

**AMENDMENT NO. 2 TO AGREEMENT A4265G  
BETWEEN THE SANTA CLARA VALLEY WATER DISTRICT  
AND CARPI & CLAY INC.**

This Amendment No. 2 (Amendment), effective as of the date it is fully executed by the Parties, amends the terms and conditions of the Standard Consultant Agreement A4265G (Agreement) dated June 7, 2019, as amended by Amendment No. 1 dated June 9, 2020 between SANTA CLARA VALLEY WATER DISTRICT (District) hereinafter called (District) and CARPI & CLAY, INC., (Consultant), collectively, the Parties.

**RECITALS**

**WHEREAS**, the Consultant is currently providing Federal representation services for the District;

**WHEREAS**, the Agreement currently expires on June 30, 2021; and

**WHEREAS**, the Parties desire to amend the Agreement to exercise the second option to extend its term; to allow Consultant to continue providing professional services for the District; and make administrative updates.

**NOW, THEREFORE**, in consideration of 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. The Agreement, Standard Consultant Agreement, Section Twelve, is amended to add new subsections 19 thru 23 state as follows:

**"19. 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.

**20. 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.

**21. 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.

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22. Appendices

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

Appendix One – Additional Legal Terms (UNCHANGED)  
Appendix Two – Dispute Resolution – (UNCHANGED)  
Appendix Three – Task Order Template – NOT USED  
Appendix Four – Insurance Requirements (REVISED)

23. Schedules and Attachments

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

2. Attachment One to Schedule A-GEN – Fees and Payments, Sections 1 and 2 are amended to state as follows:

"1. Total Authorized Funding

Total payment for Services performed, to the satisfaction of the District, as described in the Schedule(s) will not exceed a total amount of **\$350,400.00** (Fixed Fees). This fixed fee amount includes all expenses and costs related to the Consultant's performance of the Scope of Services. Under no circumstances 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 Valley Water'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.

**COST BREAKDOWN**

<b>TASK</b>	<b>DESCRIPTION</b>	<b>FIXED FEES</b>
1	Project Management Services	\$10,000 flat fee per month for Tasks 1 and 2 starting July 1, 2021
2	Federal Lobbying Services	
<b>Total Fixed Fees</b>		<b>\$350,400.00</b>

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3. Attachment Two to Schedule A-GEN – Schedule of Completion Section 2. is amended to state as follows:

“2. This Agreement expires on June 30, 2022, unless, prior to its expiration, its term is modified by a written amendment hereto, and signed by both Parties.”

4. Appendix Four to the Standard Consultant Agreement, Insurance Requirements, is amended as set forth in the Revised Appendix Four to the Standard Consultant Agreement, Insurance Requirements, attached hereto incorporated herein by this reference.

All other terms and conditions of the Agreement A4265G 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 A4265G THROUGH THE SIGNATURES OF THEIR DULY AUTHORIZED REPRESENTATIVES.**

**SANTA CLARA VALLEY WATER DISTRICT**  
District

**CARPI & CLAY, INC.**  
Consultant

By: \_\_\_\_\_  
Tony Estremera  
Chair, Board of Directors

By: \_\_\_\_\_  
Julie Minerva  
Partner

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

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

ATTEST:

Consultant's Address:

601 New Jersey Avenue NW, Suite 300  
Washington, DC 20001

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

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**AMENDMENT NO. 2 TO AGREEMENT A4265G  
REVISED SCHEDULE A-GEN  
REVISED APPENDIX FOUR  
INSURANCE REQUIREMENTS**

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

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

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

**Certificates of Insurance**

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

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

The certificates will:

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

**Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118  
Agreement A3936A / CAS No. 4942**

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

**Maintenance of Insurance**

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

**Renewal of Insurance**

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

Consultant shall instruct its insurance broker/agent to:

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

**Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118  
Agreement A3936A / CAS No. 4942**

**IMPORTANT: The agreement or CAS number must be included.**

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

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**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 Omissions 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.

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

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

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

**General Requirements**

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

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

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

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

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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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**CHECK LIST OF DOCUMENTS NEEDED**

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

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