

**Santa Clara Valley Water District
Board of Directors**

***AMENDED/APPEDED
AGENDA**

***ITEMS AMENDED AND/OR APPENDED SINCE THE ORIGINAL PUBLICATION OF THIS AGENDA
ARE IDENTIFIED BY AN ASTERISK (*) HEREIN**

Friday, July 6, 2018

1:00 PM

PHYSICALLY HELD AT
District Headquarters Boardroom, 5700 Almaden
Exp., San Jose, CA
AND TELECONFERENCING FROM
3715 Albion, Lincolnwood, IL
*and 1111 Mission Ridge Dr., Manteca, CA
888-808-6929, PARTICIPANT CODE: 6302343

1. CALL TO ORDER:

1.1. Roll Call.

1.2. Pledge of Allegiance/National Anthem.

1.4. Time Open for Public Comment on any Item not on the Agenda.

Notice to the public: This item is reserved for persons desiring to address the Board on any matter not on this agenda. Members of the public who wish to address the Board on any item not listed on the agenda should complete a Speaker Card and present it to the Clerk of the Board. The Board Chair will call individuals to the podium in turn. Speakers comments should be limited to three minutes or as set by the Chair. The law does not permit Board action on, or extended discussion of, any item not on the agenda except under special circumstances. If Board action is requested, the matter may be placed on a future agenda. All comments that require a response will be referred to staff for a reply in writing. The Board may take action on any item of business appearing on the posted agenda.

2. TIME CERTAIN:

1:00 PM

Notice to the Public: The Board of Directors meets in Closed Session in accordance with the Ralph M. Brown Act. Following the conclusion of Closed Session discussion, the Board will return for the remaining items on the regular meeting agenda.

- 2.1. Update on California WaterFix; Approve and Execute the Delta Conveyance Finance Authority Joint Powers Agreement; and Adopt a Resolution for Approval of the Delta Conveyance Finance Authority Joint Powers Agreement. [18-0566](#)

Recommendation: A. Approve and Execute the Delta Conveyance Finance Authority Joint Powers Agreement;
B. Designate a District Representative and Alternate to serve on the Board of Directors of the Delta Conveyance Finance Authority for the first two years following formation; and
C. Adopt a Resolution for APPROVAL OF THE DELTA CONVEYANCE FINANCE AUTHORITY JOINT POWERS AGREEMENT.

Manager: Norma J. Camacho, 408-630-2084

Attachments: [Attachment 1: Agreement](#)
[Attachment 2: Resolution](#)
[Attachment 3: PowerPoint](#)
[Attachment 4: Resolution 18-23](#)
[Attachment 5: Resolution 18-24](#)
[Attachment 6: Notice of Determination](#)

Est. Staff Time: 20 Minutes

- 2.2. Agreement with Northgate Environmental Management, Inc. for On-Call Environmental Site Assessment, Remedial Design, and Storm Water Management and Engineering Services for a Not-to-Exceed Fee of \$500,000. [18-0405](#)

Recommendation: Approve the Agreement with Northgate Environmental Management, Inc. for On-Call Environmental Site Assessment, Remedial Design, and Storm Water Management and Engineering Services for a not-to-exceed fee of \$500,000.

Manager: Katherine Oven, 408-630-3126

Attachments: [Attachment 1: Agreement](#)

Est. Staff Time: 10 Minutes

3. **ADJOURN:**

- 3.1. Clerk Review and Clarification of Board Requests.
- 3.2. Adjourn to the 11:00 a.m. Closed Session and 1:00 p.m. Regular Meeting, on July 10, 2018, in the Santa Clara Valley Water District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California.

File No.: 18-0566

Agenda Date: 7/6/2018

Item No.: 2.1.

BOARD AGENDA MEMORANDUM

SUBJECT:

Update on California WaterFix; Approve and Execute the Delta Conveyance Finance Authority Joint Powers Agreement; and Adopt a Resolution for Approval of the Delta Conveyance Finance Authority Joint Powers Agreement.

RECOMMENDATION:

- A. Approve and Execute the Delta Conveyance Finance Authority Joint Powers Agreement;
- B. Designate a District Representative and Alternate to serve on the Board of Directors of the Delta Conveyance Finance Authority for the first two years following formation; and
- C. Adopt a Resolution for APPROVAL OF THE DELTA CONVEYANCE FINANCE AUTHORITY JOINT POWERS AGREEMENT.

SUMMARY:

1.0 Update on WaterFix

On May 8, 2018, the District Board took several actions related to the California WaterFix (WaterFix), including adopting Resolution 18-23 (Attachment 4), making Responsible Agency findings pursuant to the California Environmental Quality Act (CEQA) and Resolution 18-24 (Attachment 5), authorizing support of, and participation in, the WaterFix. In addition, the Board authorized execution of a Joint Powers Agreement forming the Delta Conveyance Design and Construction Joint Powers Authority (DCA) and designated Director Tony Estremera as the District's representative and Director Barbara Keegan as his alternate on the DCA Board of Directors. The DCA Agreement was executed by the District, Metropolitan Water District of Southern California (MWD) and Zone 7 Water Agency on May 14, 2018 and the first meeting of its Board was held on May 17, 2018. The next meeting of the DCA Board of Directors will be on July 19, 2018.

On May 8, 2018, the District Board also directed staff to continue participating in WaterFix discussions to further develop the best and most responsible agreements and contract amendments to protect the District's investment and to bring those agreements to the Board for consideration prior to execution. Staff has continued those discussions and have engaged in negotiations on the formation of the Finance Authority, which will be the entity that will provide financing for planning, design and construction of the WaterFix until there is a final resolution for the validation action the Department of Water Resources (DWR) filed in the Sacramento County Superior Court on July 21, 2017. The validation action seeks to affirm DWR's authority to, among other things, issue revenue

bonds to finance the planning, design, construction and other capital costs of the WaterFix. Staff had previously provided the Board with an overview of the validation action at the September 12, 2017 Board Meeting.

This agenda item provides a summary of the key provisions in the Finance JPA Agreement and recommends that the Board approve and authorize execution of a Finance JPA Agreement that is in substantial conformance to the agreement, and designate a District representative and alternate to serve on the Board of Directors of the Finance Authority for the first two years following formation.

2.0 Finance JPA Agreement and Resolution of Intent to Support Financing

2.1 Joint Powers Agreement Forming the Conduit Finance Authority (Finance Authority Formation Agreement)

Since the May 8, 2018 Board meeting staff has continued discussions and negotiations on approaches for financing the WaterFix. Several public water agencies have approved the formation of a Finance Authority that would finance the planning, design and construction of the WaterFix.

The Finance JPA Agreement will govern the operations of the Finance Authority. Importantly, the execution of the Finance JPA Agreement, in and of itself, does not impose any financial commitment on the member agencies of the Finance Authority. The financial commitments of the Member agencies will be the subject of further negotiations among the Member agencies and the Finance Authority prior to the first bond issuance by the Finance Authority. Any financial commitments, and the terms and conditions of such commitments, will be brought to the Board for consideration and approval at a future date.

Membership in the Finance Authority will be limited to “public water agencies”, which include State Water Project contractors and Central Valley Project contractors. Kern County Water Agency is given the option to create a government unit which may also become a Member of the Agency. Until December 29, 2018 (tentative), any public water agency whose Board adopts a resolution approving the execution of the Finance JPA Agreement and either authorizes financial support for the Finance Authority’s bonds or expresses its intent, but not commitment, to authorize financial support for the JPA’s bonds will be eligible to become a Member without any further action by the Finance Authority or its Board of Directors. After December 29, 2018 (tentative), any public water agency wishing to join the Agency will require the unanimous vote of the Board of Directors of the Finance Authority.

The Finance Authority will be governed by a Board of Directors. Each Member agency will have one Director on the Board. All administrative matters will be decided by a majority vote of the Board of Directors with one vote per Director. The decision to issue the first set of Finance Authority bonds will also be decided by a majority vote of the Board of Directors with one vote per Director. Following the first issuance of Finance Authority bonds, each Director will be allocated voting rights based upon its Member’s financial commitment to pay the costs of the project, and decisions will be based on majority weighted vote. Accordingly, it is likely that Metropolitan Water District will have majority control of the Finance Authority Board after the first bond issuance for non-administrative matters. A super majority vote (meaning a unanimous vote of all of the Directors) is required for the following matters:

1. The addition of any Public Water Agency as a new member
2. The termination of the JPA agreement
3. Any actions that could cause the Finance Authority to default

The Finance JPA Agreement also requires the creation of an Executive Committee comprised of the President, Vice President, and Secretary. Additional members may be elected by a majority vote of the Board of Directors.

The agreements which will evidence the terms and conditions of the financial commitment of each Member agency will be the subject of future negotiations. It is presently contemplated that each State Water Contractor will be obligated to pay Finance Authority bonds in amounts corresponding to its allocation under its State Water Project contract.

The Finance Authority's bond proceeds will be used to purchase bonds issued by DWR, and the payments on the DWR bonds (which will mirror the Finance Authority's bonds) will be used to pay the Finance Authority's bonds. However, should the State's validation action fail and DWR ceases making payments on its DWR bonds, the Finance Authority bonds would be supported by Member agencies in proportion to their financial commitments. Staff will bring forth these financing agreements for the District Board for consideration and approval at a future date.

The Finance Authority may also issue bonds to finance MWD's commitment to pay the portion of the project which is not payable by DWR. However, MWD retains the right to assign its interest in all or a portion of its capacity interest to other public water agencies, who may join the Finance Authority.

Any Member may withdraw from the Finance Authority at any time. However, if the Finance Authority has issued bonds or incurred other financial obligations which the Member has committed to pay, the Member will still be obligated to pay those financial obligations prior to withdrawing from the Finance Authority.

2.2 Other Important Agreements

Staff anticipates bringing several other important agreements and amendments to the District Board in the future. These include:

- Installment purchase agreements that would obligate Member agencies to provide funding to support bond issuances by the Finance Authority;
- Several additional financing agreements related to charges, crediting, and bond issuance; and
- An amendment to the SWP contract for WaterFix cost allocation and improved water management.
- An amendment to the District's CVP contract to provide for conveyance of the District's CVP supplies through the WaterFix.

3.0. Next Steps

Staff will continue to coordinate with the DWR, the U.S. Bureau of Reclamation, the Finance Authority, and other SWP and CVP contractors to develop additional needed agreements and will bring these items to the District Board for consideration upon completion of negotiations.

FINANCIAL IMPACT:

The execution of the Finance JPA Agreement does not impose any financial commitment on the District at this time. The District's financial commitment will be the subject of further negotiations prior to the first bond issuance and will be executed via separate agreements, which will be subject to Board approval at a future date. There will likely be administrative costs associated with the operation of the Finance Authority to be determined. Staff estimates the District's portion of those costs will be less than \$500,000 per year. Authorization and approval to commit these funds would be brought back to the board for approval at a later date.

CEQA:

On May 8, 2018, the Board adopted Resolution 18-23 Making Responsible Agency Findings Pursuant to the California Environmental Quality Act to Authorize Execution of Agreements Relating to Design, Construction, and Financing of the California Waterfix Project. The District has since filed a Notice of Determination (Attachment 6) pursuant to CEQA.

ATTACHMENTS:

Attachment 1: Agreement
Attachment 2: Resolution
Attachment 3: PowerPoint
Attachment 4: Resolution 18-23
Attachment 5: Resolution 18-24
Attachment 6: Notice of Determination

UNCLASSIFIED MANAGER:

Norma J. Camacho, 408-630-2084

DELTA CONVEYANCE FINANCE AUTHORITY

JOINT POWERS AGREEMENT

Dated as of July 3, 2018

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JOINT POWERS AGREEMENT

DELTA CONVEYANCE FINANCE AUTHORITY

THIS AGREEMENT, dated as of and effective on July 3, 2018, is made and entered into by and among Alameda County Water District, Alameda County Flood Control and Water Conservation District, Zone 7, and San Geronio Pass Water District. Additional Public Water Agencies may execute and become members as specified in Section 15 below.

W I T N E S S E T H :

WHEREAS, each Member is a Public Water Agency and is empowered by law to acquire, construct, finance, maintain and operate facilities for the delivery of water for public or private use and all rights, properties and improvements necessary therefor; and

WHEREAS, each Member desires to enter into an agreement to create a separate public entity pursuant to the provisions of the Joint Powers Act for the purpose set forth herein and desires that such separate public entity have the powers provided herein in connection with such purpose;

NOW, THEREFORE, the Members, for and in consideration of the mutual promises and agreements herein contained, do hereby agree as follows:

SECTION 1. PURPOSE. This Agreement is made pursuant to the provisions of the Joint Powers Act, to create a separate public entity to: (1) exercise Common Powers, and (2) exercise Additional Powers; in each case as determined from time to time by the Board. It is explicitly recognized that it is intended that the Finance Authority, in exercising its powers, will serve as an issuer of Bonds for the benefit of a Member or Members in implementing the Conveyance Project in the public interest.

SECTION 2. DEFINITIONS. In addition to the other terms defined herein, the following terms, whether in the singular or in the plural, when used herein and initially capitalized, shall have the meanings specified.

(a) **Additional Powers.** Such powers, in addition to the Common Powers, as are granted or otherwise available to the Finance Authority pursuant to the Joint Powers Act or any other applicable law, whether currently in force or hereafter enacted. Such powers include those provided in the Marks-Roos Local Bond Pooling Act of 1985, as amended, constituting Article 4 of the Joint Powers Act, including but not limited to, the power to issue and purchase debt obligations issued by, or to make loans to, the Members or other agencies or enter into various other financing arrangements as authorized under the Joint Powers Act, and to sell bonds so issued or purchased to public or private purchasers at public or negotiated sale. To the extent not already constituting Common Powers, the Additional Powers shall include without limitation, the Powers described in Section 6 hereof.

(b) **Additional Project Amounts.** The term “Additional Project Amounts” means the amount of payments made by a Member to the California Department of Water Resources for the construction of California WaterFix “CWF”) in exchange for a right to use capacity in CWF

(“CWF Capacity Right”) (other than any payments made under a State Water Contract relating to the State Water Project); provided, however, if any Member is assigned any CWF Capacity Right from another Member and the assignee Member makes payments to the assignor Member for such CWF Capacity Right, then the amount of such payments shall constitute the Member Support Amount of solely the assignee Member.

(c) **Bonds.** Bonds, notes and any other evidence of indebtedness issued or incurred by the Finance Authority pursuant to any applicable provision of the Joint Powers Act or any other lawful authority.

(d) **Central Valley Project.** The term “Central Valley Project” means the federal reclamation project operated by the United States Bureau of Reclamation pursuant to federal reclamation law (Act of June 17, 1902 (32 Stat. 388)) and acts amendatory or supplementary thereto.

(e) **Common Powers.** The legal powers which are common to the Members under applicable laws of the State, including but not limited to, those powers of the Members in connections with the issuance of Bonds, the expenditure of proceeds of Bonds and the borrowing and lending of money.

(f) **Conveyance Project.** The term “Conveyance Project” shall mean the project described in Section 2(a) of the JEPA, including facilities for conveying and delivering water for public or private uses and all rights, properties and improvements necessary therefor, including fuel and energy facilities and resources, and buildings, structures, improvements and facilities appurtenant thereto or provided therefor together with land necessary therefor

(g) **DCA Agreement.** The term “DCA Agreement” shall mean the Joint Powers Agreement, dated May 14, 2018, which formed the Delta Conveyance Design and Construction Joint Powers Authority.

(h) **DCA.** The term “DCA” shall mean the joint exercise of powers agency formed by the DCA Agreement.

(i) **Finance Authority.** The term “Finance Authority” shall mean the separate public entity created by this Agreement.

(j) **Financial Commitment Amount.** The term “Financial Commitment Amount” shall mean, initially, one (1), and from and after the first issuance of Bonds by the Finance Authority, a fraction, the numerator of which is the total Member Support Amount of the Member selecting the applicable Director, and the denominator of which is the sum of the total principal amount of Bonds then outstanding and the aggregate amount of all Additional Project Amounts of all Members.

(k) **Fiscal Year.** The term “Fiscal Year” shall mean the Fiscal Year of the Finance Authority as established from time to time by the Board of Directors, being at the date of this Agreement the period from July 1 to and including the following June 30.

(l) **JEPA.** The term “JEPA” shall mean the Joint Exercise of Powers Agreement, between the Department of Water Resources, State of California and the DCA to design and construct the California WaterFix conveyance facilities.

(m) **Joint Powers Act.** The Joint Exercise of Powers Act, constituting Articles 1 through 4 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the California Government Code as in effect on the effective date of this Agreement, as the same may be amended and supplemented.

(n) **Member.** The term “Member” shall mean (1) the Public Water Agencies that execute this Agreement on or before the date first above written; (2) a Public Water Agency which shall have met the requirements of Section 15 hereof; or (3) a successor of a Public Water Agency referred to in Section 21. The term “Member” shall, however, exclude any Public Water Agency which shall have withdrawn or been excluded from the Finance Authority pursuant to Section 16 hereof.

(o) **Member Support Amount.** The term “Member Support Amount” shall mean, with respect to any Member, the sum of (1) the original principal amount of Bonds that a Member has undertaken by agreement to pay by installment purchase agreement, and (2) without duplication with amounts described in clause 1 of this definition, any Additional Project Amounts of such Member.

(p) **Powers.** Collectively, the Common Powers and the Additional Powers.

(q) **Public Water Agency.** The term “Public Water Agency” shall mean (1) a public agency that has entered into an agreement with the California Department of Water Resources for water supply from the State Water Project or an agreement with the Federal Bureau of Reclamation for water supply from the Central Valley Project or (2) a member unit of Kern County Water Agency.

(r) **State Water Project.** The term “State Water Project” means the State Water Facilities, as defined in California Water Code section 12934(d).

SECTION 3. CREATION OF AUTHORITY. Pursuant to the Joint Powers Act, there is hereby created a public entity, to be known as the “Finance Authority”, and said Finance Authority shall be a public entity separate and apart from the Members. The effective date of this Agreement shall be July 3, 2018.

Within 30 days after the effective date of this Agreement or any amendment hereto, the Secretary shall cause a notice of this Agreement or amendment hereto to be prepared and filed with the office of the Secretary of State of the State of California in the manner set forth in Section 6503.5 of the Joint Powers Act.

SECTION 4. PLACE OF BUSINESS. The business office of the Finance Authority shall be at 1121 L Street, Suite 1045, Sacramento, CA 95814, Sacramento, CA 95814, or at such other place as may later be designated by the Board of Directors.

SECTION 5. TERM. This Agreement shall become effective as of the date hereof and, subject to the right to rescind provided by Section 9 hereof, shall continue in full force and effect for a period of fifty (50) years from the date hereof or until such later date as all bonds and notes of the Finance Authority and the interest thereon shall have been paid in full or adequate provision for such payment shall have been made in accordance with the instruments governing such bonds and notes.

SECTION 6. POWERS. The Finance Authority has all Powers necessary or convenient, specified or implied, to the accomplishment of the purposes of this Agreement, subject to the restrictions set for in this Section. The enumeration of any Powers herein shall not limit the generality or scope of the Powers granted to the Authority pursuant to this Section, the definition of Common Powers, the definition of Additional Powers, or the grant of any other powers otherwise available to the Authority as a separate public entity pursuant to the Joint Powers Act or any other applicable law whether currently in force or hereafter enacted. Without limiting the generality of the Powers conferred in this Section, the Finance Authority is hereby authorized, in its own name, to do all acts necessary or convenient to the accomplishment of the purposes of this Agreement and the full exercise of the Powers conferred in this Section, including, but not limited to, any or all of the following:

(a) To finance or assist in the financing of the planning, development, acquisition, construction, improvement, management, maintenance or operation of the Conveyance Project, or any interest therein, to act as agent, and to sell, deliver, exchange, and otherwise dispose of any interest the Authority may have or acquire in the Conveyance Project, including without limitation, any capacity or other interest in the Conveyance Project; and to purchase, lease or otherwise acquire and equip, maintain, operate, sell, assign, convey, lease and otherwise dispose of facilities or systems, or interests therein, together with all lands, buildings, equipment, and all other real or personal property, tangible or intangible, necessary or incidental thereto.

(b) To acquire (by exercise of the power of eminent domain or otherwise), hold, lease (as lessor or lessee), sell, or otherwise dispose of any real or personal property, commodity, or service including, without limitation, to buy, lease, construct, appropriate, contract for, invest in, and otherwise acquire, and to own, hold, maintain, equip, operate, manage, improve, develop, and deal in and with, and to sell, lease, exchange, transfer, convey and otherwise dispose of, real and personal property of every kind, tangible and intangible, commodities (including fuel and water) and services; provided that the power to acquire property shall not include the power of condemnation of property owned or otherwise subject to use or control by any public utility within the State of California.

(c) To make and enter into contracts with any Member or Members, or any other entity, public or private, with respect to the planning, design, ownership, location, acquisition, financing, construction, operation or disposal of the Conveyance Project or any interest therein, and with respect to any other matters relating to the Conveyance Project, or the financing thereof, on such terms and conditions as shall be determined by the Board of Directors.

(d) To establish or agree to establish, pursuant to any contract with respect to the Conveyance Project, management or other committees composed of representatives of

participating entities and to agree to the powers, duties, procedures and responsibilities of any such committee.

(e) To make and enter into other contracts of every kind with the Members, the United States, any state or political subdivision thereof, and any individual, firm, association, partnership, corporation or any other organization of any kind.

(f) To apply for, accept, receive and disburse state, federal or local licenses, permits, grants, loans, or other aid from any agency of the United States, the State or other public or private entities as the Finance Authority deems necessary for the full exercise of its powers.

(g) To employ full-time and part-time employees, assistants and independent contractors that may be necessary from time to time to accomplish the purpose of the Finance JPA, including interagency agreements with Members.

(h) To issue Bonds and otherwise to incur debts, liabilities or obligations provided that no such Bond, debt, liability or obligation shall constitute a debt, liability or obligation of any Member.

(i) To sue and be sued in its own name.

(j) To purchase for investment or otherwise such bonds, notes, commercial paper or other evidences of indebtedness issued by the Department of Water Resources of the State of California or any other governmental agency or entity as may be legal investments for the Finance Authority and to pledge any such indebtedness to the payment of any debts, liabilities or obligations of the Finance Authority.

(k) To apply for letters of credit or other forms of financial guarantees in order to secure the repayment of Bonds and enter into agreements in connection therewith.

(l) To engage the services of private consultants to render professional and technical assistance and advice in carrying out the purposes of the Finance Authority.

(m) To employ and compensate counsel including general counsel, bond counsel and disclosure counsel, as well as financial consultants, municipal advisors and other advisers, in each case as determined appropriate by the Finance Authority in the accomplishment of the purposes of the Authority, including without limitation in connection with the issuance and sale of any Bonds.

(n) To contract for engineering, construction, architectural, accounting, environmental, land use, or other services determined necessary or convenient by the Finance Authority in connection with the accomplishment of the purposes of the Finance Authority.

(o) To take title to, and transfer, sell by installment sale or otherwise, lands, structures, real or personal property, rights, capacity interests, rights-of-way, easements, and other interests in real or personal property which the Finance Authority determines are necessary or convenient in connection with the accomplishment of the purposes of the Finance Authority.

(p) To exercise any other power permitted by the Joint Powers Act.

To the extent required under Government Code section 6509, in the event that the Metropolitan Water District of Southern California becomes a party to this Agreement, and upon approval of the Board, the Finance Authority shall exercise its powers in the manner and according to the methods provided under the laws applicable to the Metropolitan Water District of Southern California. Prior to such event, to the extent required under Government Code section 6509, the Finance Authority shall exercise its powers in the manner and according to the methods provided under the laws applicable to the San Geronio Pass Water Agency.

SECTION 7. BONDS AND NOTES. The Finance Authority shall also have the power to issue, sell and deliver, in accordance with the provisions of the Joint Powers Act, (1) bonds, notes or other obligations to provide funds for the acquisition, construction and/or financing of the Conveyance Project, including, without limitation, the financing of the purchase, lease or other acquisition by one or more Members of an interest in the Conveyance Project, and (2) refunding bonds for the purpose of redeeming or retiring any bonds issued by the Finance Authority and any other indebtedness incurred by the Finance Authority. The terms and conditions of the issuance of any such bonds, refunding bonds or notes shall be set forth in such resolution, indenture or other instrument, shall include such security provisions and shall specify such source or sources of payment, as in accordance with law shall be determined by the Board of Directors.

SECTION 8. LIMITATIONS AND CONTRIBUTION.

(a) Bonds or notes issued by the Finance Authority under Section 6, and contracts or obligations which are entered into by the Finance Authority to carry out the purposes for which such bonds or notes are issued and which are payable in whole or in part from the proceeds of said bonds or notes, shall not constitute a debt, liability or obligation of any Member. Pursuant to Section 6508.1 of the Government Code of the State of California, as amended, no debt, liability or obligation of the Finance Authority shall be a debt, liability or obligation of any Member except as provided by Section 895.2 of the Government Code of the State of California in the case of injury caused by a negligent or wrongful act or omission occurring in the performance of this Agreement.

(b) Nothing in this Section contained shall in any way diminish the liability of any Member or other party with respect to any contract between such Member or other party and the Finance Authority

SECTION 9. TERMINATION OF POWERS; LIQUIDATION; DISTRIBUTION. This Agreement shall continue in full force and effect, and the Finance Authority shall continue to possess the powers herein conferred upon it, until the expiration (pursuant to Section 5 of this Agreement) of the term of this Agreement or until the Members shall have rescinded this Agreement (pursuant to this Section 9). Rescission of this Agreement may only be accomplished by a writing or writings executed by each Member and approved by resolution of each Member's governing body. In no event shall this Agreement or the powers herein granted to the Authority be rescinded until (1) all bonds and notes of the Finance Authority and the interest thereon shall have been paid or adequate provision for such payment shall have been made in accordance with the instruments governing such bonds and notes and (2) all other obligations and liabilities of the Finance Authority shall have been met or adequately provided for.

Upon any such expiration or rescission, the Board of Directors shall liquidate the business and assets and property of the Finance Authority as expeditiously as possible, and distribute any net proceeds to any Members in such manner in accordance with law as shall be determined by the Board of Directors.

SECTION 10. BOARD OF DIRECTORS.

(a) The Finance Authority shall be administered by a governing board (the "Board of Directors") which shall consist of one Director representing each Member. The Director representing each Member shall be a director, officer or employee of such Member. Each Director will serve in his individual capacity as a member of the Board of Directors. The Board of Directors shall have the general management of the affairs, property and business of the Authority and may adopt and modify from time to time such by-laws and other rules and regulations for that purpose and for the conduct of its meetings as it may deem proper. The Board of Directors may exercise and shall be vested with all powers of the Finance Authority insofar as not inconsistent with law or this Agreement.

(b) The Board of Directors may adopt an annual budget for administrative expenses, which shall include all expenses not included in any financing issue or Conveyance Project Matter of the Finance Authority, on or about July 1st of each year.

(c) Directors may receive reasonable compensation for serving as a Director, and shall be entitled to reimbursement for any expenses actually incurred in connection with serving as such, if the Board of Directors determines that such expenses shall be reimbursed and there are unencumbered funds available for such purpose.

SECTION 11. EXECUTIVE COMMITTEE AND EXECUTIVE DIRECTOR

(a) The Board of Directors shall establish an Executive Committee comprised of the President, Vice President, and Secretary of the Board of Directors and shall serve at the pleasure of the Board. The Board of Directors by majority vote may appoint additional Members to the Executive Committee.

(b) The Executive Committee shall be responsible and is delegated authority to manage the administration of the affairs, property and business of the Authority, and shall carry out such other responsibilities as are delegated to it by the Board of Directors. The Executive Committee shall study and recommend to the Board of Directors changes in procedures, plans, and programs as appropriate. Notwithstanding the foregoing, the Executive Committee shall have no authority to approve any matter that requires the unanimous vote of the Directors under Section 12(g) of this Agreement.

(c) The Executive Committee shall hold at least one regular meeting quarterly. The date, time and place upon which such regular meetings shall be held, shall be fixed by the Executive Committee, and notice of such meetings shall be provided to each Member of the Authority.

(d) The presence of a majority of the Members of the Executive Committee shall constitute a quorum, except that less than a quorum may adjourn from time to time. An affirmative vote of three (3) Members of the Executive Committee shall be necessary to constitute action and to transact business.

(e) The Executive Committee shall develop or cause to be developed and recommend to the Board of Directors for approval an annual budget for the Finance Authority.

(f) Recommendations of the Executive Committee to the Board of Directors shall be established upon a majority vote of the Executive Committee Members.

(g) The Board may hire an Executive Director to assist the Executive Committee in carrying out its responsibilities, and/or other duties and responsibilities as delegated by the Board of Directors. The Executive Director shall serve at the pleasure of the Board of Directors, and shall be compensated for his/her services, as determined by the Board of Directors.

SECTION 12. MEETINGS OF BOARD OF DIRECTORS.

(a) **Regular Meetings.** The Board of Directors shall hold a regular meeting not less than once each calendar year. The date upon which, and the hour and place at which, each regular meeting shall be held shall be set by the Board of Directors.

(b) **Special Meetings.** Special meetings of the Board of Directors may be called in accordance with the provisions of Section 54956 of the Government Code of the State of California, as amended.

(c) **Legal Notice.** All meetings of the Board of Directors shall be held subject to the provisions of the laws of the State of California requiring notice of meetings of public bodies to be given in the manner in such laws provided.

(d) **Minutes.** The Secretary of the Finance Authority shall cause to be kept minutes of the meetings of the Board of Directors, both regular and special, and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each Director.

(e) **Quorum.** Those Directors representing a majority of the votes of the Board of Directors for all non-administrative matters, as calculated under subsection (f) below, shall constitute a quorum for the transaction of business, except that, if less than a majority of votes is present at a meeting, Directors representing a majority of votes that are present may adjourn the meeting from time to time. At no time shall a quorum consist of fewer than two Directors.

(f) **Voting.** When a quorum is present at a meeting of the Board of Directors, the vote of the Directors present at such meeting shall decide any question brought before such meeting and such decision shall be deemed to be the action of the Board. Each Director shall have the number of votes equal to 1,000 multiplied by its Financial Commitment Amount. Except as provided in subsections (g) and (h) of this Section 12 and in Section 15(c) of this Agreement, the majority of votes shall decide any question. Notwithstanding any other provision of this Agreement, all administrative matters shall be decided by a majority vote, with each Director having one vote. Administrative matters include, but are not limited to, actions such as, selecting

Board Officers, selecting additional Executive Committee Members, selecting an Executive Director, setting agendas, designating meeting times and places and other general matters related to the basic functions of the Finance Authority.

(g) **Super Majority Voting Provisions.** Any of the following matters shall require a vote of not less than all of the Directors:

(i) The addition of any Public Water Agency as a new Member under Section 15(c) of this Agreement;

(ii) The termination of this Agreement; and

(iii) Any action, the taking of which would cause the Finance Authority to breach its obligations under the contractual arrangements among the Members relating to the issuance of Bonds and the Conveyance Project.

(h) **Other Voting Arrangements.** No provision of this Agreement shall in any way restrict the ability of the Finance Authority to make and enter into from time to time contracts providing for representation on management or other committees with respect to the Conveyance Project and/or voting by the parties to such contracts on matters related thereto, on the terms provided therein.

SECTION 13. OFFICERS.

(a) At its first meeting in each calendar year, the Board of Directors shall elect a President, Vice President and Secretary, and appoint or reappoint a Treasurer/Controller who may, but need not, be selected from among the Directors. In the event that the President, Vice President, Secretary or Treasurer/Controller so elected or appointed ceases (in the case of the President or the Vice President) to be a Director, resigns from such office or is otherwise unable to perform the duties of such office, the resulting vacancy shall be filled at the next regular meeting of the Board of Directors held after such vacancy occurs. In the absence or inability of the President to act, the Vice President shall act as President. The President, or in his absence the Vice President, shall preside at and conduct all meetings of the Board of Directors.

(b) The Treasurer/Controller is designated as the treasurer and the controller of the Finance Authority and as such (1) shall be the depository of the Finance Authority to have custody of all the money of the Finance Authority, from whatever source, (2) shall draw warrants to pay demands against the Finance Authority when the demands have been approved by the President or the Vice President of the Finance Authority, and (3) shall have the other powers, duties and responsibilities of such officers as specified in Section 6505.5 of the Government Code of the State of California, as amended, except insofar as such powers, duties and responsibilities are assigned to a trustee appointed, as is provided for and authorized by Section 6558 of the Government Code of the State of California, as amended, pursuant to any resolution, indenture or other instrument providing for the issuance of bonds or notes of the Finance Authority pursuant to Section 6 of this Agreement.

(c) The President, the Vice President and (to the extent such officer's duties and responsibilities pursuant to the Joint Powers Act require) the Treasurer/Controller are designated

as the public officers or persons who have charge of, handle, or have access to any property of the Finance Authority, and each such officer shall file an official bond with the Secretary of the Finance Authority in the amount of \$100,000.

(d) In addition to the powers, duties and responsibilities provided herein or by law, the President, the Vice President and the Secretary shall have such powers, duties and responsibilities as are provided in the by-laws of the Finance Authority. The Treasurer/Controller shall have such powers, duties and responsibilities as are provided herein or by law.

(e) The Board of Directors shall have the power to appoint an Executive Director, who shall have such powers, duties and responsibilities as may be provided in the by-laws of the Finance Authority and as specified in section 11(g) of this Agreement.

(f) The Board of Directors shall have the power to appoint a General Counsel. The General Counsel will report to the Board of Directors.

(g) The Board of Directors shall have the power to appoint such other officers and employees as it may deem necessary, any of whom may be employees of a Member, and who shall have such powers, duties and responsibilities as are determined by the Board of Directors.

SECTION 14. CONTRIBUTIONS; PAYMENTS; ADVANCES. In accordance with Section 6504 of the Government Code of the State of California, as amended, the Members shall make such contributions, payments and advances to the Finance Authority as are approved from time to time by the Board of Directors, provided that only Members who vote to approve such contribution, payment and advance by a Member shall be obligated to make any such contribution, payment or advance. The Finance Authority may make such arrangements relative to the repayment or return to the Members of such contributions, payments and advances as are approved from time to time by the Board of Directors. Notwithstanding this section, any administrative action taken under section 12(f) that would require the Finance Authority to incur costs will be allocated equally amongst the Members. Costs of non-administrative matters, which include, but are not limited to, costs related to financing such as costs of bond counsel, financial advisors, underwriting costs, custodian costs, rating agency costs, and arbitrage consultant costs, shall be apportioned based on the Members' Financial Commitment Amount.

Any Member which fails to make or pay when due any required contribution, payment or advance to the Finance Authority, may have its rights under this Agreement terminated and may be excluded from participation in the Authority as provided in Section 16 of this Agreement.

SECTION 15. ADDITIONAL MEMBERS. Any Public Water Agency may become a Member as follows:

(a) Within five months of the effective date of this Agreement, any Public Water Agency may execute this Agreement and become a Member if the governing body of the Public Water Agency adopts a resolution (at or before the time of its execution of this Agreement) which, (1) authorizes such Public Water Agency to commit to financially supporting any Bonds issued by the Finance Authority or which expresses an intention to do so at later date, and (2) approves the execution by such Public Water Agency of this Agreement.

(b) Except for Public Water Agencies that become Members pursuant to the provisions of subparagraph (a) above, a Public Water Agency may become a Member by filing with the Board of Directors a certified copy of a resolution of its governing body whereby the Public Water Agency (1) agrees to the provisions of this Agreement and (2) requests to become a Member.

(c) Except for Public Water Agencies that become Members pursuant to the provisions of subparagraph (a) above, if a Public Water Agency requests to be a Member under subparagraph (b), such Public Water Agency will not become a Member until its admission is approved at a regular or special meeting of the Board of Directors by unanimous vote.

(d) Upon satisfying the requirements of subparagraph (a) or the requirements of subparagraph (b) and (c), the Public Water Agency shall become a Member for all purposes of this Agreement.

SECTION 16. WITHDRAWAL OR EXCLUSION OF MEMBER

(a) Any Member may withdraw from the Finance Authority upon the following conditions: (1) the Member shall have filed with the Board of Directors a certified copy of a resolution of its governing body expressing its desire to so withdraw and (2) if the Finance Authority, prior to the filing of such resolution, shall have incurred any obligation payable from contributions, payments or advances in accordance with Section 14 hereof which obligation matures after the date of such filing, the withdrawing Member shall have paid, or made arrangements satisfactory to the Board of Directors to pay, to the Finance Authority its *pro rata* portion of such obligation.

(b) Upon compliance with the conditions specified in subsection (a) of this Section 16, the withdrawing Member shall no longer be considered a Member for any reason or purpose under this Agreement and its rights and obligations under this Agreement shall terminate. The withdrawal of a Member shall not affect any obligations of such Member under any contract between the withdrawing Member and the Finance Authority.

SECTION 17. ACCOUNTS AND REPORTS. There shall be strict accountability of all funds and reporting of all receipts and disbursements of the Finance Authority. The Finance Authority shall establish and maintain such funds and accounts as may be required by good accounting practice or by any provision of any resolution, indenture or other instrument of the Finance Authority securing its bonds or notes, except insofar as such powers, duties and responsibilities are assigned to a trustee appointed pursuant to such resolution, indenture or other instrument. The books and records of the Finance Authority shall be open to inspection at all reasonable times to each Member and its representatives. The Finance Authority, within 180 days after the close of each Fiscal Year, shall give a complete written report of all financial activities for such Fiscal Year to the Members.

The Board of Directors shall cause an annual independent audit of the accounts and records of the Finance Authority to be made by a certified public accountant or public accountant, all in accordance with, and at the time or times required by, law.

All the books, records, accounts and files referred to in this Section 17 shall be open to the inspection of holders of bonds or notes of the Finance Authority to the extent and in the manner

provided in the resolution, indenture or other instrument providing for the issuance of such bonds or notes.

SECTION 18. BREACH. If default shall be made by any Member in any undertaking contained in this Agreement, such default shall not excuse such Member or any other Member from fulfilling its obligations under this Agreement and each Member shall continue to be liable for the payment of contributions, payments and advances pursuant to Section 14 hereof and the performance of all conditions herein contained. Each Member hereby declares that this Agreement is entered into for the benefit of the Finance Authority created hereby and each Member hereby grants to the Finance Authority the right to enforce by whatever lawful means the Finance Authority deems appropriate all of the obligations of each of the Members hereunder. Each and all of the remedies given to the Finance Authority hereunder or by any law now or hereafter enacted are cumulative and the exercise of one right or remedy shall not impair the right of the Finance Authority to any or all other remedies.

SECTION 19. INDEMNITY

(a) Indemnity by Finance Authority for Litigation Expenses of Officer, Director or Employee. To the extent permitted by law, the Board of Directors may authorize indemnification by the Finance Authority of any person who is or was a member of the Board of Directors, or an officer, employee or other agent of the Finance Authority, and who was or is a party or is threatened to be made a party to a proceeding by reason of the fact that such person is or was such a member of the Board, or officer employee or other agent of the Authority, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceedings

(b) Indemnity by Finance Authority for Litigation Expenses of a Member. To the full extent permitted by law, the Board of Directors may authorize indemnification by the Finance Authority of a Member who was or is a party or is threatened to be made a party to a proceeding by reason of the fact that such entity is or was a Member of the Finance Authority against expenses, judgments, fines settlements and other amounts and reasonably incurred in connection with such proceedings. Any obligations pursuant to this Section shall be borne by the Finance Authority and shall be a charge against any unencumbered funds of the Finance Authority available for the purpose.

SECTION 20. SEVERABILITY. In the event that any term, covenant or condition of this Agreement or the application of such term, covenant or condition, shall be held invalid as to any person or circumstance by any court having jurisdiction in the premises, all other terms, covenants or conditions of this Agreement and their application shall not be affected thereby, but shall remain in force and effect unless a court holds that the provisions are not separable from all other provisions of this Agreement.

SECTION 21. SUCCESSORS AND ASSIGNS; AMENDMENTS. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the Members. No Member may assign its rights or obligations as a Member of the Finance Authority without the consent of all other Members. The immediately preceding sentence shall not affect, in any respect, any right of assignment under any contract between any Member and the Finance

Authority. Subject to any requirements of law (including Section 6573 of the Government Code of the State of California, as amended), this Agreement may be amended at any time and from time to time by a writing or writings executed by each Member and approved by resolution of each Member's governing body.

SECTION 22. NOTICES.

(a) Any notice, demand or request provided for in this Agreement shall be in writing and shall be deemed properly served, given, or made if delivered in person or sent by registered or certified mail, postage prepaid, to the persons specified below:

if to the Finance Authority:	c/o Executive Director 1121 L Street, Suite 1045 Sacramento, CA 95814
if to Alameda County Water Agency:	c/o General Manager 43885 S Grimmer Blvd. Fremont, CA 94538
if to Alameda County Flood Control and Water Conservation District, Zone 7	c/o General Manager 100 N. Canyons Parkway Livermore, CA 94551
if to San Geronio Pass Water District:	c/o General Manager 1210 Beaumont Ave Beaumont, CA 92223

(b) A Member may, at any time, by written notice to each other Member and the Finance Authority, designate different or additional persons or different addresses for giving of notices, demands or requests to it hereunder.

(c) The Finance Authority may, at any time, by written notice to each Member, designate a different or additional person or a different address for giving of notices, demands or requests to it hereunder.

SECTION 23. OTHER OBLIGATIONS. The Members acknowledge that contractual arrangements outside of this Agreement, but not inconsistent to the terms of this Agreement, may be made among the Members relating to the assignment and disposition of any security or assignable interests in the Conveyance Project and the study, planning, development, acquisition, construction, reconstruction, improvement, or betterment of the Conveyance Project.

SECTION 24. EXECUTION OF COUNTERPARTS. This Agreement may be executed in any number of counterparts. All such counterparts shall be deemed to be originals and shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the Members hereto have caused this Agreement to be executed and attested by their proper officers thereunto duly authorized, and their official seals to be hereto affixed, as of the day and year first above written.

Date

Alameda County Water Agency
43885 S Grimmer Blvd.
Fremont, CA 94538

Date

Alameda County Flood Control and Water Conservation
District, Zone 7
100 N. Canyons Parkway
Livermore, CA 94551

Date

San Geronio Pass Water District:
1210 Beaumont Ave
Beaumont, CA 92223

**BOARD OF DIRECTORS
SANTA CLARA VALLEY WATER DISTRICT**

RESOLUTION NO. 18-

**APPROVAL OF THE DELTA CONVEYANCE FINANCE AUTHORITY
JOINT POWERS AGREEMENT**

WHEREAS, Santa Clara County ("County") relies on State Water Project ("SWP") and Central Valley Project ("CVP") water conveyed through the Sacramento-San Joaquin Bay-Delta ("Delta") for 40 percent of its water supply on average; and

WHEREAS, substantial local investments in water use efficiency and conservation, recycled water and groundwater management are essential, but cannot cost-effectively replace imported water; and

WHEREAS, imported water from the Delta and its watershed has played a significant role in meeting the County's water supply demands and allows for the recharging of the County's groundwater basin, protecting against further land subsidence, and providing for the well-being its citizens; and

WHEREAS, the California Department of Water Resources ("DWR") proposes to construct the California WaterFix, a project that could potentially protect the District's water supply reliability by upgrading aging infrastructure, thereby reducing the vulnerability of SWP and CVP water supplies to seismic events in the Delta and climate change impacts; and

WHEREAS, the California WaterFix has the potential to sustain reliable access to the District's imported water supplies and increase the yield of storage projects the District may develop or participate in, while conveying water across the Delta in a way that is safer for the environment; and

WHEREAS, on May 8, 2018, the District Board voted to participate in the California WaterFix; and

WHEREAS, on July 6, 2018, the District Board considered a Delta Conveyance Finance Authority Joint Powers Agreement ("Finance JPA Agreement") that will govern the operations of the Delta Conveyance Finance Authority ("Finance Authority"); and

WHEREAS, it is intended that the Finance Authority, in exercising its powers, will serve as an issuer of bonds for the benefit of its members in implementing the California WaterFix; and

WHEREAS, the Board's approval of the Finance JPA Agreement, in and of itself, does not impose any financial commitment on District; but instead, the financial commitments of the District and any other member agencies of the Finance Authority will be the subject of further negotiations among the member agencies and the Finance Authority prior to the first bond issuance by the Finance Authority; and

WHEREAS, per Section 15 of the Finance JPA Agreement, any Public Water Agency (as that term is defined in the Finance JPA Agreement) may within five months of the effective date of the Finance JPA Agreement become a member of the Finance Authority if the governing body of that Public Water Agency adopts a resolution (at or before the time it executes the Finance JPA Agreement) that: (i) either authorizes such Public Water Agency to financially support any Bonds issued by the Finance Authority or expresses an intention of that Public Water Agency to provide such financial support at a later date; and (ii) approves the execution by such Public Water Agency the Finance JPA Agreement; and

WHEREAS, the Board desires to approve the execution of the Finance JPA Agreement; and

WHEREAS, the Board desires to express its intention to support bonds issued by the Finance Authority at a later date; and

WHEREAS, it is the Board's expectation that any financial commitment by the District of any bonds issued by the Finance Authority, including the terms and conditions of such commitments, be brought to the Board for its consideration and approval.

NOW, THEREFORE BE IT RESOLVED that the Board of Directors of the Santa Clara Valley Water District does hereby find, determine, and order as follows:

1. That the District Board approves execution of the Finance JPA Agreement, in substantially the same form as the Finance JPA Agreement presented to the Board on July 6, 2018, with such changes, additions or deletions as are approved by the District's Chief Executive Officer or her designee with her or the designee's execution of the Finance JPA Agreement conclusively evidencing approval of such changes, additions or deletions; and
2. That the District Board hereby expresses its intention to support bonds issued by the Finance Authority at a later date; and
3. That any financial commitment by the District to support any bonds issued by the Finance Authority be brought to the Board for its consideration and approval.

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District by the following vote on July 6, 2018:

AYES: Directors

NOES: Directors

ABSENT: Directors

ABSTAIN: Directors

SANTA CLARA VALLEY WATER DISTRICT

RICHARD P. SANTOS
Chair/Board of Directors

ATTEST: MICHELE L. KING, CMC

Clerk/Board of Directors

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California WaterFix

Special Board Meeting

July 6, 2018

Delta Conveyance Finance Authority
Joint Powers Agreement (JPA)



Presentation Agenda



Delta Conveyance **Finance Authority** JPA



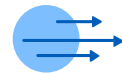
Major Provisions of the Authority Agreement



Governance and Voting of Finance Authority



Strategies to **Minimize Risk Related to JPA**



JPA **Future Agreements and Arrangements**



Staff **Recommendations**



*Finance Authority
Joint Powers
Agreement
Formation*

- Issue bonds for the conveyance project known as California Water Fix
- May also issue debt for the benefit of a member for the conveyance project
- Members can include State Water Project Contractors, Central Valley Project Contractors, and/or member units of Kern County Water Agency



Major Provisions of the Finance Authority Joint Powers Agreement

- **Term:** 50 years or until such later date all bonds and notes of Authority are paid in full
- **Enter into contracts** with Authority member(s) or other entities for planning, design, ownership, construction, acquisition, operation, disposal, or financing
- Apply for, receive and disburse state, federal or local **licenses, permits, loans or grants**
- Can **hire employees or contractors** to accomplish purpose of Authority
- Can **acquire, hold, lease, sell** any real or personal property, commodity or service



Governance and Voting

- **One Member, One Vote** for all administrative matters
- **Weighted Vote** for Financial Matters
- **Four Officers:** President, Vice President, Secretary, and Treasurer
- **Executive Committee:** Composed of President, Vice President, and Secretary, can expand per discretion of the Board
- **Quorum Requirements:** At no time shall a quorum consist of less than two Directors



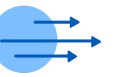
*Strategies to
Minimize Risk as a
Member of the JPA*

Membership into JPA:

- Requires Resolution by governing body to:
 - financially support any bonds OR
 - Express an intention to provide such financial support
- AND must approve and execute the formation agreement

Withdrawal from JPA:

- Requires Resolution to withdraw AND
- Pay pro rata portion of any obligations to date of withdrawal



Finance JPA Key Agreements

TODAY

Delta Conveyance Finance Authority Joint Powers Agreement

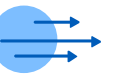
FUTURE

Installment Purchase Agreement

Project Assignment Agreement (Securities Agreement)

Bond Support Agreement

DWR Bond Financing Agreement



Next Steps

TODAY

Consider Delta Conveyance Finance Authority JPA

FUTURE

Finance Authority JPA plans to submit Letter of Interest for WIFIA by July 31st

Gap Funding Agreement*

State Water Contract Amendment *

Continued Negotiations on Water Supply, Storage and Financial agreements related to California Water Fix*

**Subject to Board Approval at future date*

Questions?



Public Comment





Staff Recommendations

Summary of Staff Recommendations:

- Approve and Execute the Delta Conveyance Finance Authority Joint Powers Agreement; and
- Designate a District Representative and Alternate to serve on the Board of Directors of the Delta Conveyance Finance Authority for the first two years following formation; and
- Adopt a Resolution for Approval of the Delta Conveyance Finance Authority Joint Powers Agreement

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**BOARD OF DIRECTORS
SANTA CLARA VALLEY WATER DISTRICT**

RESOLUTION NO. 18- 23

**MAKING RESPONSIBLE AGENCY FINDINGS PURSUANT TO THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT TO APPROVE AGREEMENTS RELATING THE
CALIFORNIA WATERFIX PROJECT**

WHEREAS, Santa Clara County relies on State Water Project (SWP) and Central Valley Project (CVP) water conveyed through the Sacramento-San Joaquin Bay-Delta (Delta) for 40 percent of its water supply on average; and

WHEREAS, imported water from the Delta and its watershed has played a significant role in meeting the County's water supply demands and allows for the recharging of the County's groundwater basin, protecting against further land subsidence, and providing for the well-being of the citizens of Santa Clara County; and

WHEREAS, substantial local investments in water use efficiency and conservation, recycled water and groundwater management are essential but cannot cost-effectively replace imported water; and

WHEREAS, the Santa Clara Valley Water District (District) has long been committed to sustained reliable water supplies as well as environmental stewardship; and

WHEREAS, if no action is taken, the District's SWP and CVP supplies will be vulnerable to risks from declining ecosystem conditions, increasing regulatory restrictions, seismic risks, climate change and sea level rise, resulting in reduced water supply reliability for Santa Clara County; and

WHEREAS, the California Department of Water Resources (DWR) has proposed to construct the California WaterFix (Project), a project that could potentially protect the District's water supply reliability by upgrading aging infrastructure, thereby reducing the vulnerability of SWP and CVP water supplies to seismic events in the Delta and climate change impacts; and

WHEREAS, in July 2017, DWR approved the Project after certifying the Project's final environmental impact report (Final EIR), making findings of fact including statement of overriding considerations, and adopting a Mitigation Monitoring and Reporting Program pursuant to the California Environmental Quality Act (CEQA); and

WHEREAS, on October 17, 2017, the District Board adopted Resolution 17-68 which declared the District's conditional support for the Project and adopted certain guiding principles to shape the District's participation in the evaluation and further development of the Project; and

WHEREAS, various contractors of the California State Water Project ("Participating SWP Contractors") are considering to form a joint powers authority ("Construction JPA") by entering into a joint powers agreement ("Construction JPA Formation Agreement") for the purpose of undertaking activities required to complete the design and construction of the Project; and

WHEREAS, DWR is seeking additional funds from various Participating SWP Contractors to pay for the Project's preconstruction expenses through execution of a gap funding agreement;

and

WHEREAS, the District is considering an option agreement with the Metropolitan Water District of Southern California to purchase CVP water supply capacity from the Project; and

WHEREAS, the District Board is considering approving some of the above-described agreements; and

WHEREAS, other agreements relating to the Project may in the future be considered by the District Board or its designee as authorized by the Board; and

WHEREAS, since DWR's certification of the Final EIR, legal actions alleging that the Final EIR does not comply with CEQA have been filed but no injunction or similar relief has been granted; and

WHEREAS, pursuant to Public Resources Code section 21167.3(b), a CEQA responsible agency must assume the Final EIR complies with CEQA pending final determination of the legal actions; and

WHEREAS, a CEQA responsible agency includes any public agency other than the lead agency which has discretionary approval power over a project; and

WHEREAS, the District as a CEQA responsible agency must make certain findings pursuant to section 15096(h) of the CEQA Guidelines prior to taking action on the Project.

NOW, THEREFORE BE IT RESOLVED that the Board of Directors of the Santa Clara Valley Water District does hereby find, determine, and order as follows:

1. The Board has considered the Final EIR and its evaluation of environmental impacts of the Project and determined that the Final EIR is adequate for use by the District to take actions on the Project.
2. The Board adopts Department of Water Resources' California Water Fix CEQA Findings of Fact and Statement of Overriding Considerations, dated July 2017.
3. The Board adopts Department of Water Resources' Final Mitigation Monitoring and Reporting Program for the California Water Fix, dated December 2016.
4. The Chief Executive Officer is hereby authorized and directed, on behalf of the District's Board of Directors, to execute any such documents and to perform any such acts as may be deemed necessary or appropriate to accomplish the intent of this resolution.

Making Responsible Agency Findings Pursuant to the California Environmental Quality Act to
Approve Agreements Relating the California WaterFix Project

Resolution No. 18-23

PASSED AND ADOPTED by the Board of Directors of Santa Clara Valley Water District by the
following vote on May 8, 2018:


AYES: Directors R. Estremera, N. Hsueh, B. Keegan, G. Kremen, L. LeZotte,
J. Varela, R. Santos

NOES: Directors None

ABSENT: Directors None

ABSTAIN: Directors None

SANTA CLARA VALLEY WATER DISTRICT

By: 

RICHARD P. SANTOS
Chair/Board of Directors

ATTEST: MICHELE L. KING, CMC


Clerk/Board of Directors

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**BOARD OF DIRECTORS
SANTA CLARA VALLEY WATER DISTRICT**

RESOLUTION NO. 18 - 24

AUTHORIZING SUPPORT OF, AND PARTICIPATION IN, CALIFORNIA WATERFIX

WHEREAS, our mission at the Santa Clara Valley Water District ("District") is to provide Silicon Valley with safe, clean water to support healthy lives, the environment, and economy; and

WHEREAS, The Board of Directors endeavor through our policies and actions to affirm to the residents of Silicon Valley that we are dependable stewards and that the District can be trusted to provide clean, safe, affordable water, and guarantee our water supply for the future; and

WHEREAS, the District has long been committed to sustained reliable water supplies as well as environmental stewardship; and

WHEREAS, Santa Clara County relies on State Water Project ("SWP") and Central Valley Project ("CVP") water conveyed through the Sacramento-San Joaquin Bay-Delta ("Delta") for 40 percent of its water supply on average; and

WHEREAS, substantial local investments in water use efficiency and conservation, recycled water and groundwater management are essential but cannot cost-effectively replace imported water; and

WHEREAS, imported water from the Delta and its watershed has played a significant role in meeting the County's water supply demands and allows for the recharging of the County's groundwater basin, protecting against further land subsidence, and providing for the well-being of the citizens of Santa Clara County; and

WHEREAS, if no action is taken, the District's SWP and CVP supplies will be vulnerable to risks from declining ecosystem conditions, increasing regulatory restrictions, seismic risks, climate change and sea level rise, resulting in reduced water supply reliability for Santa Clara County; and

WHEREAS, the California Department of Water Resources ("DWR") proposes to construct the California WaterFix ("Project" or "WaterFix"), a project that could potentially protect the District's water supply reliability by upgrading aging infrastructure, thereby reducing the vulnerability of SWP and CVP water supplies to seismic events in the Delta and climate change impacts; and

WHEREAS, the California WaterFix is a critical component of the California Water Action Plan, the State of California's blueprint for a "sustainable and resilient future"; and

WHEREAS, the Project has the potential to improve access to transfer supplies and increase storage project yield while conveying water across the Delta in a way that is safer for the environment; and

WHEREAS, in July 2017, DWR approved the Project after certifying the Project's final environmental impact report ("Final EIR"), making findings of fact including statement of overriding considerations, and adopting a Mitigation Monitoring and Reporting Program pursuant to the California Environmental Quality Act ("CEQA"); and

WHEREAS, on October 17, 2017, the District Board adopted Resolution 17-68 which declared the District's conditional support for the Project and adopted certain guiding principles to shape the District's participation in the evaluation and further development of the Project; and

WHEREAS, conditions that led to the adoption of the District's Guiding Principle 3 have changed, and all the other District guiding principles have been achieved or significant progress has been made toward achieving them, as documented in the Board Agenda Item for the May 2, 2018 District Board meeting; and

WHEREAS, the District supports the SWP WaterFix participation approach, which would allocate the benefits and costs of the Project to the District in proportion to its current 2.5% allocation in the SWP under the State Water Contracts (determined by reference to Table A of such State Water Contracts), and allow each SWP contractor to transfer its costs and benefits of the WaterFix to another willing SWP contractor; and

WHEREAS, approximately 67% of the capacity of the Project is currently subscribed by SWP contractors and approximately 33% of the capacity of the Project is currently unsubscribed (the unsubscribed portion of the capacity of the California WaterFix being referred to herein as the "CVP Share"); and

WHEREAS, on April 10, 2018, Metropolitan Water District of Southern California ("MWD") authorized and approved MWD entering into a series of transactions to finance and purchase the unsubscribed CVP Share and, among other actions, to enter into one or more purchase agreements (collectively, the "Capacity Interest Purchase Agreements") under which other water agencies would agree to purchase or make payments for the purchase of a capacity interest in the CVP Share and MWD would transfer to any such water agency all or a portion of the CVP Share; and

WHEREAS, it is critical that the WaterFix provide reliability for the District's CVP supplies as well as its SWP supplies and that both supplies can be moved through the WaterFix; and

WHEREAS, the District is interested in purchasing a portion of the CVP Share, up to 200 cubic feet per second (cfs) of capacity, in order to sustain and protect its CVP supplies; and

WHEREAS, in order for the District to sustain its CVP supplies through participation in the WaterFix, a number of approvals and agreements with the U.S. Bureau of Reclamation ("Reclamation") must be secured, and it is anticipated that a Capacity Interest Purchase Agreement must be executed between the District and MWD; and

WHEREAS, on May 8, 2018, the District Board adopted Resolution 18-23, which made Responsible Agency findings pursuant to the CEQA to approve agreements relating to financing, construction, and operation of the Project.

NOW, THEREFORE BE IT RESOLVED that the Board of Directors of the Santa Clara Valley Water District does hereby find, determine, and order as follows:

1. The Board hereby authorizes and approves the District's participation in the WaterFix 1) as a SWP contractor, consistent with DWR's approach to allocate the costs and benefits of the SWP contractors' share of the Project in proportion to the Table A amount specified in their State Water Contracts, and 2) as a CVP contractor, to negotiate the purchase of up to 200

cfs of the CVP Share, along with the necessary approvals and agreements from Reclamation, to convey the District's CVP and/or non-CVP water.

PASSED AND ADOPTED by the Board of Directors of Santa Clara Valley Water District by the following vote on May 8, 2018:

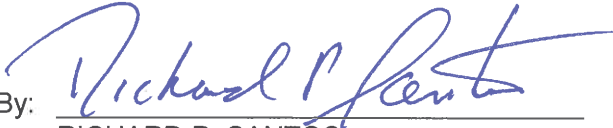
AYES: Directors T. Estremera, N. Hsueh, B. Keegan, G. Kremen

NOES: Directors L. LeZotte, J. Varela, R. Santos

ABSENT: Directors None

ABSTAIN: Directors None

SANTA CLARA VALLEY WATER DISTRICT

By: 

RICHARD P. SANTOS
Chair/Board of Directors

ATTEST: MICHELE L. KING, CMC


Clerk/Board of Directors

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County of Santa Clara
Office of the County Clerk-Recorder
Business Division

County Government Center
70 West Hedding Street, E. Wing, 1st Floor
San Jose, California 95110 (408) 299-5688



Santa Clara County - Clerk-Recorder Office
State of California

File Number: ENV21533

ENVIRONMENTAL FILING

No. of Pages: 9

Total Fees: \$50.00

File Date: 05/15/2018

Expires: 06/14/2018

CEQA DOCUMENT DECLARATION

REGINA ALCOMENDRAS, Clerk-Recorder
By: Mike Louie, Deputy Clerk-Recorder

ENVIRONMENTAL FILING FEE RECEIPT

PLEASE COMPLETE THE FOLLOWING:

1. LEAD AGENCY: Santa Clara Valley Water District
2. PROJECT TITLE: California Water Fix-Authorization to Execute Agreements, Designation of District Representative and adoption of CEQA Findings
3. APPLICANT NAME: Santa Clara Valley Water District PHONE: (408) 265-2607
4. APPLICANT ADDRESS: 5750 Almaden Expressway, San Jose, CA 95118
5. PROJECT APPLICANT IS A: ☐ Local Public Agency ☐ School District ☒ Other Special District ☐ State Agency ☐ Private Entity
6. NOTICE TO BE POSTED FOR 30 DAYS.
7. **CLASSIFICATION OF ENVIRONMENTAL DOCUMENT**

a. PROJECTS THAT ARE SUBJECT TO DFG FEES

- | | | |
|--|-------------|---------|
| <input type="checkbox"/> 1. <u>ENVIRONMENTAL IMPACT REPORT</u> (PUBLIC RESOURCES CODE §21152) | \$ 3,168.00 | \$ 0.00 |
| <input type="checkbox"/> 2. <u>NEGATIVE DECLARATION</u> (PUBLIC RESOURCES CODE §21080(C)) | \$ 2,280.75 | \$ 0.00 |
| <input type="checkbox"/> 3. <u>APPLICATION FEE WATER DIVERSION</u> (STATE WATER RESOURCES CONTROL BOARD ONLY) | \$ 850.00 | \$ 0.00 |
| <input type="checkbox"/> 4. <u>PROJECTS SUBJECT TO CERTIFIED REGULATORY PROGRAMS</u> | \$ 1,077.00 | \$ 0.00 |
| <input type="checkbox"/> 5. <u>COUNTY ADMINISTRATIVE FEE</u> (REQUIRED FOR a-1 THROUGH a-4 ABOVE)
Fish & Game Code §711.4(e) | \$ 50.00 | \$ 0.00 |

b. PROJECTS THAT ARE EXEMPT FROM DFG FEES

- | | | |
|--|----------|----------|
| <input type="checkbox"/> 1. NOTICE OF EXEMPTION (\$50.00 COUNTY ADMINISTRATIVE FEE REQUIRED) | \$ 50.00 | \$ 0.00 |
| <input checked="" type="checkbox"/> 2. A COMPLETED "CEQA FILING FEE NO EFFECT DETERMINATION FORM" FROM THE DEPARTMENT OF FISH & GAME, DOCUMENTING THE DFG'S DETERMINATION THAT THE PROJECT WILL HAVE NO EFFECT ON FISH, WILDLIFE AND HABITAT, OR AN OFFICIAL, DATED RECEIPT / PROOF OF PAYMENT SHOWING PREVIOUS PAYMENT OF THE DFG FILING FEE FOR THE *SAME PROJECT IS ATTACHED (\$50.00 COUNTY ADMINISTRATIVE FEE REQUIRED) | | |
| DOCUMENT TYPE: <input checked="" type="checkbox"/> ENVIRONMENTAL IMPACT REPORT <input type="checkbox"/> NEGATIVE DECLARATION | \$ 50.00 | \$ 50.00 |

c. NOTICES THAT ARE NOT SUBJECT TO DFG FEES OR COUNTY ADMINISTRATIVE FEES

- | | | |
|--|--------|-----------|
| <input type="checkbox"/> NOTICE OF PREPARATION <input type="checkbox"/> NOTICE OF INTENT | NO FEE | \$ NO FEE |
|--|--------|-----------|

8. OTHER: _____ FEE (IF APPLICABLE): \$ _____

9. TOTAL RECEIVED..... \$ 50.00

*NOTE: "**SAME PROJECT**" MEANS **NO** CHANGES. IF THE DOCUMENT SUBMITTED IS NOT THE SAME (OTHER THAN DATES), A "NO EFFECT DETERMINATION" LETTER FROM THE DEPARTMENT OF FISH AND GAME FOR THE **SUBSEQUENT** FILING OR THE APPROPRIATE FEES ARE REQUIRED.

THIS FORM MUST BE COMPLETED AND ATTACHED TO THE FRONT OF ALL CEQA DOCUMENTS LISTED ABOVE (**INCLUDING COPIES**) SUBMITTED FOR FILING. WE WILL NEED AN ORIGINAL (WET SIGNATURE) AND TWO (2) COPIES. IF THERE ARE ATTACHMENTS, PLEASE PROVIDE THREE (3) SETS OF ATTACHMENTS FOR SUBMISSION. (**YOUR ORIGINAL WILL BE RETURNED TO YOU AT THE TIME OF FILING.**)

CHECKS FOR ALL FEES SHOULD BE MADE PAYABLE TO: SANTA CLARA COUNTY CLERK-RECORDER

PLEASE NOTE: FEES ARE ANNUALLY ADJUSTED (Fish & Game Code §711.4(b); PLEASE CHECK WITH THIS OFFICE AND THE DEPARTMENT OF FISH AND GAME FOR THE LATEST FEE INFORMATION.

"... NO PROJECT SHALL BE OPERATIVE, VESTED, OR FINAL, NOR SHALL LOCAL GOVERNMENT PERMITS FOR THE PROJECT BE VALID, UNTIL THE FILING FEES REQUIRED PURSUANT TO THIS SECTION ARE PAID." Fish & Game Code §711.4(c)(3)

(Fees Effective 01-01-2018)

NOTICE OF DETERMINATION

Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118
(408) 265-2600

☐ Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95818

☒ County of Santa Clara County Clerk
70 West Hedding Street
San Jose CA 95110

Subject:

Filing of Notice of determination in compliance with Section 21108 or 21152 of the Public Resource Code.

Contact Person: Francis Brewster	Telephone No: (408) 306-2723	State Clearinghouse No: 2008032062
Project Title: California Water Fix -- Authorization to Execute Agreements, Designation of District Representative, and Adoption of CEQA Findings		
Project Location: Counties of Sacramento, Solano, Contra Costa, San Joaquin, and Yolo (see attachment 1 Project Map: Figure 3-9 from Chapter 3 of the Final EIR and information provided in the attached Lead Agency NOD).		
Project Description: The California Department of Water Resources (DWR), the Lead Agency under the California Environmental Quality Act (CEQA), certified the Environmental Impact Report (Final EIR), adopted Findings of Fact, a Statement of Overriding Considerations, and a Mitigation Monitoring and Reporting Program; and filed a Notice of Determination on July 21, 2017 for the California WaterFix, Alternative 4A (WaterFix). WaterFix, Alternative 4A would construct a new north Delta intake structure, fish screens and a dual conveyance system. The objective of the project is to increase water supply reliability and align water operations to better reflect natural seasonal flow regime. The new facility will reduce State Water Project (SWP) and Central Valley Project (CVP) reliance existing diversion facilities located in the southern area of the Delta. This alternative allows for greater operational flexibility to protect fish species and specifies extensive habitat restoration as compensatory mitigation resulting from likely impacts of construction and operations. See Attachment 2 -		


This is to advise that the Santa Clara Valley Water District, acting as a **Responsible Agency**, has approved the above described project on May 8, 2018, and has made the following determinations regarding the above described project:

1. The project ☒ will, ☐ will not, have a significant effect on the environment.
2. ☒ An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
☐ A Mitigated Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures ☒ were, ☐ were not made a condition of the approval of the project. A mitigation reporting or monitoring plan was adopted for this project.
4. A statement of Overriding Considerations ☒ was, ☐ was not adopted for this project.
5. Findings ☒ were, ☐ were not made pursuant to the provision of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval is available to the General Public at:

the DWR website at: <http://baydeltaconservationplan.com/NoticeofDetermination.aspx>.

Date Received for Filing and Posting at OPR:

Signature (Public Agency): 	Title: Norma J. Camacho, CEO	Date: 5/15/18.
---	---------------------------------	-------------------

Attachment 2 Project Description (continued from cover sheet)

Key elements of WaterFix Alternative 4A include:

- Three new intakes on the east bank of the Sacramento River in the northern Delta near Cortland;
- Three 13.5 mile tunnels connecting these intakes to a new 30-acre intermediate forebay;
- Two 30-mile long tunnels conveying water from the forebay to a new pumping plant connected to an expanded and modified Clifton Court Forebay.

From the Clifton Court Forebay water would be transported to existing SWP and CVP pumping plants located in the south Delta. The total maximum north Delta diversion intake capacity would be 9,000 cubic feet per section (cfs).

Under the California Water Code, DWR is responsible for the construction, maintenance and operations of the SWP, of which California WaterFix is a part, and for securing funding for SWP-related costs. The SWP share of the WaterFix costs would be paid by SWP Contractors in accordance with their respective long-term delivery contracts with DWR. Santa Clara Valley Water District (SCVWD) is a water contractor with long-term water supply contracts that would affected the project and a share of the costs and potential benefits from the project has been evaluated.

On May 8, 2018, the SCVWD Board of Directors voted to support the continued development of the Waterfix and approved or authorized a number of agreements relating to the project, including: a Capacity Interest Option Agreement with Metropolitan Water District of Southern California, an agreement between the Department of Water Resources and the District to provide funding for preconstruction capital costs, and a joint powers agreement to form a joint powers agency for the construction and design of the project. The SCVWD Board also directed or delegated authority to the Chief Executive Officer to negotiate terms and conditions for future agreements relating to financing of the project.

In the same action, the SCVWD Board adopted Resolution 18-23 authorizing the District's support of and participation in the project and making Responsible Agency findings, adopting a mitigation monitoring and reporting program, and adopting statements of overriding considerations for the project. The Board action is available for public review at www.valleywater.org or by request to the SVWD Clerk of the Board via email at Board@valleywater.org.

The Final Environmental Impact Report (EIR) for WaterFix with comments and responses and a record of project approval, is on file at: California Department of Water Resources, 901 P Street, Fourth Floor, Sacramento, CA 95814 or online the DWR website at: <http://baydeltaconservationplan.com/NoticeofDetermination.aspx>.

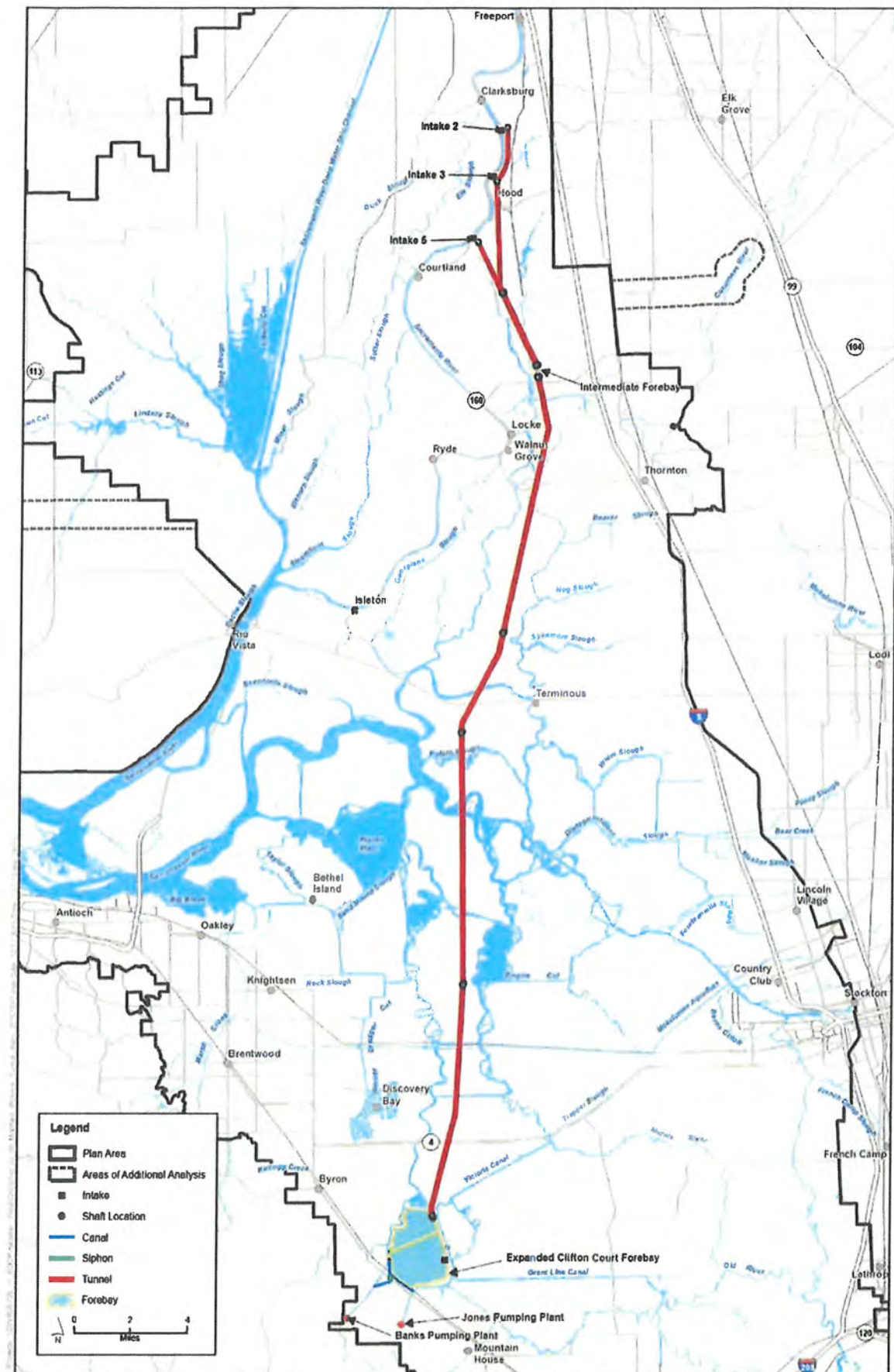


Figure 3-9
Modified Pipeline/Tunnel Alignment Overview (Alternative 4 and 4A)

Notice of Determination

Appendix D

To:

☒ Office of Planning and Research

U.S. Mail:

Street Address:

P.O. Box 3044

1400 Tenth St., Rm 113

Sacramento, CA 95812-3044 Sacramento, CA 95814

☐ County Clerk

County of: _____

Address: _____

From:

Public Agency: Department of Water Resources

Address: 901 P Street, Fourth Floor

Sacramento, CA 95814

Contact: Marcus Yee

Phone: (916) 651-6736

Lead Agency (if different from above): _____

Address: _____

Contact: _____

Phone: _____

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

State Clearinghouse Number (if submitted to State Clearinghouse): 2008032062

Project Title: California WaterFix Final EIR/EIS

Project Applicant: California Department of Water Resources

Project Location (include county): See Attachment 1 and Figure 1

Project Description:

See Attachment 2

This is to advise that the California Department of Water Resources has approved the above
(☒ Lead Agency or ☐ Responsible Agency)described project on 7/21/2017 and has made the following determinations regarding the above
(date)
described project.

1. The project [☒ will ☐ will not] have a significant effect on the environment.
2. ☒ An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
☐ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [☒ were ☐ were not] made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan [☒ was ☐ was not] adopted for this project.
5. A statement of Overriding Considerations [☒ was ☐ was not] adopted for this project.
6. Findings [☒ were ☐ were not] made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval, or the negative Declaration, is available to the General Public at:

901 P Street, Fourth Floor, Sacramento, CA 95814 or <http://baydeltaconservationplan.com/Home.aspx>Signature (Public Agency):  Title: Acting Director

Date: 7/21/2017

Date Received for filing at OPR: _____

Governor's Office of Planning & Research

Authority cited: Sections 21083, Public Resources Code.
Reference Section 21000-21174, Public Resources Code.

JUL 21 2017

Revised 2011

STATE CLEARINGHOUSE

Attachment 1 – Project Location

The project area for the actions evaluated in the Bay Delta Conservation Plan/California WaterFix Final Environmental Impact Report/ Environmental Impact Statement (EIR/EIS) includes the following three geographic regions.

- Upstream of the Delta region.
- Delta Region (referred to as the Plan Area, and distinct from the larger Delta region considered for some areas, consists generally of the statutory Delta, the Yolo Bypass north of the statutory Delta, and Suisun Marsh, as well as the Areas of Additional Analysis, which apply to several BDCP EIR/EIS alternatives).
- SWP and CVP Export Service Areas.

See Figure 1 for a map of the project location.

Figure 1 - Project Location

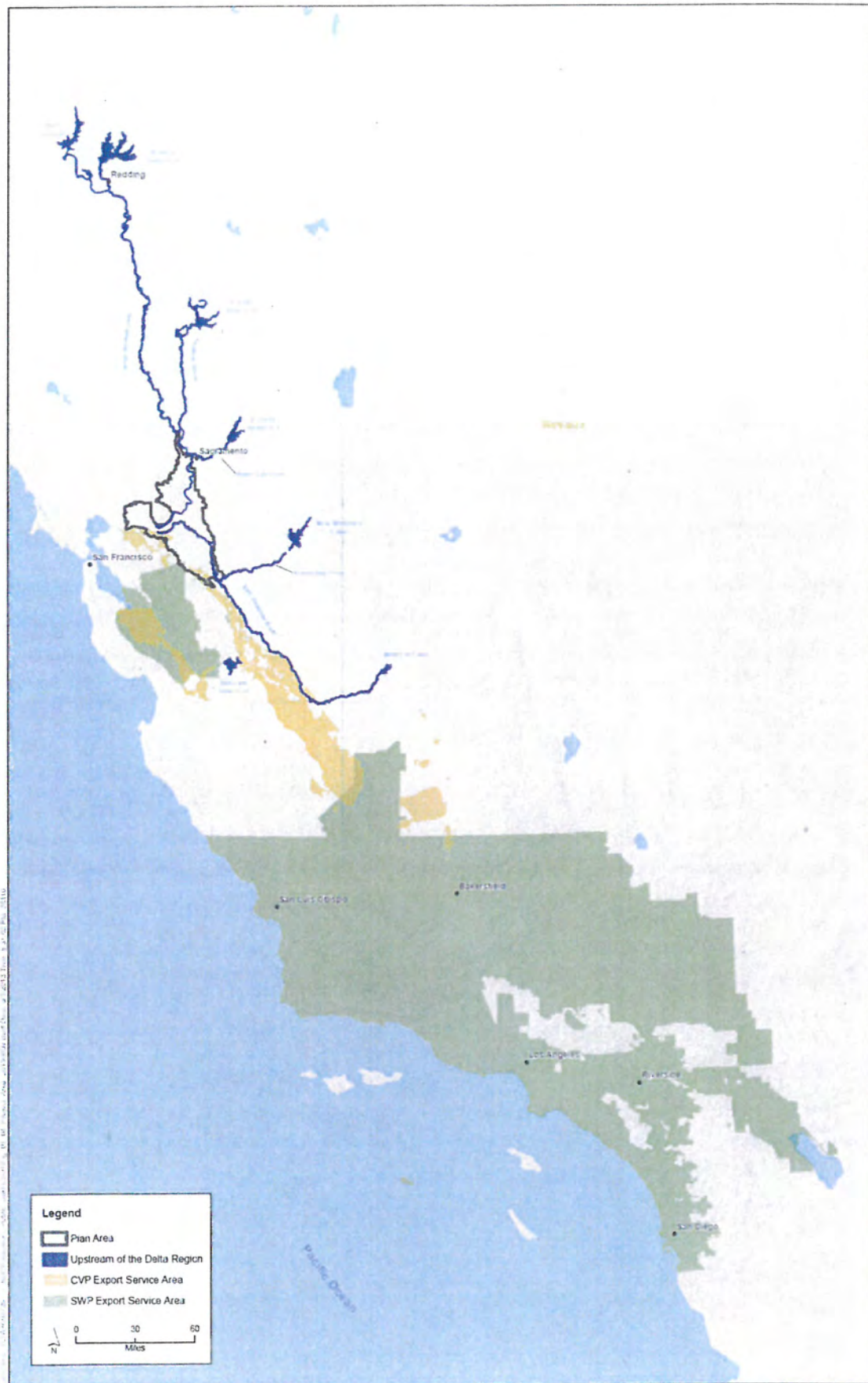


Figure 1-4
Project Area

Attachment 2 – Project Description

The California WaterFix (Project) planning process started in 2006 and was initially proposed as the Bay Delta Conservation Plan (BDCP). In December 2013, a draft environmental impact report/environmental impact statement (EIR/EIS) to analyze the BDCP and its alternatives was released. In July 2015, the California Department of Water Resources (DWR) and U.S. Bureau of Reclamation (Reclamation), the lead agencies under CEQA and NEPA, respectively, added three sub-alternatives to the BDCP that would update the SWP without the large-scale conservation efforts that were included in the BDCP. DWR and Reclamation, released the Bay Delta Conservation Plan/California WaterFix Partially Recirculated Draft EIR/Supplemental Draft EIS (RDEIR/SDEIS) for the BDCP Draft EIR/EIS to address certain issues raised in comments received on the Draft EIR/EIS. The California WaterFix¹, Alternative 4A, became DWR's CEQA preferred project under the California Environmental Quality Act (CEQA) and Reclamation's preferred alternative under the National Environmental Policy Act (NEPA) with the publication of the RDEIR/SDEIS. It is now the Project being approved by DWR. The Project involves the construction of new north Delta intake structures with state-of-the-art fish screens that, when coupled with dual conveyance, will increase water supply reliability and align water operations to better reflect natural seasonal flow patterns. These intakes will reduce the SWP's and CVP's ongoing reliance on existing diversion facilities located at the far southern part of the Delta, allow for greater operational flexibility to protect fish, and capture water during high flow events when pumping in the south Delta would otherwise be restricted. Alternative 4A also includes habitat restoration commensurate with CEQA's mitigation requirements.

Under the Project, Alternative 4A, water would primarily be conveyed from the north Delta to the south Delta through pipelines/tunnels. Water would be diverted from the Sacramento River through three fish-screened intakes on the east bank of the Sacramento River between Clarksburg and Courtland. Water would travel from the fish-screened intakes through a gravity fed tunnel system to reach pumping plants at the expanded Clifton Court Forebay, feeding into the Banks and Jones Pumping Plants. Alternative 4A would include the continued use of the SWP/CVP south Delta export facilities.

California WaterFix is one element of Governor Brown's California Water Action Plan, which seeks to bolster regional self-sufficiency in water supplies, reduce reliance on the Delta, recover native fish populations and, overall, bring reliability, restoration, and resilience to California's water supply systems.

¹ For a detailed description of California WaterFix please see Chapter 3 of Final EIR/EIS.



State of California - Department of Fish and Wildlife

2017 ENVIRONMENTAL FILING FEE CASH RECEIPT

DFW 753.5a (Rev. 01/01/17) Previously DFG 753.5a

Print	Start Over	Finalize&Email
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RECEIPT NUMBER:

59 — 07/21/17 — 076

STATE CLEARINGHOUSE NUMBER (If applicable)

2008032062

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY.

LEAD AGENCY

Department of Water Resources

LEAD AGENCY EMAIL

DATE

07/21/17

COUNTY/STATE AGENCY OF FILING

OPR/SCH

DOCUMENT NUMBER

PROJECT TITLE

California WaterFix Final EIR/EIS

PROJECT APPLICANT NAME

Marcus Yee

PROJECT APPLICANT EMAIL

PHONE NUMBER

(916) 651-6736

PROJECT APPLICANT ADDRESS

901 P St, Fourth Floor

CITY

Sacramento

STATE

CA

ZIP CODE

95814

PROJECT APPLICANT (Check appropriate box)

☐ Local Public Agency ☐ School District ☐ Other Special District ☒ State Agency ☐ Private Entity

CHECK APPLICABLE FEES:

<input checked="" type="checkbox"/> Environmental Impact Report (EIR)	\$3,078.25	\$	3,078.25
<input type="checkbox"/> Mitigated/Negative Declaration (MND)(ND)	\$2,216.25	\$	0.00
<input type="checkbox"/> Certified Regulatory Program document (CRP)	\$1,046.50	\$	0.00

☐ Exempt from fee☐ Notice of Exemption (attach)☐ CDFW No Effect Determination (attach)☐ Fee previously paid (attach previously issued cash receipt copy)

<input type="checkbox"/> Water Right Application or Petition Fee (State Water Resources Control Board only)	\$850.00	\$	0.00
<input type="checkbox"/> County documentary handling fee		\$	
<input type="checkbox"/> Other		\$	

PAYMENT METHOD:

☐ Cash ☐ Credit ☒ Check ☐ Other

TOTAL RECEIVED \$ 3,078.25

SIGNATURE

Charissa
X MartinezDigitally signed by Charissa
Martinez
Date: 2017.07.21 10:02:06
-07'00'

AGENCY OF FILING PRINTED NAME AND TITLE

Charissa Martinez, CEQA Tech



Regina Alcomendras
Santa Clara County
Clerk-Recorder
(408) 299-5688
<https://www.clerkrecorder.org>

Receipt: 18-96599

Product	Name	Extended
CEQA	ENVIRONMENTAL FILING	\$50.00
	# Pages	9
	Document #	ENV21533
	Document Info:	SANTA CLARA VALLEY WATER DISTRICT
	Filing Type	J
Total		\$50.00
Tender (Cash)		\$50.00
Paid By	SANTA CLARA VALLEY WATER DISTRICT	

PLEASE KEEP FOR REFERENCE

1



State of California - Department of Fish and Wildlife

2018 ENVIRONMENTAL FILING FEE CASH RECEIPT

DFW 753.5a (Rev. 10/31/17) Previously DFG 753.5a

RECEIPT NUMBER:

ENV21533

STATE CLEARINGHOUSE NUMBER (If applicable)

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY.

LEAD AGENCY SANTA CLARA VALLEY WATER DISTRICT	LEAD AGENCY EMAIL	DATE 05/15/2018
COUNTY/STATE AGENCY OF FILING SANTA CLARA	DOCUMENT NUMBER	

PROJECT TITLE CALIFORNIA WATER FIX-AUTHORIZATION TO EXECUTE AGREEMENTS, DESIGNATION OF DISTRICT			
PROJECT APPLICANT NAME SANTA CLARA VALLEY WATER DISTRICT	PROJECT APPLICANT EMAIL		PHONE NUMBER (408) 265-2607
PROJECT APPLICANT ADDRESS 5750 ALMADEN EXPRESSWAY	CITY SAN JOSE	STATE CA	ZIP CODE 95118

PROJECT APPLICANT (Check appropriate box)

☐ Local Public Agency ☐ School District ☒ Other Special District ☐ State Agency ☐ Private Entity

CHECK APPLICABLE FEES:

☐ Environmental Impact Report (EIR) \$3,168.00 \$ _____
☐ Mitigated/Negative Declaration (MND)(ND) \$2,280.75 \$ _____
☐ Certified Regulatory Program document (CRP) \$1,077.00 \$ _____


☐ Exempt from fee☐ Notice of Exemption (attach)☒ CDFW No Effect Determination (attach)☐ Fee previously paid (attach copy of previously issued Environmental Filing Fee Cash Receipt (DFW 753.5a))

☐ Water Right Application or Petition Fee (State Water Resources Control Board only) \$850.00 \$ _____
☒ County documentary handling fee \$ _____ \$50.00
☐ Other \$ _____

PAYMENT METHOD:

☒ Cash ☐ Credit ☐ Check ☐ Other

TOTAL RECEIVED \$ _____ \$50.00

SIGNATURE 	AGENCY OF FILING PRINTED NAME AND TITLE Mike Louie, Deputy County Clerk-Recorder
---	---

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File No.: 18-0405

Agenda Date: 7/6/2018

Item No.: 2.2.

BOARD AGENDA MEMORANDUM

SUBJECT:

Agreement with Northgate Environmental Management, Inc. for On-Call Environmental Site Assessment, Remedial Design, and Storm Water Management and Engineering Services for a Not-to-Exceed Fee of \$500,000.

RECOMMENDATION:

Approve the Agreement with Northgate Environmental Management, Inc. for On-Call Environmental Site Assessment, Remedial Design, and Storm Water Management and Engineering Services for a not-to-exceed fee of \$500,000.

SUMMARY:

Prior to acquiring property or a property interest, Hazardous Substance Liability Assessments (HSLAs) are conducted to determine the environmental condition of the property and the actual or potential risk of environmental contamination from such conditions. The necessity for and nature and extent of remedial actions to address the conditions are also ascertained. These steps are necessary so the District will be fully informed of the environmental conditions of any property interest acquired and as to the conditions and possible remedial measures which must be taken to address a hazardous condition relating to its public works projects. The District HSLAs are conducted in accordance with federal government regulations and industry guidelines.

The District has retained consultants to perform HSLA services for the past 23 years; a total of nine (9) consecutive consultant agreements have been awarded. Consultant services have been used for these services for the following reasons:

- A. HSLA workload is highly fluctuating and unpredictable. Consultant services are used as the primary resource for completing HSLAs while maintaining the minimum in-house staff to manage the work.
- B. Consultants have the specialized equipment, professional staff, and certified operators to complete HSLA services.
- C. A consultant provides a third-party independent, professional assessment of the property interest being considered for acquisition. This avoids any perception of a conflict of interest during real estate transactions between the District and the property owner.

HSLAs are completed in two stages (Phase I HSLA and Phase II HSLA). When a Phase I HSLA identifies the potential presence of environmental contaminants on the property, a Phase II HSLA is required. Phase II HSLAs require site investigations (for example, soil borings and groundwater sampling) be conducted to confirm the presence of environmental contaminants on the property. When there is known soil and/or groundwater subsurface contamination, remedial design may be required and may include targeted contaminated soil and groundwater remediation and disposal. Remedial design engineering services are also included in the Consultant's scope of services described in the recommended Agreement.

Storm water management services described in this Agreement include identification and implementation of applicable requirements of the State of California's Storm Water Construction General Permit and the Municipal Regional Permit for District projects.

Consultant Selection Process

On July 24, 2017, staff published a Request for Proposals (RFP) for on-call environmental site assessment, remedial design, and storm water management and engineering services. The RFP was distributed to firms on the District's self-registered list of WQ31 Environmental Site Assessment - Hazmat Investigation. In addition, the RFP was posted on the District's Contract Administration System internet portal.

During the six-week advertisement period, staff issued two addendums to clarify details in the RFP and to respond to questions received from interested consultants. Nine proposals were received by the proposal submittal deadline of September 6, 2017.

A Consultant Review Board (CRB), consisting of two subject matter experts from the District's Water Utility Capital Division and one external subject matter expert, evaluated and ranked the nine written proposals and held an oral review board. Based on the combined (written and oral) rating scores, the CRB recommended that staff undertake contract negotiations with Northgate Environmental Management, Inc., the highest-rated firm.

On December 20, 2017 staff initiated agreement negotiations with Northgate Environmental Management, Inc.

Consultant Agreement and Scope of Services

The recommended consultant agreement with Northgate Environmental Management, Inc. includes the required tasks and budget to perform services for Phase I and II HSLAs and related services, and storm water management and engineering services.

FINANCIAL IMPACT:

The not-to-exceed fee for this Agreement is \$500,000 for a term of three years from the date of execution of the Agreement. This is a standing order that will not be encumbered but rather will be funded by budgeted funds from the appropriate operations and capital project when a task order is issued.

CEQA:

The recommended action does not constitute a project under CEQA because it does not have the potential for resulting in direct or reasonably foreseeable indirect physical change in the environment. CEQA requirements for the work performed on particular properties will be address on a project-by-project basis.

ATTACHMENTS:

Attachment 1: Agreement

UNCLASSIFIED MANAGER:

Katherine Oven, 408-630-3126

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STANDARD ON-CALL CONSULTANT AGREEMENT

(For Capital Consultant Agreements)
Terms and Conditions Template
Rev. A [7/1/2018-06/30/2019]

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

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

NOW, THEREFORE, the District 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 generally described in the Schedule, Scope of Services, attached hereto and incorporated herein by this reference (Schedule). The District may require Consultant to provide all or a portion of these Services pursuant to executed task orders (Task Orders). Task Orders will be issued in the form of the template described in Section Twelve, subsection 13. Task Orders, and in the Standard On-Call Consultant Agreement, Appendix Three, Task Order Template. These Services will be provided on an as-needed, on-call basis (On-Call).

SECTION TWO

DUTIES OF CONSULTANT

1. Performance.

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

issuance of a Task Order or pursuant to an amendment to this Agreement signed by both Parties.

2. **Consultant Controlled Areas.** Consultant is responsible for the security and safety of the area(s) it controls wherein it is required to perform field operations pursuant to the scope of Services.
3. **Licensing.** Services performed by Consultant will be undertaken only by persons appropriately licensed, certified, or registered in California, as applicable to the Services described herein, when required by statutes or regulations, as well as pursuant to the relevant standard of care as described in subsection 11, Standard of Care. Examples of such Services include those performed by: California State Licensed Contractors, Professional Engineers and Architects, Inspectors, and Surveyors. Consultant shall make available upon District'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 section 1720(a)(1).
4. **District's Approval of Deliverables.** Deliverables prepared by Consultant, notwithstanding acceptance and approval by District, which District determines must subsequently be modified due to errors or omissions, will be corrected at no additional cost to District.
5. **Errors and Omissions.** The Services may include preparation of deliverables by Consultant which will be implemented in a public works construction project. Consultant is responsible for any direct or actual damages incurred by District which District determines result from Consultant's errors or omissions in Consultant's deliverables, including, but not limited to, any increase in the District'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. **District Standardization Requirements.**
 - A. Consultant shall perform the Services utilizing District nomenclature, standardized forms, software requirements, documented procedures, and best management practices. Consultant shall use Microsoft Office software and AutoCAD software that is compatible with the District Microsoft Office software and AutoCAD software used at the time(s) the District issues a notice-to-proceed pursuant to this Agreement.
 - B. Engineering drawings prepared by Consultant must be in compliance with the District's CADD and drafting standards including line types, line weights, text sizes, text orientation, dimensioning, labeling/numbering system for detailed plan views and detailed section views. Drawings prepared using different CADD software and versions must be converted to be compatible with the District's CADD software at no additional cost to the District. Prior to acceptance, the District reserves the right to test the submitted CADD files to verify that the files are not corrupted or missing linkages (for blocks, etc., used in the drawing) and that the standards are retained during the conversion process used by the Consultant.

7. Consultant's Key Staff and Subconsultants.

- A. Consultant's key staff and Subconsultants assigned to perform the Services are identified in Attachment Three to the Scope of Services, Consultant's Key Staff and Subconsultants.
- B. The Project team organization chart and delegated responsibilities of each team member will be submitted to the District 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 the District's approval of all Subconsultants. Upon the District'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 the District, on written notice from the District, Consultant will have 15 calendar days to remove that person from the Project and provide a replacement acceptable to the District.
- F. Consultant will not charge the District for the time it takes Consultant's replacement personnel to obtain the District-specific Project knowledge in the possession of the person(s) being replaced.
- G. Consultant's Key Staff.

The District Project Manager may approve any revisions to Consultant's list of key staff assigned to the Project as an administrative modification to this Agreement, and such approval will be confirmed in writing.

H. Consultant's Subconsultants.

- 1. The District Project Manager may approve any revisions to Consultant's list of authorized Subconsultants when the Subconsultant is deleted from the list and the scope of services is deleted from the Agreement or such services are assumed by the Consultant; such approval will be confirmed in writing.
- 2. The District'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 the District for such work; such approval will be confirmed in writing.

8. Compliance with All Laws. 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; 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 the District's assistance is necessary to achieve such compliance, Consultant shall promptly notify the District.

- A. Consultant shall provide, at District's request, documentation demonstrating Consultant's compliance with all laws as described herein. After reasonable notice and according to reasonable conditions, the District has the right to inspect and copy any records of Consultant regarding such compliance.
- B. 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 the District in the event of any personal injury accident or occurrence occurring during the performance of the Services. Upon the District's request, Consultant shall provide the District 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 District. 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 the District. Except as expressly provided in this Agreement, the District 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 DISTRICT

- 1. **Available Data.** The District 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. The District will actively aid and assist Consultant in obtaining such information from other agencies and individuals as it deems necessary. The District is not responsible for providing the data and information that it does not possess.
- 2. **Review of Deliverables.**
 - A. The District will designate a Project Manager (District Project Manager) for purposes of administering and managing this Agreement.
 - B. The Consultant's progress in completing the Services will be reviewed by the District's Project Manager at each milestone identified in an executed Task Order or at such other time(s) at the discretion of the District.
 - C. Consultant must notify the District in writing when it completes and has submitted to the District each deliverable as per an executed Task Order. Deliverables deemed satisfactory and in compliance with this Agreement are subject to approval by District. Within 30 calendar days of receipt of each deliverable, the District will either (1) notify Consultant that the District accepts the deliverable, or (2) notify the Consultant that the deliverable is not acceptable and must be revised.
 - D. If the District advises Consultant that a deliverable must be revised due to errors or omissions by the Consultant, Consultant must correct, at no cost to the District, those deficiencies as soon as possible and shall notify the District upon completion of the revised deliverable and submit to the District.
 - E. The District 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 the District and this process will continue until Consultant has corrected all deficiencies identified by the District.

- 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 the District, will not result in additional costs or expenses to the District.

- 3. **Access to District Facilities.** The District will facilitate access to District 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 the District, as described in the Schedule will be based on the Total Fixed Not-to-Exceed (NTE) Fees stated in Attachment One to the Schedule, Fees and Payments. The District will make payments to the Consultant according to the terms provided for herein and in Attachment One to the Schedule, Fees and Payments. Payments made by the District to the Consultant for services rendered will be considered full compensation for all personnel, materials, supplies, Subconsultant(s) if any, equipment, reimbursable travel and per diem expenses incurred by the Consultant to perform the Services.
- B. It is understood and agreed that this total is an estimate, and that the actual amount of Services requested by the District may be less. There is no guarantee, either expressed or implied, as to the actual dollar amount that will be authorized under this Agreement.
- C. Attachment One to the Scope of Services, Fees and Payments, sets forth the hourly rates and fixed fee amounts, if any, for Services Consultant may perform pursuant to an executed Task Order.
- D. Services to be performed pursuant to a Task Order will commence only after written approval from the District Deputy Operating Officer.
- E. Notwithstanding any other provision of this Agreement, District agrees to pay Consultant in accordance with the terms set forth in an executed Task Order. Consultant represents and warrants that the amounts charged to the District for Services do not exceed the amounts normally charged by Consultant to other customers for similar Services.
- F. Upon the written approval of the District Deputy Operating Officer referenced herein, the Services described in a Task Order task may be reduced or eliminated.
- G. Automobile travel mileage expenses will be paid at the current IRS rate. District will not reimburse Consultant and its Subconsultants for mileage and travel time to and from District Headquarters and surrounding campus located at 5700 Almaden Expressway, San Jose, California. District will reimburse Consultant and its Subconsultants for mileage incurred from District Headquarters or Consultant's and Subconsultants' firm

address, whichever is closer to the destination, to Project site(s) and, if directed or authorized by the District, to meeting locations such as with regulatory agencies, for community outreach activities and meetings, for partnering meetings, and Dispute Review Board meetings.

2. Consultant Invoices.

- A. Consultant's invoices will be prepared in accordance with the terms of this Agreement, Section Four, Fees and Payments, and represent Services performed and reimbursable costs incurred during the identified billing period; will be consistent with scope of Services and executed Task Orders and include the following:
1. Employee classification, the number of hours, and classification hourly rate by Task Order Task(s). 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 District staff requesting Services.
 5. The dates when Services were performed.
 6. Other direct charges and reimbursable expenses by Task Order.
 7. Other direct charges and expenses must reflect actual fees versus the Task Order not-to-exceed fees as stated in Attachment One to Schedule, Fees and Payments, and/or Task Orders.
 8. The total amount due for completing the Services specified in that Task Order, which must not exceed the not-to-exceed amount specified in that Task Order.
 9. To the extent that the Consultant is adding an administrative, processing, overhead or mark-up fee, the District will not pay for such duplication of costs for both the Consultant and its Subconsultants.
- B. Invoices will include a summary of labor expenditures, direct costs, and billed Subconsultant charges. Billing statements will be organized such that the billing categories correspond with the Task Order.
- C. Notwithstanding language to the contrary in an executed Task Order, the Consultant must invoice the District for a Task Order within thirty (30) calendar days of the District accepting the deliverables of that Task Order.

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D. Consultant shall send all invoices to:

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

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

1. Agreement Number
2. Task Order Number
3. Full Legal Name of Consultant/Firm
4. Payment Remit-to Address
5. Invoice Number
6. Invoice Date (the date invoice is mailed)
7. Beginning and end date for billing period that services were provided

F. Consultant shall invoice for its performance of the Services as stated in an executed Task Order consistent with the task fee breakdown stated in Attachment A to the Task Order(s). Consultant will be paid for the Services as described in an executed Task Order.

G. District Project Manager will review Consultant's written invoice within five District 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. District will pay undisputed invoice amounts within 30 calendar days from date invoice is received by District's Project Manager.

H. District may in good faith assert a bona fide dispute as to all or a portion of fees specified in any invoice. If any portion of an amount due to Consultant under this Agreement is subject to a bona fide dispute between the Parties, within 30 calendar days of Consultant's delivery of the invoice on which a disputed amount appears, District will notify Consultant in writing of the specific items in dispute, and will describe the District's reason(s) for disputing each such item. Consultant and the District Project Manager must act in good faith to resolve this dispute in a timely manner. If the dispute is not resolved by the Consultant and District Project Manager within 30 calendar days of Consultant receiving District's written notice of dispute, Consultant and the District will attempt to resolve the Dispute pursuant to Appendix Two to the Standard On-Call Consultant Agreement, Dispute Resolution.

I. Consultant's services will be performed by its staff members and Subconsultants' staff members at the lowest hourly and unit rates commensurate with the complexity of the required Services.

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 Section §1771, et. seq. and the applicable implementing regulations.
- B. Labor Code Section §1720 includes "Inspection and Land Surveying" in its definition of "Public Works." If Consultant's Services includes such work, Consultant and its Subconsultants must comply with all Labor Codes applicable to prevailing wages.
- C. The Consultant and its Subconsultants shall not engage in the performance of public work, as defined in California Labor Code Section 1771.1, unless currently registered and qualified to perform public work pursuant to California Labor Code Section 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, the 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 to verify statutory compliance with the prevailing wage requirement such as certified payroll records must be made available for audit at no cost to the District, at any time during regular business hours, upon written request by the District.
- G. California State Department of Industrial Relations Contractor and Sub-Contractor Registration Requirements. Prior to the District executing a Task Order for Services involving public works, as defined herein, the Consultant, and its Subconsultant(s) performing public works, must provide evidence, in the form required by the District, 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.** Unless otherwise specified in an executed Task Order, when the total compensation payable pursuant to this Agreement for an individual Task Order exceeds \$20,000, ten percent of each invoice for that Task Order will be withheld by the District and not paid to Consultant until 30 calendar days after the assigned District representative signs the final approval for all Services/deliverables as stated in the executed Task Order, consistent with Section Three, Duties of District, subsection 2., Review of Deliverables.

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SECTION FIVE

SCHEDULE OF COMPLETION

1. **Performance of Tasks.** Consultant will commence performing the tasks described in the scope of Services of an executed Task Order upon receipt of the Task Order Notice-to-Proceed (NTP) issued by the District.
2. **Task Order Schedule.** Consultant will perform and complete the Services in accordance with the schedule (Schedule) as described in each Task Order. Consultant will coordinate Services with the District to provide the timeline of all tasks and sub-tasks including the site visits, document review, meetings, and deliverables.
3. **Project Delays.** The Consultant will make all reasonable efforts to comply with the Schedule as stated in a Task Order. In the event the Task Order Schedule will be delayed, Consultant will notify the District Project Manager as soon as possible, providing the reason why, the length of the delay, and a description of the actions being taken to address the delay. In the event Consultant is delayed in performance of its Services by circumstances beyond its control, District may in its discretion grant a reasonable adjustment in the Schedule.
4. **Changes to the Schedule.** District's Project Manager and Consultant may agree to modify the Schedule specified for Consultant's performance in an executed Task Order as an administrative modification to the Task Order and will confirm such modifications in writing.

SECTION SIX

AGREEMENT MODIFICATIONS

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

SECTION SEVEN

TERM AND TERMINATION

1. **Term & Automatic Termination.** No Task Order will be written which extends beyond the expiration date of this Agreement. Consultant will not undertake to provide Services where it reasonably appears that the Services cannot be performed and completed within the Term of this Agreement. Uncompleted and or unfinished Task Orders will co-terminate with this Agreement.
2. **District Rights.**
 - A. **Suspension:** District may, by written notice to Consultant, suspend any or all Services pursuant to this Agreement or to any individual Task Order. District 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: District may, by written notice to Consultant, terminate all or part of this Agreement or any Task Order at any time for District's convenience. Upon receipt of such notice, Consultant will immediately cease all work as specified in the notice. If this Agreement or any Task Order is so terminated, Consultant will be compensated as set forth in subsection 3. Consultant's Compensation upon Termination or Suspension.
- C. Termination for Breach: If Consultant violates any of the covenants, agreements or stipulations of this Agreement or a Task Order, or if Consultant fails to fulfill in a timely and proper manner its obligations pursuant to this Agreement or any Task Order, and does not cure such failure or violation within 30 days (or a reasonable extension thereof, if requested, which extension will not be unreasonably withheld) after receipt of written notice from District specifying such failure or violation, District 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 District'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 District 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 District, Consultant shall receive compensation based on satisfactory performance, accepted by the District, 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.
- 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 the District, 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 onto the Consultant by law. The rights, duties, and obligations of the Parties as set forth above in this Section Eight, Indemnification, survive termination, expiration, completion, and suspension of this Agreement.

SECTION NINE

INSURANCE REQUIREMENTS

Insurance requirements applicable to this Agreement are set forth in Appendix Four to the Standard On-Call Consultant Agreement, 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 Appendix Four to the Standard On-Call Consultant Agreement, Insurance Requirements, and comply with all provisions stated therein.

SECTION TEN

OWNERSHIP AND REUSE OF DELIVERABLES

- 1. District 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 the District 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 the District. Consultant will provide the District 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. Re-Use of Instruments of Service.** If the District desires to re-use 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 the District has already paid Consultant, the District will release the Consultant from any liability incurred by the District from re-using said deliverables.

3. **Copies of Data.** Copies of data exchanged by, through, and between the District and Consultant that may be relied upon are limited to the printed copies. Computer-generated files, disks, or tapes of text, data or graphics that are furnished, are only for the mutual convenience of the Parties.
4. **Computer-Generated Material.** Any risk of translation or reliance on information obtained or derived from the computer-generated material will be at the user's sole risk, and no representations are made, either express or implied, as to the long-term performance of data thus transferred.
5. **Work for Hire.** Any and all original correspondence, memoranda, reports, designs, plans, specifications, data compilations, computer programs, or drawings delivered to the District by Consultant according to the terms of this Agreement, in or by any medium is deemed to be "work for hire" according to the copyright laws of the United States and the copyright will belong to the District.
6. **Copyright Claims.** Co-venturers, subcontractors, Subconsultants, suppliers, and vendors to Consultant likewise are bound by these copyright terms. The District 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.** The Santa Clara Valley Water District 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, the Consultant will comply with all applicable federal, state, local laws and regulations, and will not discriminate against any subcontractor, employee, or applicant for employment, in the recruitment, hiring, employment, utilization, promotion, classification or reclassification, transfer, recruitment advertising, evaluation, treatment, demotion, layoff, termination, rates of pay or other forms of compensation, and selection for professional development training (including apprenticeship), or against any other person, on the basis of sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), race, religion, color, national origin (including language use restrictions), ancestry, religious creed (including religious dress and grooming practices), political affiliation, disability (mental and physical, including HIV or AIDS), medical condition (cancer and genetic characteristics), genetic information, marital status, parental status, gender, age (40 and over), pregnancy, military and veteran status, sexual orientation, gender identity and gender expression, the exercise of family and medical care leave, the exercise of pregnancy disability leave, or the request, exercise, or need for reasonable accommodation.
2. **Compliance with Applicable Equal Opportunity Laws.** The Consultant's policy must conform with applicable state and federal guidelines including the Federal Equal Opportunity Clause, "Section 60-1.4 of Title 41, Part 60 of the Code of Federal Regulations," Title VII of the Civil Rights Act of 1964 as amended; the American's with Disabilities Act of 1990; the

Rehabilitation Act of 1973 (Sections 503 and 504); the Age Discrimination Act of 1975 (42 U.S.C. sec. 6101 et seq.); the California Fair Employment and Housing Act (Government Code Section 12900 et. seq.); and California Labor Code Sections 1101 and 1102.

3. **Investigation of Claims.** Consultant must designate a specific position within its organization to be responsible for assuring nondiscrimination and non-harassment as provided in this Agreement. Consultant must investigate all complaints directed to it by District. District will refer complaints in writing and Consultant will advise District in writing when such investigations are concluded. The scope of such investigations must include all appropriate officers, employees, and agents of the Consultant, as well as all subcontractors, Subconsultants, and material suppliers of the Consultant. In cases where such investigation results in a finding of discrimination, harassment, or hostile work environment, Consultant must take prompt, effective disciplinary action against the offender.

SECTION TWELVE

MISCELLANEOUS PROVISIONS

1. **Entire Agreement.** This Agreement, which includes the terms and conditions, Appendices, the Schedule, Attachments to the Schedule, and all Task Orders executed pursuant to this Agreement, represents the entire understanding between the Parties hereto relating to the Services described in this Agreement and its executed Task Orders incorporated herein by this reference hereto and supersedes any and all prior proposals or agreements, whether written or oral, that may exist between the Parties. This Agreement may not be modified or amended except in writing as stated herein. To the extent that any Schedule conflict with this Agreement, this Agreement shall control.
2. **Formation of Agreement.**
 - A. No agreement between the Parties is formed until all applicable actions have been completed to the satisfaction of District. The District Project Manager will not issue a Notice-to-Proceed until all required documents have been submitted and accepted by District.
 - 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 the District, of evidence of all required insurance coverages and documents;
 3. submission by the Consultant, and acceptance by the District, of evidence of all required Form 700 documents, if applicable;
 4. submission by the Consultant, and acceptance by the District, of all required Non-Disclosure Agreements (NDA) documents as provided in Attachment Four to the Schedule, Reference Materials, if applicable;

- (5) submission by the Consultant, and acceptance by the District, of a Health and Safety Plan, if applicable;
- (6) any other requirements that are deemed necessary by the District; and
- (7) execution of the Agreement by the District.

3. No Assignment.

- A. The expertise and experience of Consultant are material considerations for District'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 District 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 the District.
- 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 the District'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 District policy prohibits the acceptance by District 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 the District.
- 6. Audits.** Consultant agrees that the District and its agent(s), have the right to review, obtain, and copy all records pertaining to performance of this Agreement. Consultant agrees to provide the District and its agent(s) with any relevant information requested and will permit the District and its agent(s), access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees 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 the District 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 provide 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 that it is required to provide pursuant to this Agreement.

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

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

10. Confidentiality.

- A. Due to the nature of the services the Consultant will provide pursuant to this Agreement, there may be disclosures made to the Consultant of detailed information about the District'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. The Consultant understands and acknowledges that District staff members providing information to the Consultant do so with the understanding that such information will be handled appropriately.
- C. In the event the Consultant receives such restricted or confidential information, the Consultant will limit access to the information to only those of the Consultant's employees, its subcontractors and its Subconsultants authorized by the District to have the information.
- D. Consultant will notify the District 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 the District.
- E. Notwithstanding the aforementioned Confidentiality requirements, upon the request of the District Project Manager Consultant and its Subconsultants shall execute the District'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. The Consultant is not permitted to provide any information concerning the Project to the media nor anyone other than authorized District personnel. The 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 the District. 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 the District. 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 the District, 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 the District, 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 the District by such party.
- D. CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION STATEMENT OF ECONOMIC INTEREST FORM 700 ("FORM 700"): Upon District'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 the District, an Assuming Office Statement. The Assuming Office Statement shall be filed:
 - a. Within 30 calendar days of the effective date of this Agreement; and
 - 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 the District, an amendment to their Form 700 any time there is a change to their 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 the District, during the District's annual filing season as determined by the District;
 - 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 the District, a Leaving Office Statement with the District when one of the following occurs:

- a. Upon termination of this Agreement; and
 - 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 the District'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 the District pursuant to the California Political Reform Act, Gov. Code Sections 81000 et. seq. and Government Code Section 1090. If any of Consultant's employees, officers, agents, Subconsultants, and subcontractors are disqualified from providing services, on written notice from District Project Manager, Consultant will have 15 calendar days to remove that employee(s), officer(s), agent(s), subconsultant(s)' and subcontractor(s)' employee(s) from the Project and provide a replacement acceptable to the District.
 6. Further, 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 the District is deemed a material breach and may result in termination of the Agreement for cause.

13. Task Orders.

- A. Some tasks and Services will be assigned to the Consultant through issuance of Task Orders. After the tasks and Services are identified and communicated to the Consultant by the District Project Manager, the Consultant will prepare a proposed Task Order (See Appendix Three to the Standard On-Call Consultant Agreement—Task Order Template). The proposed Task Order must identify the following:
 1. Description of the services, including deliverables;
 2. The total Not-to-Exceed Fees for Consultant to complete the services, including estimated number of hours per assigned staff to complete the services;
 3. Proposed staff that will be assigned to complete the services, including resumes if not previously provided to the District'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 the District.
- B. The 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 the District's authorized representative referenced in Appendix One to the Standard On-Call Consultant Agreement, Additional Legal Terms (Appendix One) and the Consultant's authorized representative.

- C. The Consultant must not commence performance of work or services on a Task Order until it has been approved by the District's authorized representative and notice to proceed has been issued by the District's 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 the District 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 the District 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. The District always strives to be a good neighbor to the community adjacent to its facilities. The Consultant will ensure that disturbance to neighbors is minimized. The 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 the District 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 the District's name, Consultant shall promptly so inform the District and shall assist the District 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. Notices. Unless otherwise specified in this Agreement, all requests for written approval or legal notices must be sent to the representatives below. All notices will be deemed to have been given when made in writing and when delivered or mailed to the representatives of the District and the Consultant at their respective addresses as follows:

DISTRICT:

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

CONSULTANT:

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

19. Appendices. The following listed 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

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

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

(SIGNATURES FOLLOW ON NEXT PAGE)

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
"District"

**NORTHGATE ENVIRONMENTAL
MANAGEMENT, INC.**
"Consultant"

By: _____
Richard P. Santos
Chair/Board of Directors

By: _____
Elizabeth Nixon
Principal

Date: _____

Date: _____

Firm Address:

ATTEST:

428 13th Street, 4th Floor
Oakland, CA 94612

Michele L. King, CMC
Clerk/Board of Directors

Date: _____

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**APPENDIX ONE TO THE
STANDARD ON-CALL CONSULTANT AGREEMENT
ADDITIONAL LEGAL TERMS**

- 1. Conflict of Interest - Future Services.** Consultant, Consultant's parent company, Consultant's subsidiaries, or any affiliated entity sharing substantially similar ownership of or control with Consultant shall not submit a proposal: (1) for any contract to be awarded for construction management or the construction of any project that is related to the Services provided pursuant to this Agreement; (2) in response to any request for proposal or District 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 (3) 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 On-Call Consultant Agreement, Appendix Two, Dispute Resolution.
- 3. Small Business Enterprise (SBE) Participation.** This Agreement provides for the Consultant to include California Department of General Services certified Small/Micro Businesses in the performance of the Services, estimated to be **94%** or more of the Total Not-to-Exceed Fees stated in the Schedule, Attachment One, Fees and Payments, and Consultant agrees to use its best efforts to meet this goal.
- 4. Task Order Approvals.**
 - A. Services to be performed pursuant to a Task Order may only commence once a specific Notice to Proceed for that Task Order has been issued by the District.
 - B. Task Orders are subject to approval by the District's Deputy Operating Officer unless delegated to the Unit Manager.
 - C. District Unit Manager(s) is authorized to approve individual Task Orders in an amount not-to-exceed \$30,000.
 - D. The total not-to-exceed amount for any one Task Order shall not exceed \$ [NOT-TO-EXCEED AMOUNT]. [NOT USED]

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**APPENDIX TWO TO THE
STANDARD ON-CALL CONSULTANT AGREEMENT
DISPUTE RESOLUTION**

1. Consultant's Questions and Concerns.

Questions regarding the terms, conditions, and services relating to this Agreement will be decided by the District who will furnish the decisions to Consultant in writing within thirty (30) Days after receiving a written request from Consultant.

2. Dispute Resolution.

A. Alternate Dispute Resolution (ADR)

1. District intends to use 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 District.

3. Negotiations Before and During Mediation.

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

4. Voluntary Mediation.

A. Initiation of Mediation

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

B. Request for Mediation

1. 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 fourteen (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.

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**APPENDIX TWO TO THE
STANDARD ON-CALL CONSULTANT AGREEMENT
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

1. 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 sixty (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.

**APPENDIX TWO TO THE
STANDARD ON-CALL CONSULTANT AGREEMENT
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;

**APPENDIX TWO TO THE
STANDARD ON-CALL CONSULTANT AGREEMENT
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

- 1. There shall be no stenographic record of the mediation.

M. Termination of Mediation

- 1. The mediation shall be terminated:
 - a. By the execution of a Settlement Agreement by the Parties;
 - b. By a written declaration of the mediator to the effect that further efforts at mediation are no longer worthwhile; or
 - c. By a written declaration of a Party or Parties to the effect that the mediation proceedings are terminated.
- 2. No mediator shall be a necessary Party in judicial proceedings related to the mediation.

N. Exclusion of Liability

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

O. Interpretation and Application of These Mediation Provisions

- 1. 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.

**APPENDIX TWO TO THE
STANDARD ON-CALL CONSULTANT AGREEMENT
DISPUTE RESOLUTION**

5. Compensation for Participation in Mediation.

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

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

Task Order No. _____

Title: _____

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

District: _____

Consultant: _____

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

1. Upon full execution of this Task Order No. _____, as set forth in the Standard On-Call Consultant Agreement, Section Twelve, Miscellaneous Provisions, subsection 13., Task Orders, and the issuance of a notice to proceed by the District 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 the District.
 - B. The total not-to-exceed fees amount for Consultant to complete the Services, including estimated number of hours required to perform the Services assigned to each Consultant classification.
 - C. Estimated cost of each other direct cost and reimbursable expense, including any applicable fees.
 - D. Project schedule for completing the Scope of Services.
3. The Consultant shall be compensated at fixed fees or at the hourly rates established in Attachment One to the Schedule, Fees and Payments, of the Agreement. The Consultant agrees that it will provide all equipment, furnish all materials, except as may be otherwise noted in the Attachment A.
4. This Task Order will become effective on the date of full execution by authorized representatives of the Parties and remain in effect until the earlier of: termination of this Agreement; completion of the tasks set forth in Attachment A or [expected completion date].

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

5. Copies of applicable local, state and federal permits required to perform the Services described in Attachment A are attached to this Task Order, unless the Consultant previously provided the appropriate permits to the District.
6. The 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 the District to be "Public Works" requiring the payment of prevailing wages. See the Standard On-Call 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 the District's Office of the Clerk of the Board of Directors and incorporated herein by reference the same as though set forth in full. The rates are also available on the State of California Department of Industrial Relations website at <http://www.dir.ca.gov>.

8. Signatures:

Signature:

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

DATE

Signature:

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

DATE

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APPENDIX FOUR TO THE STANDARD ON-CALL CONSULTANT AGREEMENT INSURANCE REQUIREMENTS

Please refer to the insurance requirements listed below.

Without limiting the Consultant's indemnification of, or liability to, the Santa Clara Valley Water District ("District"), 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:

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. All Certificates of Insurance complete with copies of all required endorsements must be sent to: **Consultant Contracts Services Unit, Santa Clara Valley Water District, 5750 Almaden Expressway, San Jose, CA 95118.**

In addition to certificates, Consultant must furnish District with copies of original endorsements affecting coverage required by this Appendix. 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 work commences.** 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.

Consultant must, at its sole cost and expense, procure and maintain during the entire period of this Agreement the following insurance coverage(s). Required insurance limits can be met through a combination of primary and excess liability coverages.

REQUIRED COVERAGES

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

\$2,000,000 per occurrence / **\$2,000,000** 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

**APPENDIX FOUR TO THE
STANDARD ON-CALL CONSULTANT AGREEMENT
INSURANCE REQUIREMENTS**

- f. If the standard ISO Form wording for "OTHER INSURANCE," or other comparable wording, is not contained in Consultant's liability insurance policy, an endorsement must be provided that said insurance will be primary insurance and any insurance or self-insurance maintained by District, its Directors, officers, employees, agents or volunteers must be in excess of Consultant's insurance and must not contribute to it.

2. Business Auto Liability Insurance With Coverage as Indicated:

\$2,000,000 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:

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

Coverage shall include contractual liability.

If coverage is claims-made:

- a. Certificate of Insurance shall clearly state that the coverage is claims-made.
- b. Policy retroactive date must coincide with or precede the Consultant's start of work (including subsequent policies purchased as renewals or replacements).
- c. Policy must allow for reporting of circumstances or incidents that might give rise to future claims.
- d. Insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract of work.

4. Workers' Compensation and Employer's Liability Insurance

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

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

**APPENDIX FOUR TO THE
STANDARD ON-CALL CONSULTANT AGREEMENT
INSURANCE REQUIREMENTS**

GENERAL REQUIREMENTS

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

1. **Additional Insured Endorsement(s)** Consultant must provide an additional insured endorsement for Commercial General/Business Liability 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: 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. Note: Editions dated 07/04 are not acceptable).
2. **Primacy Clause:** Consultant's insurance must be primary with respect to any other insurance which may be carried by the District, its officer, agents and employees, and the District's coverage must not be called upon to contribute or share in the loss.
3. **Cancellation Clause Revision:** The Certificate of Insurance **MUST** provide **30 days' notice of cancellation, (10 days' notice for non-payment of premium)**. **NOTE: The standard wording in the ISO Certificate of Insurance is not acceptable.** The following words must be crossed out or deleted from the standard cancellation clause: "...endeavor to..." AND "...but failure to mail such notice must impose no obligation or liability of any kind upon the company, its agents or representatives."
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 Management Administrator.
5. **Self-Insured Retentions or Deductibles:** Any deductibles or self-insured retentions must be declared to and approved by the District. At the option of the District, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the District, its officers, officials, employees and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the Entity guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
6. **Subconsultants:** Should any of the work under this Agreement be sublet, the Consultant must require each of its subconsultants of any tier to carry the aforementioned coverages, or Consultants may insure subconsultants under its own policies.
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

**APPENDIX FOUR TO THE
STANDARD ON-CALL CONSULTANT AGREEMENT
INSURANCE REQUIREMENTS**

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:** With the exception of the Professional Liability/Errors and Omissions coverage mentioned above, 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, or Professional policy described in **Required Coverages** above. Consultant agrees to advise its broker/agent/insurer about this provision and obtain any endorsements, if needed, necessary to ensure the insurer agrees.
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.
11. Please mail initial and all renewal certificates and endorsements to:

Consultant Contracts Services Unit
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118

IMPORTANT: **On the certificate of insurance, please note either the name of the project or the name of the District contact person or unit for the contract.**

If your insurance broker has any questions, please advise him/her to call Mr. David Cahen, District Risk Management Administrator, at (408) 630-2213.

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SCHEDULE OC SCOPE OF SERVICES

1. REPRESENTATIVES

- A. The District's representatives are as listed below. Unless otherwise provided in this Agreement, all correspondence to the District shall be addressed to the District's Project Manager.

Uday V. Mandlekar (District Project Manager)
Senior Engineer
Water Utility Capital Division
Santa Clara Valley Water District
5750 Almaden Expressway,
San Jose, CA 95118-3638

Phone: 408-630-2732

E-mail: umandlekar@valleywater.org

Tim Bramer (District Unit Manager)
Construction Manager
Water Utility Capital Division
Santa Clara Valley Water District
5750 Almaden Expressway,
San Jose, CA 95118-3638

Phone: 408-630-3794

E-mail: tbramer@valleywater.org

Katherine Oven (Division Deputy Operating Officer)
Water Utility Capital Division
Santa Clara Valley Water District
5750 Almaden Expressway,
San Jose, CA 95118-3638

Phone: 408-630-3126

E-mail: koven@valleywater.org

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

Dennis Laduzinsky (Consultant Project Manager or CPM)
Principal
428 13th Street, 4th Floor
Oakland, CA 94612

Phone: 510-839-0688, ext. 202

E-mail: dennis@ngem

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

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Elizabeth Nixon (Consultant Principal Officer or CPO)
Principal
428 13th Street, 4th Floor
Oakland, CA 94612

Phone: 510-839-0688, ext. 220
E-mail: elizabeth.nixon@ngem.com

2. SCOPE OF SERVICES

- A. Consultant will provide the District with Hazardous Substance Liability Assessments (HSLA or Environmental Site Assessments), Asbestos-containing Materials and Lead-based Paint Surveys (ACM/LBP), Remedial Design, and Storm Water Management and Engineering services on an “as needed” basis, for properties designated by the District. An HSLA comprises of two stages i.e., Phase I HSLA, and/or Phase II HSLA and will be performed on an “as needed basis” as determined by the District. In the event that a Phase I HSLA discovers potential presence of suspect ACM/LBP materials in building structures, Consultant will develop an ACM/LBP Survey to address the impact.
- B. Consultant will ensure all remediation activity, including, but not limited to a targeted contaminated soil excavation and/or groundwater treatment and disposal, are conducted during the flood protection capital project’s construction phase (channel excavation activity), in support of typical flood protection capital projects when there is known soil and/or groundwater subsurface contamination in creeks or channels.
- C. Consultant will identify and implement applicable Storm Water Management regulatory requirements that adhere to Storm Water Construction General Permit and the Municipal Regional Permit of the State of California.

3. PROJECT OBJECTIVES

The objective of this Agreement for on-call Services is for Consultant to perform general and specialized engineering services relating to flood protection, water utility capital improvements and operational projects, and other structural engineering support services.

4. PROJECT BACKGROUND

- A. The Santa Clara Valley Water District (District) is a public agency providing water supply, flood protection and stream stewardship throughout Santa Clara County. It serves approximately two million people in all 15 cities and the unincorporated areas in the county. The District also manages the groundwater basins, which is the source of nearly half of the county’s water supply. Groundwater basins are replenished with local surface water and imported water conveyed through the Sacramento-San Joaquin Delta. Imported water and local surface water also supply the District’s three water treatment plants. The District collaborates and coordinates with local agencies and recycled water producers on recycled water development and use.
- B. The Santa Clara Valley Water District (District) implements a number of capital and operational projects to meet its mission and goals in water supply, flood protection and watershed stewardship. Each District project is planned and implemented according to

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applicable laws and regulations, including environmental disclosure including the California Environmental Quality Act (CEQA) and the National Environmental Protection Act (NEPA). The District's environmental engineering staff routinely provides technical support for these projects. The on-call Services performed pursuant to this Agreement will augment the services of District staff and provide additional environmental engineering services as needed.

- C. The purposes, functions, criteria and general requirements for the scope of work of each type of service for a specific property must be identified in the Task Order which was previously approved by the District's Project Manager. Consultant acknowledges that these properties may be located anywhere within Santa Clara and San Benito Counties. HSLAs are conducted by District for all properties to be acquired through purchase, gift, grant, or dedication, and for properties sold by the District as "excess lands." Consultant will perform an HSLA in accordance with:
1. Standard On-Call Consultant Agreement;
 2. The applicable Task Order approved by the District's Project Manager;
 3. The latest scope and limitations of the American Society of Testing and Materials (ASTM) Standard Practice for Phase I and II Environmental Site Assessments;
 4. The Phase I and II Environmental Site Assessment Process under the "Due Diligence" federal law – Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); and
 5. The Federal Environmental Protection Agency's (EPA) All Appropriate Inquiry (AAI) Rule, and applicable state and local regulations, and guidelines. The term "Due Diligence Requirement(s)" means all appropriate inquiries into the condition and use of the property or groups of properties, which will: (1) facilitate making an informed business decision regarding property transaction and intended future use of property; (2) to address environmental conditions or contamination to ensure compliance with applicable environmental laws and regulations; and (3) enable the District to complete a real property transaction which provides for financial compensation for all actions including all required costs for any additional investigations, risk assessments, and remediation necessary under applicable laws and regulations to address environmental conditions known to exist prior to the time the District conducts the real estate transaction.

5. GENERAL ASSUMPTIONS AND REQUIREMENTS

- A. Manage Scope of Services.** The Consultant shall manage the Scope of Services such that the work is completed within the Not-to-Exceed Fees limit stated in Schedule OC, Attachment One, Fees and Payments; in accordance with the Project Schedule stated in Schedule OC, Attachment Three, Schedule of Completion; and ensure that all services and deliverables meet the District and Project requirements.
- B. 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, AutoCAD files, etc. The

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hard copy deliverables shall be printed in professional quality presentation and submitted in five copies, if requested. District may require original copies of signed documents and/or scanned (Adobe PDF) versions.

- C. Review of Deliverables.** The District will review and comment on all Project deliverables and forward to the Consultant for revision and preparation of final versions as determined by the District, some of the deliverables may also be subject to review and comment from regulatory agencies and stakeholders following the District review process.
- D. 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.
- E. Document Control.** The Consultant is responsible for establishing and maintaining its own document control system to execute this Scope of Services. An internal document control system for this project is maintained by the District. The District also maintains a file exchange system for transmitting large files, if needed. Key Project data and information may be provided to Consultant staff on an as-needed basis.
- F. File Exchange Service.** Consultant will provide a file exchange service, accessible to all parties as designated by the District, to facilitate communications; particularly of large files over three megabytes. Difficulties in using and transmitting information with this exchange service shall be resolved by the Consultant. In the event that transmitting or receiving information does not occur in a timely manner, the District will not be responsible for delays in completing Project work. Consultant may need to coordinate with District's Information Technology Division to address any firewall issues and/or permissions required to allow for these communications.
- G. Completeness.**
1. The completeness of a design set is determined primarily by the substance of the materials on the set, including the adequacy of background and relevant information. Three levels of completeness of a design set are defined using these four terms Partially Complete; Substantially Complete; Virtually Complete; and Complete.
 2. Complete Design Set must include all the information required for a constructible set of plans and specifications; include a project cost estimate; and provide sufficient direction to enable the construction to be carried out. The set must be ready for engineering certification (stamping, signing and dating) by a Registered Professional Engineer(s). The set must show the work with complete details and dimensions; identify all constraints; include all background information and provide dimensions, and comply with all drafting, specifications and cost estimating standards.
- H. Project-Specific Assumptions and Requirements.**
1. **District Access.** Consultant will at all times provide the District with access to the work product that Consultant is responsible for providing pursuant to this Agreement. Consultant will furnish the District with all reasonable information to enable the District to ascertain whether the quality of the materials and performances provided by

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Consultant satisfy the requirements and specifications for such materials and performance.

2. **District Laboratory Contracts.** The District reserves the first option to have samples analyzed by any laboratories that are in contract with the District. Compensation to the Consultant will be adjusted accordingly.
3. **Certified Analytical Laboratory.** All chemical analyses that Consultant is responsible for performing will be done by a laboratory which is certified by the California Environmental Protection Agency (Cal-EPA), formerly the Department of Health Services (DHS), for the proposed analytical methods. All laboratory sheets presenting the results of the chemical and physical analysis performed by a laboratory will be signed by the laboratory supervisor and original copies submitted to the District's Project Manager.
4. **Right-of-Entry.** The District will obtain and provide right-of-entry on properties within a project alignment that are necessary to perform the Services pursuant to this Agreement. The Consultant will strictly follow the requirements and restrictions specified in the right of entry agreement for those properties. The Consultant will also provide private parties courtesy notices in sufficient time prior to performing services on private properties to minimize impacts to owner's activities as stated in the right-of-entry agreement.
5. **Professional Certifications.**
 - A. All reports including soil boring logs and well logs submitted to the District will be signed and stamped by Consultant's appropriate California State currently Registered Professional Engineer or Professional Geologist. All plans and specifications will be signed and stamped only by a Registered Professional Engineer.
 - B. All health and safety evaluations, health and safety plans, and health risk assessments will be prepared under the direction of and signed by a certified industrial hygienist (CIH), toxicologist, or other appropriately-licensed professional in accordance with the requirements of applicable regulatory agency.
6. **Utilities Clearance.** Consultant will be required to identify and protect existing underground utilities prior to and during implementation of any work performed pursuant to this Agreement. This may include contacting appropriate agencies and field-locating for underground utilities.
7. **Site Security and Safety.** The Consultant will be required to furnish, erect, and maintain such fences, barriers, lights, and signs, and provide such flagging and guards, as are necessary in the opinion of the District or public agencies having jurisdiction, to give adequate warning to the public of any dangerous conditions when performing work pursuant to this Agreement.
8. **Sample Integrity.** Consultant will be responsible for the integrity of the samples to be collected pursuant to this Agreement. The samples will be stored, preserved, protected from physical damages, and analyzed within the proper holding time and extraction

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time. Should the integrity of the samples be compromised, the Consultant will be responsible for any and all costs for re-sampling and analyses at Consultant's own expense. Consultant will be responsible for chain-of-custody documentation and sample transportation to the laboratory.

- 9. Documents and Equipment Purchased Pursuant to this Agreement.** In addition to the Standard On-Call Consulting Agreement, Section Ten, Ownership and Reuse of Materials, all documents and equipment that have been paid for with funds disbursed pursuant to this Agreement will be the property of the District and delivered to the District by Consultant within fourteen (14) calendar days of a request by the District or thirty (30) calendar days after completion of a Task Order, whichever occurs first.
- 10. District Audit.** In addition to the Standard Consultant Agreement, Section Twelve, Miscellaneous Provisions, subsection 6., Audits, District (or its authorized agents) will have the right from time to time and at all reasonable times during the term of this Agreement and such period thereafter to inspect and audit any and all books, accounts and records of the Consultant at Consultant's principal place of business. Any payment made by District pursuant to this Agreement will be subject to retroactive reduction for the amounts included therein which are determined by the District, on the basis of any audit of the Consultant, not to constitute an allowable charge or cost pursuant to this Agreement. District will provide a 14-calendar day written notice to Consultant regarding an upcoming audit.
- 11. Subcontracting.** The Consultant will be responsible for all damage and expense to person or property caused by its Subconsultants and Subcontractors in connection with the services required pursuant to this Agreement.
- 12. Regulated Materials Management.**
- A. Regulated Materials are any substance or combination of substances for which federal, state, or local regulations require special management, storage, disposal, or handling practices. Regulated Materials include, but are not be limited to, hazardous materials and hazardous wastes.
 - B. The Consultant is responsible and shall obtain all required permits and pay all fees and taxes, for satisfying the requirements of any regulatory agency for the storage, monitoring, usage, transportation, safety, reporting, or any other requirements regarding the management of regulated materials on and off the project site(s).
 - C. The Consultant shall not allow regulated materials to spill on District property, easements, or on other public or private right- of-way. Any spillage of regulated materials resulting from the Consultant's operation shall be removed immediately by the Consultant at Consultant's expense.
 - D. The Consultant shall immediately notify the District's Project Manager of any potentially hazardous materials or hazardous waste encountered at the work site and shall take all necessary action to prevent exposure of personnel until all material is identified and proper action can be taken.
 - E. Storage Area for and Disposal of Investigation and/or Remediation-Derived Materials

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1. Investigation and/or Remediation-Derived Materials include, but are not limited to, any waste generated during sampling and/or remediation activity. Consultant shall provide fenced or barricaded areas with proper signs necessary for the storage of the potentially hazardous materials generated during site investigations and/or remediation, including but not limited to, sampling, subsurface soil drilling, or groundwater well installation and development. Consultant will be responsible for constructing, operating, maintaining, and decommissioning the storage facilities.
2. Disposal of Investigation and/or Remediation-Derived Materials at State-Permitted Landfills
 - (a) Consultant shall be responsible for proper disposal of materials, including but not limited to, soil cuttings and groundwater well development water at appropriate government-certified landfills.
 - (b) District will provide the required generator signature and generator numbers for the manifested wastes. Notwithstanding the foregoing, Consultant acting as an authorized field agent for the District, will sign waste profiles, and waste manifests for waste on behalf of the District if Consultant receives District Project Manager's written authorization to dispose of that particular waste.
 - (c) Consultant shall provide the District Project Manager with all relevant information related to the waste and intended waste site to enable the District Project Manager to determine whether it should authorize Consultant to sign such waste profiles, and waste manifests. This information will include the characteristics and quantity of the waste, the person supervising the loading of the waste onto the truck, and the intended waste facility. Consultant will provide all documentation on disposal activities to District.
 - (d) Consultant shall provide all copies of documentation of communication made by Consultant with appropriate regulatory agencies on evaluation of regulatory requirements and regulatory agency approvals for disposal of materials.
 - (e) Consultant shall provide all copies of laboratory testing reports for the materials to be disposed.
 - (f) Within fifteen days after disposal of materials at appropriate government-certified landfills, the Consultant must submit copies of all Hazardous Waste Manifests signed by disposal facilities and certificates of disposal, to prove that Consultant has legally disposed of such materials.

13. Non-Regulated Materials Management.

- A. Non-regulated Materials are any substance or combination of substances for which federal, state, or local regulations do not require special management, storage, disposal, or handling practices. Non-regulated Materials include, but are not be limited to, non-hazardous materials and non-hazardous wastes.

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- B. Non-regulated Materials may be disposed at state-permitted, non-hazardous waste landfills.
- C. For Non-regulated Materials to be reused or disposed on site or at a site other than a state-permitted landfill, the Consultant must obtain all required permits, agency approvals, property owner agreements, and pay all fees and taxes for all services and materials required in conjunction with the management, transportation, disposal and reuse of Non-regulated Materials.
- D. Storage Area for Disposal of Investigation and/or Remediation-Derived Materials
Investigation and/or Remediation-Derived Materials include, but are not limited to, any waste generated during sampling and/or remediation activity. Consultant will provide fenced or barricaded areas with proper signs necessary for the storage of the potentially non-hazardous wastes generated during site investigations and/or remediation, including but not limited to, sampling, subsurface soil drilling, or groundwater well installation and development. Consultant will be responsible for constructing, operating, maintaining, and decommissioning the storage facilities.
- E. Disposal of Investigation and/or Remediation-Derived Materials at Other Than State-Permitted Landfills
 - 1. The Consultant shall assist the District in obtaining a consent agreement from property owner, prior to disposal of materials, providing:
 - (a) A written authorization from property owner to accept materials at duly noting quantities, types of materials (soils, debris, etc.), and disposal property location address;
 - (b) A written release from the property owner fully absolving the Santa Clara Valley Water District from any and all responsibility and legal liability towards any damage to life, and environment in connection with the disposal of the materials on the property.
 - 2. The Consultant shall provide:
 - (a) Copies of all applicable regulatory agency permits, approvals, licenses, and environmental clearances;
 - (b) Site-specific health and ecological risk assessment and/or compliance with applicable regulatory agency regulations or guidelines, including but not limited to the Environmental Screening Levels per the latest guidelines from San Francisco Bay Regional Water Quality Control Board (SFBRWQCB);
 - (c) Copies of documentation of communication made by Consultant with appropriate regulatory agencies on evaluation of regulatory requirements and regulatory agency approvals for disposal of materials;
 - (d) Copies of laboratory testing reports for the materials to be disposed.
 - 3. Within fifteen (15) days after disposal of materials at property location, the Consultant shall assist the District in obtaining an acknowledgement, duly signed by property owner, certifying date of receipt of materials including

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quantity and types of materials (soils, debris, etc.) received, to prove that the materials have been disposed at the location designated in the agreement.

4. Waste Manifests. No later than fifteen (15) days after Consultant's request for final inspection, the Consultant must submit copies of all Non-Hazardous Waste Manifests signed by disposal facilities and certificates of disposal, to prove that Consultant has legally disposed such materials.

14. Signature Required for Disposal of Wastes. The District will obtain signatures for documentation necessary for the management of hazardous and/or non-hazardous wastes generated from an investigation conducted under this Agreement, except when the District Project Manager authorizes the Consultant, in writing, to act as an authorized field agent for the District, sign waste profiles, waste manifests on behalf of the District.

15. Obtaining Pertinent Permits. Consultant will identify and prepare necessary applications, obtain all required permits, and keep the District's Project Manager informed of permit status for completion of the Services described in this Agreement.

16. Monitoring Wells and Excavations. Unless otherwise agreed to by the District Project Manager in writing, Consultant will construct and destroy groundwater monitoring wells, and conduct excavations in accordance with the District Well Ordinance 90-1, and the State of California Department of Water Resources, Division of Planning and Local Assistance, California Well Standards incorporated herein by reference hereto. The state standard can be found at http://www.dpla.water.ca.gov/sd/groundwater/california_well_standards/well_standards_content.html. The District will provide locks and keys for groundwater monitoring wells.

17. Contamination Generated by Consultant

- A. Consultant is responsible for any contamination resulting from its negligence and/or willful misconduct in handling any hazardous materials and/or hazardous or non-hazardous wastes related to providing the services under this Agreement.
- B. If the Consultant generates such contamination, through its negligence and/or willful misconduct, Consultant will take all reasonable remedial actions necessary to mitigate surface and subsurface soils contamination/groundwater/sediments, including but not limited to, the following:
 1. Investigate the extent of the contamination;
 2. Remove, and dispose of the contamination; and
 3. Provide the District with a verification sampling of the removal of such contamination that complies with legal requirements and is satisfactory to the District.
- C. In connection with this paragraph, Consultant will also be responsible for signing Hazardous Waste Manifests and paying the State of California Superfund fees, the Generators fees, and all costs of disposal of the wastes or contaminated materials generated by Consultant. All expenses incurred by Consultant will be paid for by the

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Consultant and no compensation will be made by the District under these conditions. The wastes, contaminated soil and/or groundwater will be disposed by Consultant within sixty (60) days of generation of the waste.

18. Health and Safety Plan. Consultant is responsible for supervising the work and safety of all persons engaged in providing field services to the District under this Agreement. Consultant will develop a health and safety plan for each proposed field activity. The health and safety plan must list protective measures required to protect the field team, other persons on site, and the general public from site specific hazards. The health and safety plan must be prepared under the direction of, reviewed and signed by a certified industrial hygienist, toxicologist, or other appropriately-licensed professional in accordance with applicable regulatory agency's requirements to ensure compliance with Cal/OSHA standards. Consultant will submit the certified health and safety plan to the District.

6. ENGINEERING SCOPE OF SERVICES

The On-Call Scope of Services will generally include, but is not limited to the following:

Task 1—Project Management

- A. The Project Management task applies to the Phase II HSLA, Remedial Design Services, and Engineering Services during Construction Task Orders only. The purpose of this Task 1 is to require the Consultant to manage the Scope of Services such that the work is completed within the not-to-exceed fee limit and according to the schedule stated in each Task Order, while ensuring that all services and deliverables by the Consultant meet these Scope of Services requirements. The Consultant will perform all Subtasks in this Task unless otherwise specified in the Task Order.
- B. This task includes all project management efforts required to organize Consultant's team, assign and control work, and report progress to the District in the form of monthly progress reports. The Consultant will be available for meetings with additional parties as requested by the District on matters concerning a Task Order.
- C. All services provided by Consultant will be performed utilizing industry best management practices and District nomenclature, standardized forms, software requirements, and documented procedures in existence at the time of issuance of a Task order.

Tasks include but are not limited to:

- 1.1 Kickoff Meeting.** Consultant will attend one Project kickoff meeting, as-needed and requested by the District's Project Manager, to introduce key District and Consultant team members to one another, acquaint all participants with the purpose of and expectations for the services to be performed, describe team member roles and responsibilities, describe relevant procedures and summarize the anticipated scope and schedule of various tasks. The District's Project Manager will organize and lead the kickoff meeting. The kickoff meeting will be attended by the Parties' key team members. Items to be discussed at the meeting will also include: review of the objectives for the scope of services, critical success factors, District management expectations, key decision points, and external agency involvement. Consultant will identify and invite appropriate Consultant team members.

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Consultant team members are expected to include the Consultant's Project Manager and Sub consultants, as appropriate. The District will identify and invite District team members and others, as appropriate.

- 1.2 Monthly Progress Meetings.** Consultant will conduct monthly progress meetings with District's Project Manager; solicit administrative and technical requirements from District staff; and ensure that the requirements have been managed.
- 1.3 Monthly Progress Report.** A Task Order shall require a monthly Progress Report. The Progress Report (PR) shall document the work completed and document the execution of the tasks described in the Task Order Scope of Service to enable the District to evaluate the Consultant's progress and performance towards completion of the work. The PR report shall include:
- A. An assessment of actual versus planned progress in completing the Task Order Scope of Services, including a description of the tasks, and deliverables completed to-date;
 - B. For each task, the percentage of services performed versus the percentage of Agreement not-to-exceed fees incurred for such task, and explanation of any significant variances in percentage of services performed compared to percentage of fees incurred;
 - C. For each task, the percentage of the fees incurred for such task compared to dollar amount allocated to such task;
 - D. For each task, identify costs to date and forecast to complete including staffing by task;
 - E. A statement that all tasks will be completed within the agreed upon not-to-exceed total amount described in the Task Order;
 - F. A statement that progress in the performance of the Task Order Scope of Services required by this Agreement is on schedule within the time line set forth in the Task Order; or, if completion of the services is not on schedule, 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 timeline for implementation of such measures;
 - G. A look-ahead schedule listing deliverables and activities planned for the increment of time as specified in the Task Order;
 - H. A summary of proposed changes to the Task Order Scope of Services, if required, including justifications for such changes;
 - I. A Small Business Enterprise participation report to document the level of SBE participation throughout the term of the Agreement;
 - J. Project Management Action Item and Decision Log: This log will document action items and concerns and issues throughout the term of the Agreement which require resolution by District and/or Consultant;

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- K. A summary of performed tasks to date, an updated Task Order work plan including estimate of work required to complete the Task Order, explanation of any major variances in percentage of Services to be completed compared to percentage of the Task Order NTE fees remaining, and any anticipated changes to the Task Order that may be necessary to complete the Scope of Services; and
- L. Any changes in Consultant's key staff or subconsultants.

Task 1—Deliverables.

- 1. Kick-Off meeting
- 2. Progress Reports as required by Task Orders
- 3. Progress meetings at intervals established in Task Orders
- 4. Agendas and meeting notes
- 5. Written response to any and all comments by external agencies

Task 1—Assumptions.

- 1. None.

Task 2—Phase I HSLA

- 2.1 Identify and Evaluate Potential Sources.** Identify and evaluate potential sources of on-site or off-site surface or subsurface contamination, and evidence for the potential existence of on-site and off-site releases, or substantial threats of such releases, of hazardous substances or of any pollutants or contaminants which may adversely impact the environment, or public health or welfare.
- 2.2 Identify and Evaluate Potential Impacts.** Identify and evaluate the potential impacts of on-site and off-site contaminant sources to proposed use of properties proposed by District for acquisition in fee or easement.
- 2.3 Evaluate Environmental Condition, Potential Liabilities and Impacts on Use of Property.** Evaluate the data collected and provide professional opinions on the environmental condition, the potential liabilities, and the potential impacts to the District's proposed use of the Property, being as specific and comprehensive as the available data allows.
- 2.4 Additional Environmental Site Assessment.** Evaluate the data collected and provide professional opinions on the need for and justification for recommendations for the scope of any recommended additional environmental site assessment and site remediation or risk assessment and estimated costs thereof.
- 2.5 Phase I HSLA Report.** Submit a Phase I HSLA Report including but not limited to the aforementioned, documenting the findings, conclusions, and recommendations from the Phase I HSLA.

Task 2—Deliverables.

- 1. Draft Phase I HSLA Report (via email) for District's review

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2. Final Phase I HSLA Report (Task Order will specify number of hard copies or if electronic versions will be sufficient) addressing District's comments on the Draft Phase I HSLA Report

Task 2—Assumptions.

Refer to Schedule OC Scope of Services, Attachment One, Fees and Payments, Exhibit A Cost Spreadsheets, Notes and Assumptions.

Task 3—Phase II HSLA

- 3.1 **Phase II HSLA Work Plan.** Prepare a Phase II HSLA Work Plan and coordinate with District staff in obtaining applicable regulatory agency approvals.
- 3.2 **Potential Sources of Contamination.** Confirm potential sources of on-site or off-site surface or subsurface contamination or on-site and off-site releases, or substantial threats of such releases, of hazardous substances or of any pollutants or contaminants which may adversely impact the environment or public health or welfare, or possible future District use of the Property.
- 3.3 **Drilling and Sampling.** Characterize subsurface contamination by drilling shallow or deep soil borings, and by installing ground water wells, and sampling the contamination resulting from the on-site and off-site releases, or substantial threats of such releases, of hazardous substances or of any pollutants or contaminants which may adversely impact the environment or public health or welfare, or possible future District use of the Property. Manage storage, testing, transportation, and disposal of Investigative-Derived-Waste generated from soil borings and ground water monitoring wells.
- 3.4 **Evaluate Environmental Condition, Potential Liabilities and Impacts on Use of Property.** Evaluate the data collected and provide professional opinions on the environmental condition, the potential liabilities, and the potential impacts to the District's possible use of the Property, being as specific and comprehensive as the available data allows.
- 3.5 **Recommendations for Remediation or Risk Assessment.** Evaluate the data collected and provide professional opinions on the need for and recommendations for the scope of site remediation or risk assessment.
- 3.6 **Additional Environmental Site Assessment.** Evaluate the data collected and provide professional opinions on the need for and justification for recommendations for the scope of any recommended additional environmental site assessment and site remediation or risk assessment and estimated costs thereof.
- 3.7 **Phase II HSLA Report.** Submit a Phase II HSLA Report including but not limited to the aforementioned, documenting the findings, conclusions, and recommendations from the Phase II HSLA.

Task 3—Deliverables.

1. Draft Phase II HSLA Work Plan (via e-mail) for District's review

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2. Final Phase II HSLA Work Plan (Task Order will specify number of hard copies or if electronic versions sufficient) addressing District's comments on the Draft Phase II HSLA Work Plan
3. Draft Phase II HSLA Report (via e-mail) for District's review
4. Final Phase II HSLA Report (Task Order will specify number of hard copies or if electronic versions will be sufficient) addressing District's comments on the Draft Phase II HSLA Report

Task 3—Assumptions.

Refer to Schedule OC Scope of Services, Attachment One, Fees and Payments, Exhibit A Cost Spreadsheets, Notes and Assumptions.

Task 4—Asbestos and Lead-Based Paint Survey

- 4.1 Identify Hazards.** Identify the presence of asbestos-containing building material (ACBM) and/or lead-based paint in the structure/s.
- 4.2 Evaluate Hazards.** Evaluate the accessibility, condition, damage, area exposed, asbestos content, and friability of ACBM; and/or evaluate the condition of lead-based paint.
- 4.3 Estimate Quantities.** Estimate the quantity of ACBM and/or lead-based paint to be abated, removed, or managed during demolition of the structure.
- 4.4 Estimate Costs.** Estimate the costs associated with all necessary asbestos and/or lead-based paint abatement, removal, or management during demolition of the structure.
- 4.5 Asbestos and Lead-based Paint Survey Report.** Submit an Asbestos and Lead-based Paint Survey Report including but not limited to the aforementioned, documenting the findings, conclusions, and recommendations from the Asbestos and Lead-based Paint Survey.

Task 4—Deliverables.

1. Draft Asbestos and Lead-based Paint Survey Report (via email) for District's review
2. Final Asbestos and Lead-based Paint Survey Report (Task Order will specify number of hard copies and whether electronic versions will be sufficient) addressing District's comments on the Draft Asbestos and Lead-based Paint Survey Report

Task 4—Assumptions.

Refer to Attachment One to Schedule OC Scope of Services, Fees and Payments, Exhibit A Cost Spreadsheets, Notes and Assumptions.

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Task 5—Remedial Design Services.

Remedial design services will be performed in support of District's projects when there is known soil and/or groundwater subsurface contamination. Remediation activity, including, but not limited to targeted contaminated soil and/or groundwater treatment and disposal, will likely be conducted during the project's construction phase.

5.1 Remedial Action Planning Overview.

- 5.1.1 **Determine Regulatory Requirements.** Review environmental site investigation and HSLA reports and assist with determination of applicable regulatory agency requirements for environmental remediation.
- 5.1.2 **Site Risk Assessment Report.** Prepare a Site Risk Assessment Report and coordinate with District staff in obtaining applicable regulatory agency approvals.
- 5.1.3 **Site Remedial Action Plan.** Prepare a Site Remedial Action Plan and coordinate with District staff in obtaining applicable regulatory agency approvals. All contract documents prepared by Consultant and its sub-consultants must be signed and stamped, and prepared by engineers appropriately licensed by the State of California while all work is performed.

Task 5.1—Deliverables.

- 1. Draft Site Risk Assessment Report (via e-mail) for District's review.
- 2. Final Site Risk Assessment Report (Task Order will specify number of hard copies and whether electronic versions will be sufficient) addressing District's comments on the Draft Site Risk Assessment Report.
- 3. Draft Site Remedial Action Plan (via e-mail) for District's review.
- 4. Final Site Remedial Action Plan (Task Order will specify number of hard copies and whether electronic versions will be sufficient) addressing District's comments on the Draft Site Remedial Action Plan.

5.2 Remedial Action Construction Plans, Specifications, and Cost Estimate.

- A. Consultant will prepare construction plans (drawings) and specifications consistent with all current Federal, State, and Local Building Codes.
- B. Consultant will meet with District staff and conduct a review of the 30%, 60% and 90% design documents. Consultant will receive input from District staff and work collaboratively to revise and finalize the design of the Project. Within 20 business days of receipt from Consultant, District staff will complete its review of the 30%, 60%, and 90% design documents and provide comments to Consultant.
- C. Consultant's design services will meet the requirements of applicable regulatory agencies and other permitting jurisdictions, in order to obtain the permits necessary to execute the construction of the Project. Consultant will assist District staff with the permit application and obtaining all permits. Specific duties will include meeting with

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regulatory agency and permitting jurisdiction staff and providing all required clarifications and redesign necessary to obtain the permits and final inspection approvals.

- D. At the 30%, 60% and 90% completion of documents milestones, Consultant will attend a review meeting with District's reviewers to discuss review comments provided by the District. Sub-consultant attendance requirements will be agreed upon in advance by the District and Consultant.

5.2.1 30% Design.

- 5.2.1.1 Consultant shall develop 30% plans, specifications, and opinion of probable construction cost and, if requested, develop preliminary construction sequencing plan.
- 5.2.1.2 Consultant shall develop the 30% plans, specifications, and cost using environmental site assessment or Hazardous Substance Liability Assessment (HSLA) reports prepared for the District.
- 5.2.1.3 Consultant shall conduct a 30% review meeting/workshop with the District to review and discuss District comments.

Task 5.2.1—Deliverables.

- 1. 30% Plans – Half size (11 x 17-inch) set of each drawing (six hardcopies); AutoCAD and PDF files
- 2. 30% Specifications – MS Word and PDF files
- 3. 30% Opinion of Probable Construction Cost
- 4. 30% Preliminary Construction Sequencing Plan (if requested)
- 5. Conduct a 30% Review Meeting/Workshop

5.2.2 60% Design.

- 5.2.2.1 Consultant shall respond to the District's comments on the 30% design submittal.
- 5.2.2.2 Consultant shall develop 60% plans, specifications and opinion of probable construction cost.
- 5.2.2.3 Consultant shall update the construction sequencing plan, if requested.
- 5.2.2.4 Consultant shall conduct a 60% review meeting/workshop with the District to review and discuss District comments.

Task 5.2.2—Deliverables.

- 1. 60% Plans - Half size (11 x 17-inch) set of each drawing (six hardcopies); AutoCAD and PDF files

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2. 60% Specifications—MS Word and PDF files
3. 60% Opinion of Probable Construction Cost
4. 60% Preliminary Construction Sequencing Plan (if requested)
5. Conduct a 60% Review Meeting/Workshop

5.2.3 90% Design.

- 5.2.3.1 The 90% design submittal shall be a drawing and specification set that is completed to the level required by applicable regulatory agencies for the District to obtain approvals and permits necessary to execute the construction.
- 5.2.3.2 Consultant shall respond to District comments on the 60% design submittal.
- 5.2.3.3 Consultant shall develop 90% plans, specifications and opinion of probable construction cost.
- 5.2.3.4 Consultant shall update the construction sequencing plan, if requested.
- 5.2.3.5 Consultant shall conduct a 90% review meeting/workshop with the District to review and discuss District and regulatory agency comments.

Task 5.2.3—Deliverables.

1. 90% Plans - Half size (11 x 17-inch) set of each drawing (six hardcopies); AutoCAD and PDF files
2. 90% Specifications – MS Word and PDF files
3. 90% Opinion of Probable Construction Cost
4. 90% Preliminary Construction Sequencing Plan (if requested)
5. Conduct a 90% Review Meeting/Workshop

5.2.4 100% Design (Bid Set).

- 5.2.4.1 Consultant shall respond to District and regulatory agency comments.
- 5.2.4.2 Consultant shall develop 100% plans, specifications, and opinion of probable construction cost.
- 5.2.4.3 Consultant shall revise the construction sequencing plan, if requested.
- 5.2.4.4 Consultant shall prepare the 100% design package for submission to applicable regulatory agencies for approval. The same package will be submitted to the District for use in construction bidding.

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Task 5.2.4—Deliverables.

1. One reverse plotted Mylar set of stamped and signed final plans (22 x 34-inch)
2. One camera-ready set of stamped and signed final specifications (hard copy)
3. Stamped and signed final specifications—MS Word and PDF files
4. All final design calculations (one hardcopy and PDF version)
5. 100% Opinion of Probable Construction Cost
6. 100% Preliminary Construction Sequencing Plan (if requested)
7. Prepare and submit for approval to regulatory agency the 100% Design Package

Task 5—Assumptions.

1. Refer to Attachment One to Schedule OC Scope of Services, Fees and Payments, Exhibit A Cost Spreadsheets, Notes and Assumptions.
2. District responsibilities for Subtask 5.2 Remedial Action Construction Plans, Specifications, and Cost Estimate shall include:
 - A. District will provide a specification template to Consultant to ensure adherence to District specification format;
 - B. District will furnish all available drawings and reports to the Consultant, necessary for the design of the Project;
 - C. District will make staff available for meetings, if required;
 - D. District will provide timely direction to the Consultant and make key personnel available at critical junctures as determined by the District and Consultant's Project Managers; and
 - E. District will provide known and available environmental site assessment or HSLA information to the Consultant.
3. District Responsibilities for Subtask 5.3 Bid Phase Services shall include:
 - A. District will set up service for bidders to obtain Bid Sets;
 - B. District will receive all bidders' questions, convey those questions related to the Consultant's work to the Consultant, and disseminate the responses to bidders;
 - C. District is responsible for generating pre-bid conference notes and disseminating the notes to bidders; and
 - D. District is responsible for reproducing and distributing of bid documents, and addenda documents.

Task 6—Bid and Award Services.

Upon the District's request, the Consultant will assist during the bidding process of the Project by:

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- 6.1 **Prequalification Activities.** Assist the District in preparing the prequalification parameters for the District to use in acquiring competent, qualified contractors for the work being bid. Assist the District in evaluating the qualifications of contractors submitting questionnaires.
- 6.2 **Bidder's Questions.** Responding to bidders' questions pertaining to the Bid Set within two business days of receipt of District's written request. Consultant will maintain a log of bidders' questions and responses, including whether any questions require preparing addenda to the Bid Set.
- 6.3 **Pre-Bid Meeting.** Attending the pre-bid conference, including a site visit, and assisting with preparation of documents to be distributed at the conference.
- 6.4 **Addenda.** Preparing bid document addenda if clarifications or changes to documents in the Bid Set are needed, which includes:
 - 6.4.1 Changes to drawings will be shown on 8.5 x 11 sheets to the extent possible.
 - 6.4.2 Changes to drawings will be signed and stamped and will be provided within five business days of the written request from District.
 - 6.4.3 During preparation of each addendum, the Consultant will evaluate any construction schedule and cost impact of the addendum and submit to District for consideration prior to finalizing addendum.
- 6.5 **Conformed Contract Documents.** Preparing a Conformed Set of construction Contract Documents after construction bids are received, for use during construction.

Task 6—Deliverables.

- 1. Recommendations for prequalification requirements to use in the prequalification process administrated by the District. Assist in reviewing qualifications as required
- 2. Written responses to bidders' questions and associated log
- 3. Attendance at pre-bid conference, including site visit, and preparation of minutes
- 4. Addenda to bid documents
- 5. Electronic versions of stamped and signed conformed set of construction contract documents
- 6. Stamped and wet-signed conformed set of contract documents (electronic and hard copy) for use during Project construction

Task 6 – Assumptions.

- 1. None.

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Task 7—Engineering Services during Construction.

At the request of the District's Project Manager, Consultant will provide as-needed technical assistance and engineer-of-record services as specified and be an integral part of a collaborative team to support the successful completion of a Project.

- 7.1** Provide as-needed oversight during performance of remedial construction by the District's construction contractor including confirmatory soil and/or ground water sampling and testing services.
- 7.2** Submit a Remedial Construction Report documenting site cleanup and assist District facilitate construction of the project(s) by obtaining from applicable regulatory agencies: "No Further Action" letters or "Site Closure" letters."
- 7.3** Environmental Sampling and Monitoring Plan: Consultant's services will not include any remedial construction work but may include long-term regulatory agency-directed environmental monitoring. If any long-term regulatory agency-directed environmental monitoring is required, Consultant will develop a sampling and monitoring plan. The plan will be in accordance with applicable laws, regulations, guidelines and industry standards for investigation and report preparation and will include recommendations for the frequency of sampling and analyses to be performed. Full coordination with existing sampling and monitoring activities will be incorporated. The recommendation will take into account all information regarding the identified contaminants, groundwater flow, chemical characteristics, and reporting requirements, in both the short and long term. The plan will include the submittal of monitoring reports within 30 days of the sampling and analysis event. This plan will be a stand-alone document which may be used by others for continued monitoring and sampling.

Task 7.1 to Task 7.3—Deliverables.

- 1. Draft Remedial Construction Report (via e-mail) for District's review
- 2. Final Remedial Construction Report (Task Order-specific hardcopy and electronic copies) addressing District's comments on the Draft Remedial Construction Report
- 3. Draft Environmental Sampling and Monitoring Plan (via email) for District's review
- 4. Final Environmental Sampling and Monitoring Plan (Task Order-specific hardcopy and electronic copies) addressing District's comments on the Draft Environmental Sampling and Monitoring Plan

Task 7.1 to Task 7.3—Assumptions.

Refer to Attachment One to Schedule OC Scope of Services, Fees and Payments, Exhibit A Cost Spreadsheets, Notes and Assumptions.

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Task 7.4—Submittal Review.

- 7.4.1 Consultant's submittal review(s) will determine if the items covered by the submittal conform to the requirements of the construction Contract Documents.
- 7.4.2 Consultant's submittal review and approval will not extend to means, methods, techniques, sequence or procedure of construction except where a particular means, method, technique, sequence or procedure of construction is specifically and expressly called for by the contract construction documents, or to safety precautions or programs.
- 7.4.3 Consultant will provide a written summary memorandum of comments rather than annotate copies of submittal wherever possible. When annotations are required due to the format of the submittals, they will be made on only one set of the submittals. If the physical size of the submittal is 11 by 17-inch or less, these annotated copies will be scanned and returned in Adobe PDF format. Otherwise, one annotated paper copy will be returned to the District.
- 7.4.4 Consultant must review, respond and return all construction submittals as promptly as possible, but in no case later than an average of ten (10) working days from receipt of the submittals from District's Project Manager unless otherwise agreed to by District's Project Manager. In no case shall the Consultant, respond, and return any single submittal later than 17 calendar days from receipt of the submittal unless otherwise agreed to by District's Project Manager.
- 7.4.5 Consultant must review and respond to the District's Project Manager within five (5) working days from receipt of the submittals if submittals are incomplete or unacceptable.
- 7.4.6 If the Consultant's submittal review comments result in changes to the requirements of the construction Contract Documents, Consultant must state in its submittal response transmittal that a Change Order request may be necessary and immediately notify District's Project Manager by email of the possibility of issuing a Change Order request, including possible consequences if change is not authorized.
- 7.4.7 Each submittal reviewed and returned must be dated and provided with an appropriate action. The action review classifications will be per the Standard Provisions Article – Submittals to be furnished by the construction contractor, of the contract construction documents.
- 7.4.8 The Consultant's receipt date, submittal identification number, response date, and review action will be logged and tracked by Consultant.
- 7.4.9 Consultant will review construction contractor's substitution requests submitted as part of Task 16 Supplemental Services During Construction, as requested by the District.

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Task 7.4—Deliverables.

1. Written notification (via e-mail) of potential change orders due to submittal review comment(s) by Consultant
2. Written comments of review of construction contractor's submittals (electronic sent via e-mail)

Task 7.4—Assumptions.

1. The District will require the construction contractor to transmit Adobe PDF files for submittals fifty (50) pages or less in length; larger submittals or submittals with drawings larger than 11 by 17-inch will be provided in paper form to the District and Consultant.
2. Consultant will not need to print copies of submittals for return to the construction contractor.
3. In case "pre-submittal," submittal review workshop or similar meetings are either specified in the construction Contract Documents or requested by District's Project Manager, this work will be completed under Subtask 7.5—Engineering Site Support.

Task 7.5—Requests for Information (RFI).

During the construction period, the construction contractor will submit RFIs to the District pertaining to a variety of topics including, but not limited to, requesting clarification, additional information or guidance concerning some aspects of the contract construction documents prepared by the Consultant, unforeseen site conditions, construction error correction, or to propose alternatives or value-engineering proposals to the contract construction documents. RFIs related to Project design can also originate from District, regulators, and other entities.

- 7.5.1 The Consultant shall provide the District's Project Manager with written responses to RFIs, except for those related to substitutions, within an average of five working days unless otherwise agreed between Consultant and the District's Project Manager.
- 7.5.2 Consultant will notify District in writing (via e-mail) after the completion of the review of a submittal or RFI that it may lead to a potential change order.
- 7.5.3 In preparing its response to any RFI, Consultant will evaluate whether the response will result in changes to the requirements of the contract construction documents. If the Consultant's response to an RFI will change the requirements of the contract construction documents, Consultant shall:
 - A. State in writing with Consultant's response to the RFI that the response to the RFI results in changes to the requirements of the contract construction documents.
 - B. Promptly notify the District's Project Manager that the Consultant's response to the RFI results in a change to the requirements of the contract construction documents.

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- C. Notify the District's Project Manager in writing of the conceptual construction cost opinion and/or schedule impact of the change and identify consequences if the change is not made.
- D. All new drawings and new technical specifications issued as part of a RFI response must be signed and stamped by an engineer registered in the State of California.

7.5.4 Upon District Project Manager's request, Consultant will assist the District's Project Manager in ascertaining any adjustment in the contract time specified in the contract construction documents or contract sum resulting from modifications to the contract construction documents based on Consultant's response to a RFI.

7.5.5 Consultant will invoice District for actual costs incurred unless the RFI was due to negligent errors or omissions (not in accordance with the accepted practices and standards of Consultant's profession) on the part of Consultant, in which case there will be no cost to the District. Consultant will be paid for the actual costs incurred to review and respond to RFIs unless the question of the RFI is clearly and exclusively due to the negligent errors or omissions of the Consultant.

Task 7.5—Deliverables.

1. Submit written responses to RFIs in accordance with the foregoing requirements.

Task 7.5—Assumptions.

1. RFIs related to the construction contractor's means and methods will be returned with the response that the construction contractor is responsible for means and methods.
2. Consultant will develop and use a standard response form for responding to RFIs. Responses will be e-mailed to the District's Project Manager and will not be sent in paper form.

Task 7.6—Construction Change Order Assistance.

During the construction period, construction change orders may be appropriate for many reasons such as: to address construction non-conformances, unforeseen conditions, availability of new information, resolution of inconsistencies within the contract construction documents, or additional construction work. The construction contractor or the District may initiate changes to the Project for a variety of reasons. Pursuant to this subtask, Consultant will assist the District's Project Manager in reviewing and evaluating Potential Change Order (PCO) requests and prepare design document changes to the contract construction documents including construction cost opinions and/or proposed construction cost analysis. Consultant's involvement with construction change orders will be to support the District's Project Manager in evaluating, administering and implementing changes to the contract construction documents made during the construction phase.

7.6.1 Upon District's Project Manager's request, Consultant will prepare change order documentation including necessary sketches, drawings, specifications, written narrative, and construction cost opinions; review construction contractor's change order proposals including technical data and cost estimates; and advise District's Project

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Manager whether work proposed by the construction contractor warrants the need for a change order.

- 7.6.2 Design document changes for construction change orders will be submitted by Consultant to the District's Project Manager electronically (Microsoft Word/Adobe PDF/AutoCAD) unless District's Project Manager provides prior approval to use hand-drawn mark-ups for specific changes. All new drawings and new technical specifications issued as part of a change order must be signed and stamped by an engineer registered in the State of California.
- 7.6.3 The District's construction manager will monitor and track PCOs. Consultant will review and comment on the District's analysis of the reason for the PCOs and will provide their own independent input.

Task 7.6—Deliverables.

- 1. Review comments on District's Project Manager analyses of potential change orders (electronic sent via e-mail) and Consultant's own independent analyses of such potential change orders.

Task 7.6—Assumptions.

- 1. Minor clarifications to the contract construction documents shall not be considered change orders.

Task 7.7—Engineer of-Record's Record Drawings.

- 7.7.1 Consultant will prepare and maintain a set of Engineer-of-Record's Record Drawings by hand- marking up on the full-size conformed drawings with all changes and clarifications recommended by Consultant and accepted by District's Project Manager during the construction. Such changes may be the result of information that was approved in RFIs, change orders, or field memoranda written by Consultant.
- 7.7.2 The final Engineer-of-Record's Record Drawings will be submitted to District's Project Manager within fifteen (15) working days of the District Project Manager's issuance of Project Notice of Completion and Acceptance of Contractor's work.
- 7.7.3 Consultant will prepare the Record Drawings as construction progresses to aid completion of the entire drawing set within the time period stipulated.

Task 7.7—Deliverables.

- 1. Final Engineer-of-Record's Record Drawings, signed and stamped by a California registered engineer or architect.
- 2. Record Drawings shall include design engineering changes recommended by Consultant and accepted by District's Project Manager.

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3. Consultant shall provide one (1) full-size copy and one (1) set of CDs with Adobe PDF copies of the Record Drawings. The Reproducible Record Drawings shall be in Mylar and electronic file compatible with current version of AutoCAD used by the District.

Task 7.7—Assumptions.

Refer to Attachment One to Schedule OC Scope of Services, Fees and Payments, Exhibit A Cost Spreadsheets, Notes and Assumptions.

Task 7.8—Engineering Site Support.

Upon District's Project Manager's request, Consultant will attend periodic meetings with District Project team, construction contractor and third parties, and provide engineering observation and monitoring services during critical construction activities as required to verify design assumptions and to provide interpretations of the design intent.

- 7.8.1 If requested by the District's Project Manager or by Consultant with District's approval, Consultant will attend the pre-construction meeting, weekly progress meetings with construction contractor, partnering session(s), dispute review meetings, site visits, meetings with construction contractor and its subcontractors and suppliers, and technical meetings and workshops.
- 7.8.2 Upon District's Project Manager's request, Consultant will identify items which require further work by the construction contractor prior to final inspection and final acceptance and attend the Preliminary Final Inspection Meeting and participate in the development of Project Acceptance Deficiency Lists.

Task 7.8 —Deliverables.

1. Field memoranda documenting Consultant's observations, findings and recommendations
2. Listing of items noted at the Project site for the Project Acceptance Deficiency List

Task 7.8—Assumptions.

Refer to Attachment One to Schedule OC Scope of Services, Fees and Payments, Exhibit A Cost Spreadsheets, Notes and Assumptions.

Task 7.9—Engineering Support for Dispute Resolution.

Consultant will perform engineering investigations and analyses and provide recommendations to assist the District in the resolution of construction contractor's claims and disputes or other matters that may arise during construction, if requested by the District's Project Manager. All of Consultant's investigations, analyses and recommendations will be summarized and provided in writing by Consultant.

- 7.9.1 For claims, disputes and other matters in question between the District and construction contractor, Consultant will render written opinion/recommendations within fifteen (15) working days, or such other time period as agreed to by the Parties.

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- 7.9.2 Consultant will notify the District's Project Manager immediately if more time is required, for reasonable cause, to respond to dispute, claim or other matters. Consultant's request for time extension is subject to District's Project Manager's approval as confirmed by e-mail.
- 7.9.3 Consultant's written opinions/recommendations on disputes, claims or other matters in question between the District's Project Manager and construction contractor are subject to the provisions of the contract construction documents.

Task 7.9—Deliverables.

1. Submit written summaries of Consultant's investigations, analyses and recommendations to assist District in Dispute resolution with Contractor, in accordance with aforementioned requirements.
2. Submit written opinion/recommendations to assist District in dispute resolutions with Contractor, in accordance with the aforementioned requirements.

Task 7.9—Assumptions.

1. Refer to Attachment One to Schedule OC Scope of Services, Fees and Payments, Exhibit A Cost Spreadsheets, Notes and Assumptions.
2. Meeting attendance by Consultant for dispute resolution will take place under Subtask 7.8—Engineering Site Support.

Task 8—Storm Water Management.

- A. Storm Water Management will generally be performed in support of typical flood protection or water utility capital projects, as needed. Assigned work will include the following:
1. Monitor District's assigned capital construction projects to ensure construction activities are in compliance with the National Pollution Discharge Elimination System (NPDES) under the California State Water Resources Control Board's Storm Water Construction General Permit (CGP), and the California Regional Water Quality Control Board, San Francisco Region, Municipal Regional Storm Water Permit (MRP).
 2. Monitor District's assigned capital construction projects to ensure construction activities are in compliance with project-specific regulatory permit requirements, and other environmental and good neighbor contract requirements.
- B. Maintain reports to demonstrate construction compliance with storm water and environmental requirements of District's assigned capital projects.
- C. This scope of work does not include health and safety related services, including identification of field hazards for District staff or the staff of its subcontractors. Consultant will conduct all Storm Water Management services in accordance with the District's Health and Safety Plan for the construction work for which the Storm Water Management services are to be performed.

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- 8.1 Develop SWPPP.** Assigned work will include Task Orders that will be based on the above general scope of work. Specifically, the Task Orders will be based on the following individual Subtasks, or combinations thereof:
- 8.1.1 Develop a Storm Water Pollution Prevention Plan (SWPPP) for the CGP Risk Level (RL) 1 or Linear Underground Project (LUP) Type 1 for the assigned project area. The SWPPP will be developed in accordance with the requirements of the California State Water Resources Control Board's Storm Water Construction General Permit (CGP), and the California Regional Water Quality Control Board, San Francisco Region, Municipal Regional Storm Water Permit (MRP).
- 8.1.2 Develop a Storm Water Pollution Prevention Plan (SWPPP) for the CGP Risk Level (RL) 2-3 or Linear Underground Project (LUP) Type 2-3 for the assigned project area. The SWPPP will be developed in accordance with the California State Water Resources Control Board's Storm Water Construction General Permit (CGP), and the California Regional Water Quality Control Board, San Francisco Region, Municipal Regional Storm Water Permit (MRP).

Task 8.1—Deliverables.

1. Draft and Final Storm Water Pollution Prevention Plan (SWPPP) for CGP Risk Level (RL) 1 or Linear Underground Project (LUP) Type 1
2. Draft and Final Storm Water Pollution Prevention Plan (SWPPP) for CGP Risk Level (RL) 2-3 or Linear Underground Project (LUP) Type 2-3

8.2 Review Contractor's SWPPP.

- 8.2.1 Review and submit written comments on the Contractor's Storm Water Pollution Prevention Plan (SWPPP) for the CGP Risk Level (RL) 1 or Linear Underground Project (LUP) Type 1 developed by the District's Contractor for the assigned project area. The purpose of the SWPPP review will be to ensure that the Contractor's SWPPP is in accordance with the California State Water Resources Control Board's Storm Water Construction General Permit (CGP), and the California Regional Water Quality Control Board, San Francisco Region, Municipal Regional Storm Water Permit (MRP).
- 8.2.2 Review and submit written comments on the Contractor's Storm Water Pollution Prevention Plan (SWPPP) for the CGP Risk Level (RL) 2-3 or Linear Underground Project (LUP) Type 2-3 developed by the District's Contractor for the assigned project area. The purpose of the SWPPP review will be to ensure that the Contractor's SWPPP is in accordance with the California State Water Resources Control Board's Storm Water Construction General Permit (CGP), and the California Regional Water Quality Control Board, San Francisco Region, Municipal Regional Storm Water Permit (MRP).

Task 8.2—Deliverables.

1. Written comments on the Contractor's Storm Water Pollution Prevention Plan (SWPPP) for the CGP Risk Level (RL) 1 or Linear Underground Project (LUP) Type 1

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2. Written comments on the Contractor's Storm Water Pollution Prevention Plan (SWPPP) for the CGP Risk Level (RL) 2-3 or Linear Underground Project (LUP) Type 2-3

8.3 Bid Support for Task 7.1. Develop SWPPP.

- 8.3.1 Provide support to the District's design team in estimating quantity and cost for acquiring and implementing the Storm Water Best Management Practice devices, equipment, and measures included in the SWPPP Risk Level 1, and LUP Type 1 to be included in project design and bidding prior to construction work.
- 8.3.2 Provide support to the District's design team in estimating quantity and cost for acquiring and implementing the Storm Water Best Management Practice devices, equipment, and measures included in the SWPPP Risk Levels 2-3, and LUP Types 2-3 to be included in project design and bidding prior to construction work.

Task 8.3—Deliverables.

1. Submittal on Bid Support to District's design team in estimating quantity and cost for acquiring and implementing the Storm Water Best Management Practice devices, equipment, and measures included in the SWPPP Risk Levels 1, and LUP Types 1 to be included in project design and bidding prior to construction work
2. Submittal on Bid Support to District's design team in estimating quantity and cost for acquiring and implementing the Storm Water Best Management Practice devices, equipment, and measures included in the SWPPP Risk Levels 2-3, and LUP Types 2-3 to be included in project design and bidding prior to construction work

8.4 Contractor Oversight

- 8.4.1 **Contractor Oversight RL/LUP 1 (18 Month Project).** This Subtask includes the following specific activities to ensure that construction work is performed in accordance with the California State Water Resources Control Board's Storm Water Construction General Permit (CGP), and the California Regional Water Quality Control Board, San Francisco Region, Municipal Regional Storm Water Permit (MRP):
 - 8.4.1.1 Oversight and coordination. Meet with the Qualified SWPPP Practitioner (QSP), review site records, complete inspection forms, advise Contractor on issues observed.
 - 8.4.1.2 Conduct pre-project and pre-rainy season review/training for Contractor's field personnel.
 - 8.4.1.3 QA/QC review of observation and monitoring records.
 - 8.4.1.4 As-needed consultations, coordination, rain-event tracking, laboratory coordination.
 - 8.4.1.5 Compile and maintain CGP required documentation accessible to the District.
 - 8.4.1.6 Submit Monthly Reports summarizing the above listed activities including recommendations to Contractor on compliance issues on Contractor Oversight RL/LUP 1 (18 Month Project).

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- 8.4.2 **Contractor Oversight RL/LUP 2-3 (18 Month Project).** This Subtask includes the following specific activities to ensure that construction work is performed in accordance with the California State Water Resources Control Board's Storm Water Construction General Permit (CGP), and the California Regional Water Quality Control Board, San Francisco Region, Municipal Regional Storm Water Permit (MRP).
- 8.4.2.1 Oversight and coordination. Meet with the Qualified SWPPP Practitioner (QSP), review site records, complete inspection forms, advise Contractor on issues observed. If discharging, measure as-required pH, turbidity, and other water quality parameters.
- 8.4.2.2 Conduct pre-project and pre-rainy season review/training for Contractor's field personnel.
- 8.4.2.3 QA/QC review of observation and monitoring records.
- 8.4.2.4 As-needed consultations, coordination, rain-event tracking, laboratory coordination.
- 8.4.2.5 Compile and maintain CGP required documentation accessible to the District.
- 8.4.2.6 Submit Monthly Reports summarizing the above listed activities including recommendations to Contractor on compliance issues on Contractor Oversight RL/LUP 2-3 (18 Month Project).
- 8.4.3 **Contractor Oversight and Qualified Storm Event (QSE) Monitoring and Reporting RL/LUP 1 (18 Month Project).** This Subtask includes the following specific activities to ensure that construction work is performed in accordance with the California State Water Resources Control Board's Storm Water Construction General Permit (CGP), and the California Regional Water Quality Control Board, San Francisco Region, Municipal Regional Storm Water Permit (MRP).
- 8.4.3.1 Oversight, Coordination, and Monitoring/Reporting. Meet with the QSP, review site records, complete inspection forms, advise Contractor on issues observed.
- 8.4.3.2 Conduct pre-project and pre-rainy season review/training for Contractor's field personnel.
- 8.4.3.3 Maintain CGP required documentation accessible to the District, QA/QC review, and SMARTS uploads to the State Water Resources Control Board (SWRCB).
- 8.4.3.4 As-needed consultations, coordination, rain-event tracking, laboratory coordination.
- 8.4.3.5 QSE visual monitoring, complete inspection forms, advise Contractor on issues.
- 8.4.3.6 Non-Visible Pollutant Monitoring.
- 8.4.3.7 Submit Monthly Reports summarizing the above listed activities on Contractor Oversight and Qualified Storm Event (QSE) Monitoring and Reporting RL/LUP 1 (18 Month Project).
- 8.4.4 **Contractor Oversight and Qualified Storm Event (QSE) Monitoring and Reporting RL/LUP 2-3 (18 Month Project).** This Subtask includes the following specific activities

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to ensure that construction work is performed in accordance with the California State Water Resources Control Board's Storm Water Construction General Permit (CGP), and the California Regional Water Quality Control Board, San Francisco Region, Municipal Regional Storm Water Permit (MRP).

- 8.4.4.1 Oversight, Coordination, and Monitoring/Reporting – Meet with the QSP, review site records, complete inspection forms, advise Contractor on issues observed.
- 8.4.4.2 Conduct pre-project and pre-rainy season review/training for Contractor's field personnel.
- 8.4.4.3 Maintain CGP required documentation accessible to the District, QA/QC review, and SMARTS uploads to the State Water Resources Control Board (SWRCB).
- 8.4.4.4 As-needed consultations, coordination, rain-event tracking, laboratory coordination.
- 8.4.4.5 QSE pH, turbidity sampling and visual monitoring, complete inspection forms, advise Contractor on issues.
- 8.4.4.6 Non-Visible Pollutant Monitoring.
- 8.4.4.7 Submit Monthly Reports summarizing the above listed activities on Contractor Oversight and Qualified Storm Event (QSE) Monitoring and Reporting RL/LUP 2-3 (18 Month Project).

Task 8.4—Deliverables.

- 1. Monthly Reports summarizing the above listed activities including recommendations to Contractor on compliance issues on Contractor Oversight RL/LUP 1 (18 Month Project)
- 2. Monthly Reports summarizing the above listed activities including recommendations to Contractor on compliance issues on Contractor Oversight RL/LUP 2-3 (18 Month Project)
- 3. Monthly Reports summarizing the above listed activities on Contractor Oversight and Qualified Storm Event (QSE) Monitoring and Reporting RL/LUP 1 (18 Month Project)
- 4. Monthly Reports summarizing the above listed activities on Contractor Oversight and Qualified Storm Event (QSE) Monitoring and Reporting RL/LUP 2-3 (18 Month Project)

Task 8—Assumptions.

Refer to Task Cost Table in Attachment One to Schedule OC Scope of Services—Fees and Payments, Exhibit A Cost Spreadsheets, Notes and Assumptions.

Task 9—Supplemental Services

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

SCHEDULE OC SCOPE OF SERVICES

- 9.1 Expert Witness Services.** At the request of the District, Consultant will be available as an expert witness and provide expert analysis and verbal presentations/testimony on behalf of the District in alternate dispute resolution proceedings such as mediations, dispute review board hearings and meetings, court proceedings, public meetings, meetings with regulatory agencies, etc., regarding subsurface environmental impacts on the construction and operation of a project.
- 9.2 Additional Services.** The Consultant will provide additional quantities of previously identified services as requested by District. Consultant will provide additional services for any quantity of tasks and deliverables beyond those stated in Tasks 1 through 8 as Task 9 Supplemental Services, to include but not be limited to:
- 9.2.1 Additional meetings.
 - 9.2.2 Additional time allotted for meetings.
 - 9.2.3 Additional status/progress reports.
 - 9.2.4 Additional phone conference calls.
 - 9.2.5 Additional pages or copies of technical memoranda, plans, reports, drawings, and specifications.
 - 9.2.6 Additional public outreach visual materials.
 - 9.2.7 Additional Bid and Award Services.
 - 9.2.8 Additional process optimization testing.
 - 9.2.9 Additional Operations Specialist Services
 - 9.2.10 Additional Monitoring and Peer Review of District's Remediation Work

Task 9—Deliverables.

Deliverables will be described in each Task Order.

Task 9—Assumptions.

Assumptions will be identified in each Task Order.

5. ATTACHMENTS

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

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

**ATTACHMENT ONE
TO SCHEDULE OC SCOPE OF SERVICES
FEES AND PAYMENTS**

1. Total Authorized Funding.

Total payment for Services performed, to the satisfaction of District, as described in the Schedule and in all approved Task Orders will not exceed a total amount of **\$500,000 (Not-to-Exceed Fees or NTE)**. Under no conditions will the total compensation to the Consultant exceed this NTE payment amount without prior written approval in the form of an amendment to this Agreement executed by the District's Board of Directors (Board), or Chief Executive Officer, or designee, as authorized by the Board. It is understood and agreed that this total is an estimate, and the total amount of Services to be requested by the District may be less. **There is no guarantee, either expressed or implied, as to the actual dollar amount that will be authorized pursuant to this Agreement.**

2. Terms and Conditions.

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

- A. The District will pay for Services provided by the Consultant according to the rates for professional, technical, and administrative personnel as well as materials and supplies as listed below in the Hourly Rate and Unit Rate Schedule(s).
- B. 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 the District, provided Consultant submits written notice to District of Consultant's request to revise the hourly rates 90 calendar days prior to the anniversary date of this Agreement. Both parties will use as a benchmark for negotiations the percent change for the previous 12 months of the "Employment Cost Index (ECI), for total compensation for private industry workers, for the San Francisco-Oakland-San Jose, CA CSA Census region and metropolitan area (not seasonally adjusted)" as published by the U.S. Department of Labor, Bureau of Labor Statistics, or **2%** whichever is less. A negative index will result in rates remaining the same. Such rate revisions are subject to written approval by the District's Deputy Operating Officer.
- C. 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 the District Project Manager 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

**ATTACHMENT ONE
TO SCHEDULE OC SCOPE OF SERVICES
FEES AND PAYMENTS**

exceeded. Consultant shall provide receipts for each other direct expense item(s) with monthly invoices submitted.

2. Equipment purchased on behalf of the District that costs \$50 or more must receive the prior written approval of the District Project Manager. All equipment purchased on behalf of the District and paid for by the District shall become the property of the District and be delivered to District prior to expiration of this Agreement.
 3. 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 the District Project Manager. For air travel, District will pay the cost of a coach class or equivalent ticket. Where air travel is required, District will pay the total cost of the 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.
- D. Expenses incurred by the Consultant for Subconsultants, subcontractors and vendors, including lab services, will be reimbursed at actual cost plus 3%. Consultant shall provide invoices for all such services regardless of cost.
- E. For staff with rates exceeding the rate of \$271/hour the Consultant must obtain prior written approval from the District Project Manager as to the numbers of hours per task prior to that individual working on the Project.

(HOURLY RATE SCHEDULE ON FOLLOWING PAGE)

**ATTACHMENT ONE
TO SCHEDULE OC SCOPE OF SERVICES
FEES AND PAYMENTS**

HOURLY RATE SCHEDULE

CLASSIFICATION	HOURLY RATE
Consultant: Northgate Environmental Management	
Principal/Project Manager	\$224.56
Associate II	\$202.37
Associate I	\$188.08
Senior II	\$153.07
Senior I	\$135.51
Project II	\$125.46
Project I	\$115.84
Staff II	\$108.75
Staff I	\$97.91
Senior CAD	\$105.40
Admin Asst II	\$102.05
Subconsultant: Acumen Industrial Hygiene	
Principal	\$150.00
IH III (PM)	\$95.70
CAC	\$85.80
Field Tech	\$75.90
Project Support	\$30.53
Subconsultant: Larry Walker Associates	
Principal	\$271
Associate	\$224
Senior	\$178
Project IIA	\$144
Project IIB	\$121
Project IA	\$117
Project IC	\$87
Contract Admin	\$124
Admin Asst	\$77
Subconsultant: Gregg Drilling	
Principal	\$224.56
Project I	\$115.84
Staff II	\$108.75
Staff I	\$97.91
Cost Operator	\$105.40

**ATTACHMENT ONE
TO SCHEDULE OC SCOPE OF SERVICES
FEES AND PAYMENTS**

CLASSIFICATION	HOURLY RATE
Administrative Assistant	\$102.05
Subconsultant: Scantech	
Locator	\$137.50

UNIT RATE SCHEDULE

Subconsultant: Torrent Laboratory Inc.		
ANALYSIS	METHOD	UNIT RATE
Air Analysis		
TO14A/TO-15 (canister Tedlar bag)	TO-14A/TO-15	\$195.00
PCE & 5 Breakdown Compounds (TCE 1,1-DCE cis-1,2-DCE trans-1,2-DCE Vinyl Chloride)	TO-14A/TO-15	\$150.00
TO-14A/TO-15 VOCs by SIM (low-level, certified Summa canisters required)	TO-14A SIM/TO-15 SIM	\$250.00
Leak Check Compound (LCC) 1,1- or 1,2-Difluoroethane by TIC	TO-14A/TO-15	No charge
TPH Gas	TO-3 Mod./TO-15	\$100.00
MTBE-BTEX	TO-14A/TO-15	\$100.00
TPH Gas + MBTEX	TO-3 M & TO-14AM	\$150.00
TPH Gas + BTEX + 5 Oxygenates	TO-3 M/TO-14A Mod.	\$195.00
TPH Gas + Full-list TO-15	TO-3 M/TO-15	\$275.00
Fixed Gases (N2, H2, He, O2, CO, CO2, Methane, Ethane, and Ethene)	ASTM D-1946	\$150.00

**ATTACHMENT ONE
TO SCHEDULE OC SCOPE OF SERVICES
FEES AND PAYMENTS**

ANALYSIS	METHOD	RATE
Sulfur Compounds (Hydrogen Sulfide and others)	ASTM D 5504M	\$225
Leak Check Compound (LCC) (Helium gas only)	ASTM D-1946	\$50.00
One Fixed Gas	ASTM D-1946	\$75.00
Each Additional Fixed Gas	ASTM D-1946	\$75.00
Non-methane Organic Carbon (NMOC)	EPA 25/TO12 Mod.	\$150.00
Hydrocarbon Fractionation	Varies	Contact lab for pricing
Air Equipment: <u>5 days prior notice is required</u> for certified-clean canisters and recommended for batch-cleaned canisters.		
Canister (rental, batch-cleaned)		No charge
Canister (rental, individually certified clean)		\$100
Regulator (rental)		No charge
Manifold (rental)		No charge
Tedlar Bags		Please request a quote
TO-17		
TO-17 Volatile list	TO-17	\$195.00
TO-17 SIM	TO-17 SIM	\$250.00
TO-17 (GRO only)	TO-17	\$100.00
TO-17 (DRO only)	TO-17	\$100.00
TO-17 + GRO	TO-17	\$275.00
TO-17 + DRO	TO-17	\$275.00

**ATTACHMENT ONE
TO SCHEDULE OC SCOPE OF SERVICES
FEES AND PAYMENTS**

ANALYSIS	METHOD	RATE
TO-17 + GRO + DRO	TO-17	\$325.00
Transfer air from bag to tube		\$100.00
Stainless Steel Tubes for TO-17		\$25.00
TO-10A (low-volume) PCBs/Pesticides/PCBs + Pesticides	TO-10A	\$200.00
TO-11 Formaldehyde	TO-11	\$175.00
TO-13A PAHs	TO-13A	\$195
TO-17 (self-certified TD Tube)	TO-17	\$100.00

General Chemistry		
Ammonia	350.3	\$35.00
Unionized Ammonia	SM4500-NH3 F	\$35.00
TKN	SM 4500 Norg	\$65
Alkalinity (Carbonate, Bicarbonate, Hydroxide)	310.2	\$35.00
Anions by Ion Chromatography (Fluoride, Chloride, Nitrate, Nitrite, Bromide, Sulfate, and Ortho-Phosphate)	300.0	\$120.00
Single Anion	300.0	\$65.00
Extraction Preparation for Soil for Anions	300.0	\$15.00
Chemical Oxygen Demand (COD)	410.4	\$65.00
Biological Oxygen Demand (BOD)	EPA 5210B	\$150.00
Chlorine (residual)	330.5	\$50.00
Color	110.2M	\$35.00

**ATTACHMENT ONE
TO SCHEDULE OC SCOPE OF SERVICES
FEES AND PAYMENTS**

ANALYSIS	METHOD	RATE
Total Cyanide	335.2/9010	\$95.00
Amenable Cyanide	335.1	\$150.00
Free Cyanide	335.2	\$95.00
Ferrous Iron	HACH 8146	\$65.00
Ferric Iron	6010B & HACH 8146	\$85.00
Fluoride	340.2	\$65.00
General Minerals (anions, cations, alkalinity, specific conductance, hardness, pH, TSS, and TDS)	Various	\$310.00
Hardness	6010B	\$45.00
Hexavalent Chromium	218.6/7199	\$75.00
Hexavalent Chromium (soil)	218.6/7199	\$90.00
Moisture Content/Total Solids (soil)	160.3	\$30.00
Odor	SM2150B	\$65.00
Perchlorate	314.0/Mod. 314.0	\$75.00
Perchlorate (LC-MS)	331.0	\$195.00
Perchlorate, Anions extraction fee (For soil/solid matrix)		\$15
pH (corrosivity in water)	150.1	\$15.00
pH (corrosivity in soil)	9045C	\$25.00
pH (in the field)	150.1	\$165.00
Phenols (total)	420.1	\$95.00
Phosphorus	365.2	\$65.00

**ATTACHMENT ONE
TO SCHEDULE OC SCOPE OF SERVICES
FEES AND PAYMENTS**

ANALYSIS	METHOD	RATE
RCI (Reactivity Cyanide/Sulfide, Corrosivity, and Ignitibility)	SW 846	\$300.00
Specific Conductance	120.1	\$35.00
Storm Water Parameters: 4 Metals, pH, Specific Conductance, TOC and TSS	Various	\$250.00
Storm Water Parameters: 4 Metals, pH, Specific Conductance, Oil & Grease and TSS	Various	\$270.00
Total Organic Carbon (TOC) in Water	415.1	\$75.00
Total Organic Carbon (TOC) in Soil	415.1M	\$100.00
Sulfide (total)	376.1	\$45.00
Total Dissolved Solids (TDS)	160.1	\$35.00
Total Settleable Solids (SS)	160.5	\$35.00
Total Suspended Solids (TSS)	160.2	\$35.00
Turbidity	180.1	\$35.00
Sample Preparation for Matrices Other Than Aqueous or Soil		\$125.00 per sample
Compositing Soil/Water Sample (e.g., 4:1 = \$40)		\$10.00 per sample container
0.45-micron Filtration		\$10.00 per sample
Surfactants (MBAS)	SM 5540 C	\$65
Metals Chemistry		
CAM 17 Metals (ICP/CVAA)	6010B/200.7/7470/7471	\$125.00

**ATTACHMENT ONE
TO SCHEDULE OC SCOPE OF SERVICES
FEES AND PAYMENTS**

ANALYSIS	METHOD	RATE
CAM 17 Metals (ICPMS/CVAA)	6020/200.8/7470/7471	\$195.00
Priority Pollutant 13 Metals	6010B/200.7/7470/7471	\$125.00
RCRA 8 Metals	6010B/200.7/7470/7471	\$115.00
LUFT 5 Metals	6010B/200.7	\$95.00
Digestion Fee (ICP metals)	200.2/3010	\$5.00
Digestion Fee (ICPMS metals)	200.8	\$15.00
Single Metal Analysis (ICP)	6010B/200.7	\$25.00
Single Metal Analysis (ICPMS)	6020/200.8	\$35.00
Mercury	245.1/7470	\$45.00
Precious Metals	6010B/200.7	\$65.00
Special (or, non-routine) Metals	6010B/200.7	\$125.00
Precious Metal Standard (if necessary)	6010B/200.7	Contact lab for pricing
Organic Chemistry		
Volatile Organic Compounds	8260B/624	\$125.00
Halogenated Volatile Organic Compounds (HVOCs)	8010 (by 8260B/624)	\$85.00
PCE & 5 Breakdown Compounds (TCE/1,1-DCE/cis-1,2-DCE/trans-1,2-DCE/Vinyl Chloride)	8010 (by 8260B)	\$75.00
5 Oxygenates (MTBE, TAME, DIPE, ETBE, and Tert-Butanol)	8260B	\$75.00
5 Oxygenates + 2 Lead Scavengers	8260B	\$85.00
TPH Gas + Full-list VOCs	8260B	\$135.00

**ATTACHMENT ONE
TO SCHEDULE OC SCOPE OF SERVICES
FEES AND PAYMENTS**

ANALYSIS	METHOD	RATE
TPH Gas (C5–C12 carbon range)	8015B/8260B	\$45.00
TPPH Speciation (1) ² and (2) ³	8015B	\$150.00
Hydrocarbon Fractionation (aliphatic/aromatic)	Varies	Contact lab for pricing
BTEX + MTBE	8260B	\$50.00
TPH Gas + BTEX + MTBE	8260B	\$65.00
TPH Gas + BTEX + 5 Oxygenates + 2 Lead Scavengers	8260B	\$100.00
TPH Gas + BTEX + 5 Oxygenates	8260B	\$100.00
BTEX + 5 Oxygenates + 2 Lead Scavengers	8260B	\$85.00
BTEX + 5 Oxygenates	8260B	\$75.00
Methanol + Ethanol (both as TICs)	8260B	\$25.00 each
Methanol + Ethanol (GC)	8015B	\$150.00
Ethanol (GCMS)	8260B	\$75.00
BTEX + 5 Oxygenates	8260B	\$75.00
TPH Diesel (C10–C22 carbon range)	8015B	\$55.00
TPH Diesel + Motor Oil (C10–C40 carbon range)	8015B	\$65.00
Silica Gel Cleanup		\$20.00
TEPH Speciation (1) ⁴ and (2) ⁵	8015B	\$425.00
TEPH Speciation (3) ⁶	8015B	\$150.00
TEPH (2 HC ranges [C10–C22 + C16–C40] with silica gel cleanup)	8015B	\$85.00

**ATTACHMENT ONE
TO SCHEDULE OC SCOPE OF SERVICES
FEES AND PAYMENTS**

ANALYSIS	METHOD	RATE
Pesticides	8081A	\$90.00
Pesticides + Florisil Cleanup	8081A	\$155.00
PCBs	8082	\$60.00
Pesticides + PCBs	8081A/8082	\$125.00
PAHs (HPLC)	8310	\$195.00
Explosives (HPLC)	8330	\$195.00
Formaldehyde (HPLC)	8315	\$195.00
Semi-volatile Organic Compounds (Soil)	8270C	\$180.00
Semi-volatile Organic Compounds (Soil)	8270C SIM	\$225
Semi-volatile Organic Compounds (Water)	8270C/8270C SIM	\$225.00
Semi-volatile Organic Compounds	625	\$325.00
Creosote Markers (2-Methyl Phenol + 4-Methyl Phenol + PAHs) (GCMS)	8270C	\$180.00
Creosote, total pattern by GC	8015M	\$150.00
Tentatively Identified Compounds (TICs)	8260B/8270C	\$100.00 for first 5 compounds (\$20.00 for each additional compound)
PAHs (PNAs)	8270C	\$150.00
PAHs (PNAs) Low Level	8270C SIM	\$195.00
Oil & Grease (in water)	1664A	\$125.00

**ATTACHMENT ONE
TO SCHEDULE OC SCOPE OF SERVICES
FEES AND PAYMENTS**

ANALYSIS	METHOD	RATE
Oil & Grease (in Soil)	1664A_Mod	\$125.00
TCLP Extraction	1311	\$75.00
STLC Extraction	Title 22	\$75.00
GPC Cleanup	3640A	\$65.00
Florisil Cleanup	3520	\$65.00
Sample Preparation for Matrices Other Than Aqueous or Soil		\$125.00 per sample
Compositing Soil + Water Sample (ex. 4:1 = \$40)		\$10.00 per sample
0.45-micron Filtration		\$10.00 per sample
Drinking Water		
Total Coliform + E. Coli	SM9223	\$125
Total Coliform (HPC)	SM9223	\$125
Total Coliform + E. Coli	SM9223	\$125
Total Coliform (HPC)	SM9223	\$125
Single Anion	300.0	\$65.00
Chlorine (total + residual)	SM4500-CI G	\$50.00
Color	110.2M	\$35.00
Hardness	SM2340B	\$45.00
Hexavalent Chromium	218.6	\$75.00
Odor	SM2150B	\$65.00
Perchlorate	314.0/Mod. 314.0	\$75.00

**ATTACHMENT ONE
TO SCHEDULE OC SCOPE OF SERVICES
FEES AND PAYMENTS**

ANALYSIS	METHOD	RATE
pH (corrosivity in water)	150.1	\$15.00
Conductivity	SM2510B	\$35.00
Total Dissolved Solids	SM2540C/EPA 160.1	\$35.00
Single Metal (ICP)	200.7	\$30.00 per metal
ICP Digestion		\$5.00
Single Metal (ICP-MS)	200.8	\$35.00 per metal
ICP-MS Digestion		\$15.00
Turbidity	180.1	\$35.00
Trihalomethanes (THMs)	EPA 524.2	\$85.00
Halo Acetic Acids (HAAs)	EPA 552	\$250.00
VOCs	EPA 524	\$250.00
Industrial Hygiene		
Dust (total)	NIOSH 500	\$50.00
Dust (respirable)	NIOSH 600	\$50.00
TPH Diesel	NIOSH 1550 Mod.	\$100.00
CAM-17 Metal Scan (ICP)	NIOSH 7300 + 6009	\$175.00
CAM-17 Metal Scan (ICPMS)	NIOSH 7300 + 6009	\$225.00
Single Metals (ICP)	NIOSH 7300	\$50.00 per metal
Metals (ICPMS)	NIOSH 7300	\$50.00 per metal
Mercury	NIOSH 6009	\$50.00

**ATTACHMENT ONE
TO SCHEDULE OC SCOPE OF SERVICES
FEES AND PAYMENTS**

ANALYSIS	METHOD	RATE
Metals Digestion	NIOSH 7300 (or, equivalent method)	\$15.00 per sample
Inorganic Acids (anions)	NIOSH 7903	\$120.00
Hexavalent Chromium (disk/filter)	NIOSH 7605/ OSHA ID-215	\$75.00
Inorganic Acids (anions)		\$120.00 each
Extraction for Disk/Filter		\$15.00 each
VOCs	TO-15	\$195.00
VOCs + Ambient Air + SIM	TO-15 SIM	\$250.00
Pesticides/PCB	TO-10/TO-4	\$150.00
PAHs	TO-13	\$200.00
Pump (rental)		\$100.00 per week
Sorbent Tubes	NIOSH 1550	Please request a quote
PUF Cartridges + Housing (low-volume)		Please request a quote
Other Disk + Media Cartridges Available		Please request a quote

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LABOR COSTS:		EDR/Records Review (ii)		Site Walk/Interviews (iii)		Evaluation and Report (iv)		TOTAL	TOTAL
STAFF CATEGORY		RATE		Units/Hrs	Cost	Units/Hrs	Cost	Units/Hrs	COST
Principal		\$224.56		1	\$225	0.5	\$112	1	\$225
Staff II		\$108.75		3	\$326	4	\$435	4	\$435
Staff I		\$97.91		4	\$392		\$0	6	\$587
Administrative Assistant		\$102.05			\$0		\$0	3	\$306
CAD Operator		\$105.40			\$0		\$0	1.5	\$158
Labor & Direct Cost Subtotals				8.0	\$942	4.5	\$547	15.5	\$1,711
REIMBURSABLE EXPENSES:		RATE		Unit	Extended	Unit	Extended	Unit	Extended
EDR Standard Package		\$350.00		1	\$350		\$0		\$0
Mileage		\$0.65			\$0	65	\$42		\$0
Reimbursable Cost Subtotal (5% Markup)					\$368		\$44		\$0
TOTAL PHASE I HSLA COST								\$3,613	
OPTIONAL EXPENSES (v):		RATE		Unit	Extended	Unit	Extended	Unit	Extended
EDR Environmental Lien Search (vi)		\$300.00		1	\$350		\$0		\$0
EDR Chain-of-Title Search (vi)		\$700.00		1	\$700		\$0		\$0
Optional Expense Subtotal (5% Markup)					\$1,103		\$0		\$0
								\$1,103	

Notes and Assumptions

(i): Typical Phase I Site: Up to 5 single family residences or 3 similar commercial structures totaling 1 - 5 acres.

(ii): Assumes agency file reviews performed as required by current ASTM, AAI Rule.
Northgate will prepare the User questionnaire required under ASTM on behalf of the District by contacting District staff, current site owner and representatives including site occupants, tenants, managers in order for the District to meet the Landowner Liability Protections required by applicable laws. District will provide all available information related to the User questionnaire to Northgate. Northgate will complete and include in reports its HSLA questionnaire that, at a minimum, meet s the ASTM User Questionnaire requirements.

(iii): Right of Entry (ROE) granted when work is authorized by District. Consultant shall not begin work without it.
Northgate will include a Site Reconnaissance Worksheet for all HSLAs for (a) Subject Property: Current and Past property use, other uses, RECS and Typical Site Walk Observations, e.g. Soil/Pavement condition, water wastewater observations, storage tanks, asbestos, PCBs (transformers), etc., and (b) Surrounding property information: property descriptions (current/past uses), environmental concerns from adjoining properties to the extent feasible.

(iv): Reports: 1 electronic draft, 3 bound final reports, 2 electronic final reports.

(v): Assumes Chain of Title and Environmental Lien Documents supplied by District, Optional Cost Incurred if obtained by Northgate.

(vi): Assumes two APNs per site with one owner (EDR Costs \$350/APN for chain of title, \$250 for 1st APN Lien Search + \$50 for 2nd APN).
Northgate will review District-provided Title documents and assess and report concerns about any environmental lien information related to Subject Property.

Phase II HSLA
Soil and Groundwater Sampling
Evaluation and Report

LABOR COSTS:		Project Management/ Coordination		Hasp/ Mobilization/ Pre-Field		Collect Soil and Groundwater Samples (GeoProbe)		Install Groundwater Monitoring Wells (Hollow-Stem Augers)		Data Evaluation and Report		TOTAL	
		Units/Hrs	Cost	Units/Hrs	Cost	Units/Hrs	Cost	Units/Hrs	Cost	Units/Hrs	Cost	Units/Hrs	COST
Principal		1	\$225	0.5	\$112		\$0		\$0	1	\$225	3	\$561
Project I		2	\$232	1	\$116	2	\$232	2	\$232	4	\$463	11	\$1,274
Staff II		2	\$217	4	\$435	4	\$435	10	\$1,087	8	\$870	28	\$3,045
Staff I			\$0	4	\$392	10	\$979	4	\$392	16	\$1,567	34	\$3,329
Cad Operator			\$0		\$0		\$0		\$0	4	\$422	4	\$422
Administrative Assistant		1	\$102	1	\$102		\$0		\$0	5	\$510	7	\$714
Labor Cost Subtotals		6	\$776	11	\$1,157	16	\$1,646	16	\$1,711	38	\$4,056	87	\$9,346
REIMBURSABLE EXPENSES:													
ITEM	RATE	Units/Hrs	Cost	Units/Hrs	Cost	Units/Hrs	Cost	Units/Hrs	Cost	Units/Hrs	Cost	Subtotal	Total Cost
Subcontractor-Gregg Drilling (GeoProbe)													
GeoProbe	/hr					10	\$2,250					10	\$2,250
Mob/Demob	/hr					3	\$600					3	\$600
Temp PVC Casing	/ft					150	\$675					150	\$675
Expendables	/day					1	\$250					1	\$250
Subcontractor - Gregg Drilling (Hollow-Stem Auger)												0	\$0
Hollow Stem Auger Rig	/hr							10	\$2,600			10	\$2,600
Mob/Demob	/hr							3	\$600			3	\$600
Well Construction Materials	/ft							60	\$1,200			60	\$1,200
Christy Box/Surface Completion	each							2	\$260			2	\$260
Permits	each							2	\$800			2	\$800
Drums	each					1	\$60	3	\$180			4	\$240
Coring	each					5	\$625	2	\$250			7	\$875
Subcontractor - Scantech Utility Locating	/hr			3.5	\$481							4	\$481
IDW Disposal (iii)	/drum					1	\$350	3	\$1,050		\$0	4	\$1,400
Field Supplies	/day					0.8	\$200	1	\$250			2	\$450
Sub contractor - Acumen IH (HASP)	/hr			4	\$540							4	\$540
Mileage				80	\$43	80	\$43	122	\$66			282	\$152
Reimbursable Expenses Subtotal (5% markup)			\$0		\$1,118		\$5,305.86		\$7,618.67		\$0	547.3	\$14,042
TASK SUB-TOTALS:			\$776		\$2,274		\$6,952		\$9,329		\$4,056		\$23,388
TOTAL PROJECT COST													\$23,388

Assumptions

Typical Phase II may include Task 3a, or Task 3b, or both

(i): Task 3a assumes five GeoProbe borings to 30 foot depth for collecting soil and groundwater samples. Continuous core samples collected

(ii): Task 3b assumes two 2-inch diameter PVC monitoring wells installed to 30 foot depth using Hollow-Stem Auger rig. Collect soil samples every five feet.

(iii): IDW disposal assumes non-hazardous waste classification. Cost for IDW disposal would be higher if IDW was classified as hazardous.

(iv): Reports include 1 electronic of draft, 3 bound and 2 electronic copies of final

(v): Laboratory analytical costs not included. However, this cost estimate includes coordination with SCVWD contracted laboratory and review, analysis and discussion of data.

Phase II HSLA
Asbestos and Lead Paint Evaluation and Report

LABOR COSTS:			Asbestos and Lead Paint Evaluation/Report		TOTAL	TOTAL
STAFF CATEGORY	RATE		Units/Hrs	Cost	Units/Hrs	COST
Principal	\$224.56		1	\$225	1.0	\$225
Project I	\$115.84			\$0	0	\$0
Staff II	\$108.75		2	\$217	2	\$217
Staff I	\$97.91			\$0		\$0
Cad Operator	\$105.40			\$0	0	\$0
Administrative Assistant	\$102.05			\$0	0	\$0
Labor Cost Subtotals			3.0	\$442	3.0	\$442
REIMBURSABLE EXPENSES:						
ITEM		RATE	Units/Hrs	Cost	Subtotal	Total Cost
Subcontractor - Acumen Industrial Hygiene					0	\$0
CIH		\$150.00	4	\$600	4	\$600
IH III Site Inspection/Sampling		\$95.70	10	\$957	10	\$957
IH III Evaluation and Report		\$95.70	12	\$1,148	12	\$1,148
Administrative Assistant		\$30.53	4	\$122	4	\$122
Field Supplies		\$50.00	1	\$50	1	\$50
Mileage		\$0.59	75	\$44	75	\$44
Reimbursable Expenses Subtotal (5% markup)				\$3,067.84	106	\$3,068
TOTAL PROJECT COST						
						\$3,510

Notes and Assumptions

- (i): Buildings consist of two single family residences, a barn, and a few small out buildings
- (ii): Laboratory costs are not included, however, this cost estimate includes coordination with SCVWD contracted laboratory and review, analysis and discussion of data
- (iii): Supplies include shipping costs for sending samples to laboratory

EXHIBIT A
COST SPREADSHEETS

Assumptions and Notes:

- (ii) Typical site consists of a former agricultural site about 5-acres in size being converted to a new food control channel.
- (iii) Site has a history of agricultural use with pesticides present in shallow soils. Soil and groundwater (15 ft. deep) contain limited non-hazardous levels of TPH (g,d.o) and metals. Source of TPH and metals is leaking USTs that were removed by previous owner. No current regulatory oversight or NFA. Assumes previous investigations have adequately defined the extent of pesticide and hydrocarbon/VOC impact.
- (iii) Remedial action consists of excavation and on-site encapsulation or off-site disposal of non-hazardous pesticides and metals-impacted soil, with Monitored Natural Attenuation for groundwater. *See Note X below.
- (iv) Remedial oversight assumes a construction period of approximately 2 weeks with partial presence of Northgate staff, as needed; 3 days per week field staff plus officer/senior support.
- (iv) Post-remediation confirmation sampling assumes approximately 1 field days plus office support to develop confirmation plan and analyze data
- (vi) Laboratory costs are not included; coordination with SCWMD contracted laboratory and review of data are included.
- (vii) Specialized software for 3-dimensional design, such as AutoCAD Civil 3D, is not included in the estimate. If required, additional expenses may be incurred.
- (viii) Design Plans and Specifications subtask includes up to 4 Plan Sheets and 4 Technical Specifications that will be incorporated into District Construction Bid Package. Level-of-effort shown above assumes one iteration of draft Plan Sheets and Technical Specifications and one final submittal.
- (ix) Design Plans and Specifications subtask cost does not include:
 - a) obtaining permits for construction (cost varies depending on requirements)
 - b) development of a preliminary construction sequence plan.
 - c) development of a preliminary construction bid package.
 - d) responding to RFI requests by Remediation Contractor.
 - e) construction change order assistance
 - f) Engineer of Record's Record Drawings.
- (ix) Although the remedial action in this cost estimate is assumed to be for non-hazardous substances and for obtaining required regulatory agency NFA/closure, Northgate can provide a separate Task Order cost estimate for a remedial action and obtaining regulatory agency NFA/closure for any hazardous waste that may potentially be encountered at a Site, as necessary.

EXHIBIT A
COST SPREADSHEETS

Support Cost Estimate

CAS File No. 4825

**ATTACHMENT ONE
TO SCHEDULE OC SCOPE OF SERVICES
FEES AND PAYMENTS**

**EXHIBIT A
COST SPREADSHEETS**

Storm Water Support Cost Estimate

Notes	
1	Project assumed to be either a 1-mile long flood protection project or a 10-acre water utility project subject to the State Construction General Permit of an 18 month duration.
2	As each construction site is unique, the effort and costs for services at the "typical" site are estimates and not intended as fixed prices for services.
3	SWPPP development costs assume 1 round of District comments on preliminary SWPPP and 1 revision based on contractor work plan at beginning of the project. SWPPP development will be completed following completion of the capital project's final design (final Plans and Specs) are ready and be completed before start of construction (typically a 4-6-week timeframe). It has been assumed that applicable post construction and C.3 requirements have been included in the design provided by the District. Modifiable map files to be provided by the District.
4	To the extent possible rain event monitoring will be timed and coordinated planned QSP site visits (monthly) however additional visits will be needed provide monitoring for rain events. The number of rain events and the duration of the events will alter costs.
5	Site visits and inspections will be performed by a combined team of appropriately qualified LWA and NGEM staff. All field work will be performed or overseen by a QSP. The team overlap is needed to assure a high level of service to the District given the uncertainties associated with rain events. One staff person is budgeted for each inspection except for non-visible pollutant monitoring, where we have assumed the need for a 2-person team.
6	The following assumptions were made for budgeting QSE triggered monitoring events:
	(1) Assumed 8 QSEs during the 18-month project with each lasting 3 days + 2 days/event for pre/post QSE inspections. (40 field days).
	(2) Assumed 2 non-visible events during the during the 18-month project would occur unrelated to QSE or routine inspections.
	(3) Additional days required charged at per field day cost.
7	Transportation/Trip costs are estimate for one regular vehicle per site visit. 4WD is not included. Need for a 4WD is expected to be an unusual circumstance.
8	NGEM team will collect samples. District-contracted laboratory will test water samples when laboratory analysis is required (e.g., non-visible pollutant samples). Laboratory costs are not included in the estimate. District Lab to provide sample bottles to be maintained at the project site.

**ATTACHMENT TWO
TO SCHEDULE OC SCOPE OF SERVICES
SCHEDULE OF COMPLETION**

1. This Agreement commences on the Effective Date, subject to accomplishment of all conditions to formation of an agreement listed in the Agreement at Section Twelve, Miscellaneous Provisions, subsection 2., Formation of Agreement.
2. This Agreement expires 36 months after the Effective Date unless its term is modified by a written amendment hereto, signed by both Parties.
3. Each Task Order will state the schedule for Consultant's performance of that Task Order.
4. District and Consultant may agree to modify the schedule for Consultant's performance specified in an executed Task Order, as an administrative modification to the Agreement, and will confirm such modification in writing.

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**ATTACHMENT THREE
TO SCHEDULE OC SCOPE OF SERVICES
CONSULTANT'S KEY STAFF AND SUBCONSULTANTS**

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

Team Member	Classification/ Project Role	Contact Information
Dennis Laduzinsky, PG, CEG	Project Manager	428 13th Street, 4th Floor Oakland, California 94612 (510) 839-0688 x202 [office] (510) 381-1189 [cell] E-mail: dennis.laduzinsky@ngem.com
Sarah Acker	Task Manager	428 13th Street, 4th Floor Oakland, California 94612 (510) 839-0688 x202 [office] E-Mail: sarah.acker@ngem.com
Gabe Fuson, PG	Task Manager	428 13th Street, 4th Floor Oakland, California 94612 (510) 839-0688 x202 [office] gabe.guson@ngem.com
Elizabeth Nixon, PE	Task Manager	428 13th Street, 4th Floor Oakland, California 94612 (510) 839-0688 x202 [office] elizabeth.nixon@ngem.com
Axel Rieke, PE, LEED AP BD+C, QSD/P	Key Task Support	428 13th Street, 4th Floor Oakland, California 94612 (510) 839-0688 x202 [office] axel.rieke@ngem.com
Sandy Matthews, CPSEC, QSD	Task Manager	428 13th Street, 4th Floor Oakland, California 94612 (510) 839-0688 x202 [office] sandy.matthews@ngem.com
Paul Spillane, CIH	Certified Industrial Hygienist	428 13th Street, 4th Floor Oakland, California 94612 (510) 839-0688 x202 [office] paul.spillane@ngem.com

**ATTACHMENT THREE
TO SCHEDULE OC SCOPE OF SERVICES
CONSULTANT'S KEY STAFF AND SUBCONSULTANTS**

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

Firm	Project Role/Classification	Contact Information
Larry Walker Associates	Technical Lead	Sandy Mathews 1680 Drew Avenue Suite 100 Davis, CA 95618 510-883-9378, extension 12 sandym@lwa.com
Acumen Industrial Hygiene, Inc.	Phase II HSLA and Safety Plans/asbestos and lead-based paint survey work.	Paul Spilane, 1032 Irving Street, #922 San Francisco, CA 94122 415-242-6060 paul@acumen-ih.com
Gregg Drilling and Testing Services	Drilling and Testing Services	Chris Christensen, Vice President 2756 Walnut Avenue Signal Hill, CA 90755 925-313-5800 cchristensen@greggdrilling.com
Scantech	Utility Locating Services	Peter Garza 2770 Avenue B San Jose, CA 95127 408-286-7226 peter@scantechutilitydetection.com
Torrent Laboratory Inc.	Analytical Laboratory	Mukesh Jani Lab Director 483 Sinclair Frontage Road Milpitas, CA 95035 mjani@torrentlab.com

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**ATTACHMENT FOUR
TO SCHEDULE OC SCOPE OF SERVICES SCHEDULE OC
REFERENCE MATERIALS**

Ref No.	Description
1	Santa Clara Valley Water District Non-Disclosure Agreement (NDA) and Personal Non-Disclosure Agreement (PNDA)
2	Santa Clara Valley Water District (District) Standards for GIS Products July 2017

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