



# STANDARD CONSULTANT AGREEMENT

Terms and Conditions Template (Capital)  
3/5/2024 – 12/31/2024

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

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

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

## SECTION ONE

### SCOPE OF SERVICES

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

## SECTION TWO

### DUTIES OF CONSULTANT

#### 1. Performance

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

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## **2. Consultant Controlled Areas**

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

## **3. Licensing**

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

## **4. Valley Water's Approval of Deliverables**

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

## **5. Errors and Omissions**

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

## **6. Valley Water Standardization Requirements**

- A. Consultant shall perform the Services utilizing Valley Water nomenclature, standardized forms, software requirements, documented procedures, and best management practices. Consultant shall use Microsoft Office software and Autodesk Civil 3D software that is compatible with Valley Water's current Microsoft Office software and Autodesk software used at the time(s) Valley Water issues a Notice to Proceed pursuant to this Agreement.
- B. Engineering drawings prepared by Consultant must be in compliance with Valley Water's Computer-Aided Design and Drafting (CADD) standards including line types, line weights, text sizes, text orientation, dimensioning, labeling/numbering system for detailed plan views and detailed section views. Drawings prepared using different CADD software and versions must be converted to be compatible with Valley Water's CADD software at no additional cost to Valley Water. Prior to acceptance, Valley Water

reserves the right to test the submitted CADD files to verify that the files are not corrupted or missing linkages (for blocks, etc., used in the drawings) and that the standards are retained during the conversion process used by Consultant.

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

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

## **8. Compliance with All Laws**

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

## **9. Occupational Safety and Health**

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

## **10. Consultant as Independent Contractor**

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

## 11. Standard of Care

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

## SECTION THREE

### DUTIES OF VALLEY WATER

#### 1. Available Data

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

#### 2. Review of Deliverables

- A. Valley Water will designate a Project Manager (Valley Water Project Manager) for purposes of administering and managing this Agreement.
- B. Consultant's progress in completing the Services will be reviewed by Valley Water Project Manager at each milestone identified in the Schedule(s) and at such other time(s) at the discretion of Valley Water.
- C. Consultant must notify Valley Water in writing when it completes each deliverable described in the Schedule(s) and provide Valley Water with said deliverable. Deliverables deemed satisfactory and in compliance with this Agreement are subject to approval by Valley Water. Within 30 calendar days of receipt of each deliverable, Valley Water will either (1) notify Consultant that Valley Water accepts the deliverable, or (2) notify the Consultant that the deliverable is not acceptable and must be revised.
- D. If Valley Water advises Consultant that a deliverable must be revised due to errors or omissions by the Consultant, Consultant must correct, at no cost to Valley Water, those deficiencies as soon as possible and shall notify Valley Water upon completion of the revised deliverable and submit to Valley Water.

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

### **3. Access to Valley Water Facilities**

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

## **SECTION FOUR**

### **FEES AND PAYMENTS**

#### **1. Total Fixed Not-to-Exceed Fees**

- A. Payment for all Services performed by Consultant to the satisfaction of Valley Water, as described in the Schedule(s) will be based on the hourly rates, subject to the Total Fixed Not-to-Exceed (NTE) Fees stated in the Schedule, Attachment One, Fees and Payments, for completion of the associated tasks. Valley Water will make payments to Consultant according to the terms provided for herein and in the Schedule, Attachment One, Fees and Payments. Payments made by Valley Water to the Consultant for Services rendered will be considered full compensation for all personnel, materials, supplies, Subconsultant(s), equipment, and reimbursable expenses, incurred by the Consultant to perform the Services.
- B. Upon the written approval of Valley Water Deputy Operating Officer referenced herein, remaining funds previously budgeted for tasks that are completed, reduced, or deleted, may be reallocated to tasks that have not yet been completed, provided the Agreement Total Not-to-Exceed Fee is not exceeded. Transferring funds from a task not yet completed to a different task is not permitted.
- C. Upon the written approval of Valley Water Deputy Operating Officer referenced herein, the Scope of Services described in a task may be reduced, revised, or deleted. If the Scope of Services of a task is reduced or deleted, the portion of the funds attributed to that reduced or eliminated task may be reallocated to existing tasks, or transferred to a Supplemental Services task, if provided for herein.
- D. Any reduction or deletion of tasks and any inter-task transfers will be clearly noted and described in the subsequent monthly progress report to Valley Water.
- E. Services to be performed pursuant to the Supplemental Services task, if provided for herein, will commence only after issuance of a fully executed Task Order.

- F. Automobile travel mileage expenses will be paid at the current Internal Revenue Services (IRS) rate. Valley Water will not reimburse Consultant nor its Subconsultants for mileage nor travel time to and from Valley Water Headquarters and surrounding campus located at 5700 Almaden Expressway, San Jose, California. However, Valley Water will reimburse Consultant and its Subconsultants for mileage incurred from Valley Water Headquarters or Consultant's and Subconsultants' firm addresses, whichever is closer to the destination, to Project site(s) and, if directed or authorized by Valley Water, to meeting locations such as with regulatory agencies, for community outreach activities and meetings, for partnering meetings, and Dispute Review Board meetings.

## 2. Consultant Monthly Invoices

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

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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.

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- 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 submit all invoices through Projectmates or other document control system designated by Valley Water. All inquiries regarding Projectmates must be directed to Valley Water's Capital Project Management and Project Controls Program ([CPMPC@valleywater.org](mailto:CPMPC@valleywater.org)).
- F. In addition to ensuring that each invoice is accompanied with a monthly progress report, Consultant must also ensure that each invoice and corresponding attachments contain the following information:
  - 1) Agreement number;
  - 2) Consultant Invoice number in the following format: Agreement Number followed by a three-digit consecutive numbering sequence and separated by a period. For example, A1234A.001, A1234A.002, etc.
  - 3) Full legal name of Consultant/Firm;
  - 4) Payment remit-to address;
  - 5) Invoice date (the date invoice is emailed);
  - 6) Detailed description of Services provided, including the "distribution account(s)" for those Services;
  - 7) Number of hours spent by each person performing Services and a brief description of the Services performed by each person; and
  - 8) Beginning and end date for billing period that Services were provided.
- G. Consultant shall invoice for its performance of the Services on a monthly basis consistent with the task fee breakdown stated in the Schedule, Attachment One, Fees and Payments, which applies to the specific Scope of Services.
- H. Valley Water Project Manager will review Consultant's written invoice within five Valley Water business days of receipt, address any questions with Consultant's Contact/Principal Officer and approve the undisputed amount of the invoice within ten working days of receipt of the invoice. Valley Water will pay undisputed invoice amounts within 30 calendar days from date invoice is received by Valley Water Project Manager.
- I. Invoice Disputes
  - 1) Valley Water may in good faith assert a bona fide dispute as to all or a portion of fees specified in any invoice. If any portion of an amount due to Consultant pursuant to this Agreement is subject to a bona fide dispute between the Parties, within 30 calendar days of Consultant's submission of an invoice in which a disputed amount

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

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

### 3. Prevailing Wages

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

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

  - (1) Construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds, except work done directly by a public utility company pursuant to order of the Public Utilities Commission or other public authority. For purposes of this paragraph, "construction" includes work performed during the design, site assessment, feasibility study, and other preconstruction phases of construction, including, but not limited to, inspection and land surveying work, regardless of whether any further construction work is conducted, and work performed during the postconstruction phases of construction, including, but not limited to, all cleanup work at the jobsite. For purposes of this paragraph, "installation" includes, but is not limited to, the assembly and disassembly of freestanding and affixed modular office systems."
- C. Consultant and its Subconsultants shall not engage in the performance of public work, as defined in California Labor Code §1771.1, unless currently registered and qualified to perform public work pursuant to California Labor Code §1725.5.
- D. The General Prevailing Wage Rates issued by the California Department of Industrial Relations may be adjusted by the State throughout the term of this Agreement. Notwithstanding any other provision of this Agreement, Consultant will not be entitled to any adjustment in compensation rates in the event there are adjustments to the General Prevailing Wage Rates.

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

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

#### 4. Retention

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

### SECTION FIVE

#### SCHEDULE OF COMPLETION

##### 1. Performance of Tasks

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

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## **2. Project Schedule Table**

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

## **3. Monitoring of Project Schedule**

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

## **4. Project Delays**

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

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

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

## **SECTION SIX**

### **AGREEMENT MODIFICATIONS**

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

## **SECTION SEVEN**

### **TERM AND TERMINATION**

#### **1. Term & Automatic Termination**

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

## 2. Valley Water Rights

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

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

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

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

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

#### **4. Survival**

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

### **SECTION EIGHT**

#### **INDEMNIFICATION**

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

### **SECTION NINE**

#### **INSURANCE REQUIREMENTS**

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

### **SECTION TEN**

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

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

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

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

## **2. Reuse of Instruments of Service**

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

## **3. Copies of Data**

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

## **4. Computer-Generated Material**

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

## **5. Work for Hire**

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

## **6. Copyright Claims**

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

# **SECTION ELEVEN**

## **EQUAL OPPORTUNITY**

### **1. Equal Opportunity Employer**

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

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

## **2. Compliance with Applicable Equal Opportunity Laws**

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

## **3. Investigation of Claims**

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

# **SECTION TWELVE**

## **MISCELLANEOUS PROVISIONS**

### **1. Entire Agreement**

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

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## 2. Formation of Agreement

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

## 3. No Assignment

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

**4. Reasonableness**

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

**5. Gifts**

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

**6. Audits**

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

**7. Force Majeure**

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

**8. Binding Effect**

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

**9. Choice of Law and Venue**

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

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## 10. Confidentiality

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

## 11. Release of Information Prohibited

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

## 12. Conflict of Interest

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

- C. Consultant represents and warrants that during the term of the Agreement, Consultant, Consultant's parent company, Consultant's subsidiaries, or any affiliated entity sharing substantially similar ownership of or control with Consultant, shall not act as a Consultant or expert for any party in support of any potential or active claim or legal action against Valley Water by such party.
- D. CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION STATEMENT OF ECONOMIC INTEREST FORM 700 ("FORM 700"): Upon Valley Water's request, Consultant employees, officers, agents, Subconsultants, and subcontractors shall complete, execute, and submit a Form 700 as follows:
- 1) Consultant employees, officers, agents, Subconsultants, and subcontractors assigned to perform services pursuant to this Agreement, shall file, in a manner prescribed by Valley Water, an Assuming Office Statement. The Assuming Office Statement shall be filed:
    - a. Within 30 calendar days of the effective date of this Agreement; or
    - b. Within 30 calendar days of Consultant hiring, adding, or promoting to a designated filer position, employees, officers, agents, Subconsultants, and subcontractors to perform services pursuant to this Agreement;
  - 2) Consultant employees, officers, agents, Subconsultants, and subcontractors assigned to perform services pursuant to this Agreement, that filed an Assuming Office Statement, shall file in a manner prescribed by Valley Water, an amendment to their Form 700 any time there is a need to correct or change disclosure information;
  - 3) Consultant employees, officers, agents, Subconsultants, and subcontractors assigned to perform services pursuant to this Agreement, that filed an Assuming Office Statement, shall file an Annual Statement in a manner prescribed by Valley Water, during the annual filing season, as determined by Valley Water;
  - 4) Consultant employees, officers, agents, Subconsultants, and subcontractors assigned to perform services pursuant to this Agreement, that filed an Assuming Office Statement, shall file, in a manner prescribed by Valley Water, a Leaving Office Statement with Valley Water when one of the following occurs:
    - a. Upon termination of this Agreement; or
    - b. Within 30 calendar days of Consultant employees, officers, agents, Subconsultants, and subcontractors vacating a designated filing position (i.e., removed from the Project, promotion, demotion, transfer to non-designated position, end of employment, or as a result of changes in designated filer positions in Valley Water's Conflict of Interest Code);
  - 5) Consultant understands and agrees that its employees, officers, agents, Subconsultants, and subcontractors may be disqualified from providing services to Valley Water pursuant to the California Political Reform Act, Government Code §81000 et. seq. and §1090. If any of Consultant's employees, officers, agents, Subconsultants, and subcontractors are disqualified from providing services, on

written notice from Valley Water Project Manager, Consultant will have 15 calendar days to remove said employee(s), officer(s), agent(s), Subconsultant(s)' and subcontractor(s)' employee(s) from the Project and provide a replacement acceptable to Valley Water;

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

### 13. Task Orders

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

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

#### **14. Good Neighbor**

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

#### **15. Governmental Permits and Notifications**

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

#### **16. Taxes and Benefits**

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

#### **17. Nonwaiver of Rights**

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

#### **18. No Third-Party Beneficiaries**

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

#### **19. Severability**

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

## 20. Debt Limitation

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

## 21. Notices

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

VALLEY WATER:

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

CONSULTANT:

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

## 22. Appendices

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

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

## 23. Schedule(s) and Attachments

Schedule EP, Scope of Services, and the following listed Attachments are incorporated herein by this reference as though set forth in full:

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

*(SIGNATURES FOLLOW ON NEXT PAGE)*

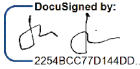
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**IN WITNESS WHEREOF, THE PARTIES HAVE SET FORTH BELOW THEIR CONSENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT THROUGH THE SIGNATURES OF THEIR DULY AUTHORIZED REPRESENTATIVES.**

**SANTA CLARA VALLEY WATER DISTRICT**  
Valley Water

**RINCON CONSULTANTS, INC.**  
Consultant

By: \_\_\_\_\_  
Nai Hsueh  
Chair, Board of Directors

By:  \_\_\_\_\_  
Jennifer Jacobus  
Principal-in-Charge

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

Date: 4/12/2024 \_\_\_\_\_

ATTEST:  
  
\_\_\_\_\_  
Michele L. King, CMC  
Clerk, Board of Directors

Consultant's Address:  
180 North Ashwood Avenue  
Ventura, CA 93003

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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 design, construction management or the construction of 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) Outreach Program 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 \$[NTE Amount]. [NOT USED]

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

**5. Federally Required Clauses**

Valley Water entered into a Water Infrastructure Finance and Innovation Act (WIFIA) loan agreement with the U.S. Environmental Protection Agency (EPA) for the Project. The WIFIA established a federal credit program (WIFIA program) authorizing EPA to provide direct loans and loan guarantees to eligible borrowers for water infrastructure projects. All contracts issued for a project receiving a WIFIA loan are subject to federal requirements review as part of the WIFIA program's compliance monitoring responsibilities. Because the WIFIA loan proceeds may be used to pay for the Services rendered pursuant to this Agreement, Consultant is required to adhere to certain federal contract provisions, which are attached hereto as Exhibit A, Federal Requirements, to Appendix One, Additional Legal Terms, and incorporated into this Agreement by this reference. Consultant agrees to adhere to such applicable Federal Contract Provisions.

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**STANDARD CONSULTANT AGREEMENT  
EXHIBIT A  
FEDERAL REQUIREMENTS**

**1. WIFIA FEDERAL COMPLIANCE REQUIREMENTS**

Projects receiving credit assistance must comply with all federal laws and regulations, including environmental compliance and other compliance requirements. WIFIA borrowers have the prime responsibility for ensuring their staff and contractors comply with all Federal Requirements for a project. Consultant agrees to comply with the following Federal Requirements.

**2. DEBARMENT AND SUSPENSION**

Consultant certifies that it will not knowingly enter into a contract with anyone who is ineligible under the 2 CFR part 180 and part 1532 (per Executive Order 12549, 51 FR 6370, February 21, 1986) or who is prohibited under Section 306 of the Clean Air Act or Section 508 of the Clean Water Act to participate in the Project. Suspension and debarment information can be assessed at <http://www.sam.gov>. Consultant represents and warrants that it has or will include a term or conditions requiring compliance with this provision in all of its subcontracts under this Agreement.

**3. FEDERAL LOBBYING RESTRICTIONS (31 U.S.C. 1352)**

Recipients of federal financial assistance may not pay any person for influencing or attempting to influence any officer or employee of a federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress with respect to the award, continuation, renewal, amendment, or modification of a federal grant loan, or contract. These requirements are implemented for USEPA in 40 CFR Part 34, which also describes types of activities, such as legislative liaison activities and professional and technical services, which are not subject to this prohibition. Upon award of this contract, Consultant shall complete and submit the certification and disclosure forms in Appendix A and Appendix B to 40 CFR Part 34. Consultant shall also require all subcontractors and suppliers of any tier awarded a subcontract over \$100,000 to similarly complete and submit the certification and disclosure forms pursuant to the process set forth in 40 CFR 34.110.

**4. CIVIL RIGHTS OBLIGATIONS**

Consultant shall comply with the following federal non-discrimination requirements:

- a. Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, including limited English proficiency (LEP). (42 U.S.C. 20000, *et. seq*)
- b. Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities. (29 U.S.C. 794, supplemented by EO 11914, 41 FR 17871, April 29, 1976 and EO 11250, 30 FR 13003, October 13, 1965)
- c. The Age Discrimination Act of 1975, which prohibits age discrimination. (42 U.S.C. 6101 *et. seq*)

**STANDARD CONSULTANT AGREEMENT  
EXHIBIT A  
FEDERAL REQUIREMENTS**

- d. Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex.
- e. 40 CFR Part 7, as it relates to the foregoing.

**5. EQUAL EMPLOYMENT OPPORTUNITY (EEO)**

The Consultant shall comply with Executive Order 11246, entitled 'Equal Employment Opportunity,' as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60). (EO 11246, 30 FR 12319, September 28, 1965) Consultant's compliance with Executive order 11246 shall be based on implementation of the Equal Opportunity Clause, and specific affirmative active obligations required by the Standard Federal Equal Employment Opportunity Construction Contract Specifications, as set forth in 41 CFR Part 60-4.

During the performance of this contract, the Consultant agrees as follows:

- a. The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- b. The Consultant will, in all solicitations or advancements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- c. The Consultant will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Consultant's legal duty to furnish information.

**STANDARD CONSULTANT AGREEMENT  
EXHIBIT A  
FEDERAL REQUIREMENTS**

- d. The Consultant will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the Consultant's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. The Consultant will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f. The Consultant will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g. In the event of the Consultant's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h. The Consultant will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Consultant will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Consultant may request the United States to enter into such litigation to protect the interests of the United States. [Sec. 202 amended by EO 11375 of Oct. 13, 1967, 32 FR 14303, 3 CFR, 1966-1970 Comp., p. 684, EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230, EO 13665 of April 8, 2014, 79 FR 20749, EO 13672 of July 21, 2014, 79 FR 42971]

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**STANDARD CONSULTANT AGREEMENT  
APPENDIX TWO  
DISPUTE RESOLUTION**

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

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

**2. Dispute Resolution**

A. Alternate Dispute Resolution

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

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

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

**3. Negotiations Before and During Mediation**

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

**4. Voluntary Mediation**

A. Initiation of Mediation

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

B. Request for Mediation

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

C. Selection of Mediator

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

**STANDARD CONSULTANT AGREEMENT  
APPENDIX TWO  
DISPUTE RESOLUTION**

**D. Qualifications of a Mediator**

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

**E. Vacancies**

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

**F. Representation**

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

**G. Time and Place of Mediation**

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

**H. Identification of Matters in Dispute**

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

**STANDARD CONSULTANT AGREEMENT  
APPENDIX TWO  
DISPUTE RESOLUTION**

I. Authority of Mediator

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

J. Privacy

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

K. Confidentiality

Except as provided by California or federal law or regulation:

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



**STANDARD CONSULTANT AGREEMENT  
APPENDIX TWO  
DISPUTE RESOLUTION**

- 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.

**M. Termination of Mediation**

The mediation shall be terminated:

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

**N. Exclusion of Liability**

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

**O. Interpretation and Application of These Mediation Provisions**

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

**P. Expenses**

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

**5. Compensation for Participation in Mediation**

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

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

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

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

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

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

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

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

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

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

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

8. Signatures:

Signature: \_\_\_\_\_ DATE \_\_\_\_\_  
 NAME OF CONSULTANT FIRM  
 [PRINT NAME]  
 [PRINT TITLE]

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

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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 email the Valley Water Risk Manager at: [RiskManager@valleywater.org](mailto:RiskManager@valleywater.org)

**Certificates of Insurance**

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

Consultant shall instruct their insurance broker/agent to submit all insurance certificates and required notices electronically in PDF format to the designated District Contract Administrator and email a copy to [valleywater@ebix.com](mailto:valleywater@ebix.com).

The certificates will:

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

**Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118  
Agreement A4019A / PB No. VW0378**

**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](mailto:valleywater@ebix.com)
2. Provide the following information in the "Certificate Holder" box:  
**Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118  
Agreement A4019A / PB No. VW0378**

**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:

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

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

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

**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.

**General Requirements**

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

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

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

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

**STANDARD CONSULTANT AGREEMENT  
APPENDIX FOUR  
INSURANCE REQUIREMENTS**

investigations, claim administration, and defense expenses. Consultant agrees that in the event of a claim they will pay down any agreed upon SIR in a prompt manner as soon as bills are incurred in order to trigger the insurance related to the SIR.

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

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**STANDARD CONSULTANT AGREEMENT  
APPENDIX FOUR  
INSURANCE REQUIREMENTS**

**CHECK LIST OF DOCUMENTS NEEDED**

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

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

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

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

<b>Professional Liability:</b>	A.	Limits <b>(\$2,000,000)</b>	
	B.	Cancellation Endorsement	

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## SCHEDULE EP SCOPE OF SERVICES

### 1. Representatives

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

Tiffany Chao (VWPM)  
Senior Environmental Planner  
Watersheds Stewardship and Planning Division  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118-3638

Phone: (408) 630-3107  
Email: [TChao@valleywater.org](mailto:TChao@valleywater.org)

Kurt Lueneburger  
Environmental Services Manager  
Watersheds Stewardship and Planning Division  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118-3638

Phone: (408) 630-3055  
Email: [klueneburger@valleywater.org](mailto:klueneburger@valleywater.org)

John Bourgeois  
Deputy Operating Officer  
Watersheds Stewardship and Planning Division  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118-3638

Phone: (408) 630-2990  
Email: [jbourgeois@valleywater.org](mailto:jbourgeois@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.

Alex Hunt  
Director  
Rincon Consultants, Inc.  
80 Garden Court, Suite 240  
Monterey, CA 93940

Phone: (831) 915-7475  
Email: [ahunt@rinconconsultants.com](mailto:ahunt@rinconconsultants.com)

## SCHEDULE EP SCOPE OF SERVICES

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

Jennifer Jacobus  
Principal  
Rincon Consultants, Inc.  
250 1st Street #1400  
Los Angeles, CA 90012

Phone: (213) 377-5647  
Email: [jjacobus@rinconconsultants.com](mailto:jjacobus@rinconconsultants.com)

### 2. Scope of Services

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

### 3. Project Objectives

- A. The objectives of the Project, consistent with Federal Energy Regulatory Commission (FERC) and the California Department of Water Resources, Division of Safety of Dams (DSOD) dam safety requirements, are to:
- 1) Seismically retrofit and maintain the dam so that Valley Water may continue to operate it at capacity. This objective would be achieved by:
    - a. Replacing the existing dam to withstand the maximum credible earthquake (MCEs) on the Calaveras and Coyote Creek Range Front Faults;
    - b. Replacing the existing spillway to meet FERC and DSOD safety requirements related to the safe passage of a probable maximum flood (PMF); and
    - c. Replacing the outlet works to meet current DSOD outlet works requirements and accommodate fault offset.
  - 2) Improve cost efficiency of dam operations by decommissioning the hydroelectric facility
  - 3) Avoid and minimize environmental effects of construction and operations.

## SCHEDULE EP SCOPE OF SERVICES

### 4. Project Background

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

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

- B. Anderson Dam and Reservoir is a major water supply facility located adjacent to the City of Morgan Hill, California, about 18 miles southeast of San Jose. Anderson Reservoir is the largest of the ten reservoirs owned and operated by Valley Water and provides more water storage capacity than the other nine reservoirs combined. It is thus a critical facility to Valley Water and the communities it serves. The dam was completed in 1950 as a zoned, rockfill embankment. It has a height of approximately 240 feet and impounds up to 90,373 acre-feet (AF) of water at its maximum reservoir operating elevation.
- C. Anderson Dam and Reservoir is subject to dam safety regulation by the California Department of Water Resources DSOD and FERC as FERC Project 5737. Anderson Dam is classified under FERC guidelines as a "High Hazard Potential" dam due to the potential incremental loss of life should failure occur. Between 2008 and 2012, several dam safety deficiencies associated with seismic shaking, fault offset, flood capacity, and emergency drawdown capabilities were identified. The presence of liquefiable materials in the embankment and foundation of the dam could result in major slumping and failure of the embankment following a future large earthquake and the presence of active faults in the foundation that could rupture the existing low-level outlet. The spillway has inadequate capacity to safely pass large floods and the outlet does not have sufficient capacity to quickly draw down the reservoir during floods or other emergency events.
- D. The purpose of the ADSR Project is to seismically retrofit, maintain, and operate Anderson Dam and Reservoir to meet FERC and DSOD safety requirements, thereby allowing Valley Water to maximize water supply and related incidental benefits, while avoiding and minimizing environmental impacts of the implementation of those safety directives and requirements. The ADSR Project will require an extensive environmental compliance process, including evaluation under California Environmental Quality Act (CEQA) and regulatory permits.

### 5. ADSR Project Delivery Approach

Valley Water plans to deliver the ADSR Project by utilizing the retained independent, separate consulting firms as described below. The Consultant awarded under this Agreement will need to coordinate with the firms listed below as directed by Valley Water.

- A. Project Management Consultant (PMC Team) led by Black & Veatch Corporation has been retained to assist with managing and overseeing the delivery of the ADSRP Project at the direction of Valley Water.

## SCHEDULE EP SCOPE OF SERVICES

- B. Planning Consultant (PC or Planning Team) led by HDR Engineering, Inc. (HDR), was retained to perform preliminary engineering services and to develop the required draft environmental documents (Draft Environmental Impact Report and Draft Environmental Impact Statement) in support of the ADSRP Project. Due to major changes in the ADSR Project objectives, the Planning Consultant Agreement with HDR was amended to reduce its scope of services, and then subsequently, the Agreement expired. HDR provided transition support services relating to Valley Water retaining Environmental Consultant, Horizon Water and Environmental, LLC (Horizon).
- C. Environmental Consultant (Previous EC or Environmental Team) led by Horizon Water and Environment, LLC (Horizon) prepared initial drafts of the Draft EIR. On November 1, 2021, Horizon was acquired by Montrose Environmental Group, Inc., and has continued to operate as a separate legal entity and wholly owned subsidiary of Montrose Environmental Group, Inc. since that date. On September 21, 2023, an amendment to the agreement was executed with Horizon to significantly reduce the environmental planning and regulatory permitting scope of services to be performed after release of the Draft Environmental Impact Report (EIR) for public review.
- D. A second Environmental Consultant (Current Consultant or EC) led by Rincon Consultants, Inc. (Rincon) was retained on July 13, 2023 to provide additional resources for technical editing, quality assurance, quality control, finalization of select sections, and document production of the initial Draft EIR sections prepared by Horizon. An amendment to the agreement directed Rincon to assist with the initial preparation of response to comments on the Draft Environmental Impact Report (EIR), and provide technical modeling support of select EIR sections. Consultant will also provide draft EIR materials related to air quality, greenhouse gas, and noise impact analyses.
- E. Design Consultant (Design Team), led by URS Corporation, DBA URS Corporation Americas, was retained to perform design services in compliance with Valley Water, DSOD, and FERC requirements in support of the Project, including developing the Project design, preparing construction documents, and providing engineering support for the bid process and during the construction phases of the Project.
- F. Construction Management Consultant (CM or Construction Manager), led by COWI North America, Inc., was retained to oversee the Anderson Dam Tunnel Project (ADTP) construction contract and coordinate with the Design Consultant during construction in conformance with the Design Consultant's engineering plans and specifications, stamped and signed by a registered engineer; DSOD and FERC's construction inspection and monitoring requirements; the Valley Water-certified environmental compliance, specifically the requirements defined in the mitigation and monitoring plan; and ADTP Project close-out in accordance with Valley Water requirements. The ADTP is a component of the FERC Order Compliance Project (FOCP), which FERC directs Valley to implement as an interim risk reduction measure while Valley Water is completing the design/planning and securing permits for ADSR Project.

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## SCHEDULE EP SCOPE OF SERVICES

- G. Consultant, Stillwater Sciences was retained to perform regulatory permitting services, creek restoration modeling and design support for Project conservation measures, federal Endangered Species Act Section 7 consultation for fisheries resources, biological monitoring of fisheries resources for FERC Order Compliance Project environmental compliance, and general environmental support services for fisheries resources topics, as needed.
- H. Consultant, H.T. Harvey and Associates, was retained to perform state and federal regulatory agency permit application development and processing, Santa Clara Valley Habitat Plan compliance documentation, terrestrial habitat restoration design support, biological monitoring of terrestrial natural resources for FERC Order Compliance Project environmental compliance, and general environmental support services for terrestrial natural resources topics, as needed.

### 6. Assumptions and Requirements

#### A. General Assumptions and Requirements

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

## SCHEDULE EP SCOPE OF SERVICES

- 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 production of deliverables.
- 5) **Consultant Responsibility.** Consultant, with its expertise in performing the Services described herein, is responsible for making the appropriate assumptions in each task to complete each task's deliverables and to achieve the Project objectives of this Agreement as described in Section 3. Project Objectives.
- 6) **Document Control.** Consultant must utilize the document control system designated by Valley Water (Capital Project Management and Project Control's Program).
- 7) **File Exchange Service.**
  - a. Consultant must utilize the file exchange service designated by Valley Water (Capital Project Management and Project Controls Program), accessible to all parties as designated by Valley Water, to facilitate communications.
  - b. Consultant may need to coordinate with Valley Water's Capital Project Management and Project Controls Program ([CPMPC@valleywater.org](mailto:CPMPC@valleywater.org)) to address any firewall issues and/or permissions required to allow for these communications.

### B. Project-Specific Assumptions and Requirements

None

## 7. Scope of Services Tasks

### Task 1 - Project Management

- 1.1 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 EP, Attachment One, Fees and Payments, and in accordance with the Project Schedule stated in Schedule EP, Attachment Two, Schedule of Completion, while ensuring that all services and deliverables by the Consultant meet Valley Water and Project requirements. Consultant will provide regular communications with Valley Water,

## **SCHEDULE EP SCOPE OF SERVICES**

participate in meetings, manage the Consultant team, track the Project Schedule and budget, and coordinate closely with the VWPM. Consultant will provide monthly invoices and project status reports to the VWPM. The status reports will provide a brief summary of work performed, make note of any budget or time constraints, and provide a look-ahead schedule of deliverables and activities planned for the next reporting period. Consultant will include in the monthly project status report a comparison of the project schedule with deliverables and budget to assess if the project is staying on course for time and budget each month, and note any changes to the originally proposed budget and schedule. Consultant will provide a Quality Control process that ensures all deliverables are high quality and meet the needs of Valley Water.

### **1.2 Progress Meetings and Workshops**

Valley Water and Consultant key staff and subconsultants as determined necessary and appropriate by Consultant, subject to VWPM approval, will coordinate and attend periodic progress meetings and workshops with Valley Water staff and attorneys, regulatory and resource agencies, and review boards, as needed, to review and discuss progress on the scope of services. Key strategies and decisions made at progress meetings will be documented in brief Strategy and/or Decision Memoranda. Similarly, any substantial changes made to the Scope of Work that are discussed at progress meetings and workshops will be documented in brief Change Management Memoranda.

### **1.3 Coordination and Communication with External Agencies**

Consultant will assist the VWPM with coordination and communication tasks with appropriate regulatory or other agencies. This includes support in drafting correspondence related to the Consultant team's ADSR Project activities as requested by Valley Water. This task includes Consultant team participation in coordination calls and email correspondence with regulatory or other agencies up to a defined level of effort.

### **1.4 Public Outreach**

If requested, Consultant will provide support and assistance with Valley Water's public outreach activities which may include coordination, preparation, and participation including preparing presentation materials, attending meetings, preparing newsletters, graphics, updates to the ADSR Project website, developing responses to questions, and performing other tasks as directed by the VWPM up to a defined level of effort.

#### **Task 1 - Deliverables**

1. Monthly Status Reports
2. Meeting Agendas, Minutes, including review comments, and Presentations
3. Weekly or Twice-a-month Meetings/Conference Calls attendance and summary notes (frequency of meetings and calls will be at Valley Water's discretion)

#### **Task 1 - Assumptions**

1. The ADSR Project is highly visible to the public and regulatory agencies and heavy public and regulatory scrutiny is anticipated during the environmental review and permitting



## SCHEDULE EP SCOPE OF SERVICES

process. Consultant will brief the Consultant team and subconsultants on the importance of maintaining confidentiality regarding the ADSR Project.

2. In addition to the responsibilities identified above, managing the Consultant team is further defined to include fielding Valley Water requests, preparation and processing of monthly invoices.
3. Up to a total of 78 1-hour check-in meetings will be attended by an average of three (3) Consultant staff. These meetings are intended to support coordination over a two-year period, with an assumed one meeting per week during the first year and twice monthly meetings in the second year.
4. Up to an additional 32 1-hour focused meetings or workshops are included under this task, attended by an average of three (3) Consultant staff. These meetings are intended to support deeper discussions on particular topics with Valley Water staff.
5. An additional 296 hours of project management time has been included under Task 1.1, Project Management, to support meeting coordination (including agendas and minutes), strategy and/or decision memoranda, invoicing and progress reports, subcontractor coordination, Quality Assurance/Quality Control (QA/QC) process management, schedule and budget management, and other management tasks to remain attentive to Valley Water.
6. A total of 120 staff hours are included for coordination and communication with external agencies under Task 1.2 and 160 staff hours are included to support public outreach under Task 1.3, Coordination and Communication with External Agencies.

The precise scope for these services are not well-defined at this time, but as Consultant is requested to perform services under these task, the Consultant Project Manager will communicate estimates for level of effort for specific tasks (if requested) and track budget expenditures on this task as part of the Monthly Status Reports and/or monthly invoices.

7. This scope of work assumes meetings will primarily be conducted remotely using Microsoft Teams or Zoom. If needed, in-person attendance at meetings with Valley Water, external agencies, or for public outreach, will be at Valley Water's discretion.

### **Task 2 - Environmental Documentation**

#### **2.1 Finalize Responses to Public Comments**

Valley Water will provide Consultant with written "bracketed" (i.e., numbered) public comment letters on the Draft Environmental Impact Report (EIR), and preliminary responses to these comments, including Master Responses for frequent individual comments. In collaboration with the Valley Water Project Team, Consultant will revise and complete the responses. Valley Water may request that the revised responses be submitted to Valley Water for review in phases. At Valley Water's discretion, Consultant will work with Valley Water staff to develop a schedule for logical groupings of revised responses to comments to be delivered sequentially for review by Valley Water staff and attorneys.

## **SCHEDULE EP SCOPE OF SERVICES**

### **2.2 Completion of Final EIR**

Consultant will prepare an Administrative Final EIR #1 and Administrative Final EIR #2 meeting CEQA requirements (CEQA Guidelines § 15132). The Final EIR will include revisions to the Draft EIR made in response to comments, a list of public comments on the Draft EIR, copies of public comments received on the Draft EIR, and responses to public comments. At Valley Water's discretion, the Administrative Final EIR #1 and Administrative Final EIR #2 will be submitted to Valley Water for review in phases, in which case Consultant will work with Valley Water staff to develop a schedule for logical groupings of EIR chapters to be delivered sequentially for review by Valley Water staff and attorneys.

Based on Valley Water comments on the Administrative Final EIR # 2, Consultant will prepare the Screencheck Final EIR. Valley Water will review the Screencheck Final EIR for responsiveness to Valley Water comments on the Administrative Draft EIR #2, and submit a final set of comments to Consultant. Consultant will then revise the Screencheck Final EIR and prepare a Public Final EIR.

### **2.3 Findings, Statement of Overriding Considerations, and MMRP**

Consultant will prepare Findings of Fact for each significant impact, and a Statement Overriding Considerations for significant impacts found to be unavoidable for Valley Water's use in approving the Project. Consultant will prepare the Findings of Fact in compliance with CEQA (Public Resources Code) Sections 21081 and 21081.5. The Statement of Overriding Considerations will express Valley Water's reasons for approving a project that would have significant, unavoidable impacts on the environment. The Statement is be based on supporting evidence in the administrative record. Consultant will also prepare a Mitigation Monitoring and Reporting Program (MMRP) meeting CEQA requirements, describing monitoring and reporting procedures for each EIR mitigation measure.

### **2.4 EIR Certification and Project Approval Meeting Support**

Consultant will provide support for Valley Water staff for the public meeting or hearing where the Valley Water Board of Directors considers the EIR for certification and project approval. This support may include preparation of materials, responding to comments on the Final EIR submitted to the Board, answering technical questions at the meeting/hearing, and/or presenting the environmental component of the project.

### **2.5 Assistance in Administrative Record Preparation**

Consultant will prepare and maintain a partial confidential Administrative Record (AR) on behalf of Valley Water concurrent with Final EIR preparation. Consultant will first prepare an index (detailed outline) of the AR for review by Valley Water. Valley Water will provide Consultant with a preliminary Draft EIR AR related to Draft EIR content that it compiled. Consultant will then maintain and complete the AR in accordance with CEQA requirements and update files on at least a monthly basis. The AR will include those contents required by Public Resources Code § 21167.6(e) directly related to the Draft and Final EIR contents, exclusive of e-mails, and include: Draft and Final EIRs and

## SCHEDULE EP SCOPE OF SERVICES

appendices; technical reports or studies used for CEQA analysis, referenced in the EIR, or incorporated by reference; screenshots or other electronic copy of website materials relied upon in the EIR; and final memoranda related to the EIR submitted by Consultant to Valley Water. Electronic records will be held as secure on the Consultant's computing network and submitted monthly, or as otherwise requested by Valley Water.

### 2.6 Recirculation of CEQA Document (Optional)

Should "substantial new information," as defined by CEQA Guidelines §15088.5, need to be added to the Draft EIR, it may be necessary to re-circulate the Draft EIR, in part or in whole. The consultant will assist with the preparation of the Recirculated Draft EIR, potentially including updating technical studies for various resource topics. After the public review period the Consultant will assist with response to comments, edits to the Draft CEQA document, and preparation of a Final Document including findings of fact and a Statement of Overriding Considerations (If needed). Valley Water will determine if recirculation of the Draft EIR is necessary based on addition of "significant new information" as defined by CEQA Guidelines §15088.5.

### Task 2 – Deliverables

1. Draft and final revised responses to selected comments on Draft EIR
2. Administrative Final EIR # 1
3. Administrative Final EIR #2
4. Screencheck Final EIR
5. Public Final EIR
6. Draft and Final Findings of Fact, Statement of Overriding Considerations, and MMRP
7. EIR certification and project approval meeting materials, if requested
8. Administrative record index; draft and final administrative record related to Final EIR contents
9. Revised Draft EIR suitable for recirculation, including the revised sections, public noticing support, and response to comments preparation specific to the recirculated Draft EIR.

### Task 2 – Assumptions

1. Consultant will not be responsible for finalizing responses to comments on fisheries and terrestrial biology comments, as these will be prepared by other Valley Water consultants.
2. Consultant will not be responsible for Draft EIR revisions for the fisheries and terrestrial biology sections, as these will be prepared by other Valley Water consultants.
3. The Final EIR scope of work assumes two rounds of Valley Water review and Consultant revision, for the Administrative Final EIR and the Screencheck Final Environmental Impact Report (FEIR). Additional rounds of Final EIR review and revision may be necessary if Consultant revisions do not sufficiently address Valley Water comments, as determined by Valley Water.
4. Valley Water will provide all work it has completed at the time of contract in responding to comments and updating the Draft EIR for the consultant to complete the Final EIR.
5. Consultant will provide GIS and graphics support for revisions of up to 5 figures from the Draft EIR, if needed in response to comments or due to Valley Water directed changes.

## SCHEDULE EP SCOPE OF SERVICES

6. The Final EIR will include direct underline and strikeout revisions to the Draft EIR made in response to comments or as otherwise initiated by Valley Water. Note that it is assumed that no underline and strikeout revisions to the Draft EIR appendices will be made by Consultant.
7. ADA accessible documents will not be prepared or provided. If desired, Consultant will prepare ADA accessible documents under Task 4, Supplemental Services.
8. Printed documents will not be prepared or distributed. If desired, Consultant will prepare a scope and cost for hard-copy documents under Task 4, Supplemental Services.
9. Valley Water staff will set up and notice the Final EIR Certification Hearing.
10. Consultant's Principal-in-charge, Project Manager, CEQA/NEPA Lead, Air Quality/Noise Lead, and Cultural Resources Lead will attend the Final EIR Certification Hearing in person. It is assumed this hearing will occur in Summer or Fall 2024.
11. Valley Water will decide which project alternative (whether the proposed project or an EIR alternative) they want to proceed with for the purpose of drafting the EIR Findings.
12. Valley Water will assist with the department responsibility column of the MMRP table.
13. Valley Water staff will file the NOD in person with the County Clerk, and Valley Water will pay the CDFW CEQA Filing Fees for an EIR. Consultant will e-file the NOD with State Clearinghouse on behalf of Valley Water, if Valley Water provides related submittal approval.
14. Valley Water will provide Consultant with the administrative record for the Draft EIR, so that Consultant can combine that with the administrative record files related to the Final EIR and provide to Valley Water as one complete EIR administrative record. It is assumed that Consultant does not need to assist with the locating of administrative record files related to the Draft EIR.
15. The optional recirculation task would involve updating the Draft EIR project description and analysis and responding to a new set of comments on the Draft EIR. Two rounds of review and revision on the Draft EIR updates and response to public comments are assumed. This task assumed biological resources analysis, if required, would be provided by others. Preparation of the Final EIR would remain under Task 2.2 and preparation of findings of fact and a Statement of Overriding Considerations would remain under Task 2.3.

### **Task 3 – Cultural Resources and Tribal Support**

Consultant will support the Project's compliance with Section 106 of the National Historic Preservation Act, including support for consultation with State Historic Preservation Officers (SHPO), and other cultural resource related tasks.

#### **3.1 Live Oak Restoration Reach**

Consultant will conduct a pedestrian survey of the Live Oak Restoration Reach for cultural resources and prepare a draft and final Report of Findings to satisfy Section 106 of the National Historic Preservation Act compliance.

## **SCHEDULE EP SCOPE OF SERVICES**

### **3.2 Historic and Cultural Resources Audit and Report**

Consultant will conduct an audit of the cultural resource studies that have been completed to date and verify that the complete Area of Potential Effects (APE) have been fully studied and documented for the Project. Once the audit is completed and any additional studies completed, consultant will prepare a historic and archaeological resources report that inventories and evaluates resources in the APE. The report will consolidate and update the historic resources and archaeological reports previously prepared for the Project, FERC Order Compliance Project (FOCP), and Fish and Aquatic Habitat Collaborative Effort (FAHCE) Project. The report will support Section 106 compliance. The historic resources report will include a finding of effects regarding built environment.

### **3.3 Archaeological Resources Finding of Effects**

Consultant will prepare a draft and final Finding of Effects document as required per 36 CFR 800.5 and apply the criteria of adverse effects to historic properties (those determined eligible for listing on the National Register) within the APE that cannot be avoided during project implementation.

### **3.4 Historic Properties Treatment Plan**

Consultant will prepare a Historic Properties Treatment Plan (HPTP) in support of a project Programmatic Agreement (PA) designed to resolve any identifiable adverse effects to archaeological resources and lay out the process for addressing any additional discoveries that potentially occur during construction. The HPTP will outline methods to identify, document, and evaluate resources in inaccessible portions of the APE prior to and during construction, as well as mitigation of any adverse effects through data recovery, site monitoring, construction monitoring, public outreach, and/or other appropriate measures. The HPTP will require FERC and SHPO approval and may require input from other responsible agencies and consulting parties.

### **3.5 Development of Final Programmatic Agreement**

Consultant will prepare a draft and final PA to support Section 106 of the National Historic Preservation Act compliance. Consultant will revise the PA in response to review and comment by Valley Water, consulting tribes, the County of Santa Clara, United States Army Corps of Engineers (USACE), SHPO, and FERC.

### **3.6 Coyote Percolation Dam Historic Architecture Mitigation**

Consultant will complete the development of recommendations for mitigation for impacts to historic architecture as part of improvements at the Coyote Percolation Dam facility. The consultant will assist Valley Water in the preparation of materials that are required to fulfill the mitigation requirements for the impacts that are determined. These materials will be provided to and approved by the County of Santa Clara, USACE, SHPO, and FERC.

## **SCHEDULE EP SCOPE OF SERVICES**

### **3.7 Native American / Interested Parties Consultation Support**

FERC has designated Valley Water as their non-federal representative for Native American consultation. Consultant will continue to assist Valley Water with ongoing consultation efforts. Consultant will provide updates to interested parties and seek input on development of the Archaeological Research Design and Treatment Plan (ARDTP) and HPTP. Consultation support may include providing general consultation guidance, communicating directly with interested parties via mail, email, and/or phone, participating in conference calls and in person meetings, reviewing and/or drafting consultation documents, and maintaining a consultation log. Consultant will similarly aid with outreach to parties interested in historic resources (e.g., historical societies).

### **3.8 SHPO Consultation Support**

SHPO consultation support includes coordination with FERC as the federal lead agency. Consultant will participate in conference calls and/or in person meetings, as requested. Consultant will also review previously prepared draft and final consultation documentation, which includes the ADSR Project Programmatic Agreement, on behalf of Valley Water. At a minimum, consultation should occur after evaluation, requesting SHPO concurrence on the adequacy of the APE and identification and eligibility determinations, and for concurrence on the appropriateness of the HPTP.

### **3.9 Cultural Awareness Construction Training**

Consultant will provide cultural awareness training for construction workers. Handouts will also be provided. Consultant will provide the portion of the training that addresses regulatory requirements and will assist with design of the entire training with Native American input. Consultant will also participate in one live, virtual presentation of the training with a question and answer (Q&A), which can be recorded for future use.

### **3.10 Artifact Management**

Prior to the development of this agreement, Valley Water received from the previous cultural resources consultant on ADSR Project artifacts retrieved from the reservoir. The artifacts must be properly archived and/or curated in accordance with agreements that are established with appropriate Tribal representatives through the tribal consultation process. Consultant will collect the artifacts from Valley Water at the Valley Water headquarters, examine the contents, and if needed, sort and bag the artifacts for curation. This task will include the preparation of a digital catalog should none exist from previous Valley Water Consultant, Far Western. Consultant will assist Valley Water in determining next steps for Tribal Consultation to determine how the artifacts should be stored and/or treated for the long term.

### **Task 3 – Deliverables**

1. Draft and Final documents and reports necessary to comply with Section 106 of the National Historic Preservation Act and other cultural resource requirements
2. Draft and Final Historic Properties Treatment Plan
3. Draft and Final Finding of Effects

## SCHEDULE EP SCOPE OF SERVICES

4. Draft and Final Archaeological Research Design and Treatment Plan
5. Draft and Final Report of Findings for pedestrian survey of Live Oak Restoration Reach
6. Memorandum of findings of additional cultural resources work needed to fully cover the Area of Potential Effects (Historic and Cultural Resources Audit Report)
7. Draft and Final letter report to SHPO responding to comments on proposed historic architecture mitigation for the Coyote Percolation Dam
8. Draft and Final report to SHPO for mitigation plan and timing for the Coyote Percolation Dam Historic Architecture Mitigation
9. Cultural awareness construction training presentation and materials
10. Documentation of communication performed in the course of Native Americans and Interested Parties consultation, including a consultation log maintained in real-time
11. Preparation of a digital catalog for artifacts, should none currently exist

### Task 3 – Assumptions

1. All deliverables will be provided in electronic format (MS Word or Adobe PDF).
2. The records search direct cost will not exceed \$1,000. Survey work will be completed by one archaeologist in a single 10-hour field day. Survey acreage will be up to 10 acres and assumes negative findings for cultural resources. The technical report will require one round of comments from Valley Water, one round of comments from FERC, and no comments from SHPO's office.
3. Previous studies will be tabled to be included in the Programmatic Agreement. No fieldwork or formal write-up required. The scope assumes no comments from any agency or interested party/Tribe.
4. The Findings of Effects (FOE) document will be developed in formal report format. FOE will be completed after any other needed studies (e.g., Task 3.1 surveys or any other needed studies). One round of comments from Valley Water, one round of comments from FERC, and one round of comments from SHPO.
5. Consultant will develop a full HPTP, based on an example HPTP to be provided by FERC. Consultant will attend up to 3 1-hour meetings with Valley Water and FERC for background and guidance (3 meetings total) to be attended by Consultant's Cultural Principal.
6. Consultant supported preparation of the project's draft Programmatic Agreement (PA) under separate contract. The budget in this agreement is to be used for final PA development needs including FERC and SHPO edits. This task includes up to 3 1-hour virtual meetings with Valley Water, FERC, and/or SHPO staff. Advisory Council for Historic Preservation (ACHP) may be engaged with an adverse effect determination; Consultant assumes two 1-hour virtual meetings with the ACHP.
7. Mitigation will be provided in memo format. The scope assumes one round of comments from Valley Water, and one round of comments from FERC.
8. Consultant will provide a consultation package with letter templates. Valley Water will lead consultation as the CEQA agency, and FERC will defer Section 106 consultation to Valley Water. Consultant will attend up to 4 1-hour meetings with interested tribes or parties to be attended by Consultant's Principal and senior cultural resources specialist. No onsite meetings will be required.

## SCHEDULE EP SCOPE OF SERVICES

9. Consultant will prepare the consultation initiation letter on behalf of Valley Water/FERC for SHPO consultation. This task will include up to 4 1-hour virtual meetings with the SHPO's office to be attended by Consultant's Principal and senior cultural resources specialist. Consultant will verify that the APE has been determined and verified with the SHPO's office.
10. Consultant cultural resources specialist will provide one onsite training for construction staff at the start of the construction effort. A sign-in sheet will be provided for the construction team to indicate their training is complete. Consultant will record the training that may be presented for future efforts as new staff join the project. Only one in-person training will be required.
11. Consultant will physically take possession of the collection of artifacts and transport them from Valley Water facilities to Consultant's Oakland office. The task does not require consultation with tribes at this time. Consultant will not be required to conduct any archaeological site visits. Consultant will purchase curation quality containers and bags for the artifacts.
12. Valley Water will directly contract with the Amah Mutsun Tribal Band, Tamien Nation, or other appropriate representative for Native American input for the training.

### Task 4 - Supplemental Services

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

Specific examples of possible Supplemental Services include, but not limited to:

**4.1 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 3 as Task 4 Supplemental Services, to include but not be limited to:

- 4.1.1 Additional meetings;
- 4.1.2 Additional time allotted for meetings;
- 4.1.3 Additional status/progress reports;
- 4.1.4 Additional telephone conference calls;
- 4.1.5 Additional pages or copies of technical memorandums, plans, reports, drawings and specifications;
- 4.1.6 Additional public outreach visual materials; and
- 4.1.7 Additional new technical studies or new subject area studies

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## **SCHEDULE EP SCOPE OF SERVICES**

### **4.2 NEPA Compliance and Documentation**

Because the Project will require federal permits/approvals from FERC and USACE, it is anticipated that National Environmental Policy Act (NEPA) compliance will be required for the Project with FERC as the NEPA lead agency. Consultant may be requested to assist Valley Water in developing the NEPA compliance documentation (Environmental Assessment or Environmental Impact Statement) for the Project.

Valley Water will work with FERC to determine the level of NEPA support that is necessary for NEPA compliance.

### **4.3 Additional CEQA Documentation**

This task involves additional assistance related to CEQA requirements, as needed. Assistance could include, but is not limited to:

- a. Preparation of subsequent CEQA documents
- b. Additional studies or environmental evaluation to ensure the EIR satisfies CEQA requirements
- c. Consideration and evaluation of additional mitigation measures or alternatives

### **4.4 Regulatory Compliance Support**

It is anticipated that the Project will require consultation and/or permits from the State Office of Historic Preservation; the State Water Resources Control Board (SWRCB); the San Francisco Bay Regional Water Quality Control Board; and the Bay Area Air Quality Management District. The Consultant may provide support to Valley Water during permit negotiations. This support may take the form of strategizing with Valley Water, addressing questions from regulatory staff, preparing handouts and/or displays, attending meetings to answer questions and/or give short presentations.

Other consultation and/or permits with the United States Army Corp of Engineers (USACE); the United States Fish and Wildlife Service (USFWS); the National Marine Fisheries Service (NMFS); the Valley Habitat Agency (VHA); the California Department of Fish and Wildlife (CDFW) will be led by other Consultants (H.T. Harvey & Associates and Stillwater Sciences) retained by Valley Water, in addition to other technical biological data for use in the permit applications.

#### **4.4.1 Consolidated Mitigation Plan**

The Consultant may support the development of a Consolidated Mitigation Plan that will identify methods that will mitigate temporary and permanent impacts resulting from Project activities. Mitigation for much of the Project's biological impact to sensitive resources such as waters of the U.S./State, riparian habitats, serpentine communities, and special-status plants and animals will occur via payment of VHP impact fees. However, project-specific mitigation for impacts to selected species is proposed in the Draft EIR.

## **SCHEDULE EP SCOPE OF SERVICES**

### 4.4.2 Additional Cultural Resources Studies

Consultant may conduct additional cultural resource studies in support of the Project if determined necessary based on the results of the cultural resources audit in Section 3.2, Historic and Cultural Resources Audit and Report, or if the Area of Potential Impacts is expanded at Ogier Ponds or other Project elements.

### 4.4.3 Support of Monitoring

Consultant may support on-going or new water quality, hydrological, or related monitoring necessary for FERC Order Compliance Project (FOCP) or Project permitting and implementation.

## **4.5 Design Services Support**

### 4.5.1 FOCP Technical Support

This task includes as-needed Consultant team assistance to Valley Water in responding to ongoing and future FERC orders and information requests. Assistance could include:

- a. Development and implementation of required study plans
- b. Coordinating with regulatory agencies and responding to agency comments
- c. Assistance with responses to FERC information requests
- d. Other similar technical environmental inputs and reviews

### 4.5.2 ADSR Project Technical Support

Support of ADSR Project elements which could include restoration of project sites, Ogier Ponds, Coyote Percolation Dam site, sediment augmentation or other activities that may be required by permit conditions. Assistance could include:

- a. Development and implementation of required study plans
- b. Coordinating with regulatory agencies and responding to agency comments
- c. Assistance with responses to FERC information requests
- d. Other similar technical environmental inputs and reviews

## **8. Attachments**

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

**SCHEDULE EP  
SCOPE OF SERVICES**

Attachment One - Fees and Payments

Attachment Two - Schedule of Completion

Attachment Three - Consultant's Key Staff and Subconsultants

Attachment Four - Reference Materials

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**SCHEDULE EP  
ATTACHMENT ONE  
FEES AND PAYMENTS**

**1. Total Authorized Funding**

Total payment for Services performed, to the satisfaction of Valley Water, as described in the Schedule(s) will not exceed a total amount of **\$1,535,000** (Not-to-Exceed Fees or NTE). Under no conditions will the total compensation to the Consultant exceed NTE payment amount without prior written approval in the form of an amendment to this Agreement executed by Valley Water's Board of Directors (Board), or Chief Executive Officer, or designee, as authorized by the Board.

**2. Cost Breakdown**

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

**COST BREAKDOWN**

<b>Task</b>	<b>Description</b>	<b>Not-to-Exceed Fees</b>
1	Project Management	\$232,088
2	Environmental Documentation	\$947,665
3	Cultural Resources and Tribal Support	\$154,357
4	Supplemental Services	\$200,890
<b>Total Not-to-Exceed Fees</b>		<b>\$1,535,000</b>

**3. Terms and Conditions**

- A. Payments for services performed, as defined in this Schedule, which applies to the specific Services, will be based on the following terms:
- 1) Valley Water will pay for Services provided by 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 the same. Such rate revisions are subject to written approval by Valley Water's Deputy Operating Officer.

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ATTACHMENT ONE  
FEES AND PAYMENTS**

**B. Reimbursable Expenses**

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

**C. Prevailing Wage Requirements [NOT USED]**

- 1) The Scope of Services described in a Task INSERT APPLICABLE TASK NUMBER HERE may be considered by Valley Water to be "Public Works" requiring the payment of prevailing wages. See Standard Consultant Agreement, Section Four, Fees and Payments, subsection 3. Prevailing Wages.

**SCHEDULE EP  
ATTACHMENT ONE  
FEES AND PAYMENTS**

- 2) In accordance with prevailing wage laws, the Director of the California Department of Industrial Relations (Director) has ascertained the general prevailing rate of wages and employer payments for health and welfare, pension, vacation, and similar purposes available to the particular craft, classification, or type of workers employed on the Project. These rates are set forth in the latest determination obtained from the Director, which is on file in Valley Water's Office of the Clerk of the Board of Directors and incorporated herein by reference the same as though set forth in full. The rates are also available on the State of California Department of Industrial Relations website at <http://www.dir.ca.gov>.

**HOURLY/UNIT RATE TABLE**

CLASSIFICATION/STAFF	HOURLY/ UNIT RATE
<b>Consultant: Rincon Consultants, Inc.</b>	
Senior Principal – J. Haddow	\$375.00
Senior Principal - TBD	\$375.00
Principal – J. Jacobus	\$280.00
Principal – C. Boggs	\$259.00
Principal – C. Duran	\$244.00
Principal – M. Maddox	\$259.00
Principal – K. Avila	\$325.00
Principal - TBD	\$304.00
Director – A. Hunt	\$244.00
Director – J. Carman	\$263.00
Director – K. Bennett	\$240.00
Director – R. Thatcher	\$241.00
Director – N. Ponferrada	\$248.00
Director - S. Treffers	\$223.00
Director - TBD	\$307.00
Senior Supervisor II – N. West	\$223.02
Senior Supervisor II – T. Sparacio	\$242.00
Senior Supervisor II - TBD	\$246.00
Supervisor I – A. Atherton	\$198.00
Supervisor I – H. Blind	\$186.00
Supervisor I – R. Perzel	\$196.00
Supervisor I – L. Mena	\$190.00
Supervisor I – A. Mescher	\$201.00
Supervisor I – K. Asmus	\$189.00
Supervisor I – A. Ennis	\$202.00
Supervisor I – Jane Clough	\$263.00
Supervisor I - TBD	\$203.00
Senior Professional II – H. Dubois	\$187.00

**SCHEDULE EP  
ATTACHMENT ONE  
FEES AND PAYMENTS**

CLASSIFICATION/STAFF	HOURLY/ UNIT RATE
Senior Professional II - TBD	\$186.00
Senior Professional I – A. Mahoney	\$157.00
Senior Professional I – T. Sanford	\$164.00
Senior Professional I – E. Marino	\$157.00
Senior Professional I - TBD	\$175.00
Professional IV – A. Roth	\$140.00
Professional IV - TBD	\$146.00
Professional III – N. Carter	\$122.00
Professional III – K. Limbach	\$119.00
Professional III - TBD	\$129.00
Professional II – H. Bireschi	\$109.00
Professional II - TBD	\$118.00
Professional I - TBD	\$100.00
Associate III - TBD	\$81.00
Field Technician - TBD	\$97.00
Data Solutions Architect - TBD	\$177.00
Senior GIS Specialist - TBD	\$165.00
GIS/CADD Specialist II - TBD	\$128.00
GIS/CADD Specialist I – I. Radis	\$109.00
Technical Editor – D. Campos	\$92.00
Project Accountant - TBD	\$130.00
Publishing Specialist - TBD	\$120.00
Clerical - TBD	\$113.00
<b>Subconsultant(s): Ramboll</b>	
Principal-in-charge	\$306.00
Principal (noise)	\$301.00
Senior Managing Consultant	\$230.00
Senior Consultant 2	\$168.00
Senior Consultant 2	\$173.00
Senior Consultant 1	\$122.00
Consultant 3	\$127.00
Consultant 3	\$127.00
Consultant 3	\$118.00
<b>Subconsultant(s): Flow West, LLC.</b>	
Principal Engineering Geomorphologist	\$319.07
Project Manager & Principal Engineer	\$301.52
Project Manager & Principal Geomorphologist	\$301.52
Principal Engineer / Scientist / Planner	\$258.45

**SCHEDULE EP  
ATTACHMENT ONE  
FEES AND PAYMENTS**

<b>CLASSIFICATION/STAFF</b>	<b>HOURLY/ UNIT RATE</b>
Senior Engineer	\$229.73
Senior Fisheries Biologist	\$229.73
Senior Environmental Planner	\$229.73
Project Engineer	\$210.59
Staff Planner	\$178.68
Staff Engineer	\$178.68
Junior Engineer	\$159.54
Staff Scientist	\$194.48
Staff GIS Analyst	\$178.68
Junior CAD Technician	\$143.58
Project Accountant	\$95.72

Note: Consultant Staff Classifications with the same title but different rates reference either the current assigned staff or TBD.

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**SCHEDULE EP  
ATTACHMENT TWO  
SCHEDULE OF COMPLETION**

1. This Agreement commences on the Effective Date, subject to accomplishment of all of conditions to formation of an agreement listed in the Standard Consultant Agreement, Section Twelve, Miscellaneous Provisions, subsection 2. Formation of Agreement.
2. This Agreement expires June 1, 2027, after the Effective Date, unless, prior to its expiration, its term is modified by a written amendment hereto, and signed by both Parties.
3. Valley Water and Consultant may agree to modify the schedule specified for Consultant's performance as an administrative modification to the Agreement and will confirm such modification in writing.

**PROJECT SCHEDULE**

<b>Task</b>	<b>Description</b>	<b>Duration From Notice to Proceed (months)</b>
1	Project Management	Duration of Agreement
2	Environmental Documentation	Duration of Agreement
3	Cultural Resources and Tribal Support	Duration of Agreement
4	Supplemental Services	Duration of Agreement

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

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

<b>Team Member</b>	<b>Classification</b>	<b>Project Role</b>	<b>Contact Information</b>
Jennifer Jacobus	Principal	Principal-in-Charge	250 1st Street #1400 Los Angeles, CA 90012 213-377-5647 <a href="mailto:jjacobus@rinconconsultants.com">jjacobus@rinconconsultants.com</a>
Alex Hunt	Director	Project Manager	80 Garden Court, Suite 240 Monterey, CA 93940 831-915-7475 <a href="mailto:ahunt@rinconconsultants.com">ahunt@rinconconsultants.com</a>
Josh Carman	Director	Director, AQ/GHG/Noise/ Energy	449 15th Street, Suite 303 Oakland, CA 94612 510-356-2811 <a href="mailto:jcarman@rinconconsultants.com">jcarman@rinconconsultants.com</a>
Kelsey Bennett	Director	Director, CEQA Generalist/AQ/GHG/ Energy	449 15th Street, Suite 303 Oakland, CA 94612 510-356-2497 <a href="mailto:kbennett@rinconconsultants.com">kbennett@rinconconsultants.com</a>
Colby Boggs	Principal	Natural Resources Principal	1530 Monterey Street, Suite D San Luis Obispo, CA 93401 805-704-4955 <a href="mailto:cboggs@rinconconsultants.com">cboggs@rinconconsultants.com</a>
Chris Duran	Principal	Cultural Resources Principal	180 North Ashwood Avenue Ventura, CA 93003 805-947-4838 <a href="mailto:cduran@rinconconsultants.com">cduran@rinconconsultants.com</a>

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

<b>Firm</b>	<b>Project Role</b>	<b>Contact Information</b>
Ramboll	AQ/GHG/Noise support	Michael Keinath, PE 2200 Powell Street, Suite 700 Emeryville, CA 94608 415-796-1934 <a href="mailto:mkeinath@ramboll.com">mkeinath@ramboll.com</a>
Flow West	Design support	Anthony Falzone PO Box 29392 Oakland, CA 94604 510-454-9378 ext.106 <a href="mailto:afalzone@flowwest.com">afalzone@flowwest.com</a>

**SCHEDULE EP  
ATTACHMENT FOUR  
REFERENCE MATERIALS**

Ref No.	Description
1	Santa Clara Valley Water District Non-Disclosure Agreement (NDA) and Personal Non-Disclosure Agreement (PNDA) (FC 1650)
2	Santa Clara Valley Water District (Valley Water) Standards for GIS Products April 2021 version: <a href="http://gis.valleywater.org/Download/GIS_PRODUCT_STANDARDS.pdf">http://gis.valleywater.org/Download/GIS_PRODUCT_STANDARDS.pdf</a>
3	Anderson Dam Seismic Retrofit Project Draft Environmental Impact Report. <a href="https://fta.valleywater.org/dl/c40F1s00W">https://fta.valleywater.org/dl/c40F1s00W</a>

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