consultant must provide copies of all Subconsultant agreements.
 - 2) Consultant must require its delegates or Subconsultants to agree, in writing, to adhere to Terms and Conditions of this Agreement.
- D. Any delegation or use of Subconsultants by Consultant will not operate to relieve Consultant of its responsibilities as described in this Agreement.
- E. If any of Consultant's designated key staff persons or Subconsultants fail to perform to the satisfaction of Valley Water, on written notice from Valley Water, Consultant will have 15 calendar days to remove that person from the Project and provide a replacement acceptable to Valley Water.
- F. Consultant will not charge Valley Water for the time it takes Consultant's replacement personnel to obtain Valley Water-specific Project knowledge in the possession of the person(s) being replaced.
- G. Consultant's Key Staff: Valley Water's authorized representative may approve any revisions to Consultant's list of key staff assigned to the Project as an administrative modification to this Agreement, and such approval will be confirmed in writing.
- H. Consultant's Subconsultants
 - 1) Valley Water's authorized representative may approve any revisions to Consultant's list of authorized Subconsultants when the Subconsultant is deleted from the list and the Scope of Services is deleted from the Agreement or such services are assumed by the Consultant; such approval will be confirmed in writing.
 - 2) Valley Water's authorized representative may approve any revisions to Consultant's list of authorized Subconsultants when a listed Subconsultant is replaced (to perform the same Scope) or a new Subconsultant is added (to perform new Scope), provided the firm complies with all insurance requirements established by Valley Water for such work; such approval will be confirmed in writing.

8. Compliance with All Laws

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

9. Occupational Safety and Health

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

10. Consultant as Independent Contractor

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

11. Standard of Care

- A. Consultant must possess and maintain during the term of this Agreement all certifications, licenses, permits, and qualifications to perform the Services and prepare all deliverables. Consultant must perform all Services and prepare all deliverables in accordance with those standards and practices of care, skill, and diligence that are generally recognized and customarily observed by competent persons in Consultant's area of specialty in the State of California at the time such Services are rendered.
- B. Consultant shall perform the Services and prepare all deliverables without any errors or omissions, and in accordance with Section Two, Duties of Consultant, subsection 8. Compliance with All Laws.
- C. Consultant and its Subconsultants must perform the Services in compliance with all applicable written federal, state and local codes, statutes, laws, regulations, and ordinances, including, but not limited to, environmental, energy conservation, and disabled access requirements as per the provisions of Section Two Duties of Consultant, subsection 8. Compliance with All Laws.

SECTION THREE

DUTIES OF VALLEY WATER

1. Available Data

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

2. Review of Deliverables

- A. Valley Water will designate a Project Manager (Valley Water Project Manager) for purposes of administering and managing this Agreement.
- B. Consultant's progress in completing the Services will be reviewed by Valley Water Project Manager at each milestone identified in the Schedule(s) and at such other time(s) at the discretion of Valley Water.
- C. Consultant must notify Valley Water in writing when it completes each deliverable described in the Schedule(s) and provide Valley Water with said deliverable. Deliverables deemed satisfactory and in compliance with this Agreement are subject to approval by Valley Water. Within 30 calendar days of receipt of each deliverable, Valley Water will either (1) notify Consultant that Valley Water accepts the deliverable, or (2) notify the Consultant that the deliverable is not acceptable and must be revised.

- D. If Valley Water advises Consultant that a deliverable must be revised due to errors or omissions by the Consultant, Consultant must correct, at no cost to Valley Water, those deficiencies as soon as possible and shall notify Valley Water upon completion of the revised deliverable and submit to Valley Water.
- E. Valley Water will then review the revised deliverable and within 30 calendar days of receipt, advise the Consultant if the revised deliverable is acceptable. All deficient deliverables will be revised at no cost to Valley Water and this process will continue until Consultant has corrected all deficiencies identified by Valley Water.
- F. None of the proposed changes or revisions or anything else in this Agreement will be construed to relieve the Consultant of professional or legal responsibility for the performance of the Services as otherwise required by the Terms and Conditions of this Agreement. Corrections to any deliverable as a result of Consultant's errors or omissions, as determined by Valley Water, will not result in additional costs or expenses to Valley Water.

3. Access to Valley Water Facilities

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

SECTION FOUR

FEES AND PAYMENTS

1. Total Fixed Not-to-Exceed Fees

- A. Payment for all Services performed by Consultant to the satisfaction of Valley Water, as described in the Schedule(s) will be based on the hourly rates, subject to the Total Fixed Not-to-Exceed (NTE) Fees stated in the Schedule, Attachment One, Fees and Payments, for completion of the associated tasks. Valley Water will make payments to Consultant according to the terms provided for herein and in the Schedule, Attachment One, Fees and Payments. Payments made by Valley Water to the Consultant for Services rendered will be considered full compensation for all personnel, materials, supplies, Subconsultant(s), equipment, reimbursable travel, and per diem expenses incurred by the Consultant to perform the Services.
- B. Upon the written approval of Valley Water Deputy Operating Officer referenced herein, remaining funds previously budgeted for tasks that are completed, reduced, or deleted, may be reallocated to a task that has not yet been completed, provided the Agreement Total Not-to-Exceed Fee is not exceeded. Transferring funds from a task not yet completed to a different task is not permitted.
- C. Upon the written approval of Valley Water Deputy Operating Officer referenced herein, the Scope of Services described in a task may be reduced or deleted. If the Scope of Services of a task is reduced or deleted, the portion of the funds attributable to that reduced or eliminated task may be reallocated to existing tasks, or transferred to a Supplemental Services task, if provided for herein.

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

2. Consultant Monthly Invoices

- A. Consultant's monthly invoices will be prepared in accordance with the terms of this Agreement, Section Four, Fees and Payments, and represent Services performed and reimbursable costs incurred during the identified billing period. Invoices must be consistent with Scope of Services described in the Schedule(s) attached hereto; and include the following:
 - 1) Employee classification and name itemized with all labor charges by Service task;
 - 2) Summary of the amount Consultant has been billed by their Subconsultants and further detailed by Service task;
 - 3) A description of the site where Services were performed, if applicable;
 - 4) The name of Valley Water staff requesting Services;
 - 5) The dates when Services were performed;
 - 6) Other direct charges and expenses by Service task;
 - 7) Other direct charges and expenses must reflect actual fees versus the Agreement Not-to-Exceed Fees as stated in the Schedule(s), Attachment One, Fees and Payments, and/or Task Orders; and
 - 8) To the extent that the Consultant is adding an administrative, processing, overhead or mark-up fee, Valley Water will not pay for such duplication of costs for both the Consultant and its Subconsultants.
- B. Before submitting monthly invoices, a progress report and draft invoice (in Adobe PDF format) will be provided in electronic format by the Consultant for preliminary review by Valley Water Project Manager. Upon preliminary approval by Valley Water, Consultant will email the complete, signed, and dated electronic copy invoice, including all supporting documentation. Valley Water's preliminary review of the draft invoice does

not represent final approval of the electronic copy invoice, but is intended to reduce potential for re-submittals of electronic copy invoice by Consultant.

- C. Each monthly invoice must include a monthly progress report that documents whether or not the Services are on schedule to be completed in accordance with the Schedule, Attachment Two, Schedule of Completion, which applies to the specific Scope of Services, and within the Agreement NTE Fees in accordance with the Schedule, Attachment One, Fees and Payments. The progress report shall document Services completed, the execution of the tasks described in this Services, and enable Valley Water to evaluate the Consultant's progress and performance towards completion of the Services.

1) The monthly progress report shall include:

- a. An assessment of actual versus planned progress in completing the Services, including a description of the tasks and deliverables completed to date;
- b. A look-ahead schedule listing deliverables and activities planned for the next two months;
- c. A statement that progress towards completion of the Services is on schedule and will be completed within the timeline set forth in the Schedule of Completion; or, if completion of the Services is not on schedule, then a statement of the anticipated length of the delay, the cause of the delay, measures proposed or taken to prevent or minimize the delay, and the schedule for implementation of such measures;
- d. A summary of performed tasks to date, an updated Project work plan including estimate of work required to complete this Agreement, explanation of any major variances in percentage of services to be completed compared to percentage of this Agreement NTE fees remaining, and any anticipated changes to this Agreement that may be necessary to complete the Services;
- e. For any proposed change to the Scope of Services, provide a summary of the proposed changes, including supporting rationale for such change;
- f. For each task, the percentage of the fees incurred for the task compared to dollar amount allocated to the task, the percentage of services performed versus the percentage of Agreement NTE fees incurred for such task, and explanation of any significant variances in percentage of services performed compared to percentage of fees incurred;
- g. A statement that all tasks, as specified in this Agreement, shall be completed within the NTE amount of the Agreement;
- h. Level of Small Business Enterprise (SBE) participation, if applicable, documenting the level of SBE participation throughout the Project; and
- i. Any changes in Consultant's key staff or Subconsultants.

D. Invoices will include a summary of labor expenditures, direct costs, and billed Subconsultant charges. Invoices, transmitted separately from the monthly progress reports, will be organized such that the billing categories correspond with the Services tasks.

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

Valley Water mailing address for invoices, if needed:

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

F. In addition to ensuring that each invoice is accompanied with a monthly progress report, Consultant must also ensure that each invoice contains the following information:

- 1) Agreement number;
- 2) Full legal name of Consultant/Firm;
- 3) Payment remit-to address;
- 4) Invoice number;
- 5) Invoice date (the date invoice is emailed);
- 6) Detailed description of Services provided, including the “distribution account(s)” for those Services;
- 7) Number of hours spent by each person performing services and a brief description of the services performed by each person; and
- 8) Beginning and end date for billing period that services were provided.

G. Consultant shall invoice for its performance of the Services on a monthly basis consistent with the task fee breakdown stated in the Schedule, Attachment One, Fees and Payments, which applies to the specific Scope of Services.

H. Valley Water Project Manager will review Consultant’s written invoice within five Valley Water business days of receipt, address any questions with Consultant’s Contact/Principal Officer and approve the undisputed amount of the invoice within ten working days of receipt of the invoice. Valley Water will pay undisputed invoice amounts within 30 calendar days from date invoice is received by Valley Water Project Manager.

I. Invoice Disputes

1. Valley Water may in good faith assert a bona fide dispute as to all or a portion of fees specified in any invoice. If any portion of an amount due to Consultant pursuant to this Agreement is subject to a bona fide dispute between the Parties, within 30 calendar days of Consultant’s submission of an invoice in which a disputed amount

is included, Valley Water will notify Consultant in writing of the specific items in dispute, and will describe Valley Water's reason(s) for disputing each such item.

2. Consultant and Valley Water Project Manager must act in good faith to resolve the dispute in a timely manner. If the dispute is not resolved by Consultant and Valley Water Project Manager within 30 calendar days of Consultant receiving Valley Water's written notice of dispute, Consultant and Valley Water will attempt to resolve the Dispute pursuant to the Standard Consultant Agreement, Appendix Two, Dispute Resolution.
- J. Consultant's services will be performed by its staff members and Subconsultants' staff members at the lowest hourly and unit rates commensurate with the complexity of the required Services.
- K. Consultant shall ensure that its personnel performing Services pursuant to this Agreement document their time doing so.

3. Prevailing Wages

- A. A portion of the Services to be performed pursuant to this Agreement may be considered "Public Works" subject to California Labor Code §1771, et. seq. and the applicable implementing regulations. If Consultant's Services includes such work, Consultant and its Subconsultants must comply with all Labor Codes applicable to prevailing wages.
- B. Labor Code §1720 provides as follows:
- "(a) As used in this chapter, "public works" means all of the following:
- (1) Construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds, except work done directly by a public utility company pursuant to order of the Public Utilities Commission or other public authority. For purposes of this paragraph, "construction" includes work performed during the design, site assessment, feasibility study, and other preconstruction phases of construction, including, but not limited to, inspection and land surveying work, regardless of whether any further construction work is conducted, and work performed during the postconstruction phases of construction, including, but not limited to, all cleanup work at the jobsite. For purposes of this paragraph, "installation" includes, but is not limited to, the assembly and disassembly of freestanding and affixed modular office systems."
- C. Consultant and its Subconsultants shall not engage in the performance of public work, as defined in California Labor Code §1771.1, unless currently registered and qualified to perform public work pursuant to California Labor Code §1725.5.
- D. The General Prevailing Wage Rates issued by the California Department of Industrial Relations may be adjusted by the State throughout the term of this Agreement. Notwithstanding any other provision of this Agreement, Consultant will not be entitled to any adjustment in compensation rates in the event there are adjustments to the General Prevailing Wage Rates.

- E. This Agreement is subject to compliance monitoring and enforcement by the State of California Department of Industrial Relations. Upon request, Consultant and Subconsultants must furnish the records specified in Labor Code §1776 directly to the Labor Commissioner, in a format prescribed by the Labor Commissioner.
- F. All records or documents required to be kept verifying statutory compliance with the prevailing wage requirement, such as certified payroll records, must be made available for audit at no cost to Valley Water, in electronic or hard copy format, at Valley Water's discretion, and hard copies made available at any time during regular business hours, upon written request by Valley Water.
- G. **California State Department of Industrial Relations Contractor and Sub-Contractor Registration Requirements**

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

4. Retention

- A. Unless otherwise specified in the Schedule(s), Attachment One, Fees and Payments, when the total compensation payable pursuant to this Agreement exceeds \$20,000, ten percent of each invoice will be withheld by Valley Water and not paid to Consultant until 30 calendar days after the assigned Valley Water representative signs the final approval for all Services/deliverables as stated in the applicable Schedule, Attachment Two Schedule of Completion, and Section Three, Duties of Valley Water, subsection 2. Review of Deliverables.
- B. Provided that at any time after 50% of the work has been completed, Valley Water may, at its sole discretion, determine that satisfactory progress is being made in the completion of the Agreement, and prospectively make the remaining progress payments in full. The retention previously withheld on the first 50% of the work will continue to be withheld until final Agreement close out.

SECTION FIVE

SCHEDULE OF COMPLETION

1. Performance of Tasks

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

2. Project Schedule Table

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

3. Monitoring of Project Schedule

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

4. Project Delays

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

5. Changes to the Project Schedule

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

SECTION SIX

AGREEMENT MODIFICATIONS

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

SECTION SEVEN

TERM AND TERMINATION

1. Term & Automatic Termination

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

2. Valley Water Rights

- A. Suspension: Valley Water may, by written notice to Consultant, suspend any or all Services pursuant to this Agreement or to any individual Task Order. Valley Water may subsequently terminate this Agreement or any Task Order for convenience or determine to proceed. If a decision to proceed is not made within 90 days from the date of the notice of suspension, any decision to proceed must be conditioned upon execution of a new Notice to Proceed or Task Order.
- B. Termination for Convenience: Valley Water may, by written notice to Consultant, terminate all or part of this Agreement or any Task Order at any time for Valley Water's convenience. Upon receipt of such notice, Consultant will immediately cease all work as specified in the notice. If this Agreement or any Task Order is so terminated, Consultant will be compensated as set forth in Section Seven, Term and Termination, subsection 3. Consultant's Compensation upon Termination or Suspension.
- C. Termination for Breach: If Consultant violates any of the covenants, agreements or stipulations of this Agreement or a Task Order, or if Consultant fails to fulfill in a timely and proper manner its obligations pursuant to this Agreement or any Task Order, and does not cure such failure or violation within 30 days (or a reasonable extension thereof, if requested, which extension will not be unreasonably withheld) after receipt of written notice from Valley Water specifying such failure or violation, Valley Water will thereupon have the right to terminate this Agreement and any or all uncompleted Task Orders by giving written notice to Consultant of such termination. Such notice will specify the effective date thereof, and Consultant will not be entitled to compensation for services or expenses beyond the specified termination date.
- D. If, after notice of termination for breach of this Agreement or any Task Order, it is determined that Consultant did not breach the Agreement or Task Order, the termination will be deemed to have been effected for Valley Water's convenience, and Consultant will receive payment that is allowed by this Agreement for a termination for convenience.
- E. The rights and remedies provided herein to Valley Water are in addition to any other rights and remedies provided by law, this Agreement, or a Task Order.

3. Consultant's Compensation upon Termination or Suspension

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

- A. Direct Labor: Consultant shall be entitled to receive compensation for all authorized direct labor performed prior to termination pursuant to the provisions of this Agreement or Task Order and all authorized labor expenses incurred to demobilize from the Project after the date of termination;
- B. Other Direct Costs and Expenses: Consultant shall be entitled to receive compensation for all authorized other direct costs and expenses incurred prior to termination and all authorized expenses incurred to demobilize from the Project after the date of termination; and

- C. In no event shall the total compensation paid for any item of Service exceed the payment specified in the Agreement or applicable Task Order for that item of Service.

4. Survival

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

SECTION EIGHT

INDEMNIFICATION

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

SECTION NINE

INSURANCE REQUIREMENTS

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

SECTION TEN

OWNERSHIP AND REUSE OF DELIVERABLES

1. Valley Water Ownership

All deliverables and other materials prepared by Consultant, including computer programs and media developed by the Consultant, to perform the Services, during the term of this Agreement, will be and remain the property of Valley Water following payment in full to Consultant for each task or portion of a completed task, or in accordance with Section Seven, Term and Termination. In the event the work is not completed, the completed

portions thereof will become the property of Valley Water. Consultant will provide Valley Water with such deliverables and material at appropriate times during this Agreement. Consultant may retain a copy for its records. Consultant does not convey, assign, or transfer the intellectual property rights it has so as to limit its ability or right to develop, design, or provide services on other projects of or for its other clients.

2. Reuse of Instruments of Service

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

3. Copies of Data

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

4. Computer-Generated Material

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

5. Work for Hire

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

6. Copyright Claims

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

SECTION ELEVEN

EQUAL OPPORTUNITY

1. Equal Opportunity Employer

Valley Water is an equal opportunity employer and requires its consultants to have and adhere to a policy of equal opportunity and non-discrimination. In the performance of the Agreement, Consultant will comply with all applicable federal, state, local laws and regulations, and will not discriminate against any subcontractor, employee, or applicant for

employment in the recruitment, hiring, employment, utilization, promotion, classification or reclassification, transfer, recruitment advertising, evaluation, treatment, demotion, layoff, termination, rates of pay or other forms of compensation, and selection for professional development training (including apprenticeship), or against any other person, on the basis of sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), race, religion, color, national origin (including language use restrictions), ancestry, religious creed (including religious dress and grooming practices), political affiliation, disability (mental and physical, including HIV or AIDS), medical condition (cancer and genetic characteristics), genetic information, marital status, parental status, gender, age (40 and over), pregnancy, military and veteran status, sexual orientation, gender identity and gender expression, the exercise of family and medical care leave, the exercise of pregnancy disability leave, or the request, exercise, or need for reasonable accommodation.

2. Compliance with Applicable Equal Opportunity Laws

Consultant's policy must be in conformance with applicable state and federal guidelines including the Federal Equal Opportunity Clause, 41 Code of Federal Regulations, Part 60-1, §60-1.4; Title VII of the Civil Rights Act of 1964 as amended; the Americans with Disabilities Act of 1990; the Rehabilitation Act of 1973 (§503 and §504); the Age Discrimination Act of 1975 (42 U.S.C. §6101 et seq.); the California Fair Employment and Housing Act (Government Code §12900 et. seq.); and California Labor Code §1101 and §1102.

3. Investigation of Claims

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

SECTION TWELVE

MISCELLANEOUS PROVISIONS

1. Entire Agreement

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

2. Formation of Agreement

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

3. No Assignment

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

4. Reasonableness

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

5. Gifts

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

6. Audits

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

7. Force Majeure

Neither Party will be held responsible for delays caused by acts beyond its control, such as acts of God or public enemies, utility or communication delays, or failures not caused by such Party's negligence or fault, accidents not caused by such Party's negligence or fault, labor disputes, war, or failure of the other Party to provide data as required pursuant to this Agreement.

8. Binding Effect

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

9. Choice of Law and Venue

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

10. Confidentiality

- A. Due to the nature of the services Consultant will provide pursuant to this Agreement, there may be disclosures made to Consultant of detailed information about Valley

Water's operations, including on a need-to-know basis information which may be protected from public disclosure by confidentiality laws, the attorney-client privilege, and/or other provisions of law which govern the nature and timing of disclosure of public information.

- B. Consultant understands and acknowledges that Valley Water staff members providing information to the Consultant do so with the understanding that such information will be handled appropriately.
- C. In the event Consultant receives such restricted or confidential information, Consultant will limit access to the information to only those of Consultant's employees, its subcontractors and its Subconsultants authorized by Valley Water to have the information.
- D. Consultant will notify Valley Water immediately of any request by any third party to have access to confidential information and will not disclose the requested information without first receiving express written authorization from Valley Water.
- E. Notwithstanding the aforementioned Confidentiality requirements, upon the request of Valley Water Project Manager, Consultant, and its Subconsultants shall execute the Valley Water's most current Non-Disclosure Agreement in effect at that time.
- F. The requirements stated herein will survive completion, expiration, suspension, and termination of this Agreement.

11. Release of Information Prohibited

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

12. Conflict of Interest

- A. Consultant represents that there exists no actual or potential conflict of interest concerning the services to be performed pursuant to this Agreement.
- B. Consultant represents that Consultant's performance required as stated in this Agreement does not require the breach of any agreement or obligation to keep in confidence the proprietary information of another party. Consultant will not bring to Valley Water, or use in the performance of Consultant's duties as described in this Agreement, any materials or documents of another party considered confidential or proprietary unless Consultant has obtained written authorization from such party, and the informed consent of Valley Water, for the possession and use of such materials.
- C. Consultant represents and warrants that during the term of the Agreement, Consultant, Consultant's parent company, Consultant's subsidiaries, or any affiliated entity sharing

substantially similar ownership of or control with Consultant shall not act as a Consultant or expert for any party in support of any potential or active claim or legal action against Valley Water by such party.

- D. CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION STATEMENT OF ECONOMIC INTEREST FORM 700 ("FORM 700"): Upon Valley Water's request, Consultant employees, officers, agents, Subconsultants, and subcontractors shall complete, execute, and submit a Form 700 as follows:
- 1) Consultant employees, officers, agents, Subconsultants, and subcontractors assigned to perform services pursuant to this Agreement, shall file, in a manner prescribed by Valley Water, an Assuming Office Statement. The Assuming Office Statement shall be filed:
 - a. Within 30 calendar days of the effective date of this Agreement; or
 - b. Within 30 calendar days of Consultant hiring, adding, or promoting to a designated filer position, employees, officers, agents, Subconsultants, and subcontractors to perform services pursuant to this Agreement.
 - 2) Consultant employees, officers, agents, Subconsultants, and subcontractors assigned to perform services pursuant to this Agreement, that filed an Assuming Office Statement, shall file in a manner prescribed by Valley Water, an amendment to their Form 700 any time there is a need to correct or change disclosure information.
 - 3) Consultant employees, officers, agents, Subconsultants, and subcontractors assigned to perform services pursuant to this Agreement, that filed an Assuming Office Statement, shall file an Annual Statement in a manner prescribed by Valley Water, during the annual filing season, as determined by Valley Water;
 - 4) Consultant employees, officers, agents, Subconsultants, and subcontractors assigned to perform services pursuant to this Agreement, that filed an Assuming Office Statement, shall file, in a manner prescribed by Valley Water, a Leaving Office Statement with Valley Water when one of the following occurs:
 - a. Upon termination of this Agreement; or
 - b. Within 30 calendar days of Consultant employees, officers, agents, Subconsultants, and subcontractors vacating a designated filing position (i.e., removed from the Project, promotion, demotion, transfer to non-designated position, end of employment, or as a result of changes in designated filer positions in Valley Water's Conflict of Interest Code).
 - 5) Consultant understands and agrees that its employees, officers, agents, Subconsultants, and subcontractors may be disqualified from providing services to Valley Water pursuant to the California Political Reform Act, Government Code §81000 et. seq. and §1090. If any of Consultant's employees, officers, agents, Subconsultants, and subcontractors are disqualified from providing services, on written notice from Valley Water Project Manager, Consultant will have 15 calendar

days to remove said employee(s), officer(s), agent(s), Subconsultant(s)' and subcontractor(s)' employee(s) from the Project and provide a replacement acceptable to Valley Water.

- 6) The failure of Consultant's employees, officers, agents, Subconsultants, and subcontractors to file an Assuming Office, Annual, Amended, or Leaving Office Statement within the time prescribed by Valley Water is deemed a material breach and may result in termination of the Agreement for cause.

13. Task Orders

- A. Some tasks and Services 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 Consultant Agreement, Appendix Three, Task Order Template). The proposed Task must identify the following:
 - 1) Description of the Services, including deliverables;
 - 2) The total Not-to-Exceed Fees for Consultant to complete the Services, including estimated number of hours per assigned staff to complete the Services;
 - 3) Proposed staff that will be assigned to complete the Services, including resumes if not previously provided to Valley Water's Project Manager;
 - 4) Estimated cost of each other direct cost and reimbursable expense, including any applicable fees;
 - 5) Schedule for completing the Services; and
 - 6) Copies of applicable state and federal permits required to complete the services, unless previously provided to Valley Water.
- B. Consultant agrees that the Not-to-Exceed Fees specified in a proposed Task Order will be the product of a good faith effort in exercising its professional judgment. After an agreement has been reached on the negotiable items, the finalized Task Order will be signed by both Valley Water's authorized representative referenced in the Standard Consultant Agreement, Appendix One, Additional Legal Terms, and Consultant's authorized representative.
- C. Consultant must not commence performance of work or services on a Task Order until it has been approved by Valley Water's authorized representative and Notice to Proceed has been issued by Valley Water Project Manager. No payment will be made for any services performed prior to approval or after the period of performance of the Task Order. The period of performance for Task Orders will be in accordance with dates specified in the Task Order. No Task Order will be written which extends beyond

the expiration date of this Agreement. The total amount payable by Valley Water for an individual Task Order will not exceed the amount agreed to in the Task Order.

- D. Prevailing Wage Requirements: The Scope of Services may be considered by Valley Water to be "Public Works" requiring the payment of prevailing wages. See the Standard Consultant Agreement, Section Four, Fees and Payments, subsection 3. Prevailing Wages, and Appendix Three, Task Order Template.

14. Good Neighbor

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

15. Governmental Permits and Notifications

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

16. Taxes and Benefits

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

17. Nonwaiver of Rights

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

18. No Third-Party Beneficiaries

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

19. Severability

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

20. Debt Limitation

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

21. Notices

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

VALLEY WATER:

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

CONSULTANT:

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

22. Appendices

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

Appendix One - Additional Legal Terms
Appendix Two - Dispute Resolution
Appendix Three - Task Order Template
Appendix Four - Insurance Requirements

23. Schedule(s) and Attachments

Schedule EP, 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

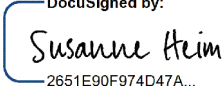
By: _____
John L. Varela
Chair, Board of Directors

Date: _____

ATTEST:

Michele L. King, CMC
Clerk, Board of Directors

PANORAMA ENVIRONMENTAL, INC.
Consultant

By:  _____
2651E90F974D47A...
Susanne Heim
Vice President

Date: 4/26/2023

Consultant's Address:
717 Market Street, Suite 400
San Francisco, CA 94103

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

1. Conflict of Interest for Future Services

Consultant, Consultant's parent company, Consultant's subsidiaries, or any affiliated entity sharing substantially similar ownership of or control with Consultant, [or any of its Subconsultants] shall not submit a proposal independently or as part of a team:

- A. For any agreement to be awarded for any project that is related to the Services provided pursuant to this Agreement;
- B. In response to any request for proposal or Valley Water solicitation developed or prepared by or with the assistance of Consultant, Consultant's parent company, Consultant's subsidiaries, or any affiliated entity sharing substantially similar ownership of or control with Consultant; or
- C. For any single or sole source products/services related to the Services pursuant to this Agreement or have a financial stake in any single or sole source products/services resulting from this Agreement.

2. Dispute Resolution

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

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

4. Task Order Approvals

- A. Services to be performed pursuant to a Task Order may only commence once a specific Notice to Proceed for that Task Order has been issued by Valley Water.
- B. Task Orders are subject to approval by Valley Water Deputy Officer unless delegated to an Assistant Operating Officer and/or Unit Manager.
- C. Valley Water Assistant Operating Officer is authorized to approve individual Task Orders in an amount not-to-exceed \$75,000.
- D. Valley Water Unit Manager is authorized to approve individual Task Orders in an amount not-to-exceed \$50,000
- E. The total not-to-exceed amount for any one Task Order shall not exceed \$[NTE Amount]. - NOT USED

**STANDARD CONSULTANT AGREEMENT
APPENDIX TWO
DISPUTE RESOLUTION**

1. Consultant's Questions and Concerns

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

2. Dispute Resolution

A. Alternate Dispute Resolution

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

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

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

3. Negotiations Before and During Mediation

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

4. Voluntary Mediation

A. Initiation of Mediation

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

B. Request for Mediation

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

C. Selection of Mediator

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

D. Qualifications of a Mediator

- 1) Any mediator selected must have expertise in the area of the dispute and be knowledgeable in the mediation process.

**STANDARD CONSULTANT AGREEMENT
APPENDIX TWO
DISPUTE RESOLUTION**

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

E. Vacancies

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

F. Representation

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

G. Time and Place of Mediation

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

H. Identification of Matters in Dispute

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

I. Authority of Mediator

- 1) The mediator does not have authority to impose a settlement on the Parties but will attempt to assist the Parties in reaching a satisfactory resolution of their dispute.

**STANDARD CONSULTANT AGREEMENT
APPENDIX TWO
DISPUTE RESOLUTION**

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

J. Privacy

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

K. Confidentiality

Except as provided by California or federal law or regulation:

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

**STANDARD CONSULTANT AGREEMENT
APPENDIX TWO
DISPUTE RESOLUTION**

L. No Stenographic Record

There shall be no stenographic record of the mediation.

M. Termination of Mediation

The mediation shall be terminated:

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

N. Exclusion of Liability

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

O. Interpretation and Application of These Mediation Provisions

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

P. Expenses

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

5. Compensation for Participation in Mediation

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

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

Task Order No. _____

Title: _____

Agreement: Standard Consultant Agreement _____ ("Agreement") Between the Santa Clara Valley Water District ("Valley Water") and _____ ("Consultant"), dated _____.

Valley Water: _____

Consultant: _____

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

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

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

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

8. Signatures:

Signature: _____

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

DATE

Signature: _____

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

DATE

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**STANDARD CONSULTANT AGREEMENT
APPENDIX FOUR
INSURANCE REQUIREMENTS**

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

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

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

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

If your insurance broker has any questions about the above requirements, please advise him/her to 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 instruct their insurance broker/agent to submit all insurance certificates and required notices electronically in PDF format to the designated District Contract Administrator and email a copy to valleywater@ebix.com.

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 A4745A/PB No. VW0198**

IMPORTANT: The agreement or PB number must be included.

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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 instruct its insurance broker/agent to:

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

**Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118
Agreement A4745A/PB No. VW0198**

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).

Required Coverages

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

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

General Liability insurance must include:

- a. Coverage at least as broad as found in standard ISO form CG 00 01.

**STANDARD CONSULTANT AGREEMENT
APPENDIX FOUR
INSURANCE REQUIREMENTS**

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

2. Business Auto Liability Insurance with coverage as indicated:

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

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

\$2,000,000 per claim/ **\$2,000,000** aggregate

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

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

4. Workers' Compensation and Employer's Liability Insurance

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

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

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**STANDARD CONSULTANT AGREEMENT
APPENDIX FOUR
INSURANCE REQUIREMENTS**

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 and financial size category rating of not less than A- V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the District's Risk Manager. Non-Admitted companies may be substituted on a very limited basis at the Risk Manager's sole discretion.
5. **Self-Insured Retentions or Deductibles:** Any deductibles or self-insured retentions must be declared to and approved by the District. At the option of the District, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the District, its officers, officials, employees and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the Entity guaranteeing payment of losses and related investigations, claim administration, and defense expenses. Consultant agrees that in the event of a claim they will pay down any agreed upon SIR in a prompt manner as soon as bills are incurred in order to trigger the insurance related to the SIR.
6. **Subconsultants:** The Consultant shall secure and maintain or shall be responsible for ensuring that all subconsultants performing the Contract Services secure and maintain all insurance coverages appropriate to their tier and scope of work in a form and from insurance companies reasonably acceptable to the District.

**STANDARD CONSULTANT AGREEMENT
APPENDIX FOUR
INSURANCE REQUIREMENTS**

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.

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**STANDARD 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 (\$2,000,000)	
	B.	Cancellation Endorsement	

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SCHEDULE EP 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 shall be addressed to Valley Water Project Manager (VWPM).

Kelly White (Valley Water Project Manager)
Associate Environmental Planner
Watershed Operations and Maintenance
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118-3638

Phone: (408) 630-2840

Email: kwhite@valleywater.org

Gary Nagaoka
Utility Maintenance Manager
Field Operations/Water Utility Maintenance
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118-3638

Phone: (408) 630-2568

Email: gnagaoka@valleywater.org

Greg Williams
Deputy Operating Officer
Raw Water Division
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118-3638

Phone: (408) 630-2867

Email: gwilliams@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.

Susanne Heim (Consultant Project Manager)
Principal
Panorama Environmental, Inc.
717 Market Street, Suite 400
San Francisco, CA 94103

Phone: (858) 349-8883

Email: Susanne.heim@panoramaenv.com

SCHEDULE EP SCOPE OF SERVICES

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

Susanne Heim (Consultant Principal Officer)
Principal/Vice President
717 Market Street, Suite 400
San Francisco, CA 94103

Phone: (858) 349-8883

Email: Susanne.heim@panoramaenv.com

2. Scope of Services

- A. This Schedule EP, Scope of Services describes the professional environmental planning and permitting services to be performed by Consultant for Valley Water's Canal Maintenance Program California Environmental Quality Act (CEQA) and Permitting Support (Project). Upon successful completion of the Canal Maintenance Program CEQA and Permitting Support Project planning and environmental services, Valley Water may, at its discretion, choose to negotiate an amendment to this Agreement with Consultant to provide construction phase support services. Valley Water may, at its discretion, choose to initiate a new consultant agreement selection process for services for any subsequent phase(s) and/or utilize Valley Water staff to perform such services.

3. Project Objectives

- A. Maintain the structural and functional integrity of operable canals and adjoining facilities.
- B. Reduce canal maintenance and repair costs and minimize liability risk by facilitating the timely completion of routine preventative maintenance.
- C. Protect public health and safety, Valley Water assets, and private property from damage associated with flooding, erosion, and slope failure.
- D. Repair and maintain operable and inoperable canals in a manner that minimizes impacts to or avoids sensitive biological resources.

4. Project Background

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

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

For information about Valley Water, visit www.valleywater.org.

SCHEDULE EP SCOPE OF SERVICES

B. Canal History and Setting

Valley Water's canals were built in the 1930s and 1950s to transfer water supplies to groundwater percolation facilities and surface storage reservoirs. A few of the canals remain a critical part of the raw water distribution system today and are maintained to ensure ongoing functionality and structural integrity. The water supply transport function of other canals was eliminated over time due to commercial and residential developments, changes in land rights, and expansion of the Valley Water raw water distribution system; however, the inoperable canals provide stormwater and flood protection benefits for nearby properties and developments and require maintenance to minimize liability risks. The Canal Maintenance Program Environmental Impact Report (EIR) and permits will address preventative, routine, and corrective maintenance of both operable and inoperable canals. Note that the scope of services for the Canal Maintenance Program does not address maintenance of the Almaden Calero Canal. CEQA environmental review and permitting for maintenance of the Almaden Calero Canal are anticipated to occur concurrently. Some coordination between the two teams may be needed for consistency, where and if appropriate.

Valley Water's operable and inoperable canals are located within the Santa Clara hydrologic basin (watershed) in the cities of Campbell, Los Gatos, San Jose, and Morgan Hill. In Campbell and Los Gatos, the canals are hard-lined routed through urban residential and commercial developments. In San Jose and Morgan Hill, the canals are aligned along hillsides and open grasslands and above new residential developments. The open-channel portions of Valley Water's canals are generally uniform in shape, bordered by a canal access road, and characterized as concrete-lined (concrete or shotcrete bed and banks) or earthen (earthen bed and banks).

C. Canal Maintenance Program Overview

Implementation of the Canal Maintenance Program will improve Valley Water's ability to conduct preventative, routine, and corrective maintenance along operable and inoperable canals and streamline the pertinent environmental approvals. Implementation of the Canal Maintenance Program will not affect future canal operations or uses.

Canal Maintenance Activities

The Canal Maintenance Program covers the following maintenance activities:

- 1) **Vegetation Management** – Vegetation management is conducted to maintain access, maintain conveyance capacity and channel velocity, prevent blockages, prevent damage to the canal lining and embankment, abate weeds and reduce the control of invasive plant species, and reduce fire hazards.
- 2) **Sediment Removal and Management** – Excess sediment and debris that accumulates in the canals are mechanically removed to maintain flow, prevent blockages, reduce flood hazards, and discourage the growth of in-channel vegetation.

SCHEDULE EP SCOPE OF SERVICES

- 3) Bank Stabilization – Bank stabilization addresses issues such as sloughs, landslides, and erosion that threatens the stability of the hillside above the canal, the canal embankment, and/or the canal access road.
- 4) Repairs to Canal Lining and Walls – Damaged or failed sections of canal lining are repaired using grout, concrete patches, or shotcrete.
- 5) Culvert Repairs, Replacement, and Installation – Culverts and other drainage controls are used to collect runoff and convey it over, under, or into inoperable canals. Culverts also exist at road crossings.
- 6) Access Road Maintenance – In addition to keeping the access roads clear of vegetation, road access maintenance also includes filling in potholes and regrading to eliminate ruts and gullies and maintain proper drainage. Periodic re-graveling may also be necessary to maintain a strong road base and allow for year-round access.
- 7) Management of Animal Conflicts – Animal burrows can cause structural damage to the canal or destabilize the embankment. Animal conflicts are managed primarily by trapping.
- 8) Minor Maintenance – Minor maintenance includes repairing and installing fences, gates, and signage.

The table below provides an overview of the canals that will be analyzed by the selected consultant as part of the Canal Maintenance Program. Note: maintenance of the Almaden-Calero Canal is being evaluated under a separate environmental review (e.g., the Almaden-Calero Canal Rehabilitation Project EIR) and is not part of this effort.

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**SCHEDULE EP
SCOPE OF SERVICES**

	Physical Description	Past and Present Uses	Key Issues	Existing Surveys and Technical Data	Existing Valley Habitat Plan (VHP) Coverage?
Coyote Canal San Jose, Morgan Hill, & unincorporated	7.2-mile-long canal extending from its historic point of diversion at Coyote Creek near the Coyote Creek Visitor Center to the Coyote Creek Parkway (near Field Sports County Park). Predominantly earthen channel interspersed with hard-lined sections.	No longer in use. Drains branches of Coyote Creek. Constructed in 1936 to convey water from Coyote Creek to Coyote Creek groundwater recharge facilities located further downstream. Later used as feeder canal to the Coyote Extension and Coyote-Alamitos Canal. Last operated in 1998.	Failure of the canal embankment in 2017 and caused major flooding across Highway 101. Vegetation overgrowth and excess sedimentation can impede flow and pose flooding hazards to downgradient properties.	<ul style="list-style-type: none"> Botanical Resources Survey Report for Valley Water's Coyote Canal and Extension (Nomad, 2022). California Tiger Salamander Survey and Site Assessment (H.T. Harvey 2012) Canal Landslide Study for Coyote Canal, Coyote Extension, and Coyote Alamitos Canal (Valley Water, 1971) Coyote Creek Parkway Hydrologic Conditions (Balance Hydrologics, 2005) 	YES - northernmost 1.5 mile (from Bailey Rd to the Coyote Creek Parkway).
Coyote Extension San Jose & unincorporated	Two segments of Coyote Extension remain: Coyote Extension South , 1.2 miles from Coyote Canal in the south (near Field Sports County Park) to Metcalf Road in the north. Coyote Extension North , 2.1 miles from the vicinity of Piercy Road and Hellyer Ave in the south to the Evergreen Pump Station on Hellyer Ave in the north.	No longer in use. Several segments north of Metcalf Road have been quitclaimed and the canal removed. Drain two branches of Coyote Creek. Provide stormwater conveyance and flood protection benefits for downhill developments. Constructed in the 1950's to convey water from Anderson and Coyote Reservoirs west to groundwater recharge facilities near the confluence of Alamitos and Guadalupe Creeks, and north to groundwater recharge facilities at Thompson and Silver Creeks. When the groundwater recharge system was deemed unsuccessful, repurposed and used to deliver irrigation water to the Evergreen area. Last operated in 1988.	Excess sedimentation and overgrowth of in-channel vegetation can impede flow and pose flooding hazards to downgradient properties.	<p><u>Coyote Extension South</u>:</p> <ul style="list-style-type: none"> Botanical Resources Survey Report for Valley Water's Coyote Canal and Extension (Nomad, 2022). California Tiger Salamander Survey and Site Assessment (H.T. Harvey 2012). Canal Landslide Study for Coyote Canal, Coyote Extension, and Coyote Alamitos Canal (Valley Water, 1971) Coyote Creek Parkway Hydrologic Conditions (Balance Hydrologics, 2005) <p><u>Coyote Extension North</u>:</p> <ul style="list-style-type: none"> Engineers Report and Mitigated Negative Declaration for the Abandonment of Evergreen Canal and Coyote Extension (Valley Water, 1989). Geologic and Geotechnical Investigation for Coyote Canal Extension Abandonment (Terratech 1992) Canal Landslide Study for Coyote Canal, Coyote Extension, and Coyote Alamitos Canal (Valley Water, 1971) Coyote Creek Parkway Hydrologic Conditions (Balance Hydrologics, 2005) 	<p><u>Coyote Extension South</u>:</p> <p>YES</p> <p><u>Coyote Extension North</u>:</p> <p>NO</p>

**SCHEDULE EP
SCOPE OF SERVICES**

Physical Description	Past and Present Uses	Key Issues	Existing Surveys and Technical Data	Existing Valley Habitat Plan (VHP) Coverage?
<p>Coyote Alamitos Canal San Jose & unincorporated</p> <p>10.6-mile shotcrete-lined canal along the northern edge of the Santa Theresa Hills. The canal extends from the Coyote Extension at Melcalf Road/ Malech Road in the east to Guadalupe Creek just upstream of its confluence with Alamitos Creek in the west.</p>	<p>No longer in use but provides flood protection benefits for new residential neighborhoods constructed below the Santa Theresa Foothills in the City of San Jose.</p> <p>Constructed in 1953 to convey water stored in Coyote and Anderson Reservoirs west to groundwater recharge facilities in Guadalupe and Alamitos Creek watersheds during winter months.</p> <p>1975 to 1979 – Used to divert water to Santa Theresa County Park for irrigation.</p> <p>Last operated in 1980.</p>	<p>Maintained to minimize liability risk related to flooding and destabilization of the canal embankment</p> <p>Landslides, debris slides, slope failures originating from the hillsides above</p> <p>Vegetation management and sediment removal</p>	<p>– Botanical Resources Survey Report for Coyote Alamitos Canal (Nomad, 2016).</p> <p>– Canal Landslide Study for Coyote Alamitos Canal (Coyote Extension, and Coyote Alamitos Canal (Valley Water, 1971)</p> <p>– Disposition of the Coyote Alamitos Canal (Valley Water, 1988)</p> <p>– Future Role of Coyote Alamitos Canal (Valley Water, 1983)</p> <p>– Botanical/biological VHP Compliance Memorandum for Coyote Alamitos Canal, Tulare Hill Vegetation Management (Valley Water, 2018)</p>	<p>YES –With the exception of the Tulare Hill area (Santa Teresa Blvd to Monterey Rd), this canal has permanent VHP coverage. In the Tulare Hill area Valley Water pays temporary VHP impact fees annually to manage vegetation.</p>
<p>Vasona Canal Los Gatos</p> <p>Vasona Distribution System extends 2.5 miles from Vasona Dam to San Tomas Aquino Creek.</p>	<p>Standby facility.</p> <p>Constructed in 1953 as part of the Vasona Distribution System to convey water from Los Gatos Creek to San Tomas Creek for percolation in the natural stream bed.</p> <p>Last operated in 2014.</p>	<p>Vegetation management, sediment removal, and minor lining repairs to maintain functionality and prevent deterioration.</p>	<p>– Future Role of Vasona Canal (Valley Water, 1983)</p>	<p>Not Applicable – Not in VHP permit area.</p>
<p>Kirk Ditch Los Gatos & Campbell</p> <p>1.6 miles of earthen open channel connected by underground sections.</p>	<p>In use.</p> <p>Used to convey water from Los Gatos Creek and the Central Pipeline to the Oka and McGlinchy Percolation Ponds.</p>	<p>Vegetation management, sediment removal, and minor lining repairs to maintain functionality.</p>	<p>– Oka Percolation Ponds VHP Application Package, Item 5 Species-Specific Survey Requirements Memorandum (Valley Water, 2018)</p>	<p>YES – For the section within the VHP area.</p>
<p>Upper Page Ditch Los Gatos & Campbell</p> <p>0.75 concrete-lined ditch.</p>	<p>In use.</p> <p>The 0.75-mile-long Page Ditch is a part of the Upper Page Distribution System, a piped and open channel system that is used to convey Los Gatos Creek water and imported water from the Central Pipeline to the Camden and Page Percolation Ponds.</p>	<p>Vegetation management, sediment removal, and minor lining repairs to maintain functionality.</p>	<p>– Upper Page Ditch Land Cover Verification Memo and Tricolored Blackbird Nesting Habitat Survey (Valley Water, 2021)</p> <p>– Future Role of Coyote Alamitos Canal (Valley Water, 1983)</p>	<p>YES – For the section within the VHP area.</p>

SCHEDULE EP SCOPE OF SERVICES

5. Assumptions and Requirements

A. General Assumptions and Requirements

- 1) **Manage Scope of Services.** Consultant shall manage the Scope of Services such that the work is completed within the Not-to-Exceed Fees limit and in accordance with the Project schedule and ensure that all services and deliverables meet Valley Water and Project requirements.
- 2) **Deliverable Format.** Consultant shall submit deliverables in both electronic and hardcopy format If requested. Deliverables shall be submitted in PDF and native (editable) format, including Word documents, Excel spreadsheets, PowerPoint files, Autodesk files, etc. The hard copy deliverables shall be printed in professional quality presentation, and submitted in 5 (five) copies, if requested. Valley Water may require original copies of signed documents and/or scanned (Adobe PDF) versions.
 - a. Valley Water Standardization Requirements
 - i. Consultant shall perform the Services utilizing Valley Water nomenclature, standardized forms, software requirements, documented procedures, and best management practices. Consultant shall use Microsoft Office software and Autodesk Civil 3D software that is compatible with Valley Water's current Microsoft Office software and Autodesk software used at the time(s) Valley Water issues a Notice to Proceed pursuant to this Agreement.
 - ii. Engineering drawings prepared by Consultant must be in compliance with Valley Water's CADD and drafting standards including line types, line weights, text sizes, text orientation, dimensioning, labeling/numbering system for detailed plan views and detailed section views. Drawings prepared using different CADD software and versions must be converted to be compatible with Valley Water's CADD software at no additional cost to Valley Water. Prior to acceptance, Valley Water reserves the right to test the submitted CADD files to verify that the files are not corrupted or missing linkages (for blocks, etc., used in the drawing) and that the standards are retained during the conversion process used by the Consultant.
- 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.

SCHEDULE EP SCOPE OF SERVICES

- 4) **Valley Water Quality Environmental Management System.** Valley Water maintains a Quality Environmental Management System (QEMS) which has procedures, guidelines, and work instructions for the performance of various Valley Water work. If requested, Consultant will perform the applicable Agreement tasks and/or sub-tasks in accordance with the QEMS framework. In such situations, the VWPM will provide the Consultant with the specific QEMS procedure, guideline, and/or work instruction prior to the production of deliverables.
- 5) **Consultant Responsibility.** Consultant, with its expertise in performing the Services described herein, is responsible for making the appropriate assumptions in each task to complete each task's deliverables and to achieve the Project objectives of this Agreement as described in Section 3. Project Objectives.
- 6) **Document Control.** Consultant 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. Panorama assumes that file exchange will be conducted via SharePoint.

B. Project-Specific Assumptions and Requirements

None - NOT USED

6. Scope of Services Tasks

Task 1 – Project Administration

Under Task 1 Consultant will manage and administer the Consultant's authorized scope, budget, and schedule and ensure that all services and deliverables provided by the Consultant meet the content, quality, and schedule requirements of Valley Water and the project. Consultant's project manager will manage the Consultant team, including subconsultants; allocate resources to complete the work; manage internal and external communications; coordinate the exchange of information between Consultant team members and Valley Water; monitor and report the status of the budget, scope, and schedule; and prepare monthly invoices and progress reports. Consultant will maintain an efficient, effective document tracking system that is compatible with Valley Water's document control system. Key members of the Consultant team should be available for telephone calls and team meetings throughout the duration of the project.

SCHEDULE EP SCOPE OF SERVICES

1.1 Project Kick-Off Meeting/Initial Site Visit

Consultant will review the preliminary draft CEQA project description that will be provided by Valley Water and attend a kick-off meeting with Valley Water staff to meet key team members and discuss roles and responsibilities, and the overall approach for the Canal Maintenance Program. The kick-off meeting will include a site visit to representative segments of the Coyote Alamosos Canal, and Coyote Canal/Coyote Extension. Following the kick-off meeting, Panorama will initiate a SharePoint folder for document sharing and transfer to Valley Water.

1.2 Develop Schedule and Refine Work Plan

Consultant will develop the project schedule in Microsoft Project (MS Project). The MS Project schedule will map out the timing of project deliverables and Valley Water review cycles, link predecessor and successor tasks, and identify critical path items. Consultant will address Valley Water's comments before finalization. The final version of the MS Project schedule will serve as the baseline for completion of the Consultant's scope and deliverables. Monthly schedule updates are scoped under Subtask 1.4, below Subtask 1.2 also addresses the possibility that the information developed in Technical Memorandum #1 (see Task 2 Review Existing Information and Identify Key Environmental Issues and Requirements) may trigger the need to refine the project work plan and modify the scope, budget, and schedule. These refinements and modifications will be made under this Subtask 1.2.

1.3 Monthly Progress Reports

Consultant will submit monthly invoices and progress reports. These documents will be prepared in a format and content agreed upon between Consultant and Valley Water.

1.4 Project Management Meetings and Schedule Updates

Meetings between the Consultant and Valley Water will occur on a bi-weekly basis. The meetings durations may vary from 30 minutes to 2 hours, depending on the needs of the project at the time. Consultant will prepare the meeting agendas and meeting notes, and maintain a running list of information requests and responses, outstanding and completed action items, and key decisions.

Consultant will update the MS Project schedule on a monthly basis. Consultant will notify Valley Water's Project Manager in advance of anticipated schedule delays and when deliverable due dates need to be changed.

Meetings will be conducted via an on-line meeting platform, at Valley Water's Almaden Campus, or as otherwise directed by Valley Water. In addition, Consultant will attend up to two (2) meetings to support briefings to the Valley Water Board of Directors on the progress of the project.

SCHEDULE EP SCOPE OF SERVICES

Task 1 – Deliverables

1. MS Project schedule [PDF and MS Project], Revised Work Plan (e.g., scope, budget, and schedule) [PDF and Word]
2. SharePoint site
3. Monthly progress reports and invoices [PDF]
4. Meeting attendance, meeting agendas and notes; running list of information requests, action items, and decisions; schedule updates.

Task 1 – Assumptions

1. Valley Water will provide Consultant with a Draft preliminary CEQA project description that includes project goals, objectives, and maintenance descriptions and scenarios, prior to the project kick-off meeting/initial site visit.
2. The Draft preliminary CEQA project description prepared by Valley Water will not include detailed figures beyond the Figures 1 through 4 that are attached to this Agreement.

Task 2 – Review Existing Information and Identify Key Environmental Issues and Requirements

Valley Water will provide Consultant with:

- a. Draft preliminary CEQA project description, including project goals, objectives, and descriptions of canal maintenance activities and scenarios.
- b. CEQA scoping materials and comments, including the Scoping Report, video of the Canal Maintenance Program CEQA scoping meeting and oral comments; copies of written scoping comments, and any other input provided by the public, resource agencies, and other stakeholders during the CEQA scoping process.
- c. Existing canal technical studies, survey reports, and VHP information, and other relevant background data and information (see Table 1).
- d. Existing GIS data and stationing for the canals and other pertinent Valley Water facilities. Any canal segments that are included in the GIS data that are no longer maintained by Valley Water and are not part of the Canal Maintenance Program will be clearly marked as such.
- e. Canal work areas for which Valley Water has already obtained permanent VHP coverage (“VHP buyouts”) will be provided in GIS format.
- f. A list of other known available documents and information that may be relevant to the project.

Based on review of the existing information and comments received by Valley Water during CEQA scoping, Consultant will prepare a technical memorandum (Technical Memorandum #1) that identifies key environmental issues and regulatory permitting requirements and considerations, focusing on relevant environmental statutes and regulations such as, but not limited to, CEQA, Santa Clara Valley Habitat Plan (VHP), Clean Water Act, Porter-Cologne Act, and Fish and Game Code Section 1602.

Technical Memorandum #1 will describe the extent to which the existing reports and technical studies provided by Valley Water will be used to obtain the environmental approvals needed for project implementation, and will confirm or revise the Task 3 Environmental Investigations field

SCHEDULE EP SCOPE OF SERVICES

surveys and technical studies. Consultant-prepared field surveys and technical studies will be designed to provide the information needed for CEQA environmental review, resource agency consultations and coordination, VHP incidental take authorization, and any other anticipated resource permits. The surveys and studies will augment, update, and confirm existing information and fill in data gaps. Any resultant changes to the Consultant's authorized scope, budget, and schedule will be addressed under Subtask 1.2 Develop Schedule and Refine Work Plan.

Task 2 - Deliverables

1. Technical Memorandum #1 summarizing key issues and requirements and identifying the field surveys and technical studies needed to obtain environmental approvals [Draft and Final versions in PDF and Word format]

Task 2 - Assumptions

1. CEQA scoping will be completed by Valley Water staff and will not require Consultant support. Valley Water will provide Consultant with all scoping materials and information, including the Scoping Report, Notice of Preparation (NOP), legal ads and meeting materials, copies of all written scoping comments, video of the public scoping meeting and oral comments, and the updated CEQA mailing list (Draft EIR mailing list).
2. The canals vary in several ways, including:
 - a. Existing/future use (operable vs. inoperable)
 - b. Physical characteristics (hard-lined vs. natural bed and banks)
 - c. Environmental sensitivity and (for inoperable canals) liability risks
 - d. Existing environmental approvals (as indicated in Table 1, some canals already have incidental take coverage from U.S. Fish and Wildlife Service [USFWS] and California Department of Fish and Game [CDFW] for species covered by the VHP)
 - e. The availability of existing information and current data
3. CEQA and regulatory requirements, and the additional surveys and studies needed to support these requirements, may vary by canal.
4. Consultant will maximize the use of existing data and information.
5. Technical Memorandum #1 will be subject to one round of review by Valley Water staff prior to finalization.

Task 3 – Environmental Investigations

Task 3 is comprised of the Consultant-prepared field surveys and technical studies needed to support CEQA and permitting. These may include, but are not limited to, field-verification of VHP land cover, habitat assessments, species surveys, preliminary delineations of jurisdictional features in the canal work areas, cultural resources records search and records review and surveys, greenhouse gas and pollutant air emissions estimates, and others.

Valley Water has already obtained VHP incidental take authorization for ongoing maintenance of Upper Page Ditch, and Coyote Alamitos Canal between Miracle Mountain Drive and Santa Teresa Boulevard. Rare plant surveys were conducted along the full length of Coyote Alamitos Canal in 2016, and Coyote Canal and Coyote Extension South in 2020.

SCHEDULE EP SCOPE OF SERVICES

3.1 Prepare Environmental Investigation Plan

With Valley Water's approval of the Consultant's recommendations presented in Technical Memorandum #1, Consultant will prepare an Environmental Investigation Plan (Technical Memorandum #2) that identifies the anticipated permit requirements and details the issues that will be addressed, resources that will be surveyed, methods that will be employed, survey area/search radius, underlying assumptions, and deliverables for the Task 3 Environmental Investigations field surveys and technical studies.

3.2 Conduct Field Surveys and Technical Studies

Consultant will complete the surveys and studies identified in the Final Environmental Investigation Plan (Technical Memorandum #2). This task includes:

- a. Developing a permitting strategy for Coyote Canal and Coyote Extension that addresses approaches to Clean Water Act Section 404 permitting and whether and where there would be a potential for consultation with National Marine Fisheries Service based on the resource conditions in the area.
- b. Conducting protocol-level rare plant surveys for the portion of the Coyote Canal Extension, from north of Piercy Road to the Evergreen Pump Station, a length of approximately two miles, and a 1.1-mile segment of Coyote Alamitos Canal at the base of Tulare Hill. A visual assessment of rare and invasive plants will also be conducted within a 40-foot buffer on either side of the Canal study area following VHP requirements.
- c. Conducting an aquatic resources delineation of both the Coyote Canal and Coyote Canal Extension (from the historic point of diversion to the Evergreen Pump Station), with the exception of the portion of the Canal between Metcalf Road and Piercy Road. An Aquatic Resources Delineation Report will be prepared to conform with the U.S. Army Corps of Engineers (USACE) requirements. This task does not include a site visit with USACE to verify the delineation.
- d. Reconnaissance survey and habitat evaluation of all canals covered by the program.
- e. Cultural resources record search through the California Historic Resources Information Service
- f. Historic resource evaluation of previously unevaluated canals.
- g. Letter to Native American Heritage Commission and letters to relevant tribes.
- h. Air Quality and Greenhouse Gas (GHG) Emissions Technical Report pursuant to the BAAQMD CEQA Air Quality Guidelines and air quality and greenhouse gas emissions modeling using California Emissions Estimator Model (CalEEMod).
- i. Noise and Vibration Technical Report assessing potential impacts during project construction and operation and the results of noise long-term and short-term noise monitoring at the project site and at nearby sensitive receptors in the project vicinity.

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SCHEDULE EP SCOPE OF SERVICES

Task 3 - Deliverables

1. Environmental Investigation Plan (Technical Memorandum #2) and Permitting Strategy Memorandum for the surveys and studies identified in Technical Memorandum #1 [Draft and Final versions in PDF and Word format]
2. Protocol rare plant survey report [Administrative Draft, Draft, and Final versions in PDF and Word format] and field data [in GIS format]
3. Aquatic resources delineation report [Administrative Draft, Draft, and Final versions in PDF and Word format] and field data [in GIS format]
4. Reconnaissance survey report [Administrative Draft, Draft, and Final versions in PDF and Word format] and field data [in GIS format]
5. Letters to NAHC and Native American tribes
6. Cultural resources record search results
7. Air quality and greenhouse gas emissions report [Administrative Draft, Draft, and Final versions in PDF and Word format] and all model output files
8. Noise technical report [Administrative Draft, Draft, and Final versions in PDF and Word format] and field data [in GIS format]
9. Historic resource evaluation report [Administrative Draft, Draft, and Final versions in PDF and Word format] and field data [in GIS format]

Task 3 - Assumptions

1. Valley Water will provide the Consultant team with access to the canal work areas and assist with identifying suitable access/entry points.
2. Rare plant surveys will be conducted during 4 blooming periods/months (March, April/May, June/July, and September) to capture the blooming season of covered species of the Santa Clara Valley Habitat Plan and other special-status plant species.
3. Consultant is responsible for ensuring the rare plant survey report includes all of the necessary rare plant information needed for the CEQA impact analysis and VHP package.
4. Technical Memorandum #2 will be subject to one round of review by Valley Water staff prior to finalization. However, the anticipated permitting requirements may need to be refined as the project progresses.
5. Survey reports and technical studies may require up to two rounds of review by Valley Water staff prior to finalization.
6. Consultant's recommended field surveys and technical studies should reflect Consultant's knowledge of local resources and understanding of environmental laws and regulations as they pertain to artificial water features

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SCHEDULE EP SCOPE OF SERVICES

Task 4 – Project Description

4.1 EIR Project Description

Valley Water will provide Consultant with Draft preliminary CEQA project description, including project goals and objectives, descriptions of maintenance activities and likely construction scenarios, and other relevant information. Consultant will identify additional information needs and submit an information request to Valley Water. Valley Water's project manager will coordinate with other Valley Water units and divisions to develop the outstanding project description information with adequate detail to support the CEQA analysis. In cases where the information is not available, Valley Water will work with the Consultant team to develop reasonable working assumptions that provide sufficient flexibility for future refinement. The EIR Project Description is expected to require one round of review by Valley Water staff prior to having a sufficient level of detail for analyzing impacts.

4.2 Prepare Base Maps

Consultant will prepare base maps for the canals and their environs with direction from Valley Water. The maps shall be prepared in GIS format and be compatible with Valley Water's GIS system; have an appropriate level of detail to support subsequent environmental analysis (e.g., 1"=400' or similar); be developed in a manner consistent with the protocol for information sharing of Valley Water's GIS department; and be consistent with applicable metadata requirements.

Task 4 - Deliverables

1. List of additional information needs [electronically]
2. EIR Project Description [Draft and Final versions in PDF and Word formats]
3. Project base maps [Administrative Draft and Draft in hardcopy and PDF format; Final version in PDF and GIS formats]

Task 4 - Assumptions

1. Valley Water will provide Consultant with a complete Draft preliminary project description, including project goals and objectives, and descriptions of maintenance activities and scenarios. Preparation of the Project Description for the EIR will require minor updates to the preliminary draft Project Description, but will not require substantial coordination with Valley Water to obtain project details.
2. The EIR Project Description and base maps are expected to require one and two rounds of review by Valley Water staff, respectively.

Task 5 – Administrative Draft Environmental Impact Report

5.1 1st Administrative Draft EIR

Consultant will prepare an annotated outline for the EIR. Consultant will hold a meeting with Valley Water to review the annotated outline prior to drafting the Administrative Draft EIR (ADEIR).

SCHEDULE EP SCOPE OF SERVICES

The 1st ADEIR1 will address all pertinent CEQA resource topics, focusing on the key issues identified in Technical Memorandum #1. If applicable, CEQA resource topics that would not be affected by implementation of the CMP (Agriculture & Forestry Resources, Population and Housing, etc.) can be dismissed at the beginning of the ADEIR1.

Consultant will present the CMP impacts and mitigation measures in a manner that differentiates the significance determinations and mitigation measures applicable to each canal and maintenance activity, as applicable. Consultant will work with Valley Water to develop conceptual alternatives. Up to two alternatives, including the No Project Alternative, will be carried forward for evaluation and comparison against the proposed project. The action alternative could potentially be comprised of alternative work windows, construction equipment, and/or methods.

Consultant will have the option of submitting the ADEIR1 in two parts – with everything except the cumulative and alternative analyses submitted in Part 1, and the cumulative and alternative analyses submitted in Part 2. Valley Water will review ADEIR1 and provide a consolidated set of comments to Consultant.

5.2 2nd Administrative Draft EIR and Mitigation Monitoring and Reporting Program

Consultant will review Valley Water's comments on the ADEIR1 and schedule a meeting to receive clarification on any outstanding issues. Consultant will address Valley Water's comments on ADEIR1 and prepare an annotated response version of ADEIR2 with tracked changes and a clean version. ADEIR2 will include the Mitigation Monitoring and Reporting Program (MMRP) and EIR appendices. The MMRP will be formatted for future ease of use and to facilitate the straightforward identification of mitigation measures applicable to each maintenance activity and canal. For each mitigation measure, the MMRP will identify the Valley Water staff responsible for implementation, the timing of implementation, the specific results or performance standards that the mitigation is intended to accomplish, and the canals and maintenance activities that require the mitigation. Consultant will also geotag the mitigation measures based on the maintenance activities and specific locations where the mitigation applies and develop GIS layers for the mitigation measures.

Task 5 - Deliverables

1. ADEIR annotated outline
2. ADEIR1 Parts 1 and 2 [PDF and Word format]
3. ADEIR2 annotated responses [in PDF and Word format] + ADEIR2 and MMRP [PDF and Word format]
4. GIS data for mitigation measures implementation

Task 5 - Assumptions

1. Valley Water will be responsible for the Assembly Bill (AB) 52 tribal consultation process and will not require Consultant support.
2. Two CEQA alternatives, including the No Project Alternative, will be carried forward for evaluation and comparison against the proposed project.
3. Consultant will have the option of submitting ADEIR1 in two parts as described above.

SCHEDULE EP SCOPE OF SERVICES

Task 6 – Draft EIR Preparation, Circulation, and Public Review

6.1 Screencheck Draft EIR and Draft EIR

Consultant will address Valley Water's comments on ADEIR2 and prepare a Screencheck Draft EIR for Valley Water's final approval before preparing the public Draft EIR for publication. Consultant will provide all materials needed to fulfill public noticing requirements and for posting on Valley Water's website and with the State Clearinghouse. The Draft EIR mailing list will be provided by Valley Water. The Draft EIR will be ADA-compliant.

6.2 Draft EIR References

Consultant will compile all reference materials and documents used in the Draft EIR and provide two (2) digital copies of all of these materials, along with an index, to Valley Water on USB thumb drives prior to the Draft EIR review period.

6.3 Draft EIR Public Meeting

Consultant will support Valley Water staff at the Draft EIR public review meeting. The public meeting will be held virtually online, or in-person at Valley Water's Almaden Expressway Headquarters. Public meeting support may include preparation of meeting materials and presentation of the environmental component.

Task 6 - Deliverables

1. Screencheck DEIR [PDF and Word format]; production and distribution of the Draft EIR [electronically in PDF and WORD format]; legal ad for publishing in local newspaper; Notice of Availability of an EIR; and Notice of Completion.
2. Draft EIR reference set [2 electronic copies on thumb drives or other portable device]
3. Draft EIR public review meeting materials and support

Task 6 - Assumptions

1. Valley Water will prepare the Draft EIR mailing list.
2. Valley Water will secure the public meeting venue (virtual or in-person) and meeting equipment, and record the meeting and oral comments on video.

Task 7 – Final Environmental Impact Report

7.1 Organize Comments and Develop Response Strategies

Consultant will log the Draft EIR comment letters and individual comments into an Excel spreadsheet, organize the individual comments by topic, and indicate Consultant's recommended response strategies and, where necessary, staff-initiated text changes. Consultant will schedule a meeting with Valley Water to review the comments, discuss response strategies, and Draft EIR text and figure changes, and determine what additional information, if any, is needed to draft the responses.

SCHEDULE EP SCOPE OF SERVICES

7.2 Prepare Administrative Draft Responses to Comments

Consultant will prepare the Administrative Draft responses, and Draft EIR text and figure changes, including revisions to the MMRP.

7.3 Prepare Final EIR

Consultant will address Valley Water's comments on the Administrative Draft responses and text changes, and prepare the Screencheck Final EIR for Valley Water's review and final approval. Once approved, Consultant will prepare the Final EIR and compile the Final EIR reference set and index.

Consultant will update the Draft EIR mailing list to include all commenters and prepare the public notice for EIR certification and project approval. Consultant will be responsible for all labor and direct costs associated with noticing and distribution of the Final EIR, and will provide an electronic version of the Final EIR for posting on Valley Water's website.

7.4 Assistance with EIR Certification and Project Approval

Consultant will assist Valley Water planning staff prepare for the EIR certification and project approval hearing before the Valley Water Board of Directors. Consultant will prepare the Draft CEQA Findings of Fact for each significant impact, and a Statement of Overriding Considerations for significant unavoidable impacts if applicable. Consultant will attend the EIR certification and project approval hearing to assist planning staff in responding to technical questions from the Board.

Task 7 - Deliverables

1. Excel spreadsheet with recommended Draft EIR response strategies [electronically]
2. Administrative Draft responses and Draft EIR text revisions [PDF and Word]
3. Screencheck Final EIR [PDF and Word]
4. Final EIR [electronically in PDF and Word, and one camera-ready copy]; Final EIR Reference Set [on thumb drives or other portable device]; Final EIR mailing list; and legal ad
5. Draft CEQA Findings [in Word]; Draft Statement of Overriding Considerations (if needed) [in Word]

Task 7 - Assumptions

1. Consultant will be responsible for updating the Draft EIR mailing list provided by Valley Water and preparing the Final EIR mailing list.
2. Valley Water will secure the public hearing venue (virtual or in-person) and equipment.
3. The level of effort for the Final EIR assumes that Panorama responds to no more than 100 individual comments and the EIR only requires minor revisions.

Task 8 – Resource Agency Consultations and Permits

Consultant will work with Valley Water in Tasks 2 through 7 to develop the information and deliverables to support both CEQA and any regulatory approvals needed for CMP

SCHEDULE EP SCOPE OF SERVICES

implementation, including the information needed to obtain VHP incidental take authorization where authorization has not yet been obtained.

8.1 Assist with Initial Agency Coordination and Consultation

Consultant will assist Valley Water with agency coordination and consultations. Evolving environmental laws and regulations, input from resource agencies during CEQA scoping, Consultant's review of the existing information and data in Task 2 Review Existing Information and Identify Key Environmental Issues and Requirements, and the Task 3 Environmental Investigations may result in the need to get input from resource agencies to determine if maintenance activities at one or more canals will require resource permits beyond VHP coverage. Consultant will attend meetings, prepare meeting materials, keep detailed meeting notes, and provide other technical support.

8.2 Permit Applications (Optional Task)

If resource permits beyond the VHP are needed, Valley Water could require assistance from the Consultant. The need and scope for this task will be determined at a later date based on information developed during Tasks 2 Review Existing Information and Identify Key Environmental Issues and Requirements and 3 Environmental Investigations and coordination with and input from resource agencies.

Task 8 - Deliverables

1. Meeting materials and meeting notes

Task 8 - Assumptions

1. The budget assumes up to four (4) meetings will be held with regulators.
2. Preparation of permit applications are not budgeted and could be authorized using supplemental services.

Task 9 - Supplemental Services

Valley Water may require, and the Consultant shall perform, Supplemental Services on an as-needed basis. Prior to performing such Supplemental Services, the Consultant must obtain written authorization in the form of a Task Order approved by Valley Water's authorized representative. The form of this Task Order will be as per the Standard Consultant Agreement, Section Twelve, Miscellaneous Provisions, Subsection 13, Task Orders; and, Appendix Three of the Standard Consultant Agreement, Task Order Template.

9.1 Specific examples of possible Supplemental Services include:

- 9.1.1 Additional Permit Applications, if needed.
- 9.1.2 Additional Environmental Investigations
- 9.1.3 Additional Environmental Impact Studies

SCHEDULE EP SCOPE OF SERVICES

9.2 Additional Services. The Consultant will provide additional quantities of previously identified services as requested by Valley Water. Consultant will provide additional services for any quantity of tasks and deliverables beyond those stated in Task 1 through 8 as Task 9 Supplemental Services, to include but not be limited to:

- 9.2.1 Additional meetings;
- 9.2.2 Additional time allotted for meetings;
- 9.2.3 Additional status/progress reports;
- 9.2.4 Additional telephone conference calls;
- 9.2.5 Additional pages or copies of technical memorandums, plans, reports, drawings and specifications; and
- 9.2.6 Additional public outreach visual materials.

7. Attachments

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

Attachment One - Fees and Payments

Attachment Two - Schedule of Completion

Attachment Three - Consultant's Key Staff and Subconsultants

Attachment Four - Reference Materials

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**SCHEDULE EP
ATTACHMENT ONE
FEES AND PAYMENTS**

1. Total Authorized Funding

Total payment for Services performed, to the satisfaction of Valley Water, as described in the Schedule(s) will not exceed a total amount of **\$997,772** (Not-to-Exceed Fees or NTE). Under no conditions will the total compensation to the Consultant exceed NTE payment amount without prior written approval in the form of an amendment to this Agreement executed by Valley Water's Board of Directors (Board), or Chief Executive Officer, or designee, as authorized by the Board.

2. Cost Breakdown

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

COST BREAKDOWN

Task	Description	Not-to-Exceed Fees
1	Project Administration	\$70,714
2	Review Existing Information and Identify Key Environmental Issues and Requirements	\$50,204
3	Environmental Investigations	\$290,619
4	Project Description	\$22,559
5	Administrative Draft Environmental Impact Report	\$293,354
6	Draft EIR Preparation, Circulation, and Public Review	\$65,156
7	Final Environmental Impact Report	\$99,701
8	Resource Agency Consultations and Permits	\$14,758
9	Supplemental Services	\$90,707
Total Not-to-Exceed Fees		\$997,772

3. Terms and Conditions

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

- 1) Valley Water will pay for Services provided by the Consultant according to the schedule of rates for professional, technical, and administrative personnel as well as materials and supplies as listed below in the Hourly/Unit Rate Schedule.
- 2) The stated hourly rates are effective for the term of this Agreement unless otherwise revised as indicated. After 12 months from the date this Agreement is entered into by parties ("anniversary date"), and each 12 months thereafter, these hourly rates may be negotiated by the Consultant and Valley Water, provided Consultant submits

**SCHEDULE EP
ATTACHMENT ONE
FEES AND PAYMENTS**

written notice to Valley Water of Consultant's request to revise the hourly rates 90 calendar days prior to the anniversary date of this Agreement. Both parties will use as a benchmark for negotiations the percent change for the previous 12 months of the "Employment Cost Index (ECI), for total compensation for private industry workers, for the San Francisco-Oakland-San Jose, CA CSA Census region and metropolitan area (not seasonally adjusted)" as published by the U.S. Department of Labor, Bureau of Labor Statistics, or 2.5%, whichever is less. A negative index will result in rates remaining the same. Such rate revisions are subject to written approval by Valley Water's Deputy Operating Officer.

B. Reimbursable Expenses

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

**SCHEDULE EP
ATTACHMENT ONE
FEES AND PAYMENTS**

C. Prevailing Wage Requirements - NOT USED

- 1) The Scope of Services described in a Task INSERT APPLICABLE TASK NUMBER HERE may be considered by Valley Water to be "Public Works" requiring the payment of prevailing wages. See the Standard Consultant Agreement Section Four, Fees and Payments, subsection 3. Prevailing Wages.
- 2) In accordance with prevailing wage laws, the Director of the California Department of Industrial Relations (Director) has ascertained the general prevailing rate of wages and employer payments for health and welfare, pension, vacation, and similar purposes available to the particular craft, classification, or type of workers employed on the Project. These rates are set forth in the latest determination obtained from the Director, which is on file in Valley Water's Office of the Clerk of the Board of Directors and incorporated herein by reference the same as though set forth in full. The rates are also available on the State of California Department of Industrial Relations website at <http://www.dir.ca.gov>.

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**SCHEDULE EP
ATTACHMENT ONE
FEES AND PAYMENTS**

HOURLY/UNIT RATE TABLE

CLASSIFICATION	HOURLY/ UNIT RATE
Consultant: Panorama Environmental	
Principal	\$299.06
Director	\$291.39
Senior Manager	\$207.04
Senior Project Manager	\$196.03
Env Planner III	\$153.37
Env. Planner II	\$145.70
Env Planner I	\$115.02
Env. Analyst	\$99.68
GIS Manager	\$161.03
Technical Editor	\$121.22
Document Production	\$84.35
Subconsultant(s): H.T. Harvey	
Principal	\$288.32
Senior Associate Ecologist	\$199.20
Associate Ecologist	\$181.06
Senior Ecologist 2	\$164.52
Senior Ecologist 1	\$148.80
Ecologist 2	\$133.88
Ecologist 1	\$119.76
Field Biologist 2	\$106.86
Field Biologist 1	\$97.30
Senior GIS Analyst	\$165.33
GIS Analyst	\$120.97
Senior Technical Editor	\$156.75
Technical Editor	\$120.97
Senior Technical Support	\$128.64
Technical Support	\$85.63
Clerical Support	\$61.14
Subconsultant: Nomad	
Principal	\$145.00
Project Manager	\$125.00
10(a)(1)(A) Permitted Biologist	\$120.00
ISA Certified Arborist	\$115.00
Regulatory Specialist	\$115.00
Botanist	\$105.00
Senior Botanist	\$115.00

**SCHEDULE EP
ATTACHMENT ONE
FEES AND PAYMENTS**

CLASSIFICATION	HOURLY/ UNIT RATE
Senior Wildlife Biologist	\$115.00
Senior Wetland Specialist	\$115.00
Wetland Specialist	\$105.00
Senior Vegetation Ecologist	\$115.00
GIS Specialist	\$105.00
Wildlife Ecologist	\$105.00
Fisheries Biologist	\$105.00
Project Biologist	\$95.00
Field Biologist III	\$85.00
Field Biologist II	\$75.00
Field Biologist I	\$65.00
Technical Editor	\$65.00
Project Analyst	\$55.00
Clerical	\$35.00
Subconsultant: JRP Historical Consulting	
Principal	\$154.40 - \$175.80
Senior Historian / Architectural Historian	\$85.58 - \$99.69
Historian / Architectural Historian III	\$77.15 - \$100.50
Historian / Architectural Historian II	\$61.87 - \$74.79
Research Assistant	\$40.91 - \$58.60
Graphics / GIS Technician	\$68.02
Contracts Manager	\$73.06
Assistant Contracts Manager	\$58.60
Subconsultant: RCH Group	
Senior Noise Analyst	\$170.00
Senior Air Quality Analyst	\$160.00
Air Quality Analyst	\$125.00
Noise Analyst	\$90.00
Subconsultant: PaleoWest	
Senior Archaeologist/Project Manager -	\$125.66
Senior Archaeologist/PI	\$115.60
Associate Archaeologist	\$100.52
Senior Archaeologist/Geoarchaeologist -	\$115.60
Associate Archaeologist/Field Director -	\$100.52
Technical Editing	\$70.57
GIS	\$79.17
Principal-in-Charge	\$188.49

**SCHEDULE EP
ATTACHMENT TWO
SCHEDULE OF COMPLETION**

1. This Agreement commences on the Effective Date, subject to accomplishment of all of conditions to formation of an agreement listed in the Agreement at Section Twelve, Miscellaneous Provisions, subsection 2. Formation of Agreement.
2. This Agreement expires **36 months**, after the Effective Date, with two, one-year term extension options that may be exercised at the sole discretion of Valley Water. An extension of the term of this Agreement must be in the form of a written amendment signed by both Parties.
3. Valley Water and Consultant may agree to modify the schedule specified for Consultant's performance as an administrative modification to the Agreement and will confirm such modification in writing.

PROJECT SCHEDULE

Task	Description	Duration From Notice to Proceed (months)
1	Project Administration	Duration of agreement
2	Review Existing Information and Identify Key Environmental Issues and requirements	3
3	Environmental Investigations	10
4	Project Description	3*
5	Administrative Draft Environmental Impact Report	13
6	Draft EIR Preparation, Circulation, and Public Review	18
7	Final Environmental Impact Report	24
8	Resource Agency Consultations and Permits	15
9	Supplemental Services	Duration of agreement
* Assumes Valley Water provides Consultant with the Preliminary Draft Project Description at the kick-off meeting.		

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**SCHEDULE EP
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
Susanne Heim	Principal	Project Manager	717 Market Street, Suite 400 San Francisco, CA 94103 (858) 349-8883 Susanne.heim@panoramaenv.com
Rita Wilke	Senior Manager	Deputy Project Manager	717 Market Street, Suite 400 San Francisco, CA 94103 (530) 647-6043 rita.wilke@panoramaenv.com

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

Firm	Project Role	Contact Information
H.T. Harvey	Biology	983 University Ave, Building D Los Gatos, CA 95032 Steve Rottenborn (408) 458-3205 srottenborn@harveyecology.com
Nomad Ecology	Botanical and Aquatic Resource Delineation	822 Main Street Martinez, California 94553 (925) 228-3027 hbartosh@nomadecology.com
JRP Historical Consulting	Historic Resource Evaluation	2850 Spafford St Davis, CA 95618 Christopher McMorris (530) 757-2521 CMcMorris@jrphistorical.com
RCH Group	Noise and Air Quality	11060 White Rock Rd #150-A Rancho Cordova, CA 95670 (916) 212-9600 pmiller@TheRCHGroup.com
PaleoWest	Archaeology	1870 Olympic Boulevard, Suite 100 Walnut Creek, CA, 94596 John J. Eddy (909) 644.2753 jeddy@paleowest.com

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**SCHEDULE EP
ATTACHMENT FOUR
REFERENCE MATERIALS**

Ref No.	Description
1	Santa Clara Valley Water District Non-Disclosure Agreement (NDA) (FC 1650)
2	Santa Clara Valley Water District (Valley Water) Standards for GIS Products April 2021 version: http://gis.valleywater.org/Download/GIS_PRODUCT_STANDARDS.pdf

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