



## STANDARD CONSULTANT AGREEMENT

(For Capital Consultant Contracts)  
Terms and Conditions  
Rev. A [7/1/2017-06/30/2018]

This agreement (Agreement) is effective once fully executed (Effective Date), by and between SANTA CLARA VALLEY WATER DISTRICT (District), and **ENVIRONMENTAL SCIENCE ASSOCIATES** (ESA) or (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 described in the schedule(s), attached hereto and incorporated herein by this reference (Schedule(s)). Services described in each Schedule are considered a scope of Services that is separate and apart from the scope of Services described in another Schedule.

### SECTION TWO

#### DUTIES OF CONSULTANT

##### 1. Performance.

- A. Each scope of Services described in an attached Schedule(s) must be performed by Consultant, or at its direction, in a manner sufficient 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(s).
- B. Unless the requirements for the Services described in the attached Schedule(s) are specifically modified in writing, Consultant must perform services and provide all deliverables as required.
- C. Consultant shall not undertake any Services not described in the attached Schedule(s) unless authorized in writing by 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 a scope of Services.
3. **Licensing.** Services performed by Consultant will be undertaken only by persons appropriately licensed, certified, or registered in California, as applicable to the Services described herein, when required by statutes or regulations, as well as pursuant to the relevant standard of care as described in 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.
  - I. Consultant must obtain the District's approval of all Subconsultants. Upon the District's request, Consultant must provide copies of all Subconsultant agreements.
  - II. 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 fifteen (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.
  - I. 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.
  - II. The District Project Manager may not approve any revisions to Consultant's list of authorized Subconsultants when the Subconsultant is deleted from the list; the services are not deleted from the Agreement; and the scope of services is not assumed by the Consultant. Such revisions to the list of authorized Subconsultants are subject to approval by the District and documented in an executed amendment to this Agreement.

**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; state and federal Endangered Species Act; state and federal water quality laws; and all other state and federal laws or regulations regarding environmental protection and compliance, health, safety, wages, hours, equal employment opportunity, nondiscrimination, working conditions, and transportation. In the event that 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(s). 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 to provide 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 the Schedule(s) and at such other time(s) at the discretion of the District.
  - C. Consultant must notify the District in writing when it completes each deliverable described in the Schedule(s) and provide the District with such deliverable. Deliverables deemed satisfactory and in compliance with this Agreement are subject to approval by District. Within thirty (30) calendar days of receipt of each deliverable, the District will either (i) notify Consultant that the District accepts the deliverable, or (ii) 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.

The District will then review the revised deliverable and within thirty (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 District.

- E. 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 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.** Payment for all services performed by Consultant to the satisfaction of the District, as described in the Schedule(s) will be based on the Total Fixed Not-to-Exceed (NTE) Fees stated in Attachment One to the Schedule(s), Fees and Payments, for completion of the associated tasks. The District will make payments to the Consultant according to the terms provided for herein and in Attachment One to the Schedule(s), 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.
  - A. Upon the written approval of the District's Deputy Operating Officer referenced herein, unused fees from a completed or cancelled task may be re-allocated to a task that has not yet been completed, provided the Agreement Total Not-to-Exceed Fees is not exceeded. Transferring fees from a task not yet completed to a different task is not permitted.
  - B. Upon the written approval of the District's Deputy Operating Officer referenced herein, the scope of services described in a task may be reduced or eliminated. If the scope of services of a task is reduced or eliminated, the portion of the fees attributable to that reduced or eliminated task may be allocated to revised existing tasks, or transferred to a Supplemental Services task, if provided for herein.
  - C. Any reduction or elimination of tasks and any inter-task transfers will be clearly noted and described in the subsequent monthly progress report to the District.
  - D. Services to be performed pursuant to the Supplemental Services task, if provided for herein, will commence only after issuance of a fully executed Task Order.
  - E. 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 Monthly Invoices.**

- A. Consultant's monthly invoices will be prepared in accordance with the terms of this Agreement, Section Four, Fees and Payments, and represent services performed and reimbursable costs incurred during the identified billing period; will be consistent with scope of Services described in the Schedule(s) attached hereto; and include the following:
  - I. Personnel Category and employee name itemized with all labor charges by Service task.
  - II. Consultant's summary of the amount Consultant has been billed by their Subconsultants and further detailed by Service task.
  - III. Other direct charges and expenses by Service task.
  - IV. Other Direct charges and expenses must reflect actual fees versus the Agreement not-to-exceed fees as stated in Attachment One to Schedule(s), Fees and Payments.
  - V. 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. Before submitting monthly invoices, a progress report and draft invoice (in Adobe PDF format) will be provided by the Consultant for preliminary review by the District Project Manager. Upon preliminary approval by the District, the Consultant will mail the complete signed and dated hardcopy invoice, including all supporting documentation. District's preliminary review of the draft invoice does not represent final approval of the hardcopy invoice, but is intended to reduce potential for re-submittals of hardcopy invoice by Consultant.
- C. Each monthly invoice must include a monthly progress report that documents whether or not the Services are on schedule to be completed in accordance with the Project schedule in Attachment Two to the Schedule(s), Schedule of Completion, which applies to the specific scope of Services (Schedule of Completion), and within the Agreement NTE Fees in accordance with Attachment One to the Schedule(s), Fees and Payments. The progress report shall document the Services completed; document the execution of the tasks described in this Services; and enable the District to evaluate the Consultant's progress and performance towards completion of the Services.
  - I. The monthly progress report shall include:
    - a. An assessment of actual versus planned progress in completing the Services, including a description of the tasks and deliverables completed to date;

- b. A look ahead schedule listing deliverables and activities planned for the next 2 months;
  - c. A statement that progress towards completion of the Services is on schedule and will be completed within the timeline set forth in the Schedule of Completion; or, if completion of the Services is not on schedule, then a statement of the anticipated length of the delay, the cause of the delay, measures proposed or taken to prevent or minimize the delay, and the schedule for implementation of such measures;
  - d. A summary of performed tasks to date, an updated Project work plan including estimate of work required to complete this Agreement, explanation of any major variances in percentage of services to be completed compared to percentage of this Agreement NTE fees remaining, and any anticipated changes to this Agreement that may be necessary to complete the Services;
  - e. For any proposed change to the scope of Services, provide a summary of the proposed changes, including supporting rationale for such change;
  - f. For each task, the percentage of the fees incurred for the task compared to dollar amount allocated to the task, the percentage of services performed versus the percentage of Agreement NTE fees incurred for such task, and explanation of any significant variances in percentage of services performed compared to percentage of fees incurred;
  - g. A statement that all tasks, as specified in this Agreement, shall be completed within the NTE amount of the Agreement;
  - h. Level of Small Business Enterprise (SBE) participation, if applicable, documenting the level of SBE participation throughout the Project; and
  - i. Any changes in Consultant's key staff or Subconsultants.
- D. Invoices will include a summary of labor expenditures, direct costs, and billed Subconsultant charges. Billing statements, transmitted separately from the monthly progress reports, will be organized such that the billing categories correspond with the Services tasks.
- E. Consultant shall send all invoices to:
- Santa Clara Valley Water District  
Attention: Accounts Payable  
P.O. Box 20670  
San Jose, CA 95160-0670
- F. In addition to ensuring that each invoice is accompanied with a monthly progress report, Consultant must also ensure that each invoice contains the following information:



- I. Agreement Number
  - II. Full Legal Name of Consultant/Firm
  - III. Payment Remit-to Address
  - IV. Invoice Number
  - V. Invoice Date (the date invoice is mailed)
  - VI. Beginning and end date for billing period that services were provided
- G. Consultant shall invoice for its performance of the Services on a monthly basis consistent with the task fee breakdown stated in Attachment One to the Schedule(s), Fees and Payments, to the Schedule(s), which applies to the specific scope of Services.
- H. District's Project Manager will review Consultant's written invoice within five (5) District business days of receipt, address any questions with Consultant's Contact/Project Officer and approve the undisputed amount of the invoice within ten (10) working days of receipt of the invoice. District will pay undisputed invoice amounts within thirty (30) calendar days from date invoice is received by District's Project Manager.
- 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.

4. **Retention.** Unless otherwise specified in Attachment One to the Schedule(s), Fees and Payments, when the total compensation payable pursuant to this Agreement exceeds twenty thousand dollars (\$20,000), five (5) percent of each statement will be withheld by the District and not paid to Consultant until thirty (30) calendar days after the assigned District representative signs off the final approval for all services/deliverables as stated in the applicable Schedule, Attachment Two to the Schedule(s), Schedule of Completion, and Section Three, subsection 2 of this Agreement.

## **SECTION FIVE**

### **SCHEDULE OF COMPLETION**

1. **Performance of Tasks.** Consultant will commence performing the tasks described in the scope of Services of the attached Schedule(s) to this Agreement upon receipt of the Notice-to-Proceed (NTP) issued by the District.
2. **Project Schedule Table.** Consultant will perform and complete the services described in the scope of Service in accordance with the Project Schedule table (Project Schedule) as stated in Attachment Two to the Schedule(s), Schedule of Completion. 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. **Monitoring of Project Schedule.** The approved Project Schedule will be monitored monthly. Changes to the schedule for performance of tasks and deliverables are subject to advance written approval by the District.
4. **Project Delays.** The Consultant will make all reasonable efforts to comply with the Project Schedule as stated in the Attachment Two to the Schedule(s), Schedule of Completion. In the event the Project 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 Project Schedule.
5. **Changes to the Project Schedule.** District's Project Manager and Consultant may agree to modify the Project Schedule specified for Consultant's performance as an administrative modification to the Agreement and will confirm such modifications in writing.

## **SECTION SIX**

### **AGREEMENT MODIFICATIONS**

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

## SECTION SEVEN

### TERM AND TERMINATION

- 1. Term & Automatic Termination.** This Agreement encompasses all Services that Consultant is responsible to perform within the time limits and Not-to-Exceed Fees set forth herein. Consultant will not undertake to provide Services where it reasonably appears that the Services cannot be provided and expenses cannot be incurred within said total compensation limit and the applicable Not-to-Exceed Fees of any Task Order.
- 2. 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 ninety (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 thirty (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. For 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. For Other Direct Costs and Expenses—Consultant shall be entitled to receive compensation for all authorized other direct costs and expenses incurred prior to termination 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 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 Consultant Agreement, and comply with all provisions stated therein.

## SECTION TEN

### OWNERSHIP & 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, the Schedule(s), the Attachments to the Schedules, and the attached Appendices, represents the entire understanding between the Parties hereto relating to the Services described in this Agreement and supersedes any and all prior proposals or agreements, whether written or oral, that may exist between the Parties. This Agreement may not be modified or amended except in writing as stated herein. To the extent that any Schedule conflicts with this Agreement, this Agreement shall control.
2. **Formation of Agreement.** Formation of an Agreement between the Parties requires accomplishment of the following: (1) execution of the Agreement by Consultant; (2) submission by the Consultant, and acceptance by 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 of the QEMS Awareness certification ; (5) 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(s), Reference Materials, if applicable; (6) submission by the Consultant, and acceptance by the District, of a Health and Safety Plan, if applicable; (7) any other requirements that are deemed necessary by the District, and (8) execution of the Agreement by the District. No contract between the Parties is formed until all eight actions items have been accomplished to the satisfaction of the District. The District Project Manager will not issue a Notice-to-Proceed until all required documents have been submitted and accepted by the District, if applicable.

### **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 (3) 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. 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:
  - I. 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 thirty (30) calendar days of the effective date of this Agreement; and
    - b. Within thirty (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.
  - II. 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.
  - III. 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;
  - IV. 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 thirty (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).
- V. 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's Project Manager, Consultant will have fifteen (15) calendar days to remove that employee(s), officer(s), agent(s), subconsultant's, and subcontractor's person from the Project and provide a replacement acceptable to the District.
- VI. 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.** Some tasks and services will be assigned to the Consultant through issuance of Task Orders. After said tasks and services to be performed pursuant to this Agreement are identified and communicated to Consultant by the District Project Manager, the Consultant will prepare a proposed Task Order (See Appendix Three to the Standard Consultant Agreement—Task Order Template).
- A. 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 Consultant Agreement, Additional Legal Terms (Appendix One) and the Consultant's authorized representative.
  - B. 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.
  - C. **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. District Quality Environmental Management System (QEMS) Awareness.** As an on-site provider of services that has the potential to result in significant environmental impacts, Consultant is required to review the QEMS Fact Sheet, which is incorporated herein by this reference hereto (Attachment Four to the Schedule(s), Reference Materials), with any of the employee(s), subcontractor(s), and/or Subconsultant(s) (Staff) performing Services on behalf of the District, and make Staff aware of the District's Quality and Environmental Policy and their role and responsibility in achieving conformity with the expectations.
- 16. 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.
- 17. 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.
- 18. 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.
- 19. 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(s),  
Scope of Services.

CONSULTANT:

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

**20. 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

**21. Schedule(s) and Attachments.** Schedule E, Scope of Services, and the following listed Attachments are incorporated herein by this reference as though set forth in full:

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

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

**SANTA CLARA VALLEY WATER DISTRICT**  
"District"

**ESA**  
"Consultant"

By: \_\_\_\_\_  
Richard P. Santos  
Chair/Board of Directors

By: \_\_\_\_\_  
Leslie Moulton-Post  
President/Chief Executive Officer

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

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

ATTEST:

Firm Address:

ESA  
550 Kearny Street, Suite 800  
San Francisco, CA 94108  
Phone: 415-896-5900

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

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

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**APPENDIX ONE TO THE  
STANDARD 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: (i) for any contract to be awarded for design, construction management or the construction of any project that is related to the services provided pursuant to this Agreement; (ii) 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 (iii) 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 Appendix Two of the Standard Consultant Agreement, 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 40% percent or more of the Total Not-to-Exceed Fees stated in Attachment One, Fees and Payments, to the Schedule(s), and Consultant agrees to use its best efforts to meet this goal.
- 4. Task Order Approvals.**
  - A. Task Orders are subject to approval by the District's Deputy Officer unless delegated to the Unit Manager.
  - B. 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.
  - C. District Unit Manager(s) is authorized to approve individual Task Orders in an amount not-to-exceed \$ 100,000.
  - 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 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)

- I. 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

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

B. Request for Mediation

- I. 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

- I. 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.
- II. 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.

**APPENDIX TWO TO THE  
STANDARD CONSULTANT AGREEMENT  
DISPUTE RESOLUTION**

**D. Qualifications of a Mediator**

- I. Any mediator selected must have expertise in the area of the dispute and be knowledgeable in the mediation process.
- II. 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.
- III. 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**

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

**F. Representation**

- I. Any Party may be represented by person(s) of their choice who must have full authority to negotiate.
- II. 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**

- I. The mediator will set the time of each mediation session.
- II. The mediation will be held at a convenient location agreeable to the mediator and the Parties, as determined by the mediator.
- III. 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**

- I. The 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.
- II. 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 CONSULTANT AGREEMENT  
DISPUTE RESOLUTION**

**I. Authority of Mediator**

- I. 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.
- II. The mediator is authorized to conduct joint and separate meetings with the Parties and to make oral and written recommendations for settlement.
- III. 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.
- IV. 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**

- I. Mediation sessions are private.
- II. The Parties and their representatives may attend mediation sessions.
- III. 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:

- I. The mediator will not divulge confidential information disclosed to a mediator by the Parties or by witnesses in the course of the mediation.
- II. All records, reports, or other documents received by a mediator while serving as mediator, are confidential.
- III. 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.
- IV. 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 CONSULTANT AGREEMENT  
DISPUTE RESOLUTION**

- c. Proposals made or views expressed by the mediator;
- 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**

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

**M. Termination of Mediation**

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

**N. Exclusion of Liability**

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

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

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

**P. Expenses**

- I. The expenses of witnesses for each Party must be paid by the Party producing the witnesses.
- II. 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 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 CONSULTANT AGREEMENT  
TASK ORDER TEMPLATE**

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

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

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

District Project Manager: \_\_\_\_\_

Consultant Project Manager: \_\_\_\_\_

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

1. Upon full execution of this Task Order No. \_\_\_\_\_, as set forth in the Standard Consultant Agreement, Section Twelve, 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 Project Manager.
  - 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(s), 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: completion of the tasks set forth in Attachment A or [expected completion date].

**APPENDIX THREE TO THE  
STANDARD 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.
  - 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 Consultant Agreement Section Four, Fees and Payments, Section 3. Prevailing Wages.
  - b. In accordance with the prevailing wage laws, the Director of the California Department of Industrial Relations 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: \_\_\_\_\_

\_\_\_\_\_  
DATE

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

Signature: \_\_\_\_\_

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

\_\_\_\_\_  
DATE

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## APPENDIX FOUR TO THE STANDARD 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.

In addition to certificates, Consultant must furnish the 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 the District before services commence.** In the event of a claim or dispute, the 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 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 pursuant to 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.
- 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

**APPENDIX FOUR TO THE  
STANDARD CONSULTANT AGREEMENT  
INSURANCE REQUIREMENTS**

be provided that said insurance will be primary insurance and any insurance or self-insurance maintained by the 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:

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

**4. Workers' Compensation and Employer's Liability Insurance.**

- a. Statutory California Workers' Compensation coverage covering all work to be performed for the District.
- b. Employer Liability coverage for not less than **\$1,000,000** per occurrence.
- c. In accordance with the provisions of Section 3700 of the California Labor Code, Consultant is required to secure Workers' Compensation insurance for its employees. Consultant must obtain and keep in full force and effect Workers' Compensation insurance necessary in connection with the performance of this Agreement to protect Consultant and its employees pursuant to the Workers' Compensation Insurance and Safety Act, including coverage pursuant to United States Longshoremen's and Harbor

## APPENDIX FOUR TO THE STANDARD CONSULTANT AGREEMENT INSURANCE REQUIREMENTS

Worker Act, when applicable. Such insurance must be in a standard form and relieve the District of all responsibility. Prior to performing the Scope of Services, Consultant must provide the District with a certificate(s) of insurance evidencing that said requirements are fully in effect in addition to the 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 services. 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 Thirty (30) days notice of cancellation, (ten (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.

**APPENDIX FOUR TO THE  
STANDARD CONSULTANT AGREEMENT  
INSURANCE REQUIREMENTS**

6. **Subconsultants:** Some of the services pursuant to this Agreement are sublet. The Consultant must require each of its Subconsultants of any tier to carry the aforementioned coverages, or Consultants may insure Subconsultants pursuant to 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 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 on 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 the certificates and endorsements to:**

**Katherine Oven, Deputy Operating Officer  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118**

**IMPORTANT: On the certificate of insurance, please note:**

**Katherine Oven, Deputy Operating Officer  
Expedited Purified Water Program Environmental and Permitting Support  
Services, CAS No. 4696**

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

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**SCHEDULE E (ENVIRONMENTAL SERVICES)  
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 Project Manager.

Leslie Tice (District Project Manager or DPM)  
Environmental Project Lead  
HDR, Inc.  
100 Pringle Ave., Suite 400  
Walnut Creek, CA 94596

Phone: (925) 924-2561  
E-mail: leslie.tice@hdrinc.com

Debra Caldon (District Unit Manager)  
Environmental Services Manager  
Water Utility Division  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118-3638

Phone: (408) 630-3057  
E-mail: dcaldon@valleywater.org

Katherine Oven (Division Deputy Operating Officer)  
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.

James E. O'Toole (Consultant Project Manager or CPM)  
Vice President  
Environmental Science Associates  
1425 N. McDowell Boulevard, #200  
Petaluma, CA 94954

Phone: 707-795-0904  
E-mail: jotoole@esassoc.com

## **SCHEDULE E (ENVIRONMENTAL SERVICES) SCOPE OF SERVICES**

- C. The Consultant's Principal Officer for this Agreement is as listed below. As per the Agreement, Section Twelve, Miscellaneous Provisions, subsection 19. Notices, all notices pertaining to this Agreement shall go to the Consultant's Principal Officer.

Leslie Moulton-Post (Consultant Principal Officer)  
President and Chief Executive Officer  
Environmental Science Associates  
550 Kearny Street, Suite 800  
San Francisco, CA 94108

Phone: 415-896-5900  
E-mail: lmoulton-post@esassoc.com

### **2. Scope of Services.**

This Schedule E, Scope of Services describes the professional environmental services to be performed by Consultant for the District's **Expedited Purified Water Program** (Project). The District may, at its discretion, choose to negotiate an amendment to this Agreement with Consultant, for additional environmental support services. The District reserves the right to initiate a new consultant agreement selection process for services for any subsequent phase(s) and/or utilize District staff to perform such services.

### **3. Project Objectives.**

- A. Design and construct an up to 24,000 acre-feet per year (AFY) advanced water purification facility adjacent to the existing Silicon Valley Advanced Water Purification Center (SVAWPC) on Zanker Road in San Jose.
- B. Design and construct facilities to convey the purified water to the Los Gatos Recharge Ponds located in the cities of San Jose and Campbell, and in the Town of Los Gatos.
- C. Cost-effectively manage reverse osmosis (RO) concentrate and other residuals from the purification process.

### **4. Project Background.**

The District manages an integrated water resources system that includes the supply of clean safe water, flood protection, and stewardship of streams on behalf of Santa Clara County's 1.8 million residents and businesses. The District effectively manages ten dams and surface water reservoirs, three water treatments plants, one advanced water purification center, nearly 400 acres of groundwater recharge ponds and more than 275 miles of streams.

The recent multi-year drought has depleted groundwater levels within Santa Clara County's groundwater basin, raising concerns regarding subsidence and the socio-economic impacts to above ground and below ground infrastructure. The District is proceeding with the implementation of its first potable water reuse project as described in Section 3, Project Objectives.

## SCHEDULE E (ENVIRONMENTAL SERVICES) SCOPE OF SERVICES

### 5. General Assumptions and Requirements.

The following is a list of general assumptions:

- A. Deliverable Format.** Consultant shall submit Final deliverables in both electronic and hardcopy format. Deliverables shall be submitted in PDF and native (editable) format, including Word documents, Excel spreadsheets, PowerPoint files, AutoCAD files, etc. The hard copy final deliverables shall be printed in professional quality presentation and submitted in five (5) copies. District may require original copies of signed documents and/or scanned (Adobe PDF) versions. Consultant will ensure the technical level of writing will be such that the material is fully understandable by a person without specific training in the field at hand but without compromising its value to the target audience. The target audience includes technical, managerial, and executive personnel, as well as the District's Board of Directors, staff, and the public.
- B. 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.
- C. District Quality Environmental Management System.** The District maintains a Quality Environmental Management System (QEMS) which has procedures, guidelines and work instructions for the performance of various District work. If requested, the Consultant will perform some of the contract tasks and/or sub-tasks in accordance with the QEMS framework. In such situations, the DPM will provide the Consultant with the specific QEMS procedure, guideline, and/or work instruction prior to the production of deliverables.
- D. Consultant Responsibility.** Consultant, with its expertise in the provision of the listed services, 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 Article 2, Scope of Services.
- 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.
- F. File Exchange Service.** Consultant will provide a file exchange service to facilitate communications; particularly of large files over three (3) 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 work with District's Information Technology Unit to address any firewall issues and/or permissions required to allow for these communications.
- G. CEQA Evaluation.** The California Environmental Quality Act (CEQA) evaluation will be conducted at a project-scale analysis and the Environmental Impact Report (EIR)

## **SCHEDULE E (ENVIRONMENTAL SERVICES) SCOPE OF SERVICES**

document will address the project elements described in this Agreement. The Alternatives Chapter of the EIR will analyze at an equal level of detail three project alternatives and the no-project alternative.

### **H. Project-Specific Assumptions and Requirements.**

- I. Project-specific assumptions and requirements are listed under each relevant Task heading, below.

## **6. Project Tasks**

### **Task 1—Project Management**

#### **1.1 Project Environmental Phase Work Plan.** Consultant will prepare a Project Environmental Phase Work Plan in accordance with this Scope of Services.

- A. The Project Environmental Phase Work Plan shall include Project objectives, requirements, constraints, a detailed Project Schedule (showing major tasks and deliverables), a breakdown of Consultant's costs for the major tasks, a list of the Consultant's team members and their roles and responsibilities, communication protocols (internal and external), document control procedures, and other administrative procedures.
- B. The Project Environmental Phase Work Plan shall include a Quality Assurance and Quality Control (QA/QC) Plan documenting the Consultant's procedures to ensure the Consultant's services and deliverables meet District requirements and accepted practices and standards of the Consultant's profession. The District reserves the right to request and review the Consultant's Project documentation demonstrating its adherence with its own quality assurance procedures. The Consultant will utilize a QA/QC process where the Consultant will review and revise each work product prior to delivery to the District. Review and revisions will focus on meeting applicable requirements, Project Objectives, and other criteria stated herein. To ensure the QA/QC process is completed the Consultant will schedule adequate time for review of each deliverable, prior to delivery to the District.

#### **1.2 Monthly Progress Meetings/Calls and Workshops**

- A. District and Consultant key staff and subconsultants, as determined necessary and appropriate by Consultant, subject to DPM approval, will coordinate and attend periodic progress meetings and workshops with District staff, regulatory and resource agencies, and review boards, as needed, to review and discuss work progress.
- B. The District and Consultant will meet on a monthly basis to inform the District on the progress and development of the Environmental Phase and to keep Consultant aware of the District's internal decisions. The meeting schedule will be decided by the District's Project Manager. Issues to be discussed during these meetings

## **SCHEDULE E (ENVIRONMENTAL SERVICES) SCOPE OF SERVICES**

include, but are not limited to, Agreement status, schedule, scope, fees, and implementation of QA/QC procedures.

- C. For each meeting or workshop, the Consultant will prepare the meeting presentation (if requested), agenda and notes and submit them for review by the District. A kickoff meeting will be held with the District to discuss Project objectives, constraints, information needs, roles and responsibilities and communication problems. This sub-task provides for up to 36 monthly progress meetings or conference calls.
- D. A Decision Log prepared and maintained by Consultant will also be reviewed to keep the Consultant aware of the District's internal decisions.
- E. Consultant will submit summary minutes of each meeting within one week.

### **1.3 One-on-One Meetings/Conference Calls With District and District's Consultant Team**

- A. The Consultant Project Manager may provide a brief update of the team's work activities completed within the week, the look-ahead activities, and the issues and actions that require the District's attention, in a bi-weekly meeting or conference call with the DPM. These meetings or calls are estimated to last one hour.
- B. For each meeting/conference call the Consultant will prepare and provide an agenda and meeting summary notes.
- C. Frequency of these meetings and/or calls will be as directed by the District; this sub-task provides for bi-weekly calls, and for the Consultant to attend up to 12 additional 2-hour meetings at the District Headquarters to integrate with the District's Consultant Team, including discussing key Project issues or reviewing District comments on deliverables.

### **1.4 Coordination and Communication With External Agencies**

- A. Consultant will assist the DPM with coordination and communication with appropriate regulatory or other agencies, as necessary, to execute this Scope of Services.
- B. This sub-task includes support in drafting correspondence related to the Consultant's Project Environmental Phase activities as requested by the District and participation at meetings with regulatory agencies.
- C. Consultant will report on these activities in the monthly progress report.
- D. This sub-task provides for up to 10 such meetings.

### **Task 1—Deliverables**

- 1. Project Environmental Phase Work Plan including Project Schedule and QA/QC Plan (Draft prior to kickoff meeting and Final).

## **SCHEDULE E (ENVIRONMENTAL SERVICES) SCOPE OF SERVICES**

2. Up to 18 Refined Project Schedules (electronic).
3. Participation in Environmental Phase kick-off meeting at District office.
4. Meeting Agendas, Minutes, and Presentations. Up to 36 monthly conference call agendas and meeting minutes (electronic).
5. Weekly or bi-weekly Meetings/Conference Calls attendance and notes; frequency of meetings and calls will be at District's discretion. Up to 72 bi-monthly conference calls.
6. Participation in up to 12 up to two-hour meetings at the District Headquarters to integrate with District's Consultant Team.
7. Participation in up to 10 meetings with regulatory or other agencies.

### **Task 1—Assumptions**

1. It is assumed that up to 36 monthly meetings will be required.
2. It is assumed that up to 72 bi-monthly conference calls will be required.
3. It is anticipated that document review workshops will be conducted to expedite review schedules; Consultant will include appropriate technical staff at these meetings.

### **Task 2—Environmental Investigations and Studies**

#### **2.1 Gather and Organize Existing Environmental Data; Review Background Information and Identify Data Gaps**

- A. Consultant will review existing Project information, Project goals and objectives, maps and engineering details, and reference documents (existing planning, resources and environmental assessments) listed in Schedule E, Attachment 4, Reference Documents, and additional existing environmental documents, memos, data, plans and policies and other relevant Project information that is either readily available or provided by the District.
- B. Consultant will also review background data and documents relevant to the Project Site and vicinity, including but not limited to the hazardous materials assessment, water quality, biological, or cultural resources studies, engineering, hydraulic, and/or geotechnical reports, other related mapping, reports and documentation of special status species in the vicinity of the project site, online databases and websites maintained by federal, state, and local government agencies.
- C. Consultant will provide the District with copies of the collected environmental data and documents (not including the District-provided reference materials) obtained from sources other than the District.

#### **2.2 Summarize Environmental Conditions Based on Existing Data**

## **SCHEDULE E (ENVIRONMENTAL SERVICES) SCOPE OF SERVICES**

- A. The Consultant will prepare Technical Memorandum 1 (TM1) summarizing the existing physical conditions in the Project area and relevant environmental statutes and regulations as applicable to the Project.
- B. The analysis will be based upon review of existing data and documents (Task 2.1).
- C. TM1 will describe environmental issues and additional data and information that may be needed for CEQA.
- D. TM1 will inform development of the Field Investigation Plan (Task 2.3) and the Initial Study (IS) Checklist (Task 4.3).
- E. The District will review and provide comments on TM1 submitted by the Consultant.
- F. As the purpose of TM1 is to inform the Field Investigation Plan and IS checklist, District comments and guidance on TM1 will be incorporated during the development of these two documents.

### **2.3 Prepare Field Investigation Plan**

- A. The Consultant will prepare a draft Field Investigation Plan for the District based on additional data and information needs identified in TM1 (Task 2.2 Summarize Environmental Conditions Based on Existing Data).
- B. Based on District comments the Consultant will prepare a final Field Investigation Plan. This Plan will identify how additional data and information identified in Task 2.1 Gather and Organize Existing Environmental Data; Review Background Information and Identify Gaps will be collected and the level of detail and effort required.

### **2.4 Preliminary Project Description**

- A. On the basis of the available project information, Consultant will develop a preliminary project description which explains the key elements of the Project at a conceptual level.
- B. The preliminary project description will include a map which includes major project features if available, property boundaries, the project boundary which forms the study area for Task 2, and previously mapped environmental resources, such as biological resources, within the study area.
- C. The preliminary project description shall be reviewed and accepted by the District prior to proceeding with subsequent tasks.
- D. The preliminary project description will be prepared in a manner allowing for easy integration into later CEQA and permitting documentation.

### **2.5 Conduct Field Investigations**

## **SCHEDULE E (ENVIRONMENTAL SERVICES)**

### **SCOPE OF SERVICES**

- A. Based on the results determined after performing Task 2.1 Gather and Organize Existing Environmental Data; Review Background Information and Identify Gaps, Consultant will conduct field investigations based on TM1 (Task 2.2 Summarize Environmental Conditions Based on Existing Data) and the Final Field Investigation Plan (Task 2.3) in the areas of aesthetics, cultural resources, transportation, and traffic needed to establish existing baseline data to be used for later impact evaluation.
- B. Results of the field investigations, including site visit survey notes, maps, photographs, and other documents as necessary, will be organized into Technical Memorandums (TMs) by resource topic and will be formatted such that they are suitable for inclusion with the IS checklist and EIR as appendices, by the Consultant. TMs for aesthetics, cultural resources and transportation and traffic will be developed in accordance with the following:
  - 1. Aesthetics
    - a. Consultant will conduct a field visit to assess existing visual resource conditions in the Project site and vicinity. The objective of the assessment will be to determine whether visual simulations are necessary to analyze project related impacts.
    - b. The field visit will include an inventory, including photo documentation of the following existing conditions: viewpoints, notable visual resources, and the vividness, intactness, and unity of the Project Site and vicinity.
    - c. Photographs will be taken to be used in the impact analysis and visual simulation graphics, if necessary.
    - d. The Aesthetics TM will include the following graphics: a vicinity map, representative photographs, and a map of representative photograph locations. If photo simulations are necessary, key public viewpoints/Key Observation Points (KOPs) will be identified for review and coordination with District staff.
  - 2. Cultural Resources—Area of Potential Effects
    - a. The Consultant cultural resources team will work with the District to delineate the Area of Potential Effects (APE) map for evaluation of cultural resource impacts. The APE will include all locations, surface and subsurface, including staging and access that may be impacted by the proposed project. The APE will be described in the text and shown on a map(s). The APE will be submitted for review and confirmation by the District.
    - b. Consultant will determine which portions of the APE require a cultural resources survey. Upon approval of the APE, Consultant will conduct data gathering tasks to support the cultural resource impacts analysis.



## **SCHEDULE E (ENVIRONMENTAL SERVICES)**

### **SCOPE OF SERVICES**

- c. Based on the records search results and input from the NAHC, Consultant will conduct a Phase I surface survey to identify cultural resources and to report on existing site conditions within the APE. The purpose of the surface survey will be to locate any known cultural resources and to record any new potentially significant cultural resources in the APE. The recordation of up to five cultural resources identified during the surface survey (if any) is included in the scope of work. Cultural resources and/or historic architectural resources, if found, will be recorded on California Department of Parks and Recreation forms DPR 523 depending on the type of resource. If the updated record search indicates the presence of previously recorded resources, these sites will be visited and documentation updated, if necessary.
  - d. Consultant will prepare a Phase I Archaeological and Architectural Resources Survey Report (AARSR) that identifies cultural resources in the proposed project APE. Consultant will prepare the AARSR to meet the requirements of both CEQA and Section 106 of the National Historic Preservation Act. The AARSR will describe the results of the background research, the Phase I surface survey methods and results, incorporate any comment letters received, assess the potential for buried archaeological resources within the APE, and will provide recommendations for additional work as necessary to comply with CEQA and Section 106.
3. Transportation and Traffic
- a. Consultant will determine existing street traffic and circulation conditions in the vicinity of the Project. Consultant will conduct field investigations to augment web-based review of the existing roadway network (lane configurations and traffic control devices), transit routes, bicycle facilities, and pedestrian facilities in the vicinity of the Project.
  - b. The cities of Sunnyvale, Cupertino, Campbell, and San Jose will be contacted to obtain the most-recent traffic volume data for area roadways, and Consultant will supplement available data with 24-hour counts on up to eight road segments potentially affected by the Project's pipeline installations, identified by the Consultant and approved by the District.
  - c. The Consultant will summarize and compare the roadway volumes to the typical capacity of roadways with similar characteristics (i.e., number of lanes, etc.).
  - d. Using information provided by the District, Consultant will estimate the maximum and average number of daily trips (workers and trucks) that would be generated during Project construction phases (i.e., reflecting the planned sequencing of construction of Project components), and daily trips that would be generated by operation and maintenance (O&M) activities. Consultant will identify probable construction haul routes and construction worker commute routes to and from the Project sites.

## **SCHEDULE E (ENVIRONMENTAL SERVICES) SCOPE OF SERVICES**

- e. Using the estimated trip generation and vehicle routes identified in previous tasks, Consultant will analyze Plus Project conditions at the study locations for the following scenarios:
    - (1) Existing plus Maximum Construction-Related Traffic
    - (2) Existing plus Average Construction-Related Traffic
    - (3) Existing plus O&M-Related Traffic
  - f. Consultant also will analyze potential effects on traffic safety conditions, pedestrian and bicycle circulation, and emergency response routes. Significance criteria adopted by the affected jurisdictions will be used to determine the level of effects.
  - g. Consultant will identify feasible mitigation measures for impacts that exceed the thresholds established in the significance criteria. These measures may include limiting construction vehicles during peak traffic hours, identifying alternative truck routes, and traffic control devices such as flaggers and signage.
  - h. A draft TM detailing the results of the Project Traffic Assessment will be prepared and submitted to the District for review and comment. The revised draft TM will serve as the basis for the EIR Transportation and traffic section.
- C. The District will review and provide comments and guidance on the Draft TMs. As the purpose of the technical memoranda is to inform the IS Checklist and the EIR, District comments and guidance on the TMs will be incorporated into Task 4.3 Initial Study (IS) Checklist, and Task 6 Administrative Draft EIR.

### **Task 2—Deliverables**

- 1. Copies of the collected environmental data and documents obtained from sources external to the District (electronic).
- 2. Draft Technical Memorandum #1—Environmental Conditions and Additional Data Needs (electronic).
- 3. Draft Field Investigation Plan (electronic).
- 4. Final Field Investigation Plan (electronic).
- 5. Preliminary Project Description and Map (electronic).
- 6. Draft Technical Memoranda by resource topic.
- 7. APE Map for Cultural Resources (Draft and Final).
- 8. Recordation of up to five (5) cultural resources on California Department of Parks and Recreation forms, if needed.

## **SCHEDULE E (ENVIRONMENTAL SERVICES) SCOPE OF SERVICES**

### **Task 2—Assumptions**

1. The scope of work for field investigations assumes definition of facilities sites by the District, and provision of access by the District. The Consultant's cost estimate for Field Investigations is based upon its current understanding of proposed facilities, and represents an order of magnitude cost estimate. Additional resources may be necessary to complete field investigations of facilities and/or alternatives generated by the District's design process.
2. Unless deemed necessary to provide an adequate investigation of potential Project effects, the impact analysis will not include intersection volumes or level of service computations (i.e., the analysis will focus solely on Project traffic effects on roadway capacities).
3. Presentation of the regulatory setting at the federal, state and local levels, as well as the evaluation of the Project's contribution to cumulative impacts, will be conducted in the EIR, not in the technical memorandum.
4. The scope of work focuses on efforts required for CEQA compliance, and as such, identification of mitigation measures will include a description of elements of a traffic control plan, but not the preparation of conceptual plans for a traffic control plan itself.
5. It is assumed that geotechnical and site investigation reports would be completed by the District or other firms and available for reference during completion of the Administrative Draft EIR (Task 6).
6. It is assumed that site access and right of way entry will be available or provided by the District. It is assumed that Consultant will identify any needed access and right of way entry at the early stage of the Project Planning to allow District to acquire the necessary easements.

### **Task 3—Biological Studies/Wetland and Riparian Habitat Delineation and Mapping**

- 3.1 Field Investigation Plan.** Prior to any field work, Consultant will coordinate with District biologists and prepare a field investigation plan to summarize available biological resource data and identify additional data requirements. The plan will describe how such information will be collected and the level of detail and effort required.
- 3.2 Field Surveys and Mapping.** Consultant will conduct reconnaissance-level field surveys for wildlife and protocol level for wetland delineation to verify information regarding any special-status plant and animal species that may be present and the distribution of sensitive or regulated habitats such as wetlands and riparian habitats. Consultant will field verify the boundaries of these communities within the Project area. If highly accurate location information is required, a GPS unit or tablet computer will be used by Consultant to precisely record the field conditions at some locations.
- 3.3 Wetland and Riparian Habitat Delineation and Mapping**
  - A. The Consultant shall conduct a delineation of jurisdictional wetlands and other waters of the U.S. according to methods required by the U.S. Army Corps of Engineers (Corps) for its Clean Water Act Section 404 permit program. The

## **SCHEDULE E (ENVIRONMENTAL SERVICES) SCOPE OF SERVICES**

jurisdictional delineation will be conducted in accordance with Arid West Regional Supplement guidelines issued by the Corps. Consultant will map sensitive or regulated habitats such as wetlands and other waters of the U.S./state within the Project Area. A routine on-site delineation of the Project Area will require the collection of data in the field relative to vegetation, soils, and hydrology in order to document site conditions.

- B. Upon the completion of the fieldwork and mapping, Consultant will prepare a Wetland Delineation Report that summarizes the methods and results of the field surveys. The report be consistent with "Information Requested for Verification of Corps Jurisdiction" issued by the Corps San Francisco District Regulatory Division<sup>1</sup>, and will be of sufficient detail for submittal to the Corps for review and a jurisdictional determination. The Wetlands Delineation Report will include:
1. a brief description of existing vegetation, soils and hydrological conditions;
  2. description of field techniques employed in the delineation;
  3. wetland delineation data sheets (if applicable);
  4. copies of aerial photographs and maps that show the location and extent of potentially jurisdictional waters within the Project study area (subject to verification by the Corps);
  5. a site-specific soils report;
  6. a Jurisdictional Analysis depicting significant nexus between the site's wetlands and other waters and traditional navigable waters; and
  7. a completed Aquatic Resources sheet from the Consolidated ORM Upload workbook.
- C. All work by the Consultant will be completed according to methodologies outlined in the U.S. Army Corps of Engineers (USACE) Wetland Delineation Manual (Environmental Laboratory 1987) and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0). Consultant will map riparian habitats in the Project Area. The delineated wetland and riparian habitat boundaries will be used on habitat maps, and methods and findings will be discussed in the biological resources report in Task 2.6, Biological Resources Report.
- D. Consultant will respond to at least one round of comments from District and will finalize the Wetland Delineation Report to support CEQA analysis and regulatory permitting.

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<sup>1</sup> <http://www.spn.usace.army.mil/Portals/68/docs/regulatory/2%20-%20Info%20Req.pdf>

## **SCHEDULE E (ENVIRONMENTAL SERVICES) SCOPE OF SERVICES**

### **3.4 Biological Resources Report**

- A. Based on the results of Tasks 2.1 Gather and Organize Existing Environmental Data; Review Background Information and Identify Gaps through 2.4 Preliminary Project Description, Consultant will prepare a biological resources report that describes existing biological conditions, including vegetation, wildlife habitats, special-status species with the potential to occur on the site and any potentially sensitive/regulated habitats that occur on the site. Maps will be prepared to depict locations of the Project Area and vicinity, biotic habitats, and results of mapped California Natural Diversity Database (CNDDDB) data. The contents of the Biological Resources Report will be suitable for use in preparing the required CEQA documents (e.g., a EIR) for the Project.
- B. The Draft Biological Resources Report will be submitted to the District for review and comment. The draft report will be revised based on comments received from the District and a final report will be prepared that is suitable for use in the EIR and submittal with permit applications.
- C. The Biological Resources Report will include, but not be limited to, the following information:
  - 1. Summary
  - 2. Table of Contents
  - 3. Description of methodologies and dates of field investigations
  - 4. Descriptions and maps of vegetation communities and wildlife habitats consistent with California Department of Fish and Wildlife (CDFW) classification systems
  - 5. Current list of species occurring in the regional vicinity that are protected, or candidates for protection under the Federal or California Endangered Species Act, Migratory Bird Treaty Act, or other applicable laws
  - 6. Current search of California Natural Diversity Database for species of concern that may occur in the regional vicinity
  - 7. Description of species that may occur at the Project Area, their habitat, and relevant behavioral characteristics
  - 8. Analysis of potential for protected species, candidate species, or species of concern to occur at the Project Area
  - 9. Maps showing wetlands and jurisdictional waters at a minimum scale of 1 inch = 200 feet, description of each mapped area and its biological quality and productivity

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10. Maps showing designated critical habitat for protected species (if present) in the Project Area
  11. Analysis of whether or not the Project or alternatives are activities covered by the Valley Habitat Plan. If the Project and/or alternatives are covered activities, the report will describe all requirements of the plan that are applicable to each alternative. The Consultant will confirm whether proposed project activities are considered covered activities under the Plan (VHP), such that the VHP provides federal and state Endangered Species Act compliance for the proposed project for species under the jurisdiction of the USFWS and CDFW. The Consultant will determine the process to attain incidental take authorization.
  12. List of federal, state, and local regulatory permits and approvals protecting biological resources that will be required to implement the Project alternatives.
  13. Report authors and qualifications.
- D. Consultant will respond to at least one round of comments from District and will finalize the Biological Resources Report to support CEQA analysis and regulatory permitting.
- E. Consultant will work with the District to confirm a study area that adequately captures the full extent of anticipated project construction and operational effects on biological resources.
- F. Consultant will summarize the biological resources within the study area as reported in the background source documents and database search results. This summary also would identify any data gaps or information that is substantially dated and must be re-evaluated through additional field investigations.

### **Task 3—Deliverables**

1. Field Investigation Plan (Draft and Final electronic copy)
2. Wetland Delineation Report (Draft and Final electronic copy and maps in GIS format), including:
  - a. Arid West Wetland and OHWM data forms
3. Biological Resources Report (Draft and Final electronic copy and maps in GIS format)

### **Task 3—Assumptions**

1. See Task 2 Assumptions. Based upon preliminary review of pipeline routes, the Consultant's scope of work assumes 8 stream crossing locations. Inclusion of additional stream crossings related to revised or alternate pipeline routes or facilities may require additional resources.

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### **Task 4—Project Description and Initial Study**

- 4.1 Project Description.** The Consultant shall update the preliminary project description developed in using project design information provided by the District to a level of detail sufficient for the development of a Notice of Preparation and Initial Study Checklist, with an adequate level of detail to serve as the common Project Description for all CEQA resource evaluations. The Consultant shall identify the Project Area, a description of key Project elements as identified during the planning and design construction techniques, equipment and construction phasing. Based on comments and guidance from the District, the Consultant will prepare a revised Project Description.
- 4.2. Prepare Final Project Base Map.** The Project Description will include an updated map of the Project Site and its vicinity, including project elements described in the project description, based on information provided by the District. The map shall be prepared in a Geographic Information System (GIS) format compatible with the District's GIS Standards, in a manner consistent with the protocol for information sharing of District's GIS Standards, and be consistent with its applicable metadata requirements.
- 4.3 Prepare Initial Study Checklist.** Consultant shall prepare an Initial Study (IS) checklist to document the level of environmental review to be undertaken in the EIR, as well as supporting text to explain the basis for the conclusions identified on the checklist. The IS will indicate resource areas requiring more detailed analysis and areas that will not involve significant issues, and include CEQA topics and significant thresholds based on Appendix G of the CEQA Guidelines and the District's CEQA checklist.

### **Task 4—Deliverables**

1. Project Description (Draft and Final)
2. NOP Project Base Map
3. Initial Study Checklist (Draft and Final)

### **Task 4—Assumptions**

1. As part of the project description, the District will quantify the area of ground disturbance, quantity of cut and fill, and quantity of earth materials transported to and from the Project Area. The District will assist in the description of key elements of the Project at an adequate level of detail to depict the project to the general public and resource agencies.

### **Task 5—Notice of Preparation and Scoping**

#### **5.1 Draft NOP**

- A. The Consultant will collaborate with the District to develop a Notice of Preparation (NOP) that explains the key elements of the Project to an adequate level of detail to depict the project to the general public and resource agencies. Consultant will prepare a NOP to solicit public input on the scope and content of the EIR.

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- B. The NOP will comply with CEQA Guidelines §15082 for review by District and include a brief description of the project and the background, to a sufficient level to allow for meaningful public comment, and the IS as an attachment.
- C. The NOP will describe in text and map(s) the Project area considered for evaluation in the EIR, as well as the anticipated technical areas of analysis.
- D. A draft NOP will be submitted to the District for review and comment. The District will provide a consolidated set of comments.

### **5.2 Final NOP**

- A. Consultant will revise the NOP in response to District comments and will prepare a revised NOP for public distribution.
- B. Consultant will submit the NOP to the California Office of Planning and Research State Clearinghouse, agencies that commented on the EIR, and responsible agencies with regulatory authority over the proposed Project.
- C. The NOP will list Consultant as the filing point for scoping comments.
- D. The Consultant shall provide original and PDF copies for District use in distribution and website posting.
- E. The consultant will coordinate with the District PIO and Public Outreach Consultant regarding public scoping meetings, dates, and locations, for incorporation in the NOP.
- F. The Consultant will coordinate with the District PIO and the Public Outreach Consultant regarding distribution of the NOP.

### **5.3 Public Meeting for NOP**

- A. Consultants Project Manager and key staff will participate in a public meeting to be arranged by District.
- B. Consultant will present a brief summary of the NOP and Initial Study and answer questions.
- C. Consultant will prepare appropriate display materials (PowerPoint presentation, display boards) for use at the public meeting.

### **5.4 Scoping Summary Report**

- A. At the close of the 30-day scoping period, Consultant will prepare a draft scoping summary report containing at the minimum:
  - 1. Information on the distribution of the NOP



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2. The dates of the scoping period
  3. List of persons and organizations responding to the NOP
  4. Results of any District meetings
  5. A summary of the scoping comments received and recommendations for issues to be addressed in the Draft Environmental Impact Report (EIR)
- B. The Consultant will revise the draft scoping report in response to District comments and submit a final scoping report to the District.

### **Task 5—Deliverables**

1. NOP (Draft and Final)
2. Public Meeting Presentation (Draft and Final)
3. Scoping Summary Reports (Draft and Final)

### **Task 5—Assumptions**

1. Scope of work assumes preparation and attendance at one public meeting and is limited to the preparation and presentation of a PowerPoint presentation during the meeting.
2. Scope of work assumes the NOP mailing list of addresses along proposed facilities will be generated by the District's PIO and/or the Public Outreach Consultant.
3. District will be responsible for identifying and securing and coordinating the meeting locations, as well as facilitating the meeting.

### **Task 6—Administrative Draft EIR**

- 6.1** Consultant will prepare an Administrative Draft EIR (ADEIR) that contains the necessary elements and required sections as outlined by CEQA and CEQA Guidelines §15120 through 15131, and is consistent with all laws and regulations relevant to this task.
- 6.2** The ADEIR will incorporate the data and information collected and reviewed under Task 2 Environmental Investigations and Studies, Task 3 Biological Studies/Wetland and Riparian Habitat Delineation and Mapping, and comments submitted during the scoping period under Task 5 Notice of Preparation and Scoping. Consultant will:
- A. Analyze the environmental impacts of constructing each of the proposed Project elements, and operating and maintaining the improved facilities, if necessary.
  - B. Perform the technical analyses and impact assessments using the impact topics and significance thresholds prescribed in Appendix G of the CEQA Guidelines, District

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input, and other applicable standards provided by the District. Only those impacts identified in the IS as a “potentially significant impact” will be evaluated in the ADEIR by Consultant.

- C. Identify appropriate Avoidance and Minimization Measures (AMMs) and Best Management Practices (BMPs) for the Project, apply applicable mitigation measures identified, and develop new mitigation measures, if necessary. District Best Management Practices will be incorporated into impact discussions to the extent applicable, to avoid or reduce potential impacts. Where necessary, appropriate mitigation measures will be identified by Consultant for significant impacts.

**6.3** Each topical section of the ADEIR will include: both a physical and regulatory setting as applicable; clearly identify significance thresholds, including local or otherwise appropriate CEQA thresholds, describe Project impacts; identify feasible mitigation measures; and Identify the level of significance both prior to and following mitigation. The ADEIR will include, but not be limited to the following sections:

- A. **Executive Summary.** The executive summary will conform to CEQA guidelines §15123 and will contain a table listing each expected impact, proposed mitigation, and significance after application of mitigation.
- B. **Introduction.** The introduction to the ADEIR will instruct readers on how to find information in the ADEIR, identify the lead agency, and explain the regulatory purpose of the document, the relationship of the ADEIR to other EIR(s), the public's role, and steps in the process.

**C. Project Description**

1. The Consultant will update the project description developed for the Initial Study using additional project information provided by the District.
2. The project description will define the Project purpose and need.
3. The Consultant will collaborate with the District to develop a Project Description for the EIR that explains the key elements of the Project to an adequate level of detail to serve as the common Project description for all CEQA resource evaluations.
4. The Consultant will identify to the District the level of engineering design and associated data needed to complete the Project Description.
5. The Project Description will describe in text and map(s) the Project area considered for evaluation in the EIR.
6. The Project Description will list the District's objectives for the proposed Project in conformance with CEQA Guideline §15124, and all laws and regulations relevant to services performed for this task, describe the plans for operation and

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maintenance of the improved facilities commensurate with the level of detail provided by the District.

7. The Project description will include all the standard information required by CEQA guidelines, such as
  - i. a site location map
  - ii. description of the proposed Project and its goals
  - iii. Project construction methods
  - iv. long-term management
8. The Project description will also include a list of responsible and/or trustee agencies that have jurisdiction over the Project under CEQA, including local, state, and federal regulatory agencies.
9. The Project description will provide an overview of the Project alternatives and provide detail on each Project element.
10. Summary tables will be included to illustrate the elements that comprise each Project alternative.
11. A draft Project Description will be submitted to the District for review and comment. The District will provide a consolidated set of comments.
12. Based on comments and guidance from the District, the Consultant will prepare a revised Project Description. Comments provided by the District on the revised Project Description will be incorporated into the version of the Project Description that will be used in the ADEIR.

#### **D. Alternatives**

1. Consultant will collaborate with the District to develop the description of a reasonable range of alternatives per CEQA guidelines §15126.6.
2. The Consultant shall thoroughly document need for the project; confirm that objectives fully reflect its underlying purposes.
3. Consultant will develop and describe Project alternatives including a robust discussion of the No Project Alternative (i.e., the consequences of not implementing the project) which feasibly attain Project objectives and reduce identified environmental impacts of the Project. As appropriate, the screening process will consider alternatives presented in the Project Planning Study Report for the Project, and potentially other previously unidentified alternatives upon prior approval by DPM.
4. The Consultant will identify any alternatives considered but eliminated and state reasons for elimination (infeasibility, inability to meet most project objectives, and/or inability to reduce significant impacts). This is especially important in

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proactively responding to likely community concerns (e.g., road closures, need for 24-hour construction). If needed, the Consultant will work with District to implement a strategy similar to previous projects: advance the preferred segments while maintaining segment-specific options as warranted by constraints.

5. A technical memorandum will be prepared to document the screening process, alternatives evaluation, and the alternatives in conformance with CEQA guidelines §15126.6 State Water Resources Control Board (SWRCB) State Revolving Fund CEQA-Plus requirements, and all laws and regulations to be considered in the ADEIR.

**E. Biological Resources Section of the ADEIR.** Consultant will summarize Final Biological Resources and Wetland Delineation Reports (refer to Task 3 Biological Studies/Wetland and Riparian Habitat Delineation and Mapping). The summary will include:

1. The amount of habitat by type disturbed or eliminated by each Project alternative and its quality, and the amount of habitat created by each Project alternative and its quality.
2. Amounts (acres and square footage) of habitat impact identified by Project alternative and Project Area, and characterized as temporary or permanent, potential impacts to special-status species (including those protected by the Federal or California Endangered Species Act).
3. A calculation of compensation ratios (post-construction to existing) for types of habitat, including tidal open water, non-tidal open water, riparian, wetlands, etc.
4. A calculation of surface areas of existing hardscape (riprap, compacted aggregate, rock, concrete, stacked concrete bags) vs. post-construction hardscape surface area.
5. Include in the mitigation approach to potentially avoid the impact, minimizing the impact by decreasing the magnitude of the action, restoring the biotic resource to its former condition after the impact has occurred, reducing or eliminating the impact over time by appropriate preservation and maintenance operations during the life of the Project, and/or compensating for the impact by replacing elsewhere those habitats or those biota that have been adversely affected.
6. Consultant will identify applicable District BMPs and evaluate the ADEIR effectiveness.

**F. Aesthetics.** Proposed Project improvements would affect the viewshed of properties located along the Project Area. Views of the Project Area during construction would be visible to recreationalists and partially visible from adjacent residents and commercial uses. Consultant will:

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1. Conduct aesthetic analysis based on the information compiled under Task 2.5 Conduct Field Investigations and subsequent additional evaluation as needed.
  2. Use methods and protocols developed by the Federal Highway Administration, in combination with elements of other visual resources assessment methods (including U.S. Forest Service and Bureau of Land Management).
  3. Define visual resources qualitatively within the Project Area and evaluate and describe visual quality, visual character, and viewer groups and responses.
  4. Prepare an analysis that summarizes the potential impacts on visual resources of each Project alternative, and propose mitigation measures to lessen the impact from the Project on visual resources, if needed.
  5. If mitigation is deemed necessary, describe the approach to be used.
- G. **Air Quality.** Consultant will develop an air quality technical analysis for the Expedited Purified Water Program facilities. The analysis will evaluate potential impacts under project construction and operations. The project area is located in the San Francisco Bay Area Air Basin (SFBAAB) and is under the jurisdiction of the Bay Area Air Quality Management District (BAAQMD). Consultant proposes that the analysis use the methodologies provided in the BAAQMD's CEQA Air Quality Guidelines updated in 2012 for assessment of impacts. Consultant will complete air quality modeling to quantify project related air pollutant emissions, as specified below:
1. Discuss the federal, state, regional and local air quality setting as it pertains to the project, as well as identify and briefly summarize pollutant monitoring data, the regional attainment status, existing air quality attainment plans, and any recent critical changes in the regulatory background.
  2. Identify sensitive receptors that could be affected by the project.
  3. Identify construction, operations, and maintenance activities (based on the project description) that would result in emissions.
  4. Estimate construction-related emissions for all project components and for each project alternative, including miles traveled from worker commute and fill delivery trucks, and the annual air emissions expected to be generated during operation and maintenance of the proposed facilities. Emissions estimates will be quantified using the CalEEMod and EMFAC2014 air pollutant emission models, or similar emissions software approved by the California Air Resources Board (CARB) or BAAQMD, as well as other guidance provided by U.S. Environmental Protection Agency (USEPA), identified in its *AP-42, Compilation of Air Pollutant Emission Factors*.
  5. Conduct diesel particulate matter (i.e., PM<sub>2.5</sub>) dispersion modeling and health risk analysis for construction activities as well as for operations if appropriate.

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6. Analyze the potential significance of the Project alternatives with regard to air emissions, using standard air quality assessment techniques, consistent with the recommendations of the BAAQMD Guidelines.
  7. Conduct a health risk-based cumulative impact analysis per BAAQMD recommendations. Evaluate construction health risk impacts using methodologies recommended by BAAQMD, the State of California Office of Environmental Health Hazard Assessment (OEHHA), or CARB.
  8. Address impacts based on CEQA Guidelines Appendix G criteria for assessment of air quality emissions from a proposed project using BAAQMD's applicable air quality impact significance thresholds and recommendations.
  9. Assess conformance of the project with BAAQMD's 2010 Clean Air Plan or the 2016 Clean Air Plan/Regional Climate Protection Strategy (CAP/RCPS) if it finalized and adopted prior to Consultant's review.
  10. Recommend and quantify the effect of mitigation measures to minimize regional and local air emissions that would be associated with the project.
- H. **Greenhouse Gases.** The proposed project would generate greenhouse gas (GHG) emissions during construction and operations. As discussed under the air quality scope of work in subtask 6.3.7 Air Quality above, Consultant proposes that the GHG analysis use the methodologies provided in the BAAQMD's CEQA Air Quality Guidelines updated in 2011 for assessment of impacts, which are supported by substantial evidence.
1. Consultant will quantify the project's total contribution of GHG emissions as specified below. Consultant will:
    - a. Quantify direct and indirect emissions of GHG as identified by the General Reporting Protocol of The Climate Registry (TCR), primarily carbon dioxide, methane, and nitrous oxide resulting from construction and operation of the proposed project.
    - b. Address impacts based on CEQA Guidelines Appendix G criteria assessing GHG emissions from a proposed project as well as relative to BAAQMD's CEQA Air Quality Guidelines. Recommend appropriate mitigation measures to reduce GHG emissions from project construction and operation if warranted by the impact analysis.
    - c. Assessment of consistency with CARB's Climate Change Scoping Plan and associated regulations will be performed to determine whether the project is consistent with the goals of AB 32, as well as other relevant State GHG emissions reduction goals. The project will also be evaluated relative to the goals and policies identified in the City of San José Greenhouse Gas Reduction Strategy, as well as other relevant action plans or strategies for cities where the proposed project components would be located. Identify

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impacts remaining after implementation of any recommended mitigation measures.

- I. **Agriculture and Forestry.** The Consultant will determine if the Project Area would be located primarily on urban and built-up land according to the Farmland Mapping and Monitoring Program (FMMP) and, therefore, would not be located on land used for agricultural or forestry activities. The Consultant will also determine whether the Project Area is zoned for agricultural use, or is designated as prime farmland, unique farmland, or farmland of statewide importance.
- J. **Cultural Resources.** The Consultant in this section will summarize the APE, references review, and field survey results conducted in Task 2.1 Gather and Organize Existing Environmental Data; Review Background Information and Identify Data Gaps, and Task 2.5 Conduct Field Investigations. Consultant will analyze potential direct and indirect effects of each Project alternative on places listed on the National of California Register of Historic Places or eligible for listing, and recommend feasible measures to avoid or minimize impacts in conformance with CEQA guidelines §15064.5 and all regulations and laws relevant to the performance of Consultant's services in this task.
- K. **Energy Consumption.** For each Project component, Consultant will quantify the amount of energy to be consumed by vehicles and equipment during the Project construction period. Operational information will be provided by the District. Measures to reduce energy consumption will be recommended.
- L. **Geology, Soils, and Seismicity.** Consultant will identify soils and geological features of the Project Area based on geological and geotechnical work completed by others. Consultant will complete the following:
  - 1. The seismic setting of the area and potential for strong ground motion during an earthquake will be described.
  - 2. Evaluate the potential for project construction and operation to exacerbate, and thus adversely affect, existing geologic and seismic hazards.
  - 3. Provide focus on seismic hazards and slope stability issues in the areas underlain by unstable geologic units and near stream crossings.
  - 4. Include a map of the pipeline alignments and other Project components showing known faults, areas of potential liquefaction susceptibility and areas of potential slope instability in the project area.
  - 5. Identify appropriate feasible measures to mitigate identified geologic, soils, and seismicity impacts. If soils or geotechnical reports prepared after the Draft EIR is published indicate that alternative construction techniques are warranted, supplemental investigation under CEQA may be needed.

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6. The Project could entail modifications to existing facilities, which may require increased maintenance activities. Consultant will determine which District BMPs may be necessary to address impacts associated with such modifications.

**M. Hazards and Hazards Materials.** Consultant will:

1. Review the list of potential hazardous release sites in the Project vicinity. For any newly listed hazardous release sites, Consultant will analyze the potential for effects on the Project.
2. Identify hazardous materials sites in the vicinity of the proposed pipeline alignments through a regulatory agency database search and include on a map in the EIR.
3. Review the current status of each of the hazardous materials sites to identify if extent of contamination might overlap the proposed construction areas; include on a map nearby closed hazardous materials sites that overlap the construction areas.
4. Determine which District BMPs may be necessary to ensure protection of construction workers, the public, and the environment. If necessary, identify mitigation measures that would avoid and minimize effects due to use or potential encounter of hazardous materials.

**N. Hydrology/Water Quality.** Consultant will describe the hydrologic effects of the Project. Consultant will:

1. Describe the existing surface water features and watersheds and groundwater conditions within the project area.
2. Identify impacts to hydrology with implementation of the Project.
3. Evaluate post-Project conditions based on the Project Description and information on existing hydrology, geomorphology and hydraulics provided by the District.
4. Assess whether post-Project conditions would result in the potential for an increased risk of flooding.
5. Surface water quality issues that will be evaluated in the EIR include the potential for release of drilling muds at stream crossings from frac out, and potential for sediments or hazardous substances from project construction activities to be released into nearby water bodies.
6. Based upon analysis conducted by the District and others, the Consultant will review recycled water use and potential surface and groundwater quality effects within the context of the current regulatory environment, including the Clean Water Act (as applicable), Safe Drinking Water Act, Water Recycling



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Criteria (CCR Title 22), Groundwater Replenishment Guidelines, Salt and Nutrient Management Plan Requirements, and SWRCB Division of Drinking Water (DDW) requirements. The groundwater effects analysis will consider:

7. Public Health and Safety – With the establishment of the GWR Guidelines and their implementation by the SWRCB and local Regional Water Quality Control Boards (RWQCBs), the State of California has established a regulatory and monitoring framework for the use of purified recycled water for groundwater recharge with subsequent potable use. The impact analysis will present the technical and regulatory protective measures in place for the safe use of recycled water for groundwater replenishment, including concerns related to contaminants of emerging concern.
  8. Groundwater Quality – Other key water quality issues, beyond public health and safety, relate to the specific interactions of existing groundwater and recharge source waters. Impact analysis will review potential effects related to source water/groundwater chemical incompatibility.
  9. Reverse Osmosis (RO) Concentrate Management: While it is expected that RO concentrate produced by the project will be discharged through one or a combination of local outfalls, and the overall discharge will remain within the permit limits for these outfalls, this determination will be made at the conclusion of the RO Concentrate Management Project currently being undertaken by the District and expected to be complete by the end of calendar year 2018. Consultant's work tasks for presenting these determinations in the CEQA document will be developed as part of a task order in Supplemental Services.
  10. Consultant will compare the water quality objectives in the San Francisco Bay RWQCB Basin Plan to those analyzed in the environmental document. If any new or modified objectives are identified, the degree to which the Project will conform to the new or modified objectives will be analyzed and mitigation recommended if necessary.
  11. Consultant shall identify measures to address potential hydrology and water quality impacts.
- O. **Land Use/Planning.** The Consultant will determine the types of land uses adjacent to and within the Project Area include single-family residential uses, multi-family townhomes, and industrial park uses. The Consultant will verify the accuracy of information on existing and planned land uses in the Project vicinity. The Consultant will evaluate the potential for the Project to affect nearby existing or planned land uses. This evaluation will consider the Project's consistency with land use plans including with development plans for new residential developments adjoining the Project.

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- P. **Mineral Resources.** Consultant will identify locally important mineral resources of the Project Area, if present, and analyze the potential for each Project component to affect the availability of those resources.
- Q. **Noise/Vibration.** Noise and vibration impacts associated with the Project are anticipated to be associated with noise from on-site construction activities and haul trucks traveling on local streets, as well as on-site equipment during long-term operation of the program components. Consultant will document existing noise levels and identify existing major noise sources within the Project Area. Consultant will identify relevant noise regulations and planning standards and determine specific thresholds against which to compare Project impacts. Construction-related noise and vibration generated by Project as well as each of the Project components will be evaluated by the Consultant using construction equipment information provided by the District and noise modeling methods recommended by the U.S. Department of Transportation. Consultant will:
1. Conduct representative number short-term and long-term noise measurements along pipeline routes and at proposed facility locations, to characterize the existing noise environment. Consultant's scope of work includes 3 field days to collect short-term noise measurements.
  2. Estimate the project's construction- and operation-related noise levels and compare them to locally adopted, or otherwise appropriate CEQA thresholds, and specify noise-control measures as appropriate.
  3. Utilize impact methodology for construction projects outlined by the Federal Transit Administration, which accounts for proximity to receptors, usage factors (fraction of time equipment is in use over the specified time period), construction hours (time of day/night), types of equipment to be used, construction duration, and the nature of the noise sources (continuous versus peak noise levels).
  4. Work with District to determine appropriate CEQA significance thresholds to address potential public concern, including 24-hour well drilling.
  5. Present information in a reader-friendly format that effectively communicates noise effects on residents. Provide comparisons of estimated noise levels to other everyday activities for public understanding.
  6. Recommend noise-control measures (e.g., using quieter construction techniques or quieter types of equipment); quantify noise reductions to determine if project's impact can be mitigated to a less-than-significant level.
  7. Prepare detailed vibration analysis - if any construction equipment that has the potential to generate vibration levels that could result in cosmetic damage is proposed to be used in proximity to nearby structures (i.e. residences and any other infrastructure).

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- R. **Population and Housing.** Consultant will review proposed project in the context of District's overall water portfolio and will identify the potential for the project to be considered growth inducing or whether the project would have potential effects on the rate, distribution or timing of population and housing within the District's service area. Consultant will review whether project would result in potential secondary effects of growth, and will identify regional programs and measures that have been established to address.
- S. **Recreation.** Consultant will describe Project-related effects on recreation uses (e.g., pedestrian and bicycle circulation) in the area, and analyze effects of potential closure and removal of existing trails. If relevant to the Project, the Consultant will also describe the effectiveness of any planned new trails to replace existing recreational opportunities. Consultant will appropriately describe and evaluate potential impacts of the Project on authorized recreational resources as well as unauthorized use of the District's maintenance roads as trails.
- T. **Transportation.** Consultant will prepare the EIR section on the basis of the final Technical Memorandum: Transportation and Traffic (Task 2 Conduct Field Investigations), and will include the following additional analyses:
1. Present the regulatory setting at the federal, state and local levels.
  2. Evaluate the Project's contribution to cumulative impacts (i.e., the impact of Project construction activities in combination of reasonably foreseeable concurrent construction activities for other projects within the applicable geographic scope). Concurrent activities will be judged on the basis of both overlapping time periods and haul/commute routes.
- U. **Public Services.** Consultant shall determine if the Project will affect public and community services, or the public agency response times. Consultant will identify existing public services and facilities located along pipeline routes and within project area and address any project-related effects to these services. As described in the traffic and transportation section in Task 6.20, Transportation, feasible mitigation measures will be identified to address the conflicts with these services, such as detour routes.
- V. **Utilities/Service Systems.** Consultant will analyze potential impacts to utilities and service systems for each Project component during both construction and operation phases. The evaluation will include a qualitative discussion of utilities and service systems in the Project Area, and will primarily focus on potential conflicts with high priority subsurface utilities during the Project construction phase. With assistance from District, the Consultant will identify and describe existing high priority utilities within the project area. Consultant will work with the District to develop mitigation measures to reduce potentially significant impacts including: requiring advance coordination with utility providers for protection of the subsurface utilities, protection for utilities during construction, and notification to local fire departments and utility providers regarding any damage to utilities.

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- W. **Cumulative Impacts.** Many Project impacts will occur during construction, meaning that the focus of the cumulative analysis will likely be on identifying other projects (including other utility projects) that overlap temporally and spatially with pipeline construction, and determining whether the project's contribution to any significant impacts would be cumulatively considerable. Consultant will identify the Projects in the vicinity, including planned developments adjacent to the Project Area. Consultant will conduct a thorough investigation of cumulative projects (e.g., contacting all utilities with facilities in, and above proposed alignments in addition to the cities and county) soon after the alignments are confirmed since this can yield important information for project planning and alternatives as well as the cumulative impact evaluation. Consultant will analyze the potential for each Project component to make a considerable contribution to cumulatively significant impacts.
- X. **Mitigation Monitoring and Reporting Program.** Consultant will include in the ADEIR a Mitigation Monitoring and Reporting Program (MMRP). The MMRP will list measures to prevent or mitigate significant environmental effects or reduce the intensity of non-significant environmental effects in conformance with CEQA, CEQA Guidelines §15097 and §15126.4 and all regulations and laws relevant to the services performed by Consultant per this task. The MMRP will be updated in subsequent tasks.
- Y. **Required Sections of the Administrative Draft.** Consultant will include, as required by CEQA, CEQA Guidelines §15122, 15129, and 15132, and all regulations and laws relevant to the services performed by Consultant all other required contents of an EIR including: a Table of Contents; Organizations and Persons Consulted; References and Literature Cited; as well as a list of Report Preparers, in the Administrative Draft EIR.
- Z. **Appendices.** Consultant will include appendices as appropriate in the Administrative Draft EIR.

### **Task 6—Deliverables**

1. Draft Project Description (electronic)
2. Revised Project Description (electronic)
3. Administrative Draft EIR (10 bound hard copies, and one electronic copy)

### **Task 6—Assumptions**

1. Water quality analyses in the EIR will rely on technical documents being prepared by the District.
2. Scope of work for aesthetics is limited to 3 post-project photo rendering locations.
3. Scope of work assumes review of the no project alternative and up to 3 project alternatives.

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4. Scope of work assumes the District will provide one round of consolidated comments on each deliverable.

### **Task 7—Administrative Draft EIR 2**

Consultant will revise the ADEIR in response to District comments and prepare the Administrative Draft EIR 2 and MMRP. The Consultant will meet with District to discuss comments and agree on the appropriate responses and revision to analysis and conclusions. The Consultant will submit the Administrative Draft EIR 2 to the District for review. Consultant will also submit a table listing the District's comments on the Administrative Draft EIR and the handling of those comments (e.g., change made, change not made, and rationale).

### **Task 7—Deliverables**

1. Administrative Draft EIR 2 (10 bound hard copies, and one electronic copy)
2. District Comment Table

### **Task 8—Camera-Ready Draft EIR**

Consultant will revise the ADEIR 2 in response to District comments and prepare the Camera-Ready Draft EIR and MMRP. The Consultant will meet with District to discuss comments and agree on the appropriate responses to those comments. The Consultant will submit the hard and electronic copies of the Camera-Ready Draft EIR and MMRP to the District for review and approval prior to printing the Public Draft EIR for circulation. The camera-ready document will include changes recommended by the District during the review of the ADEIR. Consultant will also submit a table listing the District's comments on the ADEIR and the handling of those comments (e.g., change made, change not made, and rationale). Consultant will include in the Camera-Ready Draft EIR the MMRP as an appendix.

### **Task 8—Deliverables**

1. Camera-ready Draft EIR and MMRP. (10 bound hard copies and One Electronic Copy in PDF format on CD)
2. Table listing District comments on ADEIR and how those comments were addressed

### **Task 9—Draft EIR**

Consultant will revise the Camera-Ready Draft EIR based on comments from the District to prepare the Draft EIR. Consultant will submit hard and electronic copies of the Draft EIR to the District. The Draft EIR will contain all of the elements required by CEQA Guidelines §15120 through 15131 and all regulations and laws relevant to the document prepared pursuant to this task.

### **Task 9—Deliverables**

1. Draft EIR (50 bound hard copies, one camera-ready hard copy, and one electronic copy in PDF and MS Word format on CD)

## **SCHEDULE E (ENVIRONMENTAL SERVICES) SCOPE OF SERVICES**

### **2. Administrative Record and Materials**

#### **Task 9—Assumptions**

1. Scope of work assumes that comments on the camera-ready Draft EIR will be primarily related to document layout, format, and editing, and that no substantive revisions of technical analysis will be required

#### **Task 10—Public Review of the Draft EIR**

Consultant will assist District in conducting public review of the Draft EIR in conformance with CEQA Guidelines §15087 and all regulations and laws applicable to the services performed as described in this task.

- 10.1 Notices.** Consultant will prepare and submit to the Office of Planning and Research a Notice of Completion (NOC) complying with CEQA Guidelines §15085. Consultant will also prepare and distribute a Notice of Availability (NOA) complying with CEQA Guidelines §15087 and §15105. The NOA will contain a description of the Project and location; identification of significant environmental impacts; dates of the public review period; date, time, and place of public hearing(s), if applicable; address for locations where the Draft EIR, EIR, and supporting documents are available for review; and a statement of whether the Project Site is a listed toxic site. In accordance with CEQA Guidelines, Consultant will submit the NOA to the Santa Clara County Clerk/Recorder for recording and all responsible and trustee agencies, any person or organization requesting a copy, and the State Clearinghouse. Consultant will prepare newspaper notices (if any) for the District. District will bear the cost of publishing the newspaper notices.
- 10.2 Administrative Record.** Consultant will receive and compile all records to create an indexed, subject-matter organized, and chronically assembled administrative record that will include all relevant documents. Files will be organized into a spreadsheet index, which will be reviewed by the District. A project email will be set up such that the Consultant's Administrative Record Team can maintain the record for email correspondence and other electronic documents in real time. All email headers will be removed from these records so that the email transport to the record address is not included in the index. The Administrative Record index and materials will be provided on DVD.
- 10.3 Draft EIR Public Meeting.** During the public comment period, Consultant's Project Manager and key staff will participate in a public meeting to be arranged by District. Consultant will assist the District Project team in presenting the Project, describe the CEQA process, present a brief summary of the Draft EIR, and answer questions. Consultant will prepare appropriate display materials for use at the public meeting, including presentation and handouts. Consultant will prepare and submit to District a detailed draft meeting summary of the public meeting proceedings. The Consultant will revise the draft meeting summary in response to District comments and submit a final meeting summary to the District.

#### **Task 10—Deliverables**

## **SCHEDULE E (ENVIRONMENTAL SERVICES) SCOPE OF SERVICES**

1. Notice of Completion (electronic copy)
2. Notice of Availability (electronic copy)
3. Public meeting materials (hard and electronic copies)
4. Participation in public meeting
5. Draft and final public meeting summaries (electronic copy)
6. Administrative Record Files

### **Task 10—Assumptions**

1. Scope of work assumes creation of an administrative record of 500 individual documents.
2. Scope of work assumes participation in up to 3 public meetings.
3. Scope of work includes coordination with the Public Information Officer (PIO); however, identification, coordination, room scheduling, and facilitation of meeting(s) are assumed to be completed by the District. Scope of work is limited to the preparation and presentation of a PowerPoint overview of the project, impacts, and conclusions of the EIR.
4. Meeting summaries will generally characterize comments received; specific recordation of comments will be provided by the District.

### **Task 11—Responses to Public and Agency Comments on Draft EIR, Administrative Final EIR**

After the close of the public comment period on the Draft EIR, the District will provide the Consultant with a complete copy of all comments. Consultant will organize comments received and prepare an Administrative Final EIR containing responses to comments.

- 11.1 Responses to Comments Report.** Consultant will receive and organize comments received on the Draft EIR, including comments received at the public hearing. Following review of the letters, the Consultant will discuss the approach to developing responses, resulting in agreement on the approach for the comments. The Consultant will prepare responses for comments and submit these to the District in a Response to Comments Report for review. The District will provide a set of consolidated comments on the Response to Comments Report. Based on District comments, the Consultant will revise the response to comments to develop a Final Response to Comments. The final Response to Comments Report will be included in the Final EIR. Consultant will enter all comments into a database organized by topic area which lists the comments, persons or organization commenting, and recommended changes to the Draft EIR. Consultant will submit the database to the District in electronic format.

## **SCHEDULE E (ENVIRONMENTAL SERVICES) SCOPE OF SERVICES**

- 11.2 Administrative Final EIR.** Consultant will prepare an Administrative Final EIR containing copies of the comment letters received on the Public Draft EIR, a specific response to each comment, and any text edits to the Draft EIR as a result of the public comments. Consultant will carefully review the Administrative Final EIR to ensure revisions that affect more than one portion of the document are changed throughout, that technical analysis in the various topic areas are based on consistent assumptions and inputs, and that the document is internally consistent. Additionally, Consultant will update the MMRP will to reflect any changes to mitigation measures. The Consultant will prepare and submit an electronic copy of the AFEIR for review and comment by the District. The District will provide a set of consolidated comments on the AFEIR.

### **Task 11—Deliverables**

1. Database of comments/responses on Draft EIR (electronic copy)
2. Draft Response to Comments Report (electronic)
3. Revised Response to Comments Report (electronic)
4. Administrative Final EIR (10 bound hard copies, and one electronic copy)

### **Task 11—Assumptions**

1. It is assumed that the District will provide comments received on a weekly basis so that Consultant can review comments as early as possible and begin to develop a strategy for responding to comments.
2. Based on the level of public interest in this project, it is assumed that up to 50 comment letters and up to 250 individual comments could be received.

### **Task 12—Camera-Ready Final EIR and Draft Mitigation Monitoring and Reporting Program (MMRP)**

Based on comments on the Administrative Final EIR received from District, Consultant will revise the document and prepare a camera-ready Final EIR and a draft stand-alone MMRP conforming to CEQA Guidelines §15132, as well as all regulations and laws relevant to the preparation of this document, and submit electronic copies of each document to the District for review and approval. Consultant will also submit a table listing the District's comments on the Administrative Final EIR and how the comments were addressed (e.g., change made, change not made and rationale). Consultant will also submit an up-to-date mailing list for use in distributing the Final EIR.

### **Task 12—Deliverables**

1. Camera-ready Final EIR (3 bound hard copies and one electronic copy)
2. Table listing District comments on Administrative Final EIR and how the comments were addressed



## **SCHEDULE E (ENVIRONMENTAL SERVICES) SCOPE OF SERVICES**

3. Draft stand-alone MMRP (electronic copy)
4. Mailing list for Final EIR distribution (electronic copy)

### **Task 13—Final EIR and Stand-Alone MMRP**

Consultant will revise the camera-ready Final EIR to respond to District comments and submit the Final EIR and stand-alone MMRP. The Final EIR will contain all of the elements required by CEQA Guidelines §15120 through 15132 and be consistent with all regulations and law relevant to the content of this document.

### **Task 13—Deliverables**

1. Final EIR (50 bound hard copies, one camera-ready copy, and one electronic copy in PDF format on CD)
2. Stand-alone MMRP

### **Task 13—Assumptions**

1. Scope of work assumes that comments on the Camera Ready Final EIR will be primarily related to document layout, format, and editing, and that no substantive revisions of technical analysis will be required.

### **Task 14—Notice of Determination (NOD) and Findings of Fact and Statement of Overriding Considerations**

- 14.1 Preparation of Draft Certification Materials.** Consultant will prepare draft certification materials, including draft NOD conforming to CEQA Guidelines §15094, Project Description, draft Findings of Fact for each significant impact, Findings Regarding Alternatives, and if necessary, Statement(s) of Overriding Considerations conforming to CEQA Statute §21081 and 21081.5. The Statement of Overriding Considerations will express the District's reasons for approving a Project that would have significant, unavoidable impacts on the environment. The Statement of Overriding Considerations will be based on supporting evidence in the administrative record. Both documents will be prepared consistent with all regulations and laws applicable to the content of these deliverables.
- 14.2 Preparation of Final Certification Materials.** Consultant will respond to one round of consolidated comments from the District and prepare a set of final Certification Materials for use by the District in consideration of project approval.
- 14.3 Filing of Notice of Determination.** Within five days of Project approval, Consultant will file the Notice of Determination with the County Clerk/Recorder for recording and State Clearinghouse, and mail copies of notice to those who have requested a copy. The NOD will contain: the Project description; location; date of Project approval; statement that the EIR was certified; summary of the Project's significant effects; statement of whether mitigation measures were made; conditions of Project approval; whether the findings

## **SCHEDULE E (ENVIRONMENTAL SERVICES) SCOPE OF SERVICES**

and statement of overriding considerations were adopted; and the address where the Final EIR can be reviewed.

### **Task 14—Deliverables**

1. Findings of Fact and, if necessary, Statement of Overriding Considerations (Draft and Final) (electronic copy)
2. Notice of Determination (electronic copy)

### **Task 14—Assumptions**

1. The District will be responsible for all other project approval materials, including staff report and resolutions.
2. The District will be responsible for facilitating legal review of all certification materials.
3. District will provide all filing fees, including CDFW NOD Filing Fee.

### **Task 15—Assist with Public Hearing and Certification of EIR**

The Consultant will attend the Board of Directors hearing scheduled to consider certifying the EIR and approval of the Project. For this meeting, the Consultant will assist in the preparation of materials and answer questions from the District Board of Directors.

### **Task 15—Deliverables**

1. PowerPoint or other materials to support staff presentation of the project to the Board of Directors for consideration
2. Meeting notes and public comments (electronic)

### **Task 15—Assumptions**

1. Consultant will support staff in the presentation of the project to the Board of Directors.
2. One consolidated round of comments on all materials generated for the Certification Hearing.
3. Hearing will be recorded for administrative record.

### **Task 16—Draft and Final Environmental Permit Applications**

Consultant will prepare draft applications for the environmental permits listed below and submit the applications to District for review. The draft applications will be based on the Project alternative selected by the District. After the District provides comments on the draft applications, Consultant will revise the draft applications and submit the revised documents to District for use in securing regulatory approvals. Consultant will assist District in responding to questions or comments from the regulatory agencies.

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### **Task 16.1—Regulatory and Local Agency Consultation**

- A. District will act as the primary contact with regulatory and local agencies for the Project. The regulatory agencies are as follows:
  - 1. United States Army Corp of Engineers (USAGE)
  - 2. Regional Water Quality Control Board (RWQCB)
  - 3. California Department of Fish and Wildlife (CDFW)
  - 4. United States Fish and Wildlife Service (USFWS)
  - 5. The National Marine Fisheries Service (NMFS)
- B. At the District's direction, Consultant will assist the District in planning and attending up to one (1) pre-application consultation meeting and three (3) post application consultation meetings with each regulatory agency either at their offices in Sacramento or the San Francisco Bay Area. At these meetings, Consultant will be responsible for developing and distributing meeting notes. The objective of this task will be to provide opportunities for agency feedback on the Project design alternatives and potential mitigation measures so that the impacts and mitigation developed for the CEQA document will be consistent with the anticipated permitting requirements.
- C. Consultant shall perform the following activities associated with this task:
  - 1. Discuss past regulatory requirements and work known by District staff to be applicable to this Project.
  - 2. Meet early in the design process with the District and the regulators to understand regulatory requirements.
  - 3. Attend District meetings and teleconferences with regulators.
  - 4. Prepare notes for the meetings described above attended by Consultant.
  - 5. Assist the District to address regulatory requirements through providing calculations, and/or providing analysis and data in applications required by the regulatory agencies.
  - 6. Advise the District on regulatory agencies, issues and/or requirements not identified by the District that pertain to the Project and provide guidance with contacts and requirements pertaining to the regulatory concern(s) to address. If necessary, Consultant will provide a Permitting Agency Strategy Memorandum that will outline Consultant's advice.

### **Task 16.1—Deliverables**

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1. Meeting Agendas (paper and electronic) and Meeting Notes (electronic)
2. Permitting Agency Strategy Memorandum (electronic); and Meetings with permitting regulators (up to 4 per regulatory agency)

### **Task 16.2—Cultural Resources Extended Subsurface Survey and Report**

- A. **Subsurface Survey.** To support the Section 106 effort for USACOE 404 permit and/or SWRCB SRF Loan requirements, it is anticipated that subsurface exploration of specific locations will be required. It is assumed that USACOE will take the lead in Section 106 consultation, and SWRCB staff will have requested documentation that consultation has been completed. The following scope of work for subsurface survey assumes four locations along proposed facilities. The Subsurface Survey would include the following:
1. Based on the results of the records search, geoarchaeological assessment, communication with Native Americans, and the results of the Phase I surface survey, ESA will prepare an Extended Phase I (XPI) Work Plan. Based upon preliminary review of proposed facility routes, it is anticipated that four survey locations would be required. The XPI Work Plan will include the investigation methods in the APE within a 300-foot radius of previously recorded archaeological resource or in areas that based on the geoarchaeological assessment may have the potential to contain buried archaeological resources. The XPI investigation will be aimed at identifying the presence or absence of subsurface archaeological site components only within the project APE. The preferred method for subsurface investigation consists of mechanical coring with a truck-mounted hydraulic core sampler. Mechanical coring is recommended as the appropriate investigation method because it provides sufficient horizontal coverage to make a presence/absence determination, allows for investigation to depths consistent with the depth of ground disturbance associated with project construction, and ensures the least amount of disturbance to archaeological site components in the event any are encountered.
  2. Consultant will complete the XPI as outlined in the Work Plan. Two Consultant archaeologists will be present during all fieldwork. A professional drilling subcontractor will supply the coring equipment. Traffic safety will be provided during all in-road work. USA Underground Alert will inspect all coring locations for underground utilities at least 48 hours in advance of work. A private utilities investigator may also be contracted as deemed necessary. Cores will be placed in the APE only in areas that have been cleared of utilities. If the area of investigation is located on public right-of-way the appropriate permits will be obtained to conduct the investigation. Permit fees are not included in the following cost estimate and will be provided for separately by the District.
- B. **Surface Survey Report.** In compliance with the requirements of using CHRIS and for Section 106 compliance, Consultant will prepare a combined Phase I / XPI Cultural Resources Survey Report documenting the methods and findings of the pre-field screening analysis, communication with Native Americans, maps, and the

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results of surface and subsurface investigations. The report will include an artifact catalog, an analysis of items collected, and interpretations of resources within a regional and local context. The report will also provide additional recommendations as deemed necessary for archaeological and Native American monitoring in Environmentally Sensitive Areas or any additional actions including development of a Historic Properties Treatment Plan. Consultant will prepare the report according to the inventory requirements of California Office of Historic Preservation. Consultant will submit one electronic draft copy to the agency for review. Consultant will submit final copies of the report to the agency for Section 106 compliance and the CHRIS.

### **Task 16.2—Deliverables**

1. Draft and Final Work Plan
2. Draft Extended Survey Report
3. Final Extended Survey Report

### **Task 16.2—Assumptions**

1. Four subsurface survey locations would be assessed. For costing purposes, a survey cost of \$10,000 per survey location is assumed. Both the number of survey locations, and the cost of survey implementation, would be confirmed upon the authorization of this task.
2. No buildings or structures (including bridges) are within the project APE. If such resources are identified during the survey effort they can be recorded and evaluated under a separate scope and budget.
3. The federal lead agency will conduct formal Native American consultation as required under 36 CFR 800.3.
4. The Phase 1 and XPI Cultural Resources Survey Reports will provide *preliminary* resource eligibility evaluations. In the event the proposed project will not avoid identified resources, formal eligibility evaluations and consideration of adverse effects will be recommended.

### **Task 16.3—United States Fish and Wildlife Service (Biological Assessment)**

- A. The Consultant will prepare a biological assessment (BA) to support the Endangered Species Act Section 7 consultation between the US Army Corps of Engineers (USACE) with the US Fish and Wildlife Service (USFWS). Consultant will prepare two administrative drafts and one final version of the BA.
- B. The BA will address the potential for the District's Project to result in "take" of listed species regulated by USFWS, adverse modification of their habitat, and adverse effects on designated critical habitat.

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- C. Consultant will use the District's existing documentation of resources and habitat level studies to evaluate potential impacts to biological resources within the Project area and vicinity.
- D. The BA will address each federally listed species and/or critical habitat under the jurisdiction of USFWS with moderate to high likelihood of occurrence in the Project vicinity and will incorporate the following components:
  - 1. Analysis of direct, indirect, and cumulative effects of actions affecting listed species and designated critical habitat.
  - 2. Identification of the potential for "take" of listed species, adverse modification of critical habitat, and the avoidance and minimization measures proposed by the District to avoid or minimize potential effects to the extent practicable.
  - 3. Description of the monitoring and reporting programs necessary to evaluate whether the authorized amount or extent of take is approached or exceeded.
  - 4. Where appropriate, identification of additional actions that would assist in species conservation and are tied to tasks identified in recovery plans. The additional actions may be incorporated, as necessary, as Conservation Recommendations in the Biological Opinion.

### **Task 16.3—Deliverables**

- 1. Draft Biological Assessment (Administrative Draft and Draft)
- 2. Final Biological Assessment

### **Task 16.4—Valley Habitat Plan Application**

Drawing on the information collected and summarized in the Biological Resources Report (Task 3), the Consultant will complete the VHP application, including the calculation of special impact fees required for compliance, and all backup figures, GIS files, reports or documentation needed.

### **Task 16.4—Deliverable**

- 1. VHP Application package (Draft and Final)

### **Task 16.5—National Marine Fisheries Service (Biological Assessment)**

- A. The Consultant will prepare a Biological Assessment (BA) to facilitate Section 7 consultation with the NMFS regarding potential impacts to those species under NMFS Jurisdiction, including but not limited to Central California Coast Steelhead DPS that are present in the Project area and that could be impacted by the Project. Consultant will prepare two administrative drafts and one final version of the BA and will conduct two meetings with NMFS and the District in preparation of the BA. BA

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will be based on existing fisheries information; focused fisheries surveys are not necessary. The BA will address downstream flows during construction. The BA will also address the potential for the District's Project to result in "take" of listed species regulated by NMFS, adverse modification of their habitat, and adverse effects on Essential Fish Habitat (EFH), as defined by Section 9 of the federal Endangered Species Act (ESA) and the EFH provisions of the Magnuson-Stevens Act.

- B. The BA will address each federally-listed species and/or critical habitat under the jurisdiction of NMFS and will incorporate the following components:
1. Detailed analysis of direct, indirect, and cumulative effects of actions affecting waters of the United States, associated listed species, critical habitat, and selected EFH species (as applicable).
  2. Identification of the potential for "take" of listed species, adverse modification of critical habitat, and adverse effects to EFH (as applicable), and specific avoidance and minimization measures to ensure that effects are avoided and minimized to the extent practicable.
  3. Where appropriate, identification of additional actions that would assist in species conservation and are tied to tasks identified in recovery plans. The additional actions may be incorporated, as necessary, as Conservation Recommendations in the Biological Opinion.
  4. Description of the monitoring and reporting programs necessary to assure NMFS that they will know when the authorized amount or extent of take is approached or exceeded.

#### **Task 16.5—Deliverables**

1. Draft Biological Assessment (Administrative Draft and Draft)
2. Final Biological Assessment

#### **Task 16.6—Prepare Draft Permit Applications**

- A. **Master Permitting Project Description.** Consultant will work with the District to prepare a Master Permitting Project Description, based on the Project as described at the time of the Draft EIR publication, and tailored to meet the needs of each of the regulatory agencies. The Master Permitting Project Description will describe all Project components to a level detailed enough to support the suite of permits discussed below. Only the relevant portions of the Master Permitting Project Description will be incorporated into these permit applications as appropriate per regulatory guidance.
- B. **Draft Permit Applications.** The Consultant will prepare draft permit applications for compliance with applicable regulations for the following agencies:

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### **1. United States Army Corps of Engineers (USACE) Nationwide Permit-**

Consultant will prepare the following items in support of the USACE permit application:

- a. Cover Letter. The cover letter will briefly describe the Project and the Project activities that are subject to permitting. The cover letter will describe the contents of the permit application binder.
- b. Engineer Form 4345, Application for Standard Permits. This is the standard permit application form for USACE permits. (4) Public Notice. Consultant will draft a public notice for USACE's use in the Public Noticing Process.
- c. The Biological Assessments prepared under tasks 16.3 and 16.5 will support consultation with the USFWS and NMFS. The cultural resources investigations will be incorporated into the USACE permit application along with the jurisdictional delineation prepared under Task 3.
- d. Response to comments on USACE Public Notice for Individual Permit.

### **2. San Francisco Bay RWQCB for waste discharge requirements (WDR) Under the state Porter-Cologne Water Quality Control Act and a water quality certification (WQC) under Section 401 of the CWA**

Consultant will prepare the following items in support of the RWQCB permit application:

- a. Cover Letter. The cover letter will briefly describe the Project and the Project activities that are subject to permitting. The cover letter will describe the contents of the permit application binder.
- b. Form R2C502-E, Application for 401 WQC and/or Report of Waste Discharge. This is the standard permit application form for RWQCB 401 WQC and/or WDR. Consultant support will include answering technical questions, providing data regarding jurisdictional area boundaries, strategizing with the District, preparing figures, and/or attending meetings.
- c. Supplemental Information. Supplemental information will be provided by Consultant as identified in collaboration with the RWQCBs during the initial consultation meeting or other communications.

### **3. California Department of Fish and Wildlife (CDFW) Section 1600 Lake and Streambed Alteration Agreement (LSAA).** Consultant will prepare the following items to support acquisition of the LSAA:

- a. Cover Letter. The cover letter will briefly describe the Project and the Project activities that are subject to permitting. The cover letter will describe the contents of the permit application binder.



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- b. Form FG2023, Notification of Lake or Streambed Alteration. This is the standard permit application form for a Streambed Alteration Agreement. Consultant support will include answering technical questions, providing data regarding jurisdictional area boundaries, strategizing with the District, preparing figures, and/or attending meetings to provide input.
- c. Supplemental Information. Supplemental information will be provided by Consultant as identified in collaboration with the CDFW during the initial consultation meeting or other communications.

**C. Administrative Draft Permit Package.** Applications will be submitted by Consultant to the relevant regulatory and local agencies in hard copy binders, with copies provided to the District. For each application, the Consultant will first prepare an Administrative Draft version of the binders/documents for review by the District.

**D. Mitigation and Monitoring Plan Technical Memorandum**

- 1. The proposed Project is likely to require some form of on-site or off-site habitat compensation to address impacts to sensitive biological resources, including wetlands, as well as impacts to special-status species. In coordination with the District and the natural resource permitting agencies, the Consultant will develop a preliminary set of compensation options to address temporary and permanent biological resource impacts. Consultant will include review and incorporate, as appropriate, any existing mitigation concepts developed by the District or identified in the Valley-wide HCP document.
- 2. A two-step process will be implemented:
  - a. Compile and summarize the available information from the District and other sources for presentation at a meeting with the District and regulatory agencies. The purpose of this meeting will be to refine and narrow the options for further consideration.
  - b. Prepare a draft Technical Memorandum that summarizes the habitat mitigation options that are recommended for further conceptual design. The technical memorandum will address:
    - (1) Mitigation goals and objectives
    - (2) On-site and off-site locations that could provide potential mitigation for impacts to wetlands, waters, riparian and upland habitats and special-status species. A tabular summary of the locations will describe the area of the mitigation site, existing habitat conditions and the potential to create, rehabilitate, or preserve habitats that would offset impacts of the proposed Project.
    - (3) Project areas that could be revegetated and rehabilitated after completion of construction.

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- (4) Long term monitoring, reporting, adaptive measures, and maintenance activities.
  - (5) Performance and final success criteria.
  - c. This memorandum will provide the basis for development of a detailed conceptual habitat mitigation design as directed by the District and the regulatory agencies to meet the permitting needs.
  - d. Consultant will conduct one meeting with the resource agencies at the District's or regulators' offices to discuss the habitat mitigation opportunities and possible development of mitigation design drawings and specifications. A final Habitat Mitigation and Monitoring Plan will be required by the permitting agencies.
- E. Draft Permit Application.** Based on District comments, the Consultant will revise the Admin Draft applications. The applications will be finalized by Consultant for submittal to the regulatory agencies. Consultant will provide five (5) bound hard copies, plus an electronic version of each draft permit application.
- F. Permit Response/Request for Information.** Consultant will provide one substantial response (electronic or hard copy) to each agency request for additional information, if necessary. Consultant's scope of work assumes a total of 100 hours for this task.

### **Task 16.6—Deliverables**

- 1. Up to four Initial Consultation Meetings for each regulatory agency
- 2. Meeting Agendas (paper and electronic)
- 3. Meeting Notes (electronic)
- 4. Administrative Draft Permit Application Packages (electronic). Permits include:
  - a. USACE Section 404 Individual Permit, including Cover Letter, Completed Engineer Form 4345, NEPA environmental assessment, Public Notice, and 404(b)(1) Alternatives Analysis if required
  - b. San Francisco Bay RWQCB 401 WQC/WDR, including San Francisco Bay Regional Water Quality Control Board cover letter (electronic copy) and Form R2C502-E, Application for 401 WQC and Report of Waste Discharge, and supplemental information requested by the RWQCB
  - c. CDFW LSAA, including California Department of Fish and Wildlife cover letter, Form FG2023, and supplemental information
  - d. MMRP Technical Memorandum

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5. Draft and Final Application Packages (5 bound hard copies of each permit, plus an electronic version). Permits include:
  - a. USACE Section 404 Individual Permit/404(b)1 Alternatives Analysis
  - b. San Francisco Bay RWQCB 401 WQC/WDR
  - c. CDFW LSAA
  - d. MMRP Technical Memorandum

### **Task 16—Assumptions**

1. The District will be responsible for all applicable permit fees.
2. Preparation of single biological assessments for USFWS and for NOAA Fisheries to complete Section 7 consultation for all proposed facilities.
3. 12 individual stream crossing locations requiring permits from USACE, CDFW and RWQCB.
4. USACE Nationwide 12 permits for utility crossings at individual stream channel locations will be appropriate, and that a Corps Individual Permit and 404(b)(1) Alternatives Analysis will not be required.
5. District will provide adequate design information to support regulatory permitting, including temporary and permanent disturbance and placement of fill, and that project designs will not change following permit project description review.

### **Task 17—Prepare Environmental Application Package for CEQA-Plus Compliance**

- A. Consultant will provide environmental services to support the District's environmental application for the State Water Resources Control Board (SWRCB) Clean Water State Revolving Fund (CWSRF). In particular, Consultant will complete the CWSRF Environmental Package of the Financial Assistance Application, which addresses the following topics:
  1. Federal Endangered Species Act
  2. Magnuson-Stevens Fishery Conservation and Management Act
  3. National Historic Preservation Act
  4. Federal Clean Air Act
  5. Coastal Barriers Resources Act
  6. Farmland Protection Policy Act
  7. Flood Plain Management
  8. Migratory Bird Treaty Act
  9. Protection of Wetlands
  10. Wild and Scenic Rivers Act
  11. Safe Drinking Water Act, Sole Source Aquifer Protection
- B. Of the above topics, it is anticipated that additional analysis and documentation will be required by the SWRCB in order to facilitate compliance determinations with the

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Federal Endangered Species Act, National Historic Preservation Act, and Federal Clean Air Act. Consultant will complete following tasks to address these issue areas.

1. *Environmental Application:* Consultant will complete the draft and final Environmental Package of the Financial Assistance Application and provide supporting documentation for each of the environmental topics, as outlined below. Consultant will utilize information from the EIR to fill out the application, as applicable. Consultant will respond to one round of comments from the District, and will prepare an application ready submittal package. Following submittal, this scope includes one (1), one-hour conference call with SWRCB staff to review documentation and address questions. After receiving SWRCB comments and questions, Consultant will update Environmental Package, submit to the District for one additional round of review, and prepare a final Environmental Package.
2. *Cultural Resources Section 106 Consultation Support:* Consultant will prepare a Technical Memorandum utilizing the information from the Phase I and Phase 2 Archaeological and Architectural Resources Survey Report (AARSR) and Extended Subsurface Survey Report to address project-specific effects on prehistoric and historic/architectural resources.
3. *Biological Resources: Section 7 Consultation Support:* Consultant will prepare a Technical Memorandum utilizing the Biological Resources Report prepared under Task 2, as applicable, that will review the project sites relative to sensitive species and checklist topics relating to biological resources, including the Migratory Bird Treaty Act and Wetlands. The Technical Memorandum will also include an updated federal and state species list if appropriate.
4. *Federal Air Conformity Analysis:* Utilizing the air quality analyses information from the EIR, Consultant will prepare a Technical Memorandum explaining the applicability of the General Conformity Rule under the Federal Clean Air Act. The memorandum will include the following: (1) Review of the project area relative to National Ambient Air Quality Standards attainment status; (2) Calculation of project-emissions resulting from construction, with consideration of the type of equipment and construction phasing, and operation information, consistent with the URBEMIS methodology; (3) Review of project-related emissions relative to federal de minimis levels for the following constituents: reactive organic gases (ROG) and nitrogen Oxides (NO<sub>x</sub>), the precursors for ozone, carbon monoxide (CO), volatile organic compounds (VOC), and particulate matter less than 2.5 microns in diameter and less than 10 microns in diameter (PM 2.5 and PM 10), and sulfur dioxide; and (4) Conclusion regarding General Conformity determination.

### **Task 17—Deliverables**

1. Draft Environmental Application with supporting technical studies (i.e., Draft combined Phase I / XPI Cultural Resources Survey Report, Draft Biological Resources Memo, Draft Federal Air Conformity Technical Memo) (electronic) report according to the inventory requirements of California Office of Historic Preservation. Consultant will submit one

## **SCHEDULE E (ENVIRONMENTAL SERVICES) SCOPE OF SERVICES**

electronic draft copy to the agency for review. Consultant will submit final copies of the report to the agency for Section 106 compliance and the CHRIS.

2. Final Environmental Application with supporting technical studies (i.e., combined Phase I / XPI Cultural Resources Survey Report, Biological Resources Memo, Federal Air Conformity Technical Memo) (Two hard copies and 1 electronic copy of application and supporting materials).

### **Task 17—Assumptions**

1. It is assumed that the SWRCB will consult directly with the State Historic Preservation Office (SHPO) and either Consultant or District will prepare all necessary correspondence for SWRCB signature.
2. This Task assumes that no additional field surveys will be needed.

### **Task 18—Supplemental Services**

All subtasks listed below in Task 18 are Supplemental Services. The District may require, and the Consultant shall perform, Supplemental Services on an as-needed basis. Prior to performing any Supplemental Services, Consultant must receive a Task Order issued by the District.

#### **Task 18.1—NEPA Strategy**

Consultant shall assist the District Program Manager in the review and identification of a NEPA strategy relative to proposed facilities and funding opportunities identified by the District. The NEPA Strategy Memorandum shall identify the project as proposed by the District, funding opportunities, and potential compliance mechanisms. The NEPA Strategy Memorandum will identify supplemental service to be engaged for completion of a CEQA/NEPA process, as appropriate. If NEPA Compliance is required the Consultant shall identify and, pending written approval from District, conduct NEPA compliance activities, as appropriate for the Project.

#### **Task 18.1—Deliverable**

1. Draft and Final NEPA Strategy Memorandum

#### **Task 18.2—Photo Simulations**

- A. Consultant will prepare up four photo simulations of the proposed Project alternatives. Existing and proposed conditions will be simulated from key public viewpoints/Key Observation Points (KOPs) selected in coordination with District staff. Selection of the KOPs is a critical path for this task, and Consultant will coordinate with the District to verify the proposed KOP locations are acceptable.
- B. Once the KOPs are approved, Consultant will prepare the visual simulations using current ground-level photographs of the Project Area taken by the consultant from the KOPs. Consultant will use a high-resolution digital camera to obtain photographs. The photo simulations will use high-quality continuous tone color prints. Consultant will

## **SCHEDULE E (ENVIRONMENTAL SERVICES) SCOPE OF SERVICES**

revise the draft photo simulations in response to District comments and prepare final photo simulations.

### **Task 18.2—Deliverables**

1. Recommended KOPs for approval.
2. Up to four draft photo simulations of approved KOPs.
3. Revised photo simulations of approved KOPs based on District comments.

### **Task 18.3—Assembly Bill 52 Consultation/Additional Subsurface Survey**

- A. Consultant will initiate Assembly Bill 52 consultation through distribution of correspondence to the tribes and individuals identified by the Native American Heritage Commission, but government to government consultation will be conducted between the tribes and the District, as the lead agency. The consultation will also be used in support of Section 106 compliance as required. Consultant can provide assistance, as needed, to the District for AB 52 compliance, including staff education as to their roles and responsibilities, and participation in two on-site visits to meet with interested tribes.
- B. This task also provides for six additional subsurface survey locations should the need be identified under the cultural resources portion of Task 2.5, Conduct Field Investigation. These survey locations are in addition to the four survey locations identified under Task 16.2.2 Surface Survey Report. For costing purposes, a survey cost of \$10,000 per survey location is assumed. Both the number of survey locations, and the cost of survey implementation, would be confirmed upon the authorization of this task. Survey results would be integrated into Cultural Resources Survey Report under Task 16.2.2 Surface Survey Report.

### **Task 18.3—Deliverables**

1. Distribution of correspondence to tribes and individuals identified by the NAHC.
2. Participation in two on-site visits to meet interested tribes.

### **Task 18.4—Prepare USACE Individual Permit Application**

- A. Consultant will prepare the following items in support of the USACE Individual permit application, if required based upon project impacts.
  1. Cover Letter. The cover letter will briefly describe the Project and the Project activities that are subject to permitting. The cover letter will describe the contents of the permit application binder.
  2. Engineer Form 4345, Application for Standard Permits. This is the standard permit application form for USACE permits, including Individual Permits.

## **SCHEDULE E (ENVIRONMENTAL SERVICES) SCOPE OF SERVICES**

3. 404(b)(1) Alternatives analysis and Environmental Assessment (if necessary). If the Project requires an Individual Permit, Consultant will prepare a single document containing, (1) an alternatives analysis pursuant to CWA Section 404(b)(1), and (2) an analysis of compliance with the National Environmental Policy Act (NEPA). The alternatives analysis will identify the least environmentally damaging practicable alternative. These two analyses are not necessary if the Project requires a Nationwide Permit. Thus, if the Project requires a Nationwide Permit, Consultant would not prepare any documentation related to CWA Section 404(b)(1) or NEPA.

### **Task 18.5—Prepare NEPA EIS**

The following task is provided in the event the District acquires federal funding for the proposed project. The Consultant's scope of work would assume that the District would participate in Title XVI and that the Bureau of Reclamation (Reclamation) would be the federal lead agency. Similar to other Task 18 subtasks, prior to performing these services, Consultant must receive a Task Order issued by the District. The tasks below would be implemented as add-ons to Tasks 6 through 15, and would be consolidated with the relevant CEQA tasks as appropriate.

#### **Task 18.5.1—Alternatives Development**

Both NEPA and CEQA require that a reasonable range of alternatives be rigorously explored and objectively evaluated; for NEPA, alternatives are required to be examined at an equal level of detail as the proposed action. Consultant will work with the Reclamation and District in order to develop an accurate Purpose and Need statement and list of key Project Objectives. These will serve to frame the range of alternatives to be included for analysis. Working with the Reclamation and District, Consultant will develop a range of alternatives for consideration that satisfy the requirements of NEPA and CEQA, including whether potential alternatives would:

1. Avoid, reduce, or cause greater effects to human/environmental resources associated with the proposed action.
2. Be feasible to construct, operate, maintain, and decommission from a legal, regulatory, and technical perspective.
3. Be consistent or in conflict with the objectives of federal, state, regional, and local land use plans, policies or regulations for the affected area or resources.
4. Reasonably foster informed decision making and meaningful public participation.

#### **Task 18.5.2—NEPA/CEQA Analysis Methodology**

Consultant will prepare a draft impact analysis methodology for review by the Reclamation and District prior to conducting a full-scale analysis identifying both the NEPA and CEQA baselines. Where necessary, Consultant's resource specialists will work with counterparts at Reclamation and District to resolve resource-specific methodology questions.

#### **Task 18.5.2—Deliverable**

1. Draft Impact Analysis Methodology.

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### Task 18.5.3—Administrative Draft EIR/EIS

Consultant will prepare and submit an Administrative Draft EIR/EIS (ADEIR/EIS) assessing the environmental and human effects of the project for review by the Reclamation and District. The ADEIR/EIS will incorporate information developed from internal and external scoping, alternatives development, preliminary analysis of management situation and effects analysis. The Preliminary Draft will be prepared in accordance with NEPA, Reclamation's NEPA Handbook, CEQA, and the CEQA Guidelines and include the following additional sections:

- A. **Cover Sheet.** This sheet will include the project title, identify the appropriate Reclamation and CEQA signatories, publication index number, State Clearing House number and NEPA tracking number.
- B. **Dear Reader Letter.** This letter will describe the type of NEPA/CEQA document that has been prepared, the proposed NEPA/CEQA action, a summary of alternatives considered, and a summary of the NEPA/CEQA comment process.
- C. **Abstract.** This section will include a brief summary of the project, proposed action, and alternatives, as well as brief descriptions of the major chapters in the EIR/EIS.
- D. **Introduction, Purpose and Need and Basic Project Objectives.** This section will include a brief overview of the project, discussion of the Reclamation's purpose and need, CEQA Project Objectives, agency authorizing laws and regulations, the project's relationship to Reclamation's policies, plans and programs, interagency coordination, and issues from the scoping process to be analyzed in the EIR/EIS.
- E. **Alternatives Including the Proposed Action.** This section will include an overview of the alternatives development process, a description of the project, any connected or similar actions, and alternatives to the project, a comparison of alternatives, and identification of the Agency Preferred Alternative.
- F. **Affected Environment.** The setting sections will provide sufficient background information, quantitatively whenever possible, to characterize existing environmental conditions that could be affected by the project to provide a baseline for the analysis of each topic area. The setting sections will describe the regulatory background for the particular resource. The information will be limited to what is necessary to understand the effects of the project and alternatives.
- G. **Environmental Consequences.** The analysis of direct, indirect, and cumulative impacts will include all issues and content identified in the CEQA Scope of Services, further developed and refined through internal and external scoping. Consultant will describe the cumulative scenario on a resource-by-resource basis including the geographic and temporal areas of concern for each resource, and particular project elements to consider, in the context of other Reclamation Title XVI projects, authorized actions, County projects, and other activities.
- H. With input from relevant agencies, where necessary, Consultant will also develop the methodology to be used to conduct the resource-specific impacts analysis including



## **SCHEDULE E (ENVIRONMENTAL SERVICES) SCOPE OF SERVICES**

disclosing any disputes over information used. The geographic and temporal scope of the analysis will be described. Consultant will then analyze direct, indirect, and cumulative short-term and long-term effects for the Project, alternatives, and cumulative scenario. The EIR/EIS will also disclose beneficial and detrimental effects. The analysis will focus on the context, intensity and duration of effects. Where possible, the increment of change between baseline and post-Project conditions will be quantified. Impacts will be presented in a logical discussion that the general public can understand. Feasible mitigation measures will be identified, and residual impacts after implementation of mitigation measures will be discussed. Unavoidable adverse impacts will also be discussed.

- I. **Other NEPA Sections.** In addition to the sections referenced above, Consultant will provide all other required NEPA sections such as irreversible or irretrievable commitment of resources, and short term use versus long term productivity of the environment. Administrative Draft EIR/EIS and other NEPA sections.

### **Task 18.5.3—Deliverables**

1. Draft Project Description (electronic)
2. Revised Project Description (electronic), including alternatives development process
3. Administrative Draft EIR/EIS (10 bound hard copies, and one electronic copy)

### **Task 18.5.3—Assumptions**

1. Same assumptions as Task 7 Administrative Draft EIR 2.
2. District and Reclamation will provide one round of consolidated comments on each deliverable. Additional comment rounds can be accommodated on a time and materials basis.

### **Task 18.5.4—Administrative Draft EIR/EIS 2**

Consultant will revise the Administrative Draft EIR/EIS in response to District and Reclamation comments and prepare the Administrative Draft EIR/EIS 2 and MMRP. The Consultant will meet with District and Reclamation to discuss comments and agree on the appropriate responses and revision to analysis and conclusions. The Consultant will submit the Administrative Draft EIR/EIS 2 to the District and Reclamation for review. Consultant will also submit a table listing the District and Reclamation comments on the Administrative Draft EIR/EIS and the handling of those comments (e.g., change made, change not made, and rationale).

### **Task 18.5.4—Deliverables**

1. Administrative Draft EIR/EIS 2 (10 bound hard copies, and one electronic copy)
2. District and Reclamation Comment Table

## **SCHEDULE E (ENVIRONMENTAL SERVICES) SCOPE OF SERVICES**

### **Task 18.5.5—Camera-Ready Draft EIR/EIS**

Consultant will revise the Administrative Draft EIR/EIS 2 in response to District and Reclamation comments and prepare the Camera-Ready Draft EIR/EIS and MMRP. The Consultant will meet with District and Reclamation (if necessary) to discuss comments and agree on the appropriate responses to those comments. The Consultant will submit the hard and electronic copies of the Camera-Ready Draft EIR/EIS and MMRP to the District and Reclamation for review and approval prior to printing the Public Draft EIR/EIS for circulation. The camera-ready document will include changes recommended by the District and Reclamation during the review of the Administrative Draft EIR/EIS. Consultant will also submit a table listing the District and Reclamation comments on the Administrative Draft EIR/EIS and the handling of those comments (e.g., change made, change not made, and rationale). Consultant will include in the Camera-Ready Draft EIR/EIS the MMRP as an appendix.

### **Task 18.5.5—Deliverables**

1. Camera Ready Draft EIR/EIS and MMRP (3 bound hard copies, and one electronic copy in PDF format on CD)
2. Table listing District comments on Administrative Draft EIR/EIS and handling of those comments

### **Task 18.5.6—Draft EIR/EIS**

Consultant will revise the Camera-Ready Draft EIR/EIS based on comments from the District and Reclamation to prepare the Draft EIR/EIS. Consultant will submit hard and electronic copies of the Draft EIR/EIS to the District and Reclamation. The Draft EIR/EIS will contain all of the elements required by CEQA Guidelines §15120 through 15131, Reclamation's NEPA Guidebook, and all regulations and laws relevant to the document prepared pursuant to this task.

### **Task 18.5.6—Deliverables**

1. Draft EIR/EIS (50 bound hard copies, one camera-ready hard copy, and one electronic copy in PDF and MS Word format on CD) that is compliant with Section 508 of the Rehabilitation Act of 1978 as amended by the Workforce Investment Act of 1998 (Section 508).
2. Administrative Record and Materials

### **Task 18.5.6—Assumption**

1. Comments on the camera-ready Draft EIR/EIS will be primarily related to document layout, format, and editing, and that no substantive revisions of technical analysis will be required.

## **SCHEDULE E (ENVIRONMENTAL SERVICES) SCOPE OF SERVICES**

### **Task 18.5.7—Public Review of the Draft EIR/EIS**

Consultant will assist Reclamation in conducting public review of the Draft EIR/EIS in conformance with Reclamation's NEPA Handbook and all regulations and laws applicable to the services performed as described in this task.

**18.5.7.1—Notice of Intent.** Consultant will prepare and submit to Reclamation a Notice of Intent to Adopt.

**18.5.7.2—Coordination for Upload to Department of Interior Webpage.** Consultant will coordinate review and upload of Draft EIR/EIS for public review.

### **Task 18.5.7—Assumption**

Same assumptions as Task 10 Public Review of the Draft EIR.

### **Task 18.5.8—Responses to Public and Agency Comments on Draft EIR/EIS, Administrative Final EIR/EIS**

After the close of the public comment period on the Draft EIR/EIS, the District and Reclamation will provide the Consultant with a complete copy of all comments. Consultant will organize comments received and prepare an Administrative Final EIR/EIS containing responses to comments.

#### **18.5.8.1—Responses to Comments Report**

Consultant will receive and organize comments received on the Draft EIR/EIS, including comments received at the public hearing. Following review of the letters, the Consultant will discuss the approach to developing responses, resulting in agreement on the approach for the comments. The Consultant will prepare responses for comments and submit these to the District in a Response to Comments Report for review. The District and Reclamation will provide a set of consolidated comments on the Response to Comments Report. Based on District and Reclamation comments, the Consultant will revise the response to comments to develop a Final Response to Comments. The final Response to Comments Report will be included in the Final EIR/EIS. Consultant will enter all comments into a database organized by topic area which lists the comments, persons or organization commenting, and recommended changes to the Draft EIR/EIS. Consultant will submit the database to the District and Reclamation in electronic format.

#### **18.5.8.2—Administrative Final EIR/EIS**

Consultant will prepare an Administrative Final EIR/EIS containing copies of the comment letters received on the Public Draft EIR/EIS, a specific response to each comment, and any text edits to the Draft EIR/EIS as a result of the public comments. Consultant will carefully review the Administrative Final EIR/EIS to ensure revisions that affect more than one portion of the document are changed throughout, that technical analysis in the various topic areas are based on consistent assumptions and inputs, and that the document is internally consistent. Additionally, Consultant will update the MMRP will to reflect any changes to mitigation measures. The Consultant will prepare and submit an electronic copy of the AFEIR/EIS for

## **SCHEDULE E (ENVIRONMENTAL SERVICES) SCOPE OF SERVICES**

review and comment by the District and Reclamation. The District and Reclamation will provide a set of consolidated comments on the AFEIR/EIS.

### **Task 18.5.8—Deliverables**

1. Database of comments/responses on Draft EIR/EIS (electronic copy)
2. Draft Response to Comments Report (electronic)
3. Revised Response to Comments Report (electronic)
4. Administrative Final EIR/EIS (10 bound hard copies, and one electronic copy)

### **Task 18.5.8—Assumptions**

1. It is assumed that the District and Reclamation will provide comments received on a weekly basis so that Consultant can review comments as early as possible and begin to develop a strategy for responding to comments.
2. Based on the level of public interest in this project, it is assumed that up to 50 comment letters and up to 250 individual comments could be received.

### **Task 18.5.9—Camera-Ready Final EIR/EIS and Draft Mitigation Monitoring and Reporting Program (MMRP)**

Based on comments on the Administrative Final EIR/EIS received from District and Reclamation, Consultant will revise the document and prepare a camera-ready Final EIR/EIS and a draft stand-alone MMRP conforming to CEQA Guidelines §15132 and Reclamation's NEPA Handbook, as well as all regulations and laws relevant to the preparation of this document, and submit electronic copies of each document to the District for review and approval. Consultant will also submit a table listing the District and Reclamation comments on the Administrative Final EIR/EIS and how the comments were addressed (e.g., change made, change not made and rationale). Consultant will also submit an up-to-date mailing list for use in distributing the Final EIR/EIS.

### **Task 18.5.9—Deliverables**

1. Camera-ready Final EIR/EIS (3 bound hard copies and one electronic copy)
2. Table listing District comments on Administrative Final EIR/EIS and how the comments were addressed
3. Draft stand-alone MMRP (electronic copy)
4. Mailing list for Final EIR/EIS distribution (electronic copy)

### **Task 18.5.10—Final EIR/EIS and Stand-Alone MMRP**

## **SCHEDULE E (ENVIRONMENTAL SERVICES) SCOPE OF SERVICES**

Consultant will revise the camera-ready Final EIR/EIS to respond to District comments and submit the Final EIR/EIS and stand-alone MMRP. The Final EIR/EIS will contain all of the elements required by CEQA Guidelines §15120 through 15132 and Reclamation's NEPA Handbook and be consistent with all regulations and law relevant to the content of this document.

### **Task 18.5.10—Deliverables**

1. Section 508 compliant Final EIR/EIS (50 bound hard copies, one camera-ready copy, and one electronic copy in PDF format on CD)
2. Stand-alone MMRP

### **Task 18.5.10—Assumption**

1. Comments on the Camera Ready Final EIR will be primarily related to document layout, format, and editing, and that no substantive revisions of technical analysis will be required.

### **Task 18.5.11—Record of Decision (ROD)**

#### **Task 18.5.11.1—Draft Record of Decision (ROD)**

Consultant will draft a ROD following the Reclamation's approved template and include an executive summary, a summary of the Reclamation's decisions, required mitigation and monitoring, management considerations, alternative considered, agency and public involvement as well as the final agency action.

#### **Task 18.5.11.2—Final Record of Decision (ROD)**

Consultant will respond to one round of Reclamation and District comments on the Draft ROD, and will prepare a Final ROD for Reclamation processing.

#### **Task 18.5.11.3—Updated Administrative Record**

Consultant will create an indexed, subject-matter organized, and chronologically assembled administrative record that will include all relevant documents shared with or generated by Consultant related to Reclamation's decision, including those related to the EIR/EIS, Endangered Species Act Section 7 consultation, consultation and coordination pursuant to the National Historic Preservation Act Section 106 and government-to-government processes, and, if applicable the AB 900 process under California law. The Administrative Record index and materials will be provided on DVD.

### **Task 18.5.11—Deliverables**

1. Draft Record of Decision and revisions
2. Final Record of Decision, Section 508 compliant
3. All Record of Decision appendices and exhibits

## **SCHEDULE E (ENVIRONMENTAL SERVICES) SCOPE OF SERVICES**

4. Hard copy and electronic copies for distribution as required (including 508 compliance)
5. Administrative Record index and materials

### **18.6—Public Outreach**

If requested, the Consultant will provide support and assistance for the District's public outreach activities including coordination, preparation, and participation of public outreach activities, preparing presentation materials, attendance at public outreach meetings, preparation of newsletters, graphics, graphic images, flyers, door hangers, bill-stuffers, and other information as required. Consultant will also assist with updates to the Project website, developing responses to questions, apprising the public of progress made, problems solved and safety records achieved, and other tasks as directed by the DPM. Consultant will report on these activities in the monthly progress report. This Task does not include public meetings as required by the CEQA process and described elsewhere in this scope of services.

### **18.7—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 Task 1 through 17 as Task 18 Supplemental Services, to include but not be limited to:

18.7.1—Additional meetings

18.7.2—Additional time allotted for meetings

18.7.3—Additional status/progress reports

18.7.4—Additional telephone conference calls

18.7.5—Additional pages or copies of technical memorandums, plans, reports, drawings and specifications

18.7.6—Additional public outreach visual materials

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

Attachment One to Schedule E—Fees and Payments

Attachment Two to Schedule E—Schedule of Completion

Attachment Three to Schedule E—Consultant's Key Staff and Subconsultants

Attachment Four to Schedule E—Reference Materials

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**ATTACHMENT ONE  
TO SCHEDULE E  
FEES AND PAYMENTS**

**1. Total Authorized Funding.**

Total payment for Services performed, as described in the Schedule(s) will not exceed a total amount of **\$1,786,624** (Not-to-Exceed Fees or NTE). Under no conditions will the total compensation to the Consultant exceed this fixed fee 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.

**2. Retention.**

Consultant's attention is directed to Section 4.4 of the Standard Consultant Agreement regarding FEES AND PAYMENT and the corresponding retention clause. The following two paragraphs replace the retention clause stated in the Standard Agreement.

- A. Up to five (5) percent of each invoice for Tasks 1–17 will be withheld by the District and not paid to Consultant until thirty (30) calendar days after the District Project Manager signed off and accepts the final deliverables for Tasks 1–17. Provided that at any time after fifty (50) percent of the work specified in Tasks 1–17 have been completed, the District's Project Manager may, at their sole discretion, determine that satisfactory progress is being made in the completion of Tasks 1–17 and prospectively approve of the District remitting the remaining Task 1–17 progress payments in full. The retention previously withheld on the first fifty (50) percent of Tasks 1–17 will continue to be withheld until final completion, acceptance, and close-out of Tasks 1–17 by the District's Project Manager.
- B. Notwithstanding the above Section 2.A., unless otherwise specified by District, when the total compensation payable under any Task Order issued for Task 18, Supplemental Services, exceeds twenty thousand dollars (\$20,000), up to five (5) percent of each invoice will be withheld by District and not paid to Consultant until thirty (30) calendar days after the assigned District representative signs off the final approval for all services/deliverables as stated in the applicable Schedule, Attachment Two to the Schedule(s), Schedule of Completion, and Section Three, subsection 2 of this Agreement.

**3. Cost Breakdown.**

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

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**ATTACHMENT ONE  
TO SCHEDULE E  
FEES AND PAYMENTS**

**COST BREAKDOWN**

Task	Description	Total Not-to-Exceed Fees
1	Project Management	\$279,629
2	Environmental Investigations and Studies	\$101,369
3	Biological Studies/Wetland and Riparian Habitat Delineation and Mapping	\$38,026
4	Project Description and Initial Study	\$35,396
5	Notice of Preparation and Scoping	\$28,787
6	Administrative Draft EIR	\$187,938
7	Administrative Draft EIR 2	\$74,913
8	Camera-Ready Draft EIR	\$46,888
9	Draft EIR	\$33,750
10	Public Review of the Draft EIR	\$34,096
11	Responses to Public and Agency Comments on Draft EIR, Administrative Final EIR	\$119,618
12	Camera-Ready Final EIR and Draft Mitigation Monitoring and Reporting Program (MMRP)	\$41,895
13	Final EIR and Stand-Alone MMRP	\$22,234
14	Notice of Determination (NOD) and Findings of Fact and Statement of Overriding Considerations	\$9,738
15	Assist with Public Hearing and Certification of EIR	\$3,986
	<b>CEQA Total</b>	<b>\$1,058,263</b>
16	Draft and Final Environmental Permit Applications	\$227,859
17	Prepare Application Package for CEQA-Plus Compliance	\$50,502
	<b>CEQA + Permitting Total</b>	<b>\$1,336,624</b>
18	Supplemental Services	\$450,000
	<b>Total with Supplemental Services</b>	<b>\$1,786,624</b>

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**ATTACHMENT ONE  
TO SCHEDULE E  
FEES AND PAYMENTS**

**4. Terms and Conditions.**

Payments for services performed, as defined in this attached Schedule, 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 schedule of rates for professional, technical, and administrative personnel as well as materials and supplies as listed below in the Hourly/Unit Rate Schedule.
- B.** The stated hourly and unit rates listed in the Hourly/Unit Rate Table are effective for the term of this Agreement unless otherwise revised as indicated. After twelve (12) months from the Effective Date of this Agreement, and each twelve (12) months thereafter, these hourly and unit 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 and unit rates ninety (90) calendar days prior to the Effective Date of this Agreement. Both Parties will use as a benchmark for negotiations the percent change for the previous twelve (12) months of the "Employment Cost Index (ECI), for total compensation for private industry workers, for the San Francisco-Oakland-San Jose, CA CSA Census region and metropolitan area (not seasonally adjusted)" as published by the U.S. Department of Labor, Bureau of Labor Statistics, or 3% whichever is less. A negative index will result in rates remaining the same. Such rate revisions are subject to written approval by the District Deputy Officer or his/her designee.

**Reimbursable Expenses.** 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's Project Manager will be billed on a monthly basis at actual cost plus 5% percent linked to each Agreement Task, provided that the Task total NTE amount is not exceeded. Consultant shall provide receipts for each other direct expense item(s) with monthly invoices submitted.

Any equipment purchased on behalf of the District that cost \$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 submitted to District prior expiration of this Agreement.

- C.** Expenses incurred by the Consultant for Subconsultants, subcontractors and vendors, including lab services, will be reimbursed at actual cost plus 5%. Consultant shall provide invoices for all such services regardless of cost.

**5. Additional Fees and Payments Language.**

- A.** For staff with rates exceeding the rate of \$270/hr, the Consultant shall obtain written approval from the DPM as to the numbers of hours per task prior to that individual working on the Project.

**ATTACHMENT ONE  
TO SCHEDULE E  
FEES AND PAYMENTS**

- B. 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 District approval has been obtained from the District's 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.

**HOURLY/UNIT RATE TABLE**

<b>CLASSIFICATION</b>	<b>HOURLY/UNIT RATE</b>
<b>Consultant:</b>	
Senior Director III A	\$270
Senior Director III B	\$270
Senior Director II	\$270
Director III A	\$242
Director III B	\$246
Director III C	\$237
Director III D	\$234
Director II A	\$211
Director II B	\$220
Director II C	\$210
Director II D	\$226
Managing Associate III	\$205
Managing Associate II A	\$190
Managing Associate II B	\$179
Managing Associate II C	\$161
Managing Associate I A	\$144
Managing Associate I B	\$148
Managing Associate I C	\$140
Senior Associate II A	\$141
Senior Associate II B	\$126
Senior Associate II C	\$132
Associate III	\$118
Staff	\$111

**ATTACHMENT ONE  
TO SCHEDULE E  
FEES AND PAYMENTS**

<b>Subconsultant(s):</b>	
<b>EOA</b>	
Managing Environmental Engineer III	\$263.00
Vice President	\$271.00
Staff	\$126.00
<b>H T Harvey</b>	
Principal A	\$266.00
Principal B	\$266.00
Senior Ecologist	\$135.00
Plant Ecologist	\$119.00
Graphics/GIS	\$105.00
Support	\$82.00
<b>Horizon</b>	
Principal	\$210.00
Associate II	\$175.00
Associate I	\$150.00
GIS Analyst	\$105.00
Staff A	\$90.00
Staff B	\$75.00

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**ATTACHMENT TWO  
TO SCHEDULE E  
SCHEDULE OF COMPLETION**

1. This Agreement commences on the Effective Date, subject to accomplishment of all of the conditions to formation of an agreement listed in the Agreement at Section Twelve, Miscellaneous Provisions, subsection 2. Formation of Agreement.
2. This Agreement expires on April 30, 2021, unless, prior to its expiration, its term is modified by a written amendment hereto, signed by both Parties.
3. District's Project Manager and Consultant may agree to modify the schedule specified for Consultant's performance as an administrative modification to the Agreement and will confirm such modification in writing.

**PROJECT SCHEDULE**

<b>Task</b>	<b>Description</b>	<b>Duration From Notice to Proceed (months)</b>
1	Project Management	Duration of Agreement
2	Environmental Investigations and Studies	4
3	Biological Studies/Wetland and Riparian Habitat Delineation and Mapping	5
4	Project Description and Initial Study	4
5	Notice of Preparation and Scoping	4
6	Administrative Draft EIR	10
7	Administrative Draft EIR 2	11
8	Camera-Ready Draft EIR	12
9	Draft EIR	13
10	Public Review of the Draft EIR	16
11	Responses to Public and Agency Comments on Draft EIR, Administrative Final EIR	18
12	Camera-Ready Final EIR and Draft Mitigation Monitoring and Reporting Program (MMRP)	19
13	Final EIR and Stand-Alone MMRP	20
14	Notice of Determination (NOD) and Findings of Fact and Statement of Overriding Considerations	21
15	Assist with Public Hearing and Certification of EIR	22
16	Draft and Final Environmental Permit Applications	24
17	Prepare Environmental Application Package for CEQA-Plus Compliance	28
18	Supplemental Services	Duration of Agreement

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

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

<b>Team Member</b>	<b>Project Role and Classification</b>	<b>Contact Information</b>
Leslie Moulton	Principal in Charge, Senior Director III	550 Kearny Street, Suite 800 San Francisco, CA 94108 415-896-5900 <a href="mailto:lmoulton@esassoc.com">lmoulton@esassoc.com</a>
James O'Toole	Project Manager, Senior Director II	1425 N. McDowell Blvd. Petaluma, CA, 94954 707-795-0904 <a href="mailto:jotoole@esassoc.com">jotoole@esassoc.com</a>
Karen Lancelle	Deputy Project Manager, Associate II	180 Grand Avenue, Suite 1050 Oakland CA, 94612 510-839-5066 <a href="mailto:klancelle@esassoc.com">klancelle@esassoc.com</a>
Meryka Dirks	Deputy Project Manager, Senior Associate II	180 Grand Avenue, Suite 1050 Oakland CA, 94612 510-839-5066 <a href="mailto:mdirks@esassoc.com">mdirks@esassoc.com</a>
Jill Hamilton	WWTP CEQA, Director III	180 Grand Avenue, Suite 1050 Oakland CA, 94612 510-839-5066 <a href="mailto:jhamilton@esassoc.com">jhamilton@esassoc.com</a>
Alisa Moore	Contract Administration, Director III	550 Kearny Street, Suite 800 San Francisco, CA 94108 415-896-5900 <a href="mailto:amoore@esassoc.com">amoore@esassoc.com</a>
Eric Zigas	Alternatives/Public, Director III	550 Kearny Street, Suite 800 San Francisco, CA 94108 415-896-5900 <a href="mailto:ezigas@esassoc.com">ezigas@esassoc.com</a>

2. The following Subconsultants are authorized to perform Services on the Project:

<b>Firm</b>		<b>Contact Information</b>
<b>Horizon</b>		
Kenneth M. Schwarz	Physical Science Task Lead	180 Grand Avenue, Suite 1405 Oakland, CA 94612 (510) 899-4502 <a href="mailto:ken@horizonh2o.com">ken@horizonh2o.com</a>

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

<b>Firm</b>		<b>Contact Information</b>
Allison Chan	Land Use/Rec/Aesthetics	180 Grand Avenue, Suite 1405 Oakland, CA 94612 (510) 899-4502 allison@horizonh2o.com
<b>HT Harvey</b>		
Steven Rottenborn		983 University Avenue, Suite D Los Gatos, CA 95032 (408) 458-3200 srottenborn@harveyecology.com
Patrick Boursier	Biological Resources	983 University Avenue, Suite D Los Gatos, CA 95032 (408) 458-3200 pboursier@harveyecology.com
<b>EOA</b>		
Tom Hall	Water Quality	1410 Jackson Street Oakland, CA 94612 (510)832-2852 twhall@eoainc.com

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**ATTACHMENT FOUR TO  
SCHEDULE E  
REFERENCE MATERIALS**

<b>Ref No.</b>	<b>Description</b>
1	SCVWD/City of San Jose 2014. <i>South Bay Water Recycling Strategic and Master Planning Report</i> . Prepared by RMC Water and Environment /CDM Smith
2	SCVWD, 2012. <i>2012 Groundwater Management Plan</i> .
3	SCVWD, 2013. <i>Annual Groundwater Report for Calendar Year 2013</i> .
4	SCVWD, 2014. <i>Salt and Nutrient Management Plan, Santa Clara Subbasin</i> , November 2014.
5	SCVWD, 2017. <i>Draft Executive Summary for Purified Water Program Plan</i>
6	SCVWD, 2017. <i>Final Field Program Documentation and Findings</i>
7	SCVWD, 2017. <i>Expedited Purified Water Program Plan Draft Chapters 1-5</i>
8	Quality and Environmental Management System (QEMS) Fact-Sheet.

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