



STANDARD CONSULTANT AGREEMENT

Terms and Conditions Template (Administrative General)
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 BURNS & MCDONNELL ENGINEERING COMPANY, INC., a Missouri Corporation (Consultant), individually the Party or collectively the Parties.

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

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

SECTION ONE

SCOPE OF SERVICES

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

SECTION TWO

DUTIES OF CONSULTANT

1. Performance

- A. Each Scope of Services described in an attached Schedule(s) must be performed by Consultant, or at its direction, 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 a 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. Consultant shall make available upon Valley Water's request, documentation of qualifications and licensing of personnel performing Services described herein.

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 utilized for future VW 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.

6. Valley Water Standardization Requirements

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

7. Consultant Key Staff 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. Consultants Subconsultants
 - 1) Valley Water's authorized representatives 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 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.
- D. Consultant warrants that: all work under this Agreement shall be Consultant's original work and none of the services or inventions or any development, use, production, distribution or exploitation thereof will infringe, misappropriate or violate any intellectual property or other right of any person or entity (including, without limitation, Consultant); and Consultant has the full right to allow it to provide Valley Water with the assignments and rights provided for herein.

SECTION THREE

DUTIES OF VALLEY WATER

1. Available Data

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

2. Review of Deliverables

- A. Valley Water will designate a Project Manager (Valley Water Project Manager) for purposes of administering and managing this Agreement.
- B. Consultant's progress in completing the Services will be reviewed by Valley Water's Project Manager at each milestone identified in the Schedule(s) and at such other time(s) at the discretion of Valley Water.
- 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 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 Not-to-Exceed (NTE) Fees stated in the Schedule, Attachment One, Fees and Payments, for completion of the associated tasks. Valley Water will make payments to Consultant according to the terms provided for herein and in the Schedule, Attachment One, Fees and Payments. Payments made by Valley Water to the Consultant for Services rendered will be considered full compensation for all personnel, materials, supplies, Subconsultant(s), equipment, and reimbursable expenses incurred by the Consultant to perform the Services.
- B. Upon the written approval of Valley Water Deputy Operating Officer referenced herein, remaining funds previously budgeted for tasks that are completed, reduced, or deleted, may be reallocated to 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 fees attributable to that reduced or eliminated task may be allocated 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 address, whichever is closer to the destination, to Project site(s) and, if directed or authorized by Valley Water, to meeting locations 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, the Consultant will email the complete signed and dated electronic 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 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 progress report, Consultant must also ensure that each invoice and corresponding attachments 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, 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 the invoice is received by Valley Water's Project Manager.
- I. Invoice Disputes
1. Valley Water may in good faith assert a bonafide 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 bonafide 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 provided on a time and material basis as described in the Schedule(s), Fees and Payments, will be performed by its staff members and Subconsultants' staff members at the lowest hourly and unit rates commensurate with the complexity of the required services.
- K. Consultant shall ensure that its personnel performing services pursuant to this Agreement, document their time doing so.

3. Prevailing Wages – NOT USED

4. Retention – NOT USED

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 Service 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 sub-tasks including the site visits, document review, meetings, and deliverables.

3. Monitoring of Project Schedule

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

4. Project Delays

Consultant will make all reasonable efforts to comply with the Project Schedule as stated in the 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, District may, at its discretion grant, a reasonable adjustment in the Project Schedule.

5. Changes to the Project Schedule

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

SECTION SIX

AGREEMENT MODIFICATIONS

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

SECTION SEVEN

TERM AND TERMINATION

1. Term & Automatic Termination

This Agreement encompasses all Services that Consultant is responsible to perform within the time limits and Not-to-Exceed Fees set forth herein. Consultant will not undertake to provide Services where it reasonably appears that the Services cannot be provided 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. For Direct Labor: Consultant shall be entitled to receive compensation for all authorized direct labor performed prior to termination or suspension pursuant to the provisions of this Agreement or Task Order and all authorized labor expenses incurred to demobilize from the Project after the date of termination or suspension;
- B. For Other Direct Costs and Expenses: Consultant shall be entitled to receive compensation for all authorized other direct costs and expenses incurred prior to termination or suspension and all authorized expenses incurred to demobilize from the Project after the date of termination or suspension; and

C. In no event shall the total compensation paid for any item of Service exceed the payment specified in the Agreement 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 DELIVERABLE

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

5. Work for Hire

Any and all original correspondence, memoranda, reports, 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 will belong 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.

B. 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.

C. Investigation of Claims

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

SECTION TWELVE

MISCELLANEOUS PROVISIONS

1. Entire Agreement

This Agreement, which includes the Terms and Conditions, Appendices, the Schedule(s), Attachments, 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 an Agreement between the Parties requires accomplishment of the following:

- 1) Execution of the Agreement by Consultant;
- 2) Submission by the Consultant, and acceptance by Valley Water, of evidence of all required insurance coverages and documents;
- 3) Submission by the Consultant, and acceptance by Valley Water, of evidence of all required Form 700 documents, if applicable;
- 4) Submission by the Consultant, and acceptance by Valley Water, of all required Non-Disclosure Agreements (NDA) 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, and the Parties consent to jurisdiction over their persons and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

10. Confidentiality

- A. Due to the nature of the services Consultant will provide pursuant to this Agreement, there may be disclosures made to Consultant of detailed information about Valley Water's operations, including on a need-to-know basis information which may be protected from public disclosure by confidentiality laws, the attorney-client privilege, and/or other provisions of law which govern the nature and timing of disclosure of public information.
- B. Consultant understands and acknowledges that Valley Water staff members providing information to the Consultant do so with the understanding that such information will be handled appropriately.
- C. In the event Consultant receives such restricted or confidential information, Consultant will limit access to the information to only those of Consultant's employees, its

subcontractors and its Subconsultants authorized by Valley Water to have the information.

- D. Consultant will notify Valley Water immediately of any request by any third party to have access to confidential information, and will not disclose the requested information without first receiving express written authorization from Valley Water.
- E. Notwithstanding the aforementioned Confidentiality requirements, upon the request of Valley Water Project Manager, Consultant, and its Subconsultants shall execute Valley Water's most current Non-Disclosure Agreement in effect at that time.
- F. The requirements stated herein will survive completion, expiration, suspension, and termination of this Agreement.

11. Release of Information Prohibited

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

12. Conflict of Interest

- A. Consultant represents that there exists no actual or potential conflict of interest concerning the services to be performed pursuant to this Agreement.
- B. Consultant represents that Consultant's performance required as stated in this Agreement does not require the breach of any agreement or obligation to keep in confidence the proprietary information of another party. Consultant will not bring to Valley Water, or use in the performance of Consultant's duties as described in this Agreement, any materials or documents of another party considered confidential or proprietary unless Consultant has obtained written authorization from such party, and the informed consent of Valley Water, for the possession and use of such materials.
- C. Consultant represents and warrants that during the term of the Agreement, Consultant, Consultant's parent company, Consultant's subsidiaries, or any affiliated entity sharing substantially similar ownership of or control with Consultant shall not act as a Consultant or expert for any party in support of any potential or active claim or legal action against Valley Water by such party.
- D. CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION STATEMENT OF ECONOMIC INTEREST FORM 700 ("FORM 700"): Upon Valley Water's request, Consultant employees, officers, agents, Subconsultants, and subcontractors shall complete, execute, and submit a Form 700 as follows:
 - 1) Consultant employees, officers, agents, Subconsultants, and subcontractors assigned to perform services pursuant to this Agreement, shall file, in a manner prescribed by Valley Water an Assuming Office Statement. The Assuming Office Statement shall be filed:

- a. Within 30 calendar days of the effective date of this Agreement; or
 - b. Within 30 calendar days of Consultant hiring, adding, or promoting to a designated filer position employees, officers, agents, Subconsultants, and subcontractors to perform services pursuant to this Agreement.
- 2) Consultant employees, officers, agents, Subconsultants, and subcontractors assigned to perform services pursuant to this Agreement that filed an Assuming Office Statement shall file in a manner prescribed by Valley Water an amendment to their Form 700 anytime 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 Valley Water's annual filing season, as determined by Valley Water.
 - 4) Consultant employees, officers, agents, Subconsultants, and subcontractors assigned to perform Services pursuant to this Agreement, that filed an Assuming Office Statement, shall file, in a manner prescribed by Valley Water, a Leaving Office Statement 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: NOT USED.

14. Good Neighbor

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

15. Governmental Permits and Notifications

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 will be deemed to have been given when made in writing and when delivered or mailed to the representatives of Valley Water and Consultant at their respective addresses as follows:

VALLEY WATER:

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

CONSULTANT:

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

22. Appendices

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

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

23. Schedule(s) and Attachments

Schedule S, Scope of Services, and its Attachments 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

(SIGNATURES FOLLOW ON NEXT PAGE)

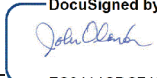
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IN WITNESS WHEREOF, THE PARTIES HAVE SET FORTH BELOW THEIR CONSENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT THROUGH THE SIGNATURES OF THEIR DULY AUTHORIZED REPRESENTATIVES.

SANTA CLARA VALLEY WATER DISTRICT
Valley Water

**BURNS & MCDONNELL ENGINEERING
COMPANY, INC.**
Consultant

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

By: _____

FC8414CDC74945B...
John Crandall
Chief Operating Officer

Date: _____

Date: 6/26/2023

ATTEST:

Consultant's Address:
9400 Ward Parkway
Kansas City, MO 64114

Michele L. King, CMC
Clerk, Board of Directors

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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 Operating Officer unless delegated to an Assistant Operating Officer and/or Unit Manager.
- C. Valley Water Assistant Operating Officer is authorized to approve individual Task Orders in an amount not-to-exceed \$[authorization amount]. [NOT USED]
- D. Valley Water Unit Manager is authorized to approve individual Task Orders in an amount not-to-exceed \$ [Authorization Amount]. [NOT USED]
- E. The total not-to-exceed amount for any one Task Order shall not exceed \$ [NOT-TO-EXCEED AMOUNT]. [NOT USED]

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

1. Consultant's Questions and Concerns

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

2. Dispute Resolution

A. Alternate Dispute Resolution

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

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

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

3. Negotiations Before and During Mediation

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

4. Voluntary Mediation

A. Initiation of Mediation

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

B. Request for Mediation

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

C. Selection of Mediator

1) Upon receipt of a written request for mediation, unless otherwise agreed by the Parties, within 14 days, the Parties will confer to select an appropriate mediator agreeable to all Parties.

2) If the Parties cannot agree on a mediator, they hereby agree to accept a mediator appointed by a recognized association such as the American Arbitration Association.

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 ONE
ADDITIONAL LEGAL TERMS**

- 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.
- 2) The mediator is authorized to conduct joint and separate meetings with the Parties and to make oral and written recommendations for settlement.

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

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

J. Privacy

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

K. Confidentiality

Except as provided by California or federal law or regulation:

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

L. No Stenographic Record

There shall be no stenographic record of the mediation.

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

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;
 - 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 fees or at the hourly rates established in Schedule [A-GEN, S], Attachment One, Fees and Payments, of the Agreement. Consultant agrees that it will provide all equipment, furnish all materials, except as may be otherwise noted in the Attachment A.
4. This Task Order becomes effective on the date of full execution by authorized representatives of the Parties and remains in effect until the earlier of: completion of the tasks set forth in Attachment A; or [expected completion date].

**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 Work" 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 document.

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 A4759A/PB No. VW0141**

IMPORTANT: The Agreement or PB number must be included.

**STANDARD CONSULTANT AGREEMENT
APPENDIX FOUR
INSURANCE REQUIREMENTS**

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

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

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

Maintenance of Insurance

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

Renewal of Insurance

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

Consultant shall 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 A4759A/PB No. VW0141**

IMPORTANT: The Agreement or PB number must be included.

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**STANDARD CONSULTANT AGREEMENT
APPENDIX FOUR
INSURANCE REQUIREMENTS**

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

Required Coverages

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

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

General Liability insurance must include:

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

2. Business Auto Liability Insurance with coverage as indicated:

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

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

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

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

- a. If coverage contains a deductible, or self-insured retention, it shall not be greater than one hundred thousand dollars (\$100,000) per occurrence/event.
- b. 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.

**STANDARD CONSULTANT AGREEMENT
APPENDIX FOUR
INSURANCE REQUIREMENTS**

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.

5. Cyber Liability Insurance

Cyber liability insurance in the amount of no less than \$5,000,000, designed to provide coverage from failure to protect sensitive information, and failure of network security (including unauthorized access, or unauthorized use of corporate systems, denial of service attacks, transmission of malicious code, or alternation or deletion of customer data).

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.

**STANDARD CONSULTANT AGREEMENT
APPENDIX FOUR
INSURANCE REQUIREMENTS**

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.
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:** 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:	A.	Limits (\$1,000,000)	
	B.	Cancellation Endorsement	

Cyber:	A.	Limits (\$5,000,000)	
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Appendix Four Consultants rev. 5.4.22/rev. 3.10.23

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SCHEDULE S SCOPE OF SERVICES

1. Representatives

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

Chris Cannard (VWPM)
Information Technology Unit Manager
Information Technology Division
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118-3638

Phone: (408) 630-2392
Email: ccannard@valleywater.org

Chris Cannard (Valley Water Unit Manager)
Information Technology Unit Manager
Information Technology Division
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118-3638

Phone: (408) 630-2392
Email: ccannard@valleywater.org

Alexander Gordon
Acting Deputy Operating Officer
Information Technology Division
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118-3638

Phone: (408) 630-2637
Email: agordon@valleywater.org

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

Joseph Pride (Consultant Project Manager)
Senior Cybersecurity Project Manager
1700 West Loop South
Suite 1500
Houston, TX 773027

Phone: (832) 214-1249
Email: joseph.pride@1898andco.com

SCHEDULE S 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.

Chris Underwood (Consultant Principal Officer)
Vice President, Burns and McDonnell
9400 Ward Parkway
Kansas City, MO 64114

Phone: (816) 333-9400
Email: chris.underwood@1898andco.com

2. Scope of Services

- A. This Schedule S, Scope of Services describes the professional services to be performed by the Consultant for Valley Water's Supervisory Control and Data Acquisition (SCADA) Cyber Security Auditor (Project). Consultant will perform all tasks and produce all deliverables required by this engagement as well as provide project management services needed. Consultant is responsible for all work carried out and deliverables created by its subcontractors.
- B. Valley Water reserves the right to initiate a new consultant agreement selection process for services for any subsequent phase(s) and/or utilize Valley Water staff to perform such services. If Valley Water elects to initiate a new consultant agreement by issuing a request for proposal for additional services, the Consultant may be allowed to compete for these services.

3. Project Objectives

The key goal of the assessment is to provide actionable information. These assessments will be performed annually for 3 years with the possibility of a yearly extension for an additional 2 years. The assessment report shall identify the vulnerability assessment process, document the assessment results, and recommend actions on how to remediate or mitigate highest-priority vulnerabilities.

Vulnerabilities will be collected into a list, which is prioritized considering factors that may include:

- Raw CVSS score where applicable,
- Adjusted CVSS score or assumed score based on context of the vulnerability:
 - Ease of access for an attacker to interact with and exploit the vulnerability;
 - Potential impact of successful exploitation
- Total vulnerability score (CVSS or assumed) for a class of vulnerabilities across all affected assets, compared to assumed complexity and level of effort of remediating or mitigating them. Generally, a ratio of total vulnerability score / level of effort focuses priority on remediation efforts that provide the most bang for the buck.
- Critical path vulnerabilities, which if exploited could grant attackers access to a significantly larger attack surface.
- A minimum cutoff in CVSS score or assumed score may be agreed upon, where scores below a certain threshold are not given further consideration. Generally, this cutoff will represent practical limitations on the number of vulnerabilities that Valley Water can plan to remediate within the following 1-2 years.

SCHEDULE S SCOPE OF SERVICES

The assessment report needs to identify the potential risk, identify mechanism of exploitation, severity of the vulnerability, and the estimated cost of mitigation. The following services shall be performed by the Consultant:

- A. Identify areas of high potential risk based on interviews with key personnel, applicable regulations and standards such as Industrial Control Systems Cyber Emergency Response Team (ICS-CERT), International Organization for Standardization (ISO) / International Electrotechnical (IEC), ISO/IEC 17799, National Institute of Standards and Technology (NIST), and other Department of Homeland Security (DHS) critical infrastructure requirements, and water industry best practices.
- B. Work with Valley Water staff to identify systems, devices, and servers that will be covered in the assessment.
- C. Produce plans including schedules to evaluate and test areas of identified security concerns with minimal impact to Valley Water operations
- D. Interview Valley Water staff regarding security practices on the business and SCADA network.
- E. Work with Valley Water staff and review/audit firewall rules and router access control lists.
- F. Conduct assessment and penetration testing on agreed targeted systems (firewalls, routers, switches, wireless access points, public facing web and demilitarized(DMZ) servers) from starting points from both outside and inside the computer network.
- G. Identify security vulnerabilities on the perimeter and in the interior of the business and SCADA networks.
- H. Review DMZ architecture and security for servers in the DMZ, including agreed public facing web application penetration testing if such web applications are agreed upon as designated targets within penetration testing scope and budget.
- I. Review DMZ architecture and security for servers in the SCADA DMZ, including penetration testing if such systems are agreed upon as designated targets within penetration testing scope and budget.
- J. Review architecture of SCADA and business network separation and identify security vulnerabilities.
- K. Identify vulnerabilities to remote access for the business network.
- L. Identify vulnerabilities to public and private wireless (Wi-Fi) network.
- M. Identify and prioritize risks and recommended mitigation related to gaps in security. Each risk must be ranked and prioritized based on probability, severity, and impact.
- N. Provide actionable recommendations to improve cyber security.
- O. Provided actionable recommendations should include an estimate of the cost-to-correct and any specialized skills needed.
- P. Work with Valley Water staff and review/audit Cyber Security Policies.

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.

SCHEDULE S SCOPE OF SERVICES

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

B. Business Computing Infrastructure

Valley Water's core IT infrastructure is located at the headquarters (HQ) and administration buildings which are connected by microwave links to three main water treatment plants, three pump plants, and Valley Water's warehouse. Valley Water's warehouse primary connection to the HQ location is a pair of 1 GB PTP short range Microwave links. A fourth water treatment plant is connected by a switched Ethernet service and Valley Water's legislative office and South County office is connected by a leased communications circuit. Thirteen small un-manned sites are connected to the main campus via cellular modems for video surveillance and security alarms. The main campus in the city of San Jose consists of seven buildings connected by fiber with the HQ serving as the core computer network. The administration building houses Valley Water's data center and is the core of Valley Water's microwave network.

Valley Water's IT network infrastructure consists of Cisco routers, Cisco switches, Palo Alto Networks firewall, Cisco Virtual Private Network (VPN), Mist wireless, Microsoft Windows and vMware on Cisco and Hewlett Packard server hardware, and Dell computers.

The technology infrastructure provides a 40G Ethernet backbone between the administration and HQ buildings and 20G Ethernet backbone from five office buildings to HQ. The user end points support 875 employees, over 250 servers, and 2,000 computers with 1 GB connections. Valley Water has wireless access at all sites. The key services on the network include Microsoft file, print, and directory services, O365 email, ESRI ArcGIS, PeopleSoft ERP, Infor Cloud ERP, IBM Maximo asset management and in-house developed Oracle database applications. There are multiple Cloud SaaS suits deployed across various cloud platforms.

All outbound DNS is provided via onsite Domain Name System Security Extensions (DNSSec) appliances with additional Cyber controls to prevent accessing known bad actors and inbound DNS is provided by Cloud DNSSec with similar controls and additional WAF protections.

C. SCADA Computing Infrastructure:

The SCADA core IT infrastructure is an autonomous network from the business infrastructure; separated by a firewall. A private microwave link connects the three water treatment plants and three pumping plants. A fourth water treatment plant and two additional sites are connected by leased communications circuits. The SCADA IT infrastructure consists of Cisco firewall, Cisco routers, Cisco switches, Microsoft Windows and VMware on Hewlett Packard servers, and Dell computers. The technology infrastructure provides 1MB – 3MB Ethernet backbone from the water treatment plants, pump plants, and Almaden campus. The user end points support 50 employees and 125

SCHEDULE S SCOPE OF SERVICES

end user nodes and servers with at least 1GB connections. The key services on the network include Microsoft file, print, and directory services, and Valley Water's HMI environment.

There is an active project to virtualize the HMI environment into a highly available chassis based system per site.

5. Assumptions and Requirements

A. General Assumptions and Requirements

- 1) **Manage Scope of services.** The Consultant shall manage the Scope of Services such that the work is completed within the Not-to-Exceed Fees limit and in accordance with the Project schedule and ensure that all services and deliverables meet Valley Water and Project objectives and requirements.
- 2) **Deliverable Format.** Consultant shall submit deliverables in both electronic and hardcopy format, if requested. Deliverables shall be submitted in PDF and native (editable) format, including Word documents, Excel spreadsheets, PowerPoint files, Autodesk files, Visio files, etc. The hard copy deliverables shall be printed in professional quality presentation and submitted, if requested. Valley Water may require original copies of signed documents and/or scanned (Adobe PDF) versions.
- 3) **Review of Deliverables.** Valley Water will review and comment on all Project deliverables and forward to the Consultant for revision and preparation of final versions. As determined by Valley Water, some of the deliverables may also be subject to review and comment from regulatory agencies and stakeholders following Valley Water review process. For each deliverable, Valley Water will collect comments from all Valley Water stakeholders and provide a single set of consolidated comments to the Consultant. The comments provided by Valley Water staff during the workshops will be documented by the Consultant as meeting minutes and will be included in the next revision of the documents.
- 4) **Valley Water Quality Environmental Management System.** Valley Water maintains a Quality Environmental Management System (QEMS) which has procedures, guidelines, and work instructions for the performance of various Valley Water work. If requested, Consultant will perform the applicable Agreement tasks and/or sub-tasks in accordance with the QEMS framework. In such situations, the VWPM will provide the Consultant with the specific QEMS procedure, guideline, and/or work instruction prior to the preparation of such deliverables.
- 5) **Consultant Responsibility.** Consultant, with its expertise in performing the Services described herein, is responsible for making the appropriate assumptions in each task to complete each task's deliverables and to achieve the Project objectives of this Agreement as described in Section 3. Project Objectives.
- 6) **Document Control.** The Consultant is responsible for establishing and maintaining its own document control system to execute this Scope of Services. An internal document control system for this Project is maintained by Valley Water.

SCHEDULE S SCOPE OF SERVICES

- 7) **File Exchange Service.** Valley Water 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 Valley Water. In the event that transmitting or receiving information does not occur in a timely manner, Valley Water will not be responsible for delays in completing Project work. Consultant may need to coordinate with Valley Water's Information Technology Division to address any firewall issues and/or permissions required to allow for these communications.

B. Project-Specific Assumptions and Requirements

- 1) Consultant's approach is based on non-disruptive "white box" assessment with elements of penetration testing for specific targets to be identified during the on-site work.
- 2) The project tasks will be conducted in the following sequence:
 - a. Kick-off meeting
 - b. Business Requirements and Technical Evaluation workshops
 - c. Staff interviews
 - d. Develop and review testing plans
 - e. Perform field assessment
 - f. Develop findings and present recommendations
- 3) SCVWD IT and SCADA personnel will be available for the initial requirements workshops:
 - a. Management or their representatives familiar with the business use of the IT and SCADA systems will participate in the Business Requirements Review workshop.
 - b. IT and SCADA technical personnel familiar with the day-to-day operation and configuration of the networks and systems will participate in the Technical Review workshop.
- 4) SCVWD IT and SCADA personnel will be available for one-hour windows on the day dedicated for staff interviews. Additional interviews will be scheduled via telephone at a later date if individuals are not available.
- 5) SCVWD IT and SCADA personnel will be available to provide access to facilities during the Field Assessment tasks.
- 6) SCVWD IT and SCADA personnel will identify network points-of-entry and perimeter points to be tested.
- 7) SCVWD IT and SCADA personnel may stage and configure spares or non-production configurations of any sensitive equipment to be tested in an isolated bench configuration, if feasible.
- 8) Testing will be focused on the following areas:
 - a. Remote access to Business network via VPN. Hosted virtual desktops and VDI.
 - b. Firewall Rules and Router Access Control Lists (ACLs) on approx. 42 routers of two main types with common security configuration within each type using common ACLs, and 3 business and 1 SCADA firewalls

SCHEDULE S SCOPE OF SERVICES

- c. Testing from internal network locations consisting of up to 120 IP addresses, 24 hosts and 40 applications
 - d. Testing of up to 55 external IP addresses
 - e. 5-6 systems for detailed testing
 - f. DMZ access and public-facing servers on a single DMZ, including those behind a Web Application Firewall
 - g. SCADA-Business interface
 - h. Wireless network access consisting of approx. 285 centrally managed thin WAPs in identical configurations, including 2 private wireless networks at the main campus and an additional private wireless network at a remote site.
- 9) Testing will be conducted at the following Valley Water facilities:
- a. Headquarters and Administration Campus
 - b. 4 Water Treatment Plants
 - c. 3 Pump Plants
 - d. Valley Water Warehouse
 - e. Valley Water Legislative Office
 - f. South San Jose office building
- 10) Policies are to be reviewed during this assessment.
- 11) Additional testing will be conducted within the budgetary and schedule constraints identified in our proposal.
- 12) Project Management:
- a. Project estimate includes reasonable project management activities. If project timelines are extended, then either recurring meetings and project management activities can be reduced or eliminated, other scope requirements may be reduced by agreement of Valley Water and Consultant, or a Task Order may be issued to address additional project management hours to meet Valley Water requirements.
- 13) Work will be performed within the capabilities of:
- a. Existing toolsets and network access made available by Valley Water, or:
 - b. Tools provided by Consultant that Valley Water is able to permit or deploy for use.
- 14) Asset inventory activities will be conducted within the following constraints:
- a. Consultant will perform all work remotely.
 - b. Work will exclude developing an asset inventory from scratch; Consultant will perform best-effort within time constraints to validate and enhance existing asset inventory.
 - c. Allocated hours:
 - Will include establishing remote network and data access to appropriate systems and tools as facilitated by Valley Water technical staff.
 - Will include recording data output.
 - Level of effort for "Asset Inventory" is currently identified as 40 hours of effort by personnel of Consultant in the first annual engagement and 32 hours in subsequent years, unless modified by Task Order.

SCHEDULE S SCOPE OF SERVICES

- d. Data output will be in a tabular or visual format unaccompanied by separate written narrative, which may take a form Consultant finds most efficient to communicate findings, such as one of the following:
 - Markup of existing asset inventory documents
 - Additions to existing inventory datasheets
 - Entries in existing asset inventory system
 - e. Data output will identify assets to the degree possible from the data collected and the capabilities of the tools available, but will not be construed to require full characterization of assets beyond the available level of effort, including requiring labor-intensive collection of additional data fields. It will not be possible to perform a full asset inventory either remotely or within these time constraints.
- 15) Vulnerability assessment activities will be conducted within the following constraints:
- a. Consultant will perform best-effort within time constraints to assess vulnerabilities on IT and OT environments.
 - b. Best effort in the IT or OT environment may be constrained by Valley Water policies and practices restricting data collection, particularly from sensitive systems. Consultant will work with Valley Water to produce the most meaningful results achievable either directly or through the efforts of Valley Water personnel under time, policy, and process constraints.
 - c. Allocated hours:
 - Offsite preparation hours: In addition to onsite hours, Consultant will make best effort within allowed time and budget constraints of remote work dedicated to “Establish Required IT Hardware and Software for Field Assessment” in each year of the scope to establish tools and access.
 - Valley Water will either:
 - Grant access and provide necessary equipment for its systems and tools, or:
 - Facilitate access for Consultant to use Consultant’s systems and tools.
 - Level of effort to “Establish Required IT Hardware and Software for Field Assessment” is currently identified as 12 person-hours plus project management in the first year and 9 person-hours in subsequent years.
 - If the process of provisioning tools and granting access, including meetings and requests, exceeds these hours, other scope requirements may be reduced by agreement of Valley Water and Consultant or a Task Order may be issued to address hours necessary to meet Valley Water requirements for equipment and access.
 - Onsite hours:
 - Consultant will travel to Valley Water’s site for up to a total of six person-weeks in the first year and five person-weeks in subsequent years.
 - Preference will be given to as thorough an assessment as possible of OT sites over IT sites for at least two of the six person-weeks.

SCHEDULE S SCOPE OF SERVICES

- 16) Penetration Testing activities will be performed within the following constraints:
- a. Consultant will perform all work remotely.
 - b. Consultant will perform best-effort within time constraints to perform targeted white-box penetration testing against targeted assets approved by Valley Water.
 - c. Allocated hours:
 - Includes planning, execution, and meetings and processes to gain permission to proceed.
 - Level of effort for “Targeted White-Box Penetration Testing” is currently identified as 64 person-hours plus project management in each year of the project.

17) **General (All Networks):**

Background Checks and Security Clearance for sensitive and confidential data or environments

Prior to beginning any work, the Contractor shall provide in writing a list of key personnel, including but not limited to Contractor’s employees, subcontractors, and suppliers accessing sensitive and/or confidential data or environments to the Valley Water Project Manager. Within 24 hours any change in status, such as initiation or termination of engagement or employment, etc., of a new or previously assigned individual or entity that will be or has been working with or within sensitive or confidential data or environments, the Contractor must notify the Valley Water Project Manager of any such change in writing of the individuals and/or entities, including but not limited to Contractor’s employees, subcontractors, and suppliers, that need to have access to Valley Water’s data or infrastructure provided or terminated. Valley Water reserves the right to require background checks for all persons accessing sensitive or confidential information or infrastructure. At Valley Water’s discretion, Valley Water may require confidential security clearances for said persons at Valley Water’s expense.

Confidential Communications

Confidential information must only be communicated through approved secure communication channels. No confidential information shall be communicated via an insecure communication channel, such as email or messenger applications. In the event of a breach, only approved secure communication channels may be used.

Encryption in Transit

All communication technologies used by Contractor must employ encryption that meets or exceeds current industry best practices at the time services are provided to Valley Water (currently TLS 1.3 at the time of this writing). Any other encryption protocols must be pre-approved in writing by Information Technology prior to being implemented.

Encryption at Rest

The storage of all data must employ encryption that meets or exceeds current industry best practices at the time of service (currently AES-256 at the time of this writing). All

SCHEDULE S SCOPE OF SERVICES

encryption protocols must be pre-approved in writing by Information Technology Division prior to being implemented.

Data Duplication

Sensitive or Confidential data may not be duplicated without the express and written consent of Valley Water's Project Manager.

Data Storage

Sensitive or Confidential data may only be stored in Valley Water approved storage solutions. Subject to Consultant's personnel meeting Valley Water requirements to gain authorization, Valley Water will provide systems, software, and access to Consultant that are necessary to access and perform work natively on Valley Water approved storage solutions.

Enterprise Endpoint Protection

All computers must maintain up-to-date enterprise endpoint protection. The endpoint protection must not be disabled or circumvented at any time. Any Realtime protection exclusions must be approved in writing by the Information Technology Division prior to implementation. Endpoint protection signatures and software must be updated at regular intervals

IT Hardware

The Information Technology Division must approve, in writing, all IT hardware prior to procurement and installation. All Information Technology assets are to be managed and maintained by Information Technology upon project completion. Information Technology agrees to terminate any software and return any systems under its control that are owned by or licensed to Consultant at the termination of this work or when notified by Consultant that license scope is no longer valid for use as deployed at Valley Water.

18) SCADA Specific:

Remote Access

Remote access through virtual private network (VPN) into the supervisory control and data (SCADA) environment by Contractors or consultants, including but not limited to their employees, subcontractors, and suppliers is not allowed. All approved third party contractors or consultants and their employees, subcontractors, and/or suppliers who need access to the District's SCADA environment must perform their work physically on premises, using district owned and provided equipment unless explicitly authorized, under the oversight of authorized District Information Technology (IT) staff and/or SCADA Engineering.

Bridging of Networks

Bridging of networks is not allowed within the SCADA environment unless explicitly authorized in writing by both the Information Technology Division and SCADA Engineering Unit.

SCHEDULE S SCOPE OF SERVICES

Computers for Contractors

Contractors or consultants and their employees, subcontractors, and suppliers must not connect their own computer systems to SCADA systems or environments unless explicitly authorized. As a general rule, contractors performing work onsite must be issued a Valley Water computer.

Wireless Networks

Only wireless technologies that are explicitly authorized in writing by both the Information Technology Division and SCADA Engineering Unit may be connected to SCADA infrastructure. WiFi, Bluetooth, and cellular networks are not permitted within and must not be connected to the SCADA environment.

6. Scope of Services Tasks

Task 1 - Project Management

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

1.1 Kickoff Meeting

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

1.2 Project Work Plan. Consultant will prepare a Project Work Plan in accordance with this Scope of Services.

1.2.1 The Project Design Work Plan shall include Project objectives, requirements, constraints, a detailed Project Schedule (showing major tasks and deliverables), a breakdown of Consultant's costs for the major tasks, a list of the Consultant's team members and their roles and responsibilities, communication protocols (internal and external), document control procedures, and other administrative procedures.

1.2.2 The Project Design Work Plan shall include a Project Quality Assurance and Quality Control (QA/QC) Plan documenting Consultant's procedures to ensure Consultant's services and deliverables meet Valley Water requirements and accepted practices and standards of the Consultant's profession. Valley Water reserves the right to request and review the Consultant's Project documentation demonstrating its adherence with their own quality assurance procedures.

1.2 Progress Meeting and Workshops. Valley Water and Consultant key staff and subconsultants, as determined necessary and appropriate by Consultant, subject to VWPM approval, or at Valley Water's direction, will coordinate and attend periodic progress meetings and workshops with Valley Water staff, regulatory and resource agencies, and

SCHEDULE S SCOPE OF SERVICES

review boards, as needed, to review, discuss and progress of the work. For each meeting or workshop, the Consultant will prepare the meeting agenda and notes and submit them for review by Valley Water.

- 1.3 Weekly Meetings with Valley Water.** The Consultant Project Manager must provide a brief update of the teams work activities completed within the week, the look-ahead activities, and the issues and actions that require Valley Water's attention, in a weekly/twice a week meeting/conference call with the VWPM; frequency of these meetings and calls will be as directed by Valley Water.

Task 1 - Deliverables

1. Project Work Plan including QA/QC Plan (Draft, Final Draft and Final)
2. Meeting Agendas, Minutes, and Presentations
3. Meeting /Conference Calls attendance and notes; frequency of meetings and calls will be at Valley Water's discretion

Task 2 – Meetings and Technical Review Workshop

- 2.1 Consultant will meet with Valley Water Project Manager to present the recommended strategy and various steps associated with the completing the Consulting services.
- 2.2 Consultant will conduct workshops and interviews with stakeholders regarding security practices on the business and SCADA computer networks. Meeting agenda and interview guides will be distributed in advance of the interviews.
- 2.3 Consultant will work with Valley Water staff to identify systems, devices, and servers that will be covered in the assessment.
- 2.4 Consultant will review documentation and other relevant information provided by Valley Water, including past security studies, network topology maps, firewall documentation, wireless network documentation, and server documentation.

Task 2 - Deliverables

1. On-site Meeting with Valley Water Project Manager.
2. Conduct business requirement and technical review workshops
3. Conduct up to 8 hours of follow-up stakeholder interviews
4. Work plan for testing network perimeter, as well as additional detailed testing of selected "at risks" assets.

Task 3 – Field Assessment

A. Internet and Business Network Security Risk and Vulnerability Assessment

- 3.1 Consultant will review and audit rules for three (3) firewalls and access control lists for forty (40) routers.
- 3.2 Consultant will conduct assessment and agreed penetration testing on targeted systems from starting points from both outside and inside the computer network.

SCHEDULE S SCOPE OF SERVICES

- 3.3** Consultant will review DMZ architecture and security for up to four servers in the DMZ including up to twenty (20) external public facing web application penetration testing associated with twenty-four (24) hosts.
- 3.4** Consultant will review up to twenty (20) externally public hosted web applications specified by Valley Water.
- 3.5** Consultant will identify vulnerabilities to a VPN, hosted virtual desktop remote access, and VDI for the business network.
- 3.6** Consultant will conduct external internet penetration assessment of up to fifty (50) internet addressable Ips

B. SCADA Network Security Risk and Vulnerability Assessment

- 3.7** Consultant will review and audit rules for one (1) firewall and access control lists for twelve (12) routers.
- 3.8** Consultant will conduct an assessment on up to 125 user nodes, servers, and hosts
- 3.9** Consultant will conduct assessment and penetration testing on agreed targeted systems from starting points from both outside and inside the computer network.
- 3.10** Consultant assessments must be able to be performed in an air gapped environment. No outside connections are allowed to be bridged to this air gapped network for any reason.
- 3.11** Consultant will be required to perform the assessment on Valley Water equipment and will provide Valley Water with a list of required software to install on equipment.
- 3.12** Consultant will review DMZ architecture and security for servers in the SCADA DMZ.
- 3.13** Consultant will review architecture of SCADA and business computer network separation.

C. Wireless Network Security Risk and Vulnerability Assessment

- 3.14** Consultant will review and audit wireless network security rules.
- 3.15** Consultant will conduct assessment and external penetration testing on one (1) public and (3) private wireless networks consisting of 265 centrally managed Mist Access Points.

Task 3 - Deliverables

1. Conduct testing as a knowledge transfer session, demonstrating the testing tools and methods used with Valley Water staff
2. Assessment and penetration testing of internet perimeter
3. Assessment and penetration testing of public facing web applications, business DMZ, and targeted systems
4. Identification of vulnerabilities with remote access for the business network
5. Assessment of business firewall and router rules and access control lists
6. Penetration testing of agreed targeted systems in the SCADA computer network
7. Penetration testing of SCADA DMZ and targeted systems
8. Assessment of SCADA firewall and router rules and access control lists
9. Assessment and penetration testing of public and private wireless networks
10. Assessment of wireless security posture
11. Systems, devices, and servers assessment report

SCHEDULE S SCOPE OF SERVICES

Task 4 – Recommended Implementation Plan

The Consultant will develop and document recommendations based on assessment findings and outcome of the vulnerability assessments in Tasks 2 and 3.

4.1 The Consultant will work with Valley Water Project Manager to refine and finalize the report outline and table of contents. The final table of contents will be defined during the course of the project. The below sample table of contents will be used for reference to finalize the final report structure:

1. Executive Summary
2. Approach
3. Key Findings
4. Implementation Plan
5. Conclusion
6. Implementation Plan
7. Prioritized Risks and Mitigation
8. Estimated Costs
9. Estimated Timeline
10. Estimate Labor

The Consultant will draft and document the work from Tasks 1 and 2 in a draft report. The draft report will be submitted to Valley Water Project Manager for review and comment.

4.2 The Consultant shall provide a final report with the following information for the business, SCADA, and Valley Water wireless computing network:

- i. Document “as-is” inventory and catalog of the systems, servers, and devices covered in the scope of services.
- ii. Identify and prioritize risks and recommend mitigation related to gaps in security. Each risk must be ranked and prioritized on probability and impact.
- iii. Provided actionable recommendations should include an estimate of the costs, timeline, labor hours, and any specialized skills needed.
- iv. Recommendation of best practices that can enable Valley Water to improve its security posture.

4.3 Consultant Project team will prepare and deliver a presentation of the findings and recommendations.

Task 4 - Deliverables

1. Draft Assessment and Recommendations Document
2. Final Assessment Recommendations Document
3. Final Presentation
4. Provide up to 8 additional hours of consulting services

Task 5 - Supplemental Services

Valley Water may require, and the Consultant will perform, Supplemental Services on an as-needed basis. Prior to performing any Supplemental Services, Consultant must receive an approved Task Order issued by Valley Water and executed by both Parties. Refer to the Standard

SCHEDULE S SCOPE OF SERVICES

Consultant Agreement, Section Twelve, Miscellaneous Provisions, subsection 13. Task Orders, and Appendix Three, Task Order Template.

5.1 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 4 as Task 5 Supplemental Services, to include but not be limited to:

- 5.1.1 Additional meetings;
- 5.1.2 Additional time allotted for meetings;
- 5.1.3 Additional status/progress reports;
- 5.1.4 Additional phone conference calls;
- 5.1.5 Additional pages or copies of technical memoranda, plans, reports, drawings, and specifications; and
- 5.1.6 Additional public outreach visual materials.

7. Attachments

The following Schedule S 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 S
ATTACHMENT ONE
FEES AND PAYMENTS**

1. Total Authorized Funding

Total payment for Services performed, to the satisfaction of Valley Water, as described in the Schedule(s) will not exceed a total amount of **\$797,357.00** (Not-to-Exceed Fees or NTE). Under no conditions will the total compensation to the Consultant exceed this NTE payment amount without prior written approval in the form of an amendment to this Agreement executed by Valley Water's Board of Directors (Board), or Chief Executive Officer, or designee, as authorized by the Board.

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 written authorization by Valley Water as stated in this Agreement.

COST BREAKDOWN

Task	Description	Not-to-Exceed Fees
1	Project Management	\$59,825.00
2	Meetings and Technical Review Workshop	\$208,360.00
3	Field Assessment	\$342,208.00
4	Recommended Implementation Plan	\$86,964.00
5	Supplemental Services	\$100,000.00
Total Not-to-Exceed Fees		\$797,357.00

NOTE: The Scope of Services tasks including assumptions and deliverables shall be completed within the Not-to-Exceed Fees limit identified above. The level of effort to complete the tasks listed above are defined in the Consultant's detailed negotiated cost breakdown dated 02/16/2023.

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 written notice to Valley Water of Consultant's request to revise the hourly rates 90) calendar days prior to the anniversary date of this Agreement. Both Parties will use as a benchmark for negotiations the percent change for the previous 12 months of the "Employment Cost Index (ECI), for total compensation for private industry workers, for the San Francisco-Oakland-San Jose, CA CSA Census region and metropolitan area (not seasonally adjusted)" as published by the U.S. Department of Labor, Bureau of Labor Statistics, or 3% whichever is less, A negative index will result in rates remaining

**SCHEDULE S
ATTACHMENT ONE
FEES AND PAYMENTS**

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 cost \$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) No markup will apply for Consultant to manage Subconsultants, subcontractors and vendors, including lab services.
- 5) For staff with rates exceeding the rate of \$300 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.

C. Prevailing Wage Requirements [NOT USED]

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**SCHEDULE S
ATTACHMENT ONE
FEES AND PAYMENTS**

HOURLY/UNIT RATE TABLE

CLASSIFICATION	HOURLY/ UNIT RATE
Consultant: Burns & McDonnell Engineering Company, Inc.	
Director/Sr. Management	\$310.00
Sr. Consultant/Project Manager	\$290.00
Sr. Consultant	\$290.00
Consultant	\$200.00
Subconsultant(s): NONE	

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**SCHEDULE S
ATTACHMENT TWO
SCHEDULE OF COMPLETION**

1. This Agreement commences on the Effective Date, subject to accomplishment of all of the conditions to formation of an agreement listed in the Agreement at Section Twelve, Miscellaneous Provisions, subsection 2. Formation of Agreement.
2. This Agreement expires in 3 years, with the option of two-one (1) year extensions, after the Effective Date, unless, prior to its expiration, its term is modified by a written amendment hereto signed by both Parties.
3. Valley Water's Project Manager and Consultant may agree to modify the schedule specified for Consultant's performance as an administrative modification to the Agreement and will confirm such modification in writing.

PROJECT SCHEDULE

Task	Description	Duration From Notice to Proceed (months)
1	Project Management	Duration of Agreement
2	Meetings and Technical Review Workshop	2 Months
3	Field Assessment	3 Months
4	Recommended Implementation Plan	3 Months
5	Supplemental Services	Duration of Agreement

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

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

Team Member	Classification	Project Role	Contact Information
Marco Ayala	Director / Senior Management	Business Line Director	1700 West Loop South Suite 1500 Houston, TX 77027 marco.ayala@1898andco.com
Joseph Pride	Sr. Consultant / Project Manager	Project Manager	1700 West Loop South Suite 1500 Houston, TX 77027 (832) 214-1249 joseph.pride@1898andco.com
Billy Ortiz	Sr. Consultant	Lead Consultant, Main Scope	2301 Maitland Center Parkway Suite 400 Maitland, FL 32751 (321) 249-6432 billy.ortiz@1898andco.com
Brett Seals	Sr. Consultant	Lead Consultant, Penetration Testing	9400 Ward Parkway Kansas City, MO 64114 brett.seals@1898andco.com
Abraham Belay	Consultant	Data Collection and Analysis	4200 Wilson Blvd. Suite 600 Arlington, VA 22203 abraham.belay@1898andco.com
Michael Schepcoff	Consultant	Data Collection and Analysis	9400 Ward Parkway Kansas City, MO 64114 (816) 652-2606 michael.schepcoff@1898andco.com

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

Firm	Project Role	Contact Information
None	N/A	N/A

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**STANDARD CONSULTANT AGREEMENT
APPENDIX FOUR
REFERENCE MATERIALS**

Ref No.	Description
1	Santa Clara Valley Water District Non-Disclosure Agreement (NDA) (FC 1650)
2	Santa Clara Valley Water District Non-Disclosure Agreement (NDA) (FC 1882)
3	Santa Clara Valley Water District - Background Checks and Security Clearance for sensitive and confidential data or environments

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