



March 11, 2025

## **Sonoma County Water Agency Request for Statements of Qualifications**

### Deadline for Submission

2:00 p.m., Wednesday, May 7, 2025

**RE: REQUEST FOR STATEMENTS OF QUALIFICATIONS FOR HVAC MAINTENANCE, REPAIR, AND RELATED SERVICES**

### **1. INTRODUCTION**

- 1.1. Sonoma County Water Agency and its affiliated sanitation districts (Sonoma Water) invite Statements of Qualifications (SOQs) from firms interested in providing heating, ventilation, and air conditioning (HVAC) maintenance, repair, and related services. A list of qualified firms will be developed and used over the next three years. No specific projects have been identified.
- 1.2. Sonoma Water does not guarantee work to any qualified firm.
- 1.3. This is not a bid process.

### **2. PASS/FAIL REQUIREMENTS**

- 2.1. SOQs that do not meet requirements and show evidence thereof under Section 4, Minimum Qualifications, will not be evaluated under Section 9, Evaluation.

### **3. BACKGROUND**

- 3.1. Sonoma County Water Agency manages and maintains a water transmission system that provides naturally filtered Russian River water to City of Cotati, Marin Municipal Water District, North Marin Water District, City of Petaluma, City of Rohnert Park, City of Santa Rosa, City of Sonoma, Valley of the Moon Water

District, and Town of Windsor. These entities in turn deliver drinking water to more than 600,000 residents in portions of Sonoma and Marin counties.

- 3.2. Sonoma County Water Agency owns, operates, and manages Airport/ Larkfield/ Wikiup Sanitation Zone, Geyserville Sanitation Zone, Penngrove Sanitation Zone, and Sea Ranch Sanitation Zone (“Zones”).
- 3.3. Sonoma County Water Agency operates and manages Occidental County Sanitation District, Russian River County Sanitation District, Sonoma Valley County Sanitation District, and South Park County Sanitation District (“Districts”) under contract with Districts.
- 3.4. Sonoma Water reserves the right to amend an existing agreement or enter into subsequent agreement(s) with the firm selected, relying upon this competitive selection process, after the preliminary or initial work is completed for a project.

#### **4. MINIMUM QUALIFICATIONS**

- 4.1. Current registration with Department of Industrial Relations.
- 4.2. Firms that do not meet the minimum qualifications will not have their SOQs evaluated under Section 9, Evaluation, below.

#### **5. PREVAILING WAGES**

- 5.1. Pursuant to Labor Code sections 1720 and 1771, work performed under agreements developed from the list of qualified firms, if any, may be subject to prevailing wage obligations and compliance monitoring and enforcement by the California Department of Industrial Relations (DIR). To be eligible for an agreement subject to prevailing wage requirements, a firm submitting an SOQ must be a DIR-registered contractor pursuant to Labor Code section 1725.5 at the time of SOQ submittal and at the time of any agreement execution.
- 5.2. DIR registration is not a requirement to submit an SOQ or for inclusion on the list of qualified firms. An SOQ from any firm that is not a DIR-registered contractor at the time of SOQ submittal may be considered by Sonoma Water; however, any such firm will be deemed unqualified to receive an agreement for work subject to prevailing wages. To the extent a firm proposes use of any subcontractors, all such subcontractors shall similarly be DIR-registered contractors at the time of firm’s SOQ submittal in order for that firm to qualify for consideration for agreements subject to prevailing wages.
- 5.3. Pursuant to Labor Code sections 1720 and 1771, work performed under agreements developed from the list of qualified firms, if any, is subject to the payment of prevailing wages and will be subject to compliance monitoring and enforcement by the California Department of Industrial Relations (DIR). Each firm

submitting an SOQ must be a DIR-registered contractor pursuant to Labor Code section 1725.5 at the time the SOQ is submitted.

- 5.4. An SOQ from any firm that is not a DIR-registered contractor at the time the SOQ is submitted will be rejected for non-responsiveness. Pursuant to Labor Code section 1725.5, all subcontractors identified in a firm's SOQ who are performing work that requires payment of prevailing wages shall also be DIR-registered contractors at the time the SOQ is submitted.
- 5.5. Prevailing wage requirements from the sample agreement are attached as Attachment 1 to this Request for Statements of Qualifications (RFQ).

## **6. LOCAL SERVICE PROVIDER PREFERENCE**

- 6.1. A 5 percent weighting will be provided in the total SOQ rating score for local firms. A Local Service Provider (local firm) is defined as a business or firm who has a valid physical address located within Sonoma County from which the vendor or firm operates or performs business on a day-to-day-basis, and holds a valid business license if required by a city within the jurisdiction of Sonoma County. A business shall affirm it qualifies as a local business on the provided Attachment 2 (Declaration of Local Business for Services).

## **7. LIVING WAGE**

- 7.1. If selected for an agreement, the firm must comply with any and all federal, state, and local laws – including, but not limited to, the County of Sonoma Living Wage Ordinance – affecting the services provided under the contract to be awarded pursuant to this RFQ. Without limiting the generality of the foregoing, the firms submitting SOQs expressly acknowledge and agree that any agreement developed from the list of qualified firms pursuant to this RFQ is subject to the provisions of Article XXVI of Chapter 2 of the Sonoma County Code, requiring payment of a living wage to covered employees. Noncompliance during the term of the agreement will be considered a material breach and may result in termination of the agreement.
- 7.2. The Living Wage Ordinance can be found at: [Living Wage Ordinance](#).

## **8. SUBMITTAL OF SOQS**

- 8.1. A sample agreement is enclosed. Please review the entire sample agreement carefully before submitting an SOQ. If any significant omissions or ambiguities in this RFQ come to Sonoma Water's attention while under review by interested firms, Sonoma Water will make a uniform written response to all parties.
- 8.2. SOQs shall include the following:
  - a. A table of contents and page numbers.

- b. Legal name of company, how organized (non-profit, LLC, etc.), and where company is incorporated. Not required for individuals.
  - c. Evidence of minimum qualifications (see Section 4 above).
  - d. Screenshot of registration with the Department of Industrial Relations showing effective date and expiration date. (see Section 5 above).
  - e. A statement of similar work previously performed, including at least three references with name of organization, contact person, and telephone number.
  - f. A statement of qualifications and a list of personnel to be assigned to the work, including a resume for each, listing education, experience, and expertise in this type of work.
  - g. A rate schedule that lists hourly rates of personnel to be assigned to the work and expense costs.
  - h. Any proposed exceptions to the indemnification, insurance, or other standard terms of the sample agreement. Please make comments as specific as possible; reference to exceptions or negotiated terms included in prior agreements is not acceptable. Exceptions not explicitly stated in the SOQ will not be considered during negotiations. Please note that proposing significant changes to standard terms may result in a lower evaluation score. If standard terms are acceptable, include the statement "No exception to standard terms."
  - i. Completed Declaration of Local Business for Services, if applicable.
- 8.3. Submit electronic copy of SOQ to Sonoma Water at [Submissions@scwa.ca.gov](mailto:Submissions@scwa.ca.gov) by 2:00 p.m., Wednesday, May 7, 2025. Please reference TW 24/25-054 in the subject line of the email. A confirmation email will be generated in response to each submission to this email address. If a confirmation email is not received, please check spam and junk mail folders.
- 8.4. SOQs received after the electronic submittal deadline will not be accepted.
- 8.5. Confidentiality
- a. Upon submission, SOQs shall be treated as confidential documents until the selection process is completed. The selection process is deemed completed after the creation of a list of qualified firms, or completion of negotiations for an agreement, but before agreement execution. Once the selection process is completed, SOQs shall be deemed public record. In the event that a submitter desires to claim portions of its SOQ exempt from disclosure, it is incumbent upon the submitter to clearly identify those portions with the word "Confidential" printed on the top right hand corner of each page for which such privilege is claimed and to clearly identify the information claimed confidential by highlighting, underlining, or bracketing the subject information. Examples of confidential materials include trade secrets. Each page shall be clearly marked and readily separable from the SOQ in order to

facilitate public inspection of the non-confidential portion of the SOQ. Sonoma Water will consider a submitter's request for exemptions from disclosure; however, Sonoma Water will make its decision based upon applicable laws. An assertion by a submitter that the entire SOQ, large portions of the SOQ, or a significant element of the SOQ, are exempt from disclosure will not be honored. Prices, makes and models or catalog numbers of the items offered, deliverables, and terms of payment shall be publicly available regardless of any designation to the contrary.

- b. Sonoma Water will endeavor to restrict distribution of material designated as confidential to only those individuals involved in the review and analysis of the SOQs. Submitters are cautioned that materials designated as confidential may nevertheless be subject to disclosure. Submitters are advised that Sonoma Water does not wish to receive confidential or proprietary information and those submitters are not to supply such information except when it is absolutely necessary. If any information or materials in any SOQ submitted are labeled confidential or proprietary, the SOQ shall include the following clause:
  - i. [Legal name of submitter] shall indemnify, defend and hold harmless the Sonoma County Water Agency, Occidental County Sanitation District, Russian River County Sanitation District, Sonoma Valley County Sanitation District, and South Park County Sanitation District, their officers, agents and employees from and against any request, action or proceeding of any nature and any damages or liability of any nature, specifically including attorneys' fees awarded under the California Public Records Act (Government Code §6250 et seq.) arising out of, concerning, or in any way involving any materials or information in this SOQ that [legal name of submitter] has labeled as confidential, proprietary, or otherwise not subject to disclosure as a public record.

## 9. **EVALUATION**

- 9.1. SOQs that do not include all of the information requested cannot be adequately evaluated. Evaluation will be based on:
  - a. Thoroughness of SOQ (Submittal Items 8.2.a and 8.2.b)
  - b. Professional qualifications and demonstrated ability to perform the work (Submittal Items 8.2.e and 8.2.f)
  - c. Exceptions to standard terms in the sample agreement (Submittal Item 8.2.h)
  - d. Local Service Provider Preference (Submittal Item 8.2.i)
- 9.2. Rates and costs requested in Submittal item 8.2.g are not part of the qualification evaluation. Rates and costs will be considered only for purposes of selecting firms placed on the list of qualified firms.

- 9.3. Final agreement(s) will be offered to qualified firms at a later date for specific scopes of work to be determined at Sonoma Water's discretion. If a selected firm is not willing to accept Sonoma Water's offer, other qualified firms may be contacted.

**10. CONTACTS**

- 10.1. Please send questions about the content of this RFQ to Sonoma Water at [Submissions@scwa.ca.gov](mailto:Submissions@scwa.ca.gov). Please reference TW 24/25-054 in the subject line of the email. If Sonoma Water considers interpretations or clarifications necessary, Sonoma Water will provide a written supplement to this RFQ.

Sincerely,

David Royall  
Assistant General Manager

Encs.

c: Danny Colvin  
Mollie Asay

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**PREVAILING WAGE REQUIREMENTS**

**15. PREVAILING WAGES**

- 15.1. *General:* Service Provider shall pay to any worker on the job for whom prevailing wages have been established an amount equal to or more than the general prevailing rate of per diem wages for (1) work of a similar character in the locality in which the work is performed and (2) legal holiday and overtime work in said locality. The per diem wages shall be an amount equal to or more than the stipulated rates contained in a schedule that has been ascertained and determined by the Director of the State Department of Industrial Relations and Sonoma Water to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this Agreement. Service Provider shall also cause a copy of this determination of the prevailing rate of per diem wages to be posted at each site work is being performed, in addition to all other job site notices prescribed by regulation. Copies of the prevailing wage rate of per diem wages are on file at Sonoma Water and will be made available to any person upon request.
- 15.2. *Subcontracts:* Service Provider shall insert in every subcontract or other arrangement which Service Provider may make for performance of such work or labor on work provided for in the Agreement, provision that Subcontractor shall pay persons performing labor or rendering service under subcontract or other arrangement not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed in the Labor Code. Pursuant to Labor Code section 1775(b)(1), Service Provider shall provide to each Subcontractor a copy of sections 1771, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code.
- 15.3. *Compliance Monitoring and Registration:* This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Service Provider shall furnish and shall require all subcontractors to furnish the records specified in Labor Code section 1776 (e.g. electronic certified payroll records) directly to the Labor Commissioner in a format prescribed by the Labor Commissioner at least monthly (Labor Code 1771.4 (a)(3)). Service Provider and all subcontractors performing work that requires payment of prevailing wages shall be registered and qualified to perform public work pursuant to Labor Code section 1725.5 as a condition to engage in the performance of any services under this Agreement.

- 15.4. *Compliance with Law:* In addition to the above, Service Provider stipulates that it shall comply with all applicable wage and hour laws, including without limitation Labor Code sections 1725.5, 1775, 1776, 1777.5, 1813, and 1815 and California Code of Regulations, Title 8, section 16000, et seq.



Attachment 2

**DECLARATION OF LOCAL BUSINESS FOR SERVICES**



**COUNTY OF SONOMA**

**GENERAL SERVICES PURCHASING DIVISION**

2300 COUNTY CENTER DRIVE, SUITE A208  
SANTA ROSA, CALIFORNIA 95403  
(707) 565-2433 Fax: (707) 565-6107

**DECLARATION OF LOCAL BUSINESS FOR SERVICES**

Sonoma County gives local businesses a preference in formal solicitations of services as set forth in the County of Sonoma Local Preference Policy for Services. Sonoma County's Local Preference Policy for Services can be reviewed at <http://sonomacounty.ca.gov/General-Services/Purchasing/Doing-Business-with-the-County/Local-Preference-Policy-for-Services/>

In order to qualify for this preference, a business must meet *all* of the following criteria:

1. For businesses with a location in a city within Sonoma County, a valid business license if required by the city; and
2. A valid physical address located within Sonoma County from which the vendor or consultant operates or performs business on a day-to-day basis.

By completing and signing this form, the undersigned states that, under penalty of perjury, the statements provided herein are true and correct and that the business meets the definition of a local business as set forth in the County of Sonoma Local Preference Policy for Services.

All information submitted is subject to investigation as well as disclosure to third parties under the California Public Records Act. Incomplete, unclear, or incomprehensible responses to the following will result in the bid not being considered for application of the County's local preference policy. False or dishonest responses will cause the rejection of the bid and curtail the declarant's ability to conduct business with the County in the future. It may also result in legal action.

1. Legal name of business: \_\_\_\_\_

2. Physical address of the principal place of business:

\_\_\_\_\_  
\_\_\_\_\_

3. Business license issued by incorporated city within the County:

License Number \_\_\_\_\_ Issued by: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name & Title: \_\_\_\_\_

## **SAMPLE Agreement for Maintenance, Repair, and Related Services**

This agreement (“Agreement”) is by and between **Sonoma County Water Agency, Occidental Sanitation District, Russian River County Sanitation District, Sonoma Valley County Sanitation District, and South Park County Sanitation District** (collectively referred to as “Sonoma Water ” or “Owner”) and **[TBD]**, (“Service Provider” or “Contractor”). The Effective Date of this Agreement is the date the Agreement is last signed by the parties to the Agreement, unless otherwise specified in Paragraph 6.1.

### **RECITALS**

- A. **[TBD]**
- B. Sonoma County Water Agency owns, operates, and manages Airport/Larkfield/Wikiup Sanitation Zone, Geyserville Sanitation Zone, Penngrove Sanitation Zone, and Sea Ranch Sanitation Zone (“Zones”).
- C. Sonoma County Water Agency operates and manages Occidental County Sanitation District, Russian River County Sanitation District, Sonoma Valley County Sanitation District, and South Park County Sanitation District (“Districts”) under contract with Districts. References to District employees are understood to be Sonoma County Water Agency employees acting on behalf of Districts.
- D. Under this Agreement, Service Provider will provide heating, ventilation, and air conditioning (HVAC) maintenance, repair, and related services at Sonoma Water facilities.

In consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

### **AGREEMENT**

#### **1. RECITALS**

- 1.1. The above recitals are true and correct and are incorporated herein.

#### **2. LIST OF EXHIBITS**

- 2.1. The following exhibits are attached hereto and incorporated herein:
  - a. Exhibit A: Scope of Work.
  - b. Exhibit B: Schedule of Costs.
  - c. Exhibit C: Insurance Requirements.
  - d. Exhibit D: Payment Bond Form.
  - e. Exhibit E: Performance Bond Form.

### 3. **SCOPE OF SERVICES**

- 3.1. *Service Provider's Specified Services:* Service Provider shall perform the services described in Exhibit A (Scope of Work), within the times or by the dates provided for in Exhibit A and pursuant to Article 10 (Prosecution of Work). In the event of a conflict between the body of this Agreement and Exhibit A, the provisions in the body of this Agreement shall control.
- 3.2. *Cooperation with Sonoma Water :* Service Provider shall cooperate with Sonoma Water in the performance of all work hereunder. Service Provider shall coordinate the work with Sonoma Water 's Project Manager. Contact information and mailing addresses: [TBD]
- 3.3. *Performance Standard and Standard of Care:* Service Provider hereby agrees that all its work will be performed and that its operations shall be conducted in accordance with the standards of a reasonable professional having specialized knowledge and expertise in the services provided under this Agreement and in accordance with all applicable federal, state and local laws, it being understood that acceptance of Service Provider's work by Sonoma Water shall not operate as a waiver or release. Sonoma Water has relied upon the professional ability and training of Service Provider as a material inducement to enter into this Agreement. If Sonoma Water determines that any of Service Provider's work is not in accordance with such level of competency and standard of care, Sonoma Water , in its sole discretion, shall have the right to do any or all of the following: (a) require Service Provider to meet with Sonoma Water to review the quality of the work and resolve matters of concern; (b) require Service Provider to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of Article 7 (Termination); or (d) pursue any and all other remedies at law or in equity.
- 3.4. *Assigned Personnel:*
  - a. Service Provider shall assign only competent personnel to perform work hereunder. In the event that at any time Sonoma Water , in its sole discretion, desires the removal of any person or persons assigned by Service Provider to perform work hereunder, Service Provider shall remove such person or persons immediately upon receiving written notice from Sonoma Water .
  - b. Any and all persons identified in this Agreement or any exhibit hereto as the project manager, project team, or other professional performing work hereunder are deemed by Sonoma Water to be key personnel whose services were a material inducement to Sonoma Water to enter into this Agreement, and without whose services Sonoma Water would not have entered into this Agreement. Service Provider shall not remove, replace, substitute, or otherwise change any key personnel without the prior written consent of Sonoma Water .

- c. With respect to performance under this Agreement, Service Provider shall employ the following key personnel: [TBD]
- d. In the event that any of Service Provider's personnel assigned to perform services under this Agreement become unavailable due to resignation, sickness, or other factors outside of Service Provider's control, Service Provider shall be responsible for timely provision of adequately qualified replacements.

#### **4. SAFETY**

- 4.1. *Site Safety Officer:* Prior to commencement of work, Service Provider shall designate a Site Safety Officer (SSO) and shall provide the name, telephone and/or cellular/pager numbers to Sonoma Water's Project Manager. The SSO shall discuss hazards known by Sonoma Water's Project Manager prior to commencement of work.
- 4.2. *Safety Orders:* All work shall be performed in accordance with the California Code of Regulations (CCR) Title 8, Division 1, Chapter 4 - Industrial Safety Orders and all other applicable laws to ensure the safety of the public and those performing the work
- 4.3. *Safety Program Components:* Injury and Illness Prevention Program (IIPP). IIPP shall conform with the General Industrial Safety Orders (CCR Title 8, Division 1, Chapter 4, Subchapter 7, § 3203), and/or Construction Safety Orders (CCR Title 8, Division 1, Chapter 4, Subchapter 4, and the California Labor Code (§6 401.7).

#### **5. PAYMENT**

- 5.1. *Total Costs:* [TBD]
- 5.2. *Method of Payment:* [TBD]
- 5.3. *Invoices:* [TBD]
- 5.4. *Timing of Payments:* Unless otherwise noted in this Agreement, payments shall be made within the normal course of Sonoma Water business after presentation of an invoice in a form approved by Sonoma Water for services performed. Payments shall be made only upon the satisfactory completion of the services as determined by Sonoma Water .
- 5.5. *Taxes Withheld by Sonoma Water :*
  - a. Pursuant to California Revenue and Taxation Code (R&TC) section 18662, Sonoma Water shall withhold seven percent of the income paid to Service Provider for services performed within the State of California under this Agreement, for payment and reporting to the California Franchise Tax Board, if Service Provider does not qualify as: (1) a corporation with its principal place of business in California, (2) an LLC or Partnership with a permanent place of business in California, (3) a corporation/LLC or Partnership qualified

to do business in California by the Secretary of State, or (4) an individual with a permanent residence in the State of California.

- b. If Service Provider does not qualify, as described in Paragraph 5.5.a, Sonoma Water requires that a completed and signed Form 587 be provided by Service Provider in order for payments to be made. If Service Provider is qualified, as described in Paragraph 5.5.a, then Sonoma Water requires a completed Form 590. Forms 587 and 590 remain valid for the duration of the Agreement provided there is no material change in facts. By signing either form, Service Provider agrees to promptly notify Sonoma Water of any changes in the facts. Forms should be sent to Sonoma Water pursuant to Article 18 (Method and Place of Giving Notice, Submitting Bills, and Making Payments) of this Agreement. To reduce the amount withheld, Service Provider has the option to provide Sonoma Water with either a full or partial waiver from the State of California.

## **6. TERM OF AGREEMENT**

- 6.1. *Term of Agreement:* This Agreement shall expire on [TBD], unless terminated earlier in accordance with the provisions of Article 7 (Termination).

## **7. TERMINATION**

- 7.1. *Authority to Terminate:* Sonoma Water's right to terminate may be exercised by Sonoma County Water Agency's General Manager.
- 7.2. *Termination Without Cause:* Notwithstanding any other provision of this Agreement, at any time and without cause, Sonoma Water shall have the right, in its sole discretion, to terminate this Agreement by giving 5 days written notice to Service Provider.
- 7.3. *Termination for Cause:* Notwithstanding any other provision of this Agreement, should Service Provider fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, Sonoma Water may immediately terminate this Agreement by giving Service Provider written notice of such termination, stating the reason for termination.
- 7.4. *Delivery of Work Product and Final Payment Upon Termination:* In the event of termination, Service Provider, within 14 days following the date of termination, shall deliver to Sonoma Water all reports, original drawings, graphics, plans, studies, and other data or documents, in whatever form or format, assembled or prepared by Service Provider or Service Provider's subcontractors, consultants, and other agents in connection with this Agreement subject to Paragraph 14.11, and shall submit to Sonoma Water an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.

7.5. *Payment Upon Termination:* Upon termination of this Agreement by Sonoma Water, Service Provider shall be entitled to receive as full payment for all services satisfactorily rendered and reimbursable expenses properly incurred hereunder, an amount which bears the same ratio to the total payment specified in the Agreement as the services satisfactorily rendered hereunder by Service Provider bear to the total services otherwise required to be performed for such total payment; provided, however, that if services are to be paid on a per-hour or per-day basis, then Service Provider shall be entitled to receive as full payment an amount equal to the number of hours or days actually worked prior to termination multiplied by the applicable hourly or daily rate; and further provided, however, that if Sonoma Water terminates the Agreement for cause pursuant to Paragraph 7.3, Sonoma Water shall deduct from such amounts the amount of damage, if any, sustained by Sonoma Water by virtue of the breach of the Agreement by Service Provider.

## **8. INDEMNIFICATION**

8.1. Service Provider agrees to accept all responsibility for loss or damage to any person or entity, including Sonoma County Water Agency, Occidental Sanitation District, Russian River County Sanitation District, Sonoma Valley County Sanitation District, and South Park County Sanitation District, and to indemnify, hold harmless, and release Sonoma County Water Agency, Occidental Sanitation District, Russian River County Sanitation District, Sonoma Valley County Sanitation District, and South Park County Sanitation District, their officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity, including Service Provider, that arise out of, pertain to, or relate to Service Provider's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. Service Provider agrees to provide a complete defense for any claim or action brought against Sonoma County Water Agency, Occidental Sanitation District, Russian River County Sanitation District, Sonoma Valley County Sanitation District, or South Park County Sanitation District based upon a claim relating to Service Provider's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. Service Provider's obligations under this Article 8 apply whether or not there is concurrent or contributory negligence on the part of Sonoma County Water Agency, Occidental Sanitation District, Russian River County Sanitation District, Sonoma Valley County Sanitation District, or South Park County Sanitation District, but, to the extent required by law, excluding liability due to conduct of Sonoma County Water Agency, Occidental Sanitation District, Russian River County Sanitation District, Sonoma Valley County Sanitation District, or South Park County Sanitation District. Sonoma County Water Agency, Occidental Sanitation District, Russian River County Sanitation District, Sonoma Valley County Sanitation District, and South Park County Sanitation District shall have the right to select their legal counsel at Service Provider's expense, subject to Service Provider's approval, which shall not be unreasonably withheld. This

indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Service Provider or its agents, employees, contractors, subcontractors, or invitees under workers' compensation acts, disability benefits acts, or other employee benefit acts.

## **9. INSURANCE**

9.1. With respect to performance of work under this Agreement, Service Provider shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain, insurance as described in Exhibit C (Insurance Requirements)

## **10. PROSECUTION OF WORK**

10.1. Service Provider is authorized to proceed immediately with the performance of this Agreement upon the Effective Date of this Agreement. Performance of the services hereunder shall be completed within the time required herein, provided, however, that if the performance is delayed by earthquake, flood, high water, or other Act of God or by strike, lockout, or similar labor disturbances, the time for Service Provider's performance of this Agreement shall be extended by a number of days equal to the number of days Service Provider has been delayed.

## **11. LIQUIDATED DAMAGES**

11.1. *Applicability:* Liquidated damages apply when bonds are required per Article 20 (Bonds) of this Agreement.

11.2. *Liquidated Damage Amounts:*

- a. As liquidated damages for delay, Contractor shall pay Owner [TBD] dollars (\$ [TBD].00) for each day that expires after the time specified herein for Contractor to achieve substantial completion of the entire work, until achieved.
- b. As liquidated damages for delay, Contractor shall pay Owner [TBD] dollars (\$ [TBD].00) for each day that expires after the time specified herein for Contractor to achieve final completion of the entire work, until achieved.

11.3. *Scope of Liquidated Damages:* Measures of liquidated damages listed in Paragraphs 11.2.a and 11.2.b above shall apply cumulatively.

11.4. *Limitations and Stipulations:*

- a. Time is of the essence. Execution of this Agreement by Contractor shall constitute its acknowledgement that Owner will actually sustain damages in the form of Agreement administration expenses (such as Project management and consultant expenses) in the amount fixed in this Agreement for each and every day during which completion of work required is delayed beyond expiration of time fixed for completion plus extensions of time allowed pursuant to provisions hereof.

- b. Contractor and Owner agree that because of the nature of the work, it would be impractical or extremely difficult to fix the amount of such actual damages incurred by Owner because of a delay in completion of all or any part of the work. Contractor and Owner agree that specified measures of liquidated damages shall be presumed to be the amount of such damages actually sustained by Owner, and that because of the nature of the work, it would be impracticable or extremely difficult to fix the actual damages.
- c. Liquidated damages for delay shall cover administrative, overhead, interest on bonds, and general loss of public use damages suffered by Owner as a result of delay. Liquidated damages shall not cover the cost of completion of the work, damages resulting from defective work, lost revenues or costs of substitute facilities, or damages suffered by others who then seek to recover their damages from Owner (e.g., delay claims of other contractors, subcontractors, tenants, or other third-parties), and defense costs thereof. Owner may deduct from any money due or to become due to Contractor subsequent to time for completion of entire work and extensions of time allowed pursuant to provisions hereof, a sum representing then-accrued liquidated damages.

## **12. EXTRA OR CHANGED WORK**

- 12.1. Extra or changed work or other changes to the Agreement may be authorized only by written amendment to this Agreement, signed by both parties. The parties expressly recognize that Sonoma Water personnel are without authorization to order all other extra or changed work or waive Agreement requirements. Failure of Service Provider to secure such written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the Agreement price or Agreement time due to such unauthorized work and thereafter Service Provider shall be entitled to no compensation whatsoever for the performance of such work. Service Provider further expressly waives any and all right or remedy by way of restitution and quantum meruit for any and all extra work performed without such express and prior written authorization of Sonoma Water .

## **13. CONTENT ONLINE ACCESSIBILITY**

- 13.1. *Accessibility:* Sonoma Water policy requires that all documents that may be published to the Web meet accessibility standards to the greatest extent possible and utilizing available existing technologies.
- 13.2. *Standards:* All consultants responsible for preparing content intended for use or publication on a Sonoma Water -managed or Sonoma Water -funded web site must comply with applicable federal accessibility standards established by 36 C.F.R. section 1194, pursuant to section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794(d)), Sonoma Water 's Web Standards & Guidelines located at <https://sonomacounty.ca.gov/Services/Web-Standards-and->



Guidelines/ and Sonoma Water 's Web Site Accessibility Policy located at <https://sonomacounty.ca.gov/CAO/Administrative-Policies/9-3-Website-Accessibility-Policy/>.

- 13.3. *Alternate Format:* When it is strictly impossible due to the unavailability of technologies required to produce an accessible document, Service Provider shall identify the anticipated accessibility deficiency prior to commencement of any work to produce such deliverables. Service Provider agrees to cooperate with Sonoma Water in the development of alternate document formats to maximize the facilitative features of the impacted document(s); e.g., embedding the document with alt-tags that describe complex data/tables.
- 13.4. *Noncompliant Materials; Obligation to Cure:* Remediation of any materials that do not comply with Sonoma Water 's Web Site Accessibility Policy shall be the responsibility of Service Provider. If Sonoma Water , in its sole and absolute discretion, determines that any deliverable intended for use or publication on any Sonoma Water -managed or Sonoma Water -funded Web site does not comply with Sonoma Water Accessibility Standards, Sonoma Water will promptly inform Service Provider in writing. Upon such notice, Service Provider shall, without charge to Sonoma Water , repair or replace the non-compliant materials within such period of time as specified by Sonoma Water in writing. If the required repair or replacement is not completed within the time specified, Sonoma Water shall have the right to do any or all of the following, without prejudice to Sonoma Water 's right to pursue any and all other remedies at law or in equity:
  - a. Cancel any delivery or task order;
  - b. Terminate this Agreement pursuant to the provisions of Article 7 (Termination); and/or
  - c. In the case of custom Electronic and Information Technology (EIT) developed by Service Provider for Sonoma Water , Sonoma Water may have any necessary changes or repairs performed by itself or by another contractor. In such event, Service Provider shall be liable for all expenses incurred by Sonoma Water in connection with such changes or repairs.
- 13.5. *Sonoma Water 's Rights Reserved:* Notwithstanding the foregoing, Sonoma Water may accept deliverables that are not strictly compliant with Sonoma Water Accessibility Standards if Sonoma Water , in its sole and absolute discretion, determines that acceptance of such products or services is in Sonoma Water 's best interest.

#### **14. REPRESENTATIONS OF SERVICE PROVIDER**

- 14.1. *Status of Service Provider:* The parties intend that Service Provider, in performing the services specified herein, shall act as an independent contractor and shall control the work and the manner in which it is performed. Service Provider is not to be considered an agent or employee of Sonoma Water and is

not entitled to participate in any pension plan, worker's compensation plan, insurance, bonus, or similar benefits Sonoma Water provides its employees. In the event Sonoma Water exercises its right to terminate this Agreement pursuant to Article 7 (Termination), Service Provider expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.

- 14.2. *Communication with Sonoma Water's Contractor:* All communication shall be between Service Provider and Sonoma Water. Service Provider shall have no authority to act on behalf of Sonoma Water, to stop work, to interpret conditions of the construction contract, or to give direction to Sonoma Water's contractor.
- 14.3. *No Suspension or Debarment:* Service Provider warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Service Provider also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration. If Service Provider becomes debarred, Service Provider has the obligation to inform Sonoma Water.
- 14.4. *Taxes:* Service Provider agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Service Provider agrees to indemnify and hold Sonoma Water harmless from any liability which it may incur to the United States or to the State of California or to any other public entity as a consequence of Service Provider's failure to pay, when due, all such taxes and obligations. In case Sonoma Water is audited for compliance regarding any withholding or other applicable taxes, Service Provider agrees to furnish Sonoma Water with proof of payment of taxes on these earnings.
- 14.5. *Records Maintenance:* Service Provider shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this Agreement and shall make such documents and records available to Sonoma Water for inspection at any reasonable time. Service Provider shall maintain such records for a period of four (4) years following completion of work hereunder.
- 14.6. *Conflict of Interest:* Service Provider covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Service Provider further covenants that in the performance of this Agreement no person having any such interests shall be employed. In addition, if required by law or requested to do so by Sonoma Water, Service Provider shall submit a completed

Fair Political Practices Commission Statement of Economic Interests (Form 700) with Sonoma Water within 30 calendar days after the Effective Date of this Agreement and each year thereafter during the term of this Agreement, or as required by state law.

- 14.7. *Statutory Compliance/Living Wage Ordinance:* Service Provider agrees to comply, and to ensure compliance by its subconsultants or subcontractors, with all applicable federal, state and local laws, regulations, statutes and policies, including but not limited to the County of Sonoma Living Wage Ordinance, applicable to the services provided under this Agreement as they exist now and as they are changed, amended or modified during the term of this Agreement. Without limiting the generality of the foregoing, Service Provider expressly acknowledges and agrees that this Agreement is subject to the provisions of Article XXVI of Chapter 2 of the Sonoma County Code, requiring payment of a living wage to covered employees. Noncompliance during the term of the Agreement will be considered a material breach and may result in termination of the Agreement or pursuit of other legal or administrative remedies.
- 14.8. *Nondiscrimination:* Service Provider shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, sexual orientation or other prohibited basis, including without limitation, the County of Sonoma's Non-Discrimination Policy. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated herein by this reference.
- 14.9. *AIDS Discrimination:* Service Provider agrees to comply with the provisions of Chapter 19, Article II, of the Sonoma County Code prohibiting discrimination in housing, employment, and services because of AIDS or HIV infection during the term of this Agreement and any extensions of the term.
- 14.10. *Assignment of Rights:* Service Provider assigns to Sonoma Water all rights throughout the world in perpetuity in the nature of copyright, trademark, patent, right to ideas, in and to all versions of the work, if any, now or later prepared by Service Provider in connection with this Agreement. Service Provider agrees to take such actions as are necessary to protect the rights assigned to Sonoma Water in this Agreement, and to refrain from taking any action which would impair those rights. Service Provider's responsibilities under this provision include, but are not limited to, placing proper notice of copyright on all versions of the plans and specifications as Sonoma Water may direct, and refraining from disclosing any versions of the plans and specifications to any third party without first obtaining written permission of Sonoma Water. Service Provider shall not use or permit another to use the plans and specifications in connection with this or any other project without first obtaining written permission of Sonoma Water.

- 14.11. *Ownership of Work Product:* All reports, drawings, graphics, plans, and studies, in their final form and format, assembled or prepared by Service Provider or Service Provider's subcontractors, consultants, and other agents in connection with this Agreement, shall be the property of Sonoma Water . Service Provider shall deliver such materials to Sonoma Water upon request in their final form and format. Such materials shall be and will remain the property of Sonoma Water without restriction or limitation. Document drafts, notes, and emails of Service Provider and Service Provider's subcontractors, consultants, and other agents shall remain the property of those persons or entities.
- 14.12. *Authority:* The undersigned hereby represents and warrants that the undersigned has authority to execute and deliver this Agreement on behalf of Service Provider.
- 14.13. *Nondisclosure of Confidential Information:* While doing the work required by this Agreement, Service Provider may have access to technical information and materials pertaining to Sonoma Water 's sensitive information or data determined by Sonoma Water to be confidential ("Confidential Information"). The Confidential Information may include confidential or proprietary information or trade secrets exempt from disclosure under provisions of the California Public Records Act. In consideration of disclosure by Sonoma Water of Confidential Information to Service Provider, Service Provider and its agents shall hold any material or information designated by Sonoma Water as Confidential in strict confidence and shall not disclose it or otherwise make it available, in any form or matter whatsoever, to any person or entity without the prior written consent of Sonoma Water , except as may be ordered by a court of law. Immediately upon receipt of any request or demand for disclosure of any Confidential Information within the scope of this Agreement, Service Provider shall give Sonoma Water written notice and a copy of the request and the time period, if any, within which Service Provider is required to respond to the request. Upon termination of this Agreement, Service Provider shall return Confidential Information in its possession, including copies, to Sonoma Water . Service Provider's obligation to maintain material and information designated as Confidential in strict confidence shall survive completion of work under this Agreement and termination of this Agreement and, as provided for in Paragraph 14.11. Service Provider agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of Sonoma Water . ↓
- 14.14. *Zone Liability:* The term "Zone" or "Zones" as used in this Paragraph 14.14 shall mean any applicable Sanitation Zone as described in Recital B of this Agreement. To the extent any work under this Agreement relates to Zone activities, Service Provider shall be paid exclusively from Zone funds. Service Provider agrees that Service Provider shall make no claim for compensation for Service Provider's services against other funds available to Sonoma County Water Agency and Service Provider expressly waives any right to be compensated from other funds

available to Sonoma County Water Agency. In addition, Service Provider acknowledges that West's Annotated California Codes Water Code Appendix Chapter 53-8 provides that certain judgments or claims against Sonoma County Water Agency based on causes of action arising from Zone activities may be made only from funds of those Zones.

- 14.15. *District Liability:* Districts are separate legal entities from Sonoma County Water Agency, operated under contract by Sonoma County Water Agency. To the extent any work under this Agreement relates to District activities, Service Provider shall be paid exclusively from District funds. Service Provider agrees that it shall make no claim for compensation for Service Provider's services against Sonoma County Water Agency funds and expressly waives any right to be compensated from other funds available to Sonoma County Water Agency.

## **15. PREVAILING WAGES**

- 15.1. *General:* Service Provider shall pay to any worker on the job for whom prevailing wages have been established an amount equal to or more than the general prevailing rate of per diem wages for (1) work of a similar character in the locality in which the work is performed and (2) legal holiday and overtime work in said locality. The per diem wages shall be an amount equal to or more than the stipulated rates contained in a schedule that has been ascertained and determined by the Director of the State Department of Industrial Relations and Sonoma Water to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this Agreement. Service Provider shall also cause a copy of this determination of the prevailing rate of per diem wages to be posted at each site work is being performed, in addition to all other job site notices prescribed by regulation. Copies of the prevailing wage rate of per diem wages are on file at Sonoma Water and will be made available to any person upon request.
- 15.2. *Subcontracts:* Service Provider shall insert in every subcontract or other arrangement which Service Provider may make for performance of such work or labor on work provided for in the Agreement, provision that Subcontractor shall pay persons performing labor or rendering service under subcontract or other arrangement not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed in the Labor Code. Pursuant to Labor Code section 1775(b)(1), Service Provider shall provide to each Subcontractor a copy of sections 1771, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code.
- 15.3. *Compliance Monitoring and Registration:* This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Service Provider shall furnish and shall require all subcontractors to furnish the records specified in Labor Code section 1776 (e.g., electronic certified payroll records)

directly to the Labor Commissioner in a format prescribed by the Labor Commissioner at least monthly (Labor Code § 1771.4 (a)(3)). Service Provider and all subcontractors performing work that requires payment of prevailing wages shall be registered and qualified to perform public work pursuant to Labor Code section 1725.5 as a condition to engage in the performance of any services under this Agreement.

- 15.4. *Compliance with Law:* In addition to the above, Service Provider stipulates that it shall comply with all applicable wage and hour laws, including without limitation Labor Code sections 1725.5, 1775, 1776, 1777.5, 1813, and 1815 and California Code of Regulations, Title 8, section 16000, et seq.

## **16. DEMAND FOR ASSURANCE**

- 16.1. Each party to this Agreement undertakes the obligation that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party, the other may in writing demand adequate assurance of due performance and until such assurance is received may, if commercially reasonable, suspend any performance for which the agreed return has not been received. "Commercially reasonable" includes not only the conduct of a party with respect to performance under this Agreement, but also conduct with respect to other agreements with parties to this Agreement or others. After receipt of a justified demand, failure to provide within a reasonable time, but not exceeding thirty (30) days, such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of this Agreement. Acceptance of any improper delivery, service, or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance. Nothing in this Article 16 limits Sonoma Water's right to terminate this Agreement pursuant to Article 7 (Termination).

## **17. ASSIGNMENT AND DELEGATION**

- 17.1. *Consent:* Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented.
- 17.2. *Subcontracts:* Notwithstanding the foregoing, Service Provider may enter into subcontracts with the subconsultants specifically identified herein. If no subconsultants are listed, then no subconsultants will be utilized in the performance of the work specified in this Agreement. [TBD]
- 17.3. *Change of Subcontractors or Subconsultants:* If, after execution of the Agreement, parties agree that subconsultants not listed in Paragraph 17.2 will be utilized, Service Provider may enter into subcontracts with subconsultants to perform other specific duties pursuant to the provisions of this Paragraph 17.2.

The following provisions apply to any subcontract entered into by Service Provider other than those listed in Paragraph 17.2:

- a. Prior to entering into any contract with subconsultant, Service Provider shall obtain Sonoma Water approval of subconsultant.
- b. All agreements with subconsultants shall (a) contain indemnity requirements in favor of Sonoma Water in substantially the same form as that contained in Article 8 (Indemnification), (b) contain language that the subconsultant may be terminated with or without cause upon reasonable written notice, and (c) prohibit the assignment or delegation of work under the agreement to any third party.

17.4. *Summary of Subconsultants' Work:* Service Provider shall provide Sonoma Water with a summary of work performed by subconsultants with each invoice submitted under Paragraph 5.3. Such summary shall identify the individuals performing work on behalf of subconsultants and the total amount paid to subconsultant, broken down by the tasks listed in the Scope of Work.

## **18. METHOD AND PLACE OF GIVING NOTICE, SUBMITTING BILLS, AND MAKING PAYMENTS**

18.1. *Method of Delivery:* All notices, bills, and payments shall be made in writing and shall be given by personal delivery, U.S. Mail, courier service, or electronic means. Notices, bills, and payments shall be addressed as specified in Paragraph 3.2.

18.2. *Receipt:* When a notice, bill, or payment is given by a generally recognized overnight courier service, the notice, bill, or payment shall be deemed received on the next business day. When a copy of a notice, bill, or payment is sent by electronic means, the notice, bill, or payment shall be deemed received upon transmission as long as (1) the original copy of the notice, bill, or payment is deposited in the U.S. mail and postmarked on the date of the electronic transmission (for a payment, on or before the due date), (2) the sender has a written confirmation of the electronic transmission, and (3) the electronic transmission is transmitted before 5 p.m. (recipient's time). In all other instances, notices, bills, and payments shall be effective upon receipt by the recipient. Changes may be made in the names and addresses of the person to whom notices are to be given by giving notice pursuant to this Article 18.

## **19. MISCELLANEOUS PROVISIONS**

19.1. *No Bottled Water:* In accordance with Sonoma Water Board of Directors Resolution No. 09-0920, dated September 29, 2009, no Sonoma Water funding shall be used to purchase single-serving, disposable water bottles for use in Sonoma Water facilities or at Sonoma Water -sponsored events. This restriction shall not apply when potable water is not available.

- 19.2. *No Waiver of Breach:* The waiver by Sonoma Water of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or promise or any subsequent breach of the same or any other term or promise contained in this Agreement.
- 19.3. *Construction:* To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. Service Provider and Sonoma Water acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. Service Provider and Sonoma Water acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.
- 19.4. *Consent:* Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.
- 19.5. *No Third-Party Beneficiaries:* Except as provided in Article 8 (Indemnification), nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.
- 19.6. *Applicable Law and Forum:* This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts to the contrary in any jurisdiction. Any action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in Santa Rosa or in the forum nearest to the City of Santa Rosa, in the County of Sonoma.
- 19.7. *Captions:* The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.
- 19.8. *Merger:* This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure section 1856. Each Party acknowledges that, in entering into this Agreement, it has not relied on any representation or undertaking, whether oral or in writing, other than those which are expressly set forth in this Agreement. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.



- 19.9. *Survival of Terms:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- 19.10. *Time of Essence:* Time is and shall be of the essence of this Agreement and every provision hereof.
- 19.11. *Counterpart; Electronic Signatures:* The parties agree that this Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and together which when executed by the requisite parties shall be deemed to be a complete original agreement. Counterparts may be delivered via electronic means, or other transmission method, and any counterpart so delivered shall be deemed to have been duly and validly delivered, be valid and effective for all purposes, and shall have the same legal force and effect as an original document. This Agreement, and any counterpart, may be electronically signed by each or any of the parties through the use of any commercially available digital and/or electronic signature software or other electronic signature method in compliance with the U.S. federal ESIGN Act of 2000, California’s Uniform Electronic Transactions Act (Cal. Civil Code § 1633.1 et seq.), or other applicable law. By its use of any electronic signature below, the signing party agrees to have conducted this transaction and to execution of this Agreement by electronic means.

**20. BONDS**

- 20.1. If the work described in this Agreement involves repairs or other work that is a public project pursuant to California Public Contract Code §22002(c) and involves an expenditure in excess of twenty-five thousand dollars (\$25,000), Service Provider must file Exhibit D (Payment Bond Form) and Exhibit E (Performance Bond Form) with and approved by Sonoma Water prior to the performance of the work, in accordance with Civil Code section 9550.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date last signed by the parties to the Agreement.

[Insert Signature Page – TBD]

# Exhibit A

## Scope of Work

[TBD]

### 1. **TASKS**

- 1.1. Task 1: [Task Title]
  - a. [task description]
  - b.
  - c.

Deliverable:

Due Date:

- 1.2. Task 2: [Task Title]
  - a. [task description]
  - b.
  - c.

Deliverable:

Due Date:

- 1.3. Task 3: [Task Title]
  - a. [task description]
  - b.
  - c.

Deliverable:

Due Date:

### 2. **DELIVERABLES**

- 2.1. Review and Acceptance of Deliverables
  - a. First Draft: Prepare each deliverable in draft form and submit to Sonoma Water for review and approval in accordance with the date listed for the deliverable in the applicable task. Sonoma Water will return the draft deliverable to Service Provider with comments or approval in writing.
  - b. Subsequent Draft(s): If Sonoma Water requests revisions, revise the draft deliverable and resubmit for Sonoma Water approval.
  - c. Final. Following Sonoma Water approval and prior to Sonoma Water's acceptance of work under this Agreement, submit the final approved

deliverable to Sonoma Water in accordance with the date listed for this deliverable.

- 2.2. In addition to the requirements above, if any, submit one electronic copy in PDF format (emailed, on USB flash drive, or via internet) of each final deliverable to Sonoma Water .
- 2.3. Comply with requirements of Article 13 (Content Online Accessibility).
- 2.4. Include Agreement title and TW 24/25-054 on first page or cover of each deliverable.

# Exhibit B

## Schedule of Costs

[TBD]

## Exhibit C

### Insurance Requirements

Service Provider shall maintain and require all of its subcontractors and other agents to maintain the insurance listed below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*. Service Provider shall not commence Work, nor allow its employees, subcontractors or anyone to commence Work until the required insurance has been submitted and approved by Sonoma Water . Any requirement for Service Provider to maintain insurance after completion of the Work shall survive this Agreement.

Sonoma Water reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Sonoma Water 's failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or Sonoma Water 's failure to identify any insurance deficiency shall not relieve Service Provider from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

#### 1. INSURANCE

- 1.1. Workers Compensation and Employers Liability Insurance
  - a. Required if Service Provider has employees as defined by the Labor Code of the State of California.
  - b. Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.
  - c. Employers' Liability with minimum limits of \$1,000,000 per Accident; \$1,000,000 Disease per employee; \$1,000,000 Disease per policy.
  - d. The policy shall be endorsed to include a written waiver of the insurer's right to subrogate against Sonoma Water .
  - e. Required Evidence of Insurance:
    - i. Subrogation waiver endorsement and
    - ii. Certificate of Insurance
  - f. If Service Provider currently has no employees as defined by the Labor Code of the State of California, Service Provider agrees to obtain the above-specified Workers' Compensation and Employers' Liability insurance should employees be engaged during the term of this Agreement or any extensions of the term.
- 1.2. General Liability Insurance
  - a. Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
  - b. Minimum Limits: \$1,000,000 per Occurrence; \$2,000,000 General Aggregate; \$2,000,000 Products/Completed Operations Aggregate. The General Aggregate shall apply separately to each Project. The required limits may be

satisfied by a combination of General Liability Insurance and either Commercial Excess or Commercial Umbrella Liability Insurance. If Service Provider maintains higher limits than the specified minimum limits, Sonoma Water requires and shall be entitled to coverage for the higher limits maintained by Service Provider.

- c. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$100,000, it must be approved in advance by Sonoma Water . Service Provider is responsible for any deductible or self-insured retention and shall fund it upon Sonoma Water 's written request, regardless of whether Service Provider has a claim against the insurance or is named as a party in any action involving Sonoma Water .
- d. Insurance shall be continued for one (1) year after completion of the Work.
- e. Sonoma County Water Agency, their officers, agents, and employees, shall be endorsed as additional insureds for liability arising out of ongoing and completed operations by or on behalf of the Service Provider in the performance of this Agreement. The foregoing shall continue to be additional insureds for (1) year after completion of the Work under this Agreement.
- f. The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.
- g. The policy definition of "insured contract" shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the "f" definition of insured contract in ISO form CG 00 01, or equivalent).
- h. The policy shall be endorsed to include a written waiver of the insurer's right to subrogate against Sonoma Water .
- i. The policy shall cover inter-insured suits between the additional insureds and Service Provider and include a "separation of insureds" or "severability" clause which treats each insured separately.
- j. Required Evidence of Insurance:
  - i. Copy of the additional insured endorsement or policy language granting additional insured status, and
  - ii. Certificate of Insurance.

# Exhibit D

## Payment Bond Form

THIS CONSTRUCTION LABOR AND MATERIAL PAYMENT BOND ("Bond") is dated [TBD] \_\_\_\_\_, is in the penal sum of [TBD] \_\_\_\_\_ [one hundred percent of the applicable Agreement Memorandum Sum], and is entered into by and between the parties listed below to ensure the payment of claimants under the Agreement listed below. This Bond consists of this page and the Bond Terms and Conditions, Paragraphs 1.1 through 1.13, attached to this page. Any singular reference to [TBD] ("Service Provider" or "Contractor"); \_\_\_\_\_ [insert name of Surety] ("Surety"); Sonoma County Water Agency, Occidental County Sanitation District, Russian River County Sanitation District, Sonoma Valley County Sanitation District, or South Park County Sanitation District ("Owner"); or other party shall be considered plural where applicable.

[TBD]

Surety:

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Principal Place of Business: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Agreement Name: Agreement for HVAC Maintenance, Repair, and Related Services

TW Number: 24/25-054

at Sonoma County, California

Signed \_\_\_\_\_, 20\_\_\_\_, in the Amount of \$ \_\_\_\_\_ (the "Penal Sum").

CONTRACTOR AS PRINCIPAL Company:  
(Corp. Seal)

SURITY Company: (Corp. Seal)

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

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

Name and Title: \_\_\_\_\_

Name and Title: \_\_\_\_\_



## **1. BOND TERMS AND CONDITIONS**

- 1.1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner and to Claimants, to pay for labor, materials and equipment furnished for use in the performance of the Agreement, which is incorporated herein by reference.
- 1.2. With respect to Owner, this obligation shall be null and void if Contractor:
  - a. Promptly makes payment, directly or indirectly, for all sums due Claimants; and
  - b. Defends, indemnifies, and holds harmless Owner from all claims, demands, liens, or suits by any person or entity who furnished labor, materials, or equipment for use in the performance of the Agreement, provided Owner has promptly notified Contractor and Surety (at the address set forth on the signature page of this Bond) of any claims, demands, liens, or suits and tendered defense of such claims, demands, liens, or suits to Contractor and Surety, and provided there is no Owner Default.
- 1.3. With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly through its Subcontractors, for all sums due Claimants. If Contractor or its Subcontractors fail to pay any of the persons named in section 9100 of the California Civil Code, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under the Agreement, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of Contractor or Subcontractors pursuant to section 13020 of the Unemployment Insurance Code, with respect to such work and labor, then Surety shall pay for the same, and also, in case suit is brought upon this Bond, a reasonable attorney's fee, to be fixed by the court.
- 1.4. Consistent with the California Mechanic's Lien Law, Civil Code section 8000, *et seq.*, Surety shall have no obligation to Claimants under this Bond unless the Claimant has satisfied all applicable notice requirements.
- 1.5. Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by Surety under this Bond.
- 1.6. Amounts due Contractor under the Agreement shall be applied first to satisfy claims, if any, under any Performance Bond and second, to satisfy obligations of Contractor and Surety under this Bond.
- 1.7. Owner shall not be liable for payment of any costs, expenses, or attorney's fees of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

- 1.8. Surety hereby waives notice of any change, including changes of time, to the Agreement or to related subcontracts, purchase orders, and other obligations. Surety further hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Agreement, or to the work to be performed thereunder, or materials or equipment to be furnished thereunder or the scope(s) of work accompanying the same, shall in any way affect its obligations under this Bond, and it does hereby waive any requirement of notice or any such change, extension of time, alteration or addition to the terms of the Agreement or to the work or to the scope(s) of work or any other changes.
- 1.9. Suit against Surety on this Bond may be brought by any Claimant or its assigns at any time after the Claimant has furnished the last of the labor or materials or both, but, per Civil Code section 9558, must be commenced before the expiration of six months after the period in which stop notices may be filed as provided in Civil Code section 9356.
- 1.10. All notices to Surety or Contractor shall be mailed or delivered (at the address set forth on the signature page of this Bond), and all notices to Owner shall be mailed or delivered as provided in Article 18, Method and Place of Giving Notice, Submitting Bills, and Making Payments, of the Agreement. Actual receipt of notice by Surety, Owner, or Contractor, however accomplished, shall be sufficient compliance as of the date received at the foregoing addresses.
- 1.11. This Bond has been furnished to comply with the California Mechanic's Lien Law including, but not limited to, Civil Code sections 9550, 9554, *et seq.* Any provision in this Bond conflicting with said statutory requirements shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirements shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
- 1.12. Upon request by any person or entity appearing to be a potential beneficiary of this Bond, Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.
- 1.13. Definitions.
  - a. Claimant: An individual or entity having a direct contract with Contractor or with a Subcontractor of Contractor to furnish labor, materials, or equipment for use in the performance of the Agreement, as further defined in California Civil Code section 9100. The intent of this Bond shall be to include without limitation in the terms "labor, materials, or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Agreement, architectural, and engineering services required for performance of the work of Contractor and Contractor's Subcontractors, and all other items for which a stop notice might be asserted. The term Claimant shall also include the Unemployment Development Department as referred to in Civil Code section 9554(b).

- b. Agreement: The agreement between Owner and Contractor identified on the signature page of this Bond, including the Agreement or Agreement Memoranda and changes thereto.
- c. Owner Default: Material failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Agreement, provided that failure is the cause of the failure of Contractor to pay the Claimants and is sufficient to justify termination of the Agreement.

# Exhibit E

## Performance Bond Form

THIS CONSTRUCTION LABOR AND MATERIAL PAYMENT BOND ("Bond") is dated [TBD] \_\_\_\_\_, is in the penal sum of [TBD] \_\_\_\_\_ [one hundred percent of the applicable Agreement Memorandum Sum], and is entered into by and between the parties listed below to ensure the faithful performance of the Agreement listed below. This Bond consists of this page and the Bond Terms and Conditions, Paragraphs 1.1 through 1.12, attached to this page. Any singular reference to [TBD] ("Service Provider" or "Contractor"); \_\_\_\_\_ [insert name of Surety] ("Surety"); Sonoma County Water Agency, Occidental County Sanitation District, Russian River County Sanitation District, Sonoma Valley County Sanitation District, or South Park County Sanitation District ("Owner"); or other party shall be considered plural where applicable.

[TBD]

Surety:

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Principal Place of Business: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Agreement Name: Agreement for HVAC Maintenance, Repair, and Related Services

TW Number: 24/25-054

at Sonoma County, California

Signed \_\_\_\_\_, 20\_\_\_\_, in the Amount of \$ \_\_\_\_\_ (the "Penal Sum").

CONTRACTOR AS PRINCIPAL Company:  
(Corp. Seal)

SURITY Company: (Corp. Seal)

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

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

Name and Title: \_\_\_\_\_

Name and Title: \_\_\_\_\_

## **1. BOND TERMS AND CONDITIONS**

- 1.1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to Owner for the complete and proper performance of the Agreement, which is incorporated herein by reference.
- 1.2. If Contractor completely and properly performs all of its obligations under the Agreement, Surety and Contractor shall have no obligation under this Bond.
- 1.3. If there is no Owner Default, Surety's obligation under this Bond shall arise after:
  - a. Owner has declared a Contractor Default under the Agreement pursuant to the terms of the Agreement; and
  - b. Owner has agreed to pay the Balance of the Applicable Agreement Memorandum Amount:
    - i. To Surety in accordance with the terms of this Bond and the Agreement; or
    - ii. To a contractor selected to perform the Agreement in accordance with the terms of this Bond and the Agreement.
- 1.4. When Owner has satisfied the conditions of Paragraph 1.3, above, Surety shall promptly (within 30 days) and at Surety's expense elect to take one of the following actions:
  - a. Arrange for Contractor, with consent of Owner, to perform and complete the Agreement (but Owner may withhold consent, entirely within its discretion, in which case the Surety must elect an option described in Paragraphs 1.4.b, 1.4.c, or 1.4.d, below); or
  - b. Undertake to perform and complete the Agreement itself, through its agents or through independent contractors; provided that Surety may not select Contractor as its agent or independent contractor without Owner's consent; or
  - c. Undertake to perform and complete the Agreement by obtaining bids from qualified contractors acceptable to Owner for a contract for performance and completion of the Agreement and, upon determination by Owner of the lowest responsive and responsible bidder, arrange for an agreement to be prepared for execution by Owner and the contractor selected with Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds attached to this Agreement; and, if Surety's obligations defined in Paragraph 1.6, below, exceed the Balance of the Applicable Agreement Memorandum Amount, then Surety shall pay to Owner the amount of such excess upon Owner's demand; or
  - d. Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances and, after investigation and consultation with Owner, tender the full penal sum of the bond.

- 1.5. If Surety does not proceed as provided in Paragraph 1.4, above, then Surety shall be deemed to be in default on this Bond ten Days after receipt of an additional written notice from Owner to Surety demanding that Surety perform its obligations under this Bond. At all times Owner shall be entitled to enforce any remedy available to Owner at law or under the Agreement, including without limitation, and by way of example only, rights to perform work, protect work, mitigate damages, advance critical work to mitigate schedule delay, or coordinate work with other consultants or contractors.
- 1.6. Surety's monetary obligation under this Bond is limited by the amount of this Bond identified herein as the Penal Sum. This monetary obligation shall augment the Balance of the Applicable Agreement Memorandum Amount. Subject to these limits, Surety's obligations under this Bond are commensurate with the obligations of Contractor under the Agreement. Surety's obligations shall include, but are not limited to:
  - a. The responsibilities of Contractor under the Agreement for completion of the Agreement and correction of Defective Work;
  - b. The responsibilities of Contractor under the Agreement to pay liquidated damages, and for damages for which no liquidated damages are specified in the Applicable Agreement Memorandum, actual damages caused by non-performance of the Applicable Agreement Memorandum including, but not limited to, all valid and proper backcharges, offsets, payments, indemnities, or other damages;
  - c. Additional legal, design professional, and delay costs resulting from Contractor Default or resulting from the actions or failure to act of the Surety under Paragraph 1.4, above (but excluding attorney's fees incurred to enforce this Bond).
- 1.7. No right of action shall accrue on this Bond to any person or entity other than Owner or its successors or assigns.
- 1.8. Surety hereby waives notice of any change, alteration or addition, to the Agreement or to related subcontracts, purchase orders, and other obligations, including changes of time. Surety consents to all terms of the Agreement, including provisions on changes to the Agreement. No extension of time, change, alteration, modification, deletion, or addition to the Agreement, or of the work required thereunder, shall release or exonerate Surety on this Bond or in any way affect the obligations of Surety on this Bond.
- 1.9. Any proceeding, legal or equitable, under this Bond shall be instituted in any court of competent jurisdiction where a proceeding is pending between Owner and Contractor regarding the Agreement, or in the courts of the County of Sonoma, or in a court of competent jurisdiction in the location in which the work is located. Communications from Owner to Surety under Paragraph 1.3.a of this Bond shall be deemed to include the necessary agreements under Paragraph 1.3.b of this Bond unless expressly stated otherwise.

- 1.10. All notices to Surety or Contractor shall be mailed or delivered (at the address set forth on the signature page of this Bond), and all notices to Owner shall be mailed or delivered as provided in Article 18, Method and Place of Giving Notice, Submitting Bills, and Making Payments, of the Agreement. Actual receipt of notice by Surety, Owner or Contractor, however accomplished, shall be sufficient compliance as of the date received at the foregoing addresses.
- 1.11. Any provision in this Bond conflicting with any statutory or regulatory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein.
- 1.12. Definitions.
  - a. Balance of the Applicable Agreement Memorandum Amount: The total amount payable by Owner to Contractor pursuant to the terms of the Agreement after all proper adjustments have been made under the Agreement, for example, increases/decreases for approved modifications to the Agreement.
  - b. Agreement: The agreement between Owner and Contractor identified on the signature page of this Bond, including all amendments and amended agreements.
  - c. Contractor Default: Material failure of Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Agreement including, but not limited to, "default" or any other condition allowing a termination for cause as provided in Paragraph 7.3 of this Agreement.
  - d. Owner Default: Material failure of Owner, which has neither been remedied nor waived, to pay Contractor payments due under the Agreement or to perform other material terms of the Agreement, if such failure is the cause of the asserted Contractor Default and is sufficient to justify Contractor termination of the Agreement.