

**AMENDMENT NO. 2 TO
STANDARD CONSULTANT AGREEMENT A4139F
BETWEEN THE SANTA CLARA VALLEY WATER DISTRICT
AND GOVERNMENTAL ADVOCATES**

This Amendment No. 2 (Amendment), effective as of the date it is fully executed by the Parties, amends the term and conditions of the Standard Consultant Agreement A4139F (Agreement) dated September 1, 2018 as amended by Amendment No. 1 dated August 27, 2019 between SANTA CLARA VALLEY WATER DISTRICT (District) and GOVERNMENTAL ADVOCATES, incorporated in the State of California, (Consultant), collectively the "Parties."

WHEREAS, the Consultant is currently providing assistance and representation with state lobbying services on behalf of the District; and

WHEREAS, the Agreement currently expires on September 30, 2020; and

WHEREAS, the District now desires to exercise the second 1-year option to extend the term; increase the Not-to-Exceed fee to provide funds for Consultant to continue to perform lobbying services; to update Standard Consultant Agreement language; and to incorporate administrative changes; and

NOW, THEREFORE, in consideration for the mutual promises and agreements stated herein and notwithstanding anything to the contrary stated in the Agreement, District and Consultant hereby agree to amend the Agreement as follows:

1. Revised Standard Consultant Agreement, Section Twelve, Miscellaneous Provisions, subsection 21 (Appendices) is amended to read in its entirety as follows:

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

Appendix One to the Standard Consulting Agreement – Additional Terms (UNCHANGED)
Revised Appendix Two to the Standard Consulting Agreement – Insurance Requirements (REVISED)"

2. Revised Standard Consulting Agreement, Section Twelve, Miscellaneous Provisions, subsection 22 (Schedule(s) and Attachments) is amended to read in its entirety as follows:

"The following listed Revised Schedule(s) A-GEN, Scope of Services, and the following Attachments are incorporated herein by this reference as though set forth in full:

Revised Attachment One to Revised Schedule A-GEN – Fees and Payments (REVISED)
Revised Attachment Two to Revised Schedule A-GEN – Schedule of Completion (REVISED)
Attachment Three to Schedule A-GEN – Consultant's Key Staff and Subconsultants (UNCHANGED)
Attachment Four to Schedule A-GEN – Reference Materials (UNCHANGED)"

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3. New paragraph number 23 is added to Section Twelve (Miscellaneous Provisions) of the Agreement:

“23. No Third-Party Beneficiaries

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

4. New paragraph number 24 is added to Section Twelve (Miscellaneous Provisions) of the Agreement:

“24. Severability

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

5. New paragraph number 25 is added to Section Twelve (Miscellaneous Provisions) of the Agreement:

“25. Debt Limitation

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

6. Appendix Two to the Standard Consultant Agreement, Insurance Requirements, is modified to read in its entirety as set forth in the attached Revised Appendix Two, Insurance Requirements.
7. Schedule A-GEN, Attachment One, Fees and Payments, is modified to read in its entirety as set forth in the attached Revised Schedule A-GEN, Revised Attachment One, Fees and Payments.
8. Schedule A-GEN, Attachment Two, Schedule of Completion, is modified to read in its entirety as set forth in the attached Revised Schedule A-GEN, Revised Attachment Two, Schedule of Completion.

*(SIGNATURES FOLLOW ON NEXT PAGE)
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9. All other terms and conditions of the Agreement and Amendment No. 1 not otherwise amended as stated herein remain in full force and effect.

IN WITNESS WHEREOF, THE PARTIES HAVE SET FORTH BELOW THEIR CONSENT TO THE TERMS AND CONDITIONS OF THIS AMENDMENT NO. 2 TO AGREEMENT NO. A4139F THROUGH THE SIGNATURES OF THEIR DULY AUTHORIZED REPRESENTATIVES.

SANTA CLARA VALLEY WATER DISTRICT
District

GOVERNMENTAL ADVOCATES
Consultant

By: _____
Nai Hsueh
Chair, Board of Directors

By: _____
Cliff Berg
President

Date: _____

Date: _____

Firm Address:

ATTEST:

112 11th Street Suite 400
Sacramento, Ca. 95814

Michele L. King, CMC
Clerk, Board of Directors

**AMENDMENT NO. 2 TO AGREEMENT A4139F
REVISED APPENDIX TWO
INSURANCE REQUIREMENTS**

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

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 as listed below.

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

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

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

Certificates of Insurance

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

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

The certificates will:

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

**AMENDMENT NO. 2 TO AGREEMENT A4139F
REVISED APPENDIX TWO
INSURANCE REQUIREMENTS**

**Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118
Agreement A4139F / CAS No. 4861**

IMPORTANT: The agreement or CAS number must be included.

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

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

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

Maintenance of Insurance

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

Renewal of Insurance

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

Consultant shall instruct its insurance broker/agent to:

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

**Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118
Agreement A4139F / CAS No. 4861**

IMPORTANT: The agreement or CAS number must be included.

**AMENDMENT NO. 2 TO AGREEMENT A4139F
REVISED APPENDIX TWO
INSURANCE REQUIREMENTS**

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

Required Coverages

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

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

General Liability insurance must include:

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

2. Business Auto Liability Insurance with coverage as indicated:

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

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

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

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

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

**AMENDMENT NO. 2 TO AGREEMENT A4139F
REVISED APPENDIX TWO
INSURANCE REQUIREMENTS**

4. Workers' Compensation and Employer's Liability Insurance

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

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

General Requirements

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

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

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

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

**AMENDMENT NO. 2 TO AGREEMENT A4139F
REVISED APPENDIX TWO
INSURANCE REQUIREMENTS**

5. **Self-Insured Retentions or Deductibles:** Any deductibles or self-insured retentions must be declared to and approved by the District. At the option of the District, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the District, its officers, officials, employees and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the Entity guaranteeing payment of losses and related investigations, claim administration, and defense expenses. Consultant agrees that in the event of a claim they will pay down any agreed upon SIR in a prompt manner as soon as bills are incurred in order to trigger the insurance related to the SIR.
6. **Subconsultants:** The Consultant shall secure and maintain or shall be responsible for ensuring that all subconsultants performing the Contract Services secure and maintain all insurance coverages appropriate to their tier and scope of work in a form and from insurance companies reasonably acceptable to the District.
7. **Amount of Liability not Limited to Amount of Insurance:** The insurance procured by Consultant for the benefit of the District must not be deemed to release or limit any liability of Consultant. Damages recoverable by the District for any liability of Consultant must, in any event, not be limited by the amount of the required insurance coverage.
8. **Coverage to be Occurrence Based:** Except for Professional Liability, all coverage must be occurrence-based coverage. Claims-made coverage is not allowed.
9. **Waiver of Subrogation:** Consultant agrees to waive subrogation against the District to the extent any loss suffered by Consultant is covered by any Commercial General Liability policy, Automobile policy, Workers' Compensation policy described in **Required Coverages** above. Consultant agrees to advise its broker/agent/insurer and agrees to provide evidence (either through the Certificate of Insurance, endorsement or language in the insurance contract) that subrogation has been waived by its insurer.
10. **Non-compliance:** The District reserves the right to withhold payments to the Consultant in the event of material noncompliance with the insurance requirements outlined above.

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REVISED APPENDIX TWO
INSURANCE REQUIREMENTS**

CHECK LIST OF DOCUMENTS NEEDED

General Liability:	A.	Limits (\$1,000,000)	
	B.	Additional Insured (Endorsement)	
	C.	Waiver of Subrogation (COI, Endorsement or policy language)	
	D.	Primacy (COI, Endorsement or policy language)	
	E.	Cancellation Endorsement	
Auto Liability:	A.	Limits (\$1,000,000)	
	B.	Additional Insured (Endorsement)	
	C.	Waiver of Subrogation (COI, Endorsement or policy language)	
	D.	Primacy (COI, Endorsement or policy language)	
	E.	Cancellation Endorsement	
Umbrella:	A.	Limits (\$)	
	B.	Primacy (Endorsement or policy language)	
Workers Comp:	A.	Limits (\$1,000,000)	
	B.	Waiver of Subrogation (Endorsement or policy language)	
	C.	Cancellation Endorsement	
Professional Liability:	A.	Limits (\$1,000,000)	
	B.	Cancellation Endorsement	

Appendix IV ConsultantGL1AL1PL1_rev. 5/11/20

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**AMENDMENT NO. 2 TO AGREEMENT A4139F
REVISED SCHEDULE A-GEN
REVISED ATTACHMENT ONE
FEES AND PAYMENTS**

1. Total Authorized Funding

Total payment for Services performed, to the satisfaction of the District, as described in the Revised Schedule(s) will not exceed a total amount of **\$336,700** (Fixed Fees). This fixed fee amount includes all expenses and costs related to the Consultant's performance of the Scope of Services. Under no conditions will the total compensation to the Consultant exceed this fixed fee payment amount without 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. Cost Breakdown

The fixed fee total compensation of this Agreement consists of the following task fee breakdown. No Services will be performed or fees paid by District to the Consultant for Supplemental Services or sub tasks requiring the issuance of Task Orders without prior written authorization by the District as stated in Revised Schedule A-GEN, Scope of Services.

Task	Description	Monthly Fixed Fee 9/1/18 – 9/30/19	Amendment No. 1 Monthly Fixed Fee 10/1/19 – 9/30/20	Amendment No. 2 Monthly Fixed Fee 10/1/20 – 9/30/21	Revised Total Agreement Not-To- Exceed Fixed Fee Amount
1	State Advocacy & Representation	\$9,100 per month for 13 months	\$9,100 per month for 12 additional months	\$9,100 per month for 12 additional months	
Total Fixed Fee Amount		\$118,300	\$109,200	\$109,200	\$336,700

3. Terms and Conditions

Payments for Services performed, as described 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 a monthly fixed fee amount for professional, technical, and administrative personnel as well as materials and supplies.

**AMENDMENT NO. 2 TO AGREEMENT A4139F
REVISED SCHEDULE A-GEN
REVISED ATTACHMENT ONE
FEES AND PAYMENTS**

B. The stated monthly fixed fee is effective for the term of this Agreement unless otherwise revised as indicated. After twelve (12) months from the date this Agreement is entered into by parties ("anniversary date"), and each 12 months thereafter, this monthly fixed fee may be negotiated by the Consultant and the District, provided Consultant submits written notice to District of Consultant's request to revise the monthly fixed fee ninety (90) calendar days prior to the anniversary date of this Agreement. Both parties will use as a benchmark for negotiations the percent change for the previous 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 2.5%, whichever is less. A negative index will result in rates remaining the same. Such rate revisions are subject to written approval by the District's Deputy Administrative Officer for the Office of Government Relations.

C. Reimbursable Expenses. All expenses are included in the fixed monthly fee. There are no reimbursements allowed under the contract.

4. Approval Required for Services Performed at Specified Rate

A. There are no hourly or unit rates allowed under the contract. All work performed shall be included in the monthly fixed fee amount.

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**AMENDMENT NO. 1 TO AGREEMENT A4139F
REVISED SCHEDULE A-GEN
REVISED ATTACHMENT TWO
SCHEDULE OF COMPLETION**

1. This Agreement commences on the Effective Date, subject to accomplishment of all of the conditions to formation of an agreement listed in the Agreement at Section Twelve, Miscellaneous Provisions, subsection 2. Formation of Agreement.
2. This Agreement expires on **September 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

Task	Description	Duration From Notice to Proceed (months)
1	State Advocacy and Representation	Duration of Agreement

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