

**MASTER AGREEMENT FOR CONSULTANT SERVICES
BETWEEN
THE CITY OF SAN JOSE
AND
RMC WATER AND ENVIRONMENT**

THIS MASTER AGREEMENT is made and entered into this ____ day of _____ 2012, by and between the CITY OF SAN JOSE, a municipal corporation (hereinafter "CITY"), and RMC WATER AND ENVIRONMENT, a corporation authorized to do business in California (hereinafter "CONSULTANT").

RECITALS

The purpose for which this AGREEMENT is made, and all pertinent recitals are listed on EXHIBIT A, entitled "RECITALS", which is attached hereto and incorporated herein.

THE PARTIES HEREBY AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES.

CONSULTANT shall perform those services specified in detail in EXHIBIT B, entitled "SCOPE OF SERVICES", which is attached hereto and incorporated herein.

SECTION 2. TERM OF AGREEMENT.

The term of this Agreement shall commence on the date of execution by CITY, and continue through June 30, 2014, inclusive, subject to the provisions of SECTION 11. The Director of Environmental Services or the Director's designee ("Director") has the authority to extend the term of this AGREEMENT in writing, for a period of up to six months with no other changes to the AGREEMENT.

SECTION 3. COMPENSATION.

The compensation to be paid to CONSULTANT, including both payment for professional services and reimbursable expenses, shall not exceed TWO MILLION FOUR HUNDRED THOUSAND DOLLARS (\$2,400,000). The rate and schedule of payment is set out in EXHIBIT D, entitled "COMPENSATION," which is attached hereto and incorporated herein.

SECTION 4. METHOD OF PAYMENT.

Each month, CONSULTANT shall furnish to the CITY, a statement of the services performed for compensation during the preceding month. Such statement shall also include a detailed record of the month's actual reimbursable expenditures. Such statement shall be sent to the following address:

The City of San José
Department of Environmental Services
200 East Santa Clara Street, 4th Floor Tower
San Jose, CA 95113
Attn.: Ken Davies

SECTION 5. INDEPENDENT CONTRACTOR.

It is understood and agreed that CONSULTANT, in the performance of the work and services agreed to be performed by CONSULTANT, shall act as and be an independent contractor and not an agent or employee of CITY; and as an independent contractor, CONSULTANT shall obtain no rights to retirement benefits or other benefits which accrue to CITY's employees, and CONSULTANT hereby expressly waives any claim it may have to any such rights.

SECTION 6. ASSIGNABILITY.

The parties agree that the expertise and experience of CONSULTANT are material considerations for this AGREEMENT. CONSULTANT shall not assign or transfer any interest in this AGREEMENT nor the performance of any of CONSULTANT's obligations hereunder, without the prior written consent of CITY, and any attempt by CONSULTANT to so assign this AGREEMENT or any rights, duties or obligations arising hereunder shall be void and of no effect.

SECTION 7. SUBCONSULTANTS.

- A. Notwithstanding Section 6 above, the CONSULTANT may use the following SUBCONSULTANTS in performing the services under this AGREEMENT upon prior written approval by the CITY's Director.
- CDM Smith
 - Katz and Associates, Inc.
 - Raftelis Financial Consultants
 - Todd Engineers
 - Towill
 - Nellor Environmental Associates
 - ESA
 - Trussel Technologies, Inc.
- B. The CONSULTANT shall be responsible for directing the services of the approved SUBCONSULTANTS and for payment of any compensation due. The CITY assumes no responsibility whatsoever concerning SUBCONSULTANT compensation.
- C. The CONSULTANT shall change or add SUBCONSULTANTS only with the prior written approval of the CITY's Director.

SECTION 8. INDEMNIFICATION.

CONSULTANT shall defend, indemnify and hold harmless CITY, its officers, employees and agents against any claim, loss or liability arising out of or resulting in any way from work performed under this AGREEMENT due to the willful or negligent acts (active or passive) or omissions by CONSULTANT or subconsultant officers, employees or agents. The acceptance of said services and duties by CITY shall not operate as a waiver of such right of indemnification.

As a third party beneficiary to this AGREEMENT, CONSULTANT shall also defend, indemnify and hold harmless the Santa Clara Valley Water District ("DISTRICT"), its officers, employees and agents against any claim, loss or liability arising out of or resulting in any way from work performed under this AGREEMENT funded by the DISTRICT pursuant to the agreement entitled "Cost Sharing Agreement between the City of San Jose and Santa Clara Valley Water District for Feasibility Study for the South Bay Water Recycling Facilities" due to the willful or negligent acts (active or passive) or omissions by CONSULTANT or subconsultant officers, employees or agents. The acceptance of said services and duties by DISTRICT shall not operate as a waiver of such right of indemnification.

SECTION 9. INSURANCE REQUIREMENTS.

CONSULTANT agrees to have and maintain the policies set forth in EXHIBIT E, entitled "INSURANCE", which is attached hereto and incorporated herein. All policies, endorsements, certificates and/or binders shall be subject to approval by the Director of Finance or the Director's authorized designee ("Risk Manager") as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the Risk Manager. CONSULTANT agrees to provide CITY with a copy of said policies, certificates and/or endorsements before work commences under this AGREEMENT.

SECTION 10. NONDISCRIMINATION.

CONSULTANT shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin, in connection with or related to the performance of this AGREEMENT.

SECTION 11. TERMINATION.

- A. CITY shall have the right to terminate this AGREEMENT, without cause, by giving not less than seven (7) days written notice of termination.
- B. If CONSULTANT fails to perform any of its material obligations under this AGREEMENT, in addition to all other remedies provided by law, CITY may terminate this AGREEMENT immediately upon written notice.
- C. CITY's Department of Environmental Services is empowered to terminate this AGREEMENT on behalf of CITY.

D. In the event of termination, CONSULTANT shall deliver to CITY, copies of all reports, documents, and other work performed by CONSULTANT under this AGREEMENT, and upon receipt thereof, CITY shall pay CONSULTANT for services performed and reimbursable expenses incurred to the date of termination.

SECTION 12. GOVERNING LAW.

CITY and CONSULTANT agree that the law governing this AGREEMENT shall be that of the State of California.

SECTION 13. COMPLIANCE WITH LAWS.

CONSULTANT shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments.

SECTION 14. CONFIDENTIAL INFORMATION.

All data, documents, discussions or other information developed or received by or for CONSULTANT in performance of this AGREEMENT are confidential and not to be disclosed to any person except as authorized by CITY, or as required by law.

SECTION 15. OWNERSHIP OF MATERIALS.

A. CITY shall own any and all work product created by CONSULTANT pursuant to the terms and provisions of this AGREEMENT. Nothing herein shall result in the transfer of any ownership rights from CONSULTANT to CITY for any previously created and/or copyrighted materials. To the extent that the work product created by CONSULTANT for CITY incorporates any previously created and/or copyright material by CONSULTANT into such work product, CONSULTANT grants to CITY an irrevocable license to use such copyright material in anyway CITY deems appropriate other than resale. Documents, including drawings and specifications, prepared by CONSULTANT pursuant to this AGREEMENT are not intended or represented to be suitable for reuse by CITY or others for this Project or on any other project.

B. Notwithstanding the foregoing, the following shall apply to all plans, drawings, specifications and related reports and documents, and electronic equivalents (collectively "PLANS") developed pursuant to this AGREEMENT:

1. CITY shall have the right to reproduce and use the PLANS for purposes of the project that is the subject of this AGREEMENT, including, but not limited to, any use associated with construction, reconstruction, modification, management, maintenance and renovation of the project.
2. CITY shall have the right to reproduce, use and modify the PLANS, or portions thereof, in the design and construction of any other future CITY project. CITY acknowledges

that CONSULTANT does not warrant the suitability of the PLANS for reuse other than as needed for the project that is the subject of this AGREEMENT.

3. The right of the CITY to modify and reuse the PLANS pursuant to this Subsection 16.B is subject to the provisions of the California Business and Professions Code Sections 5536.25, 6735, 6735.3 or 6735.4, whichever is applicable.

SECTION 16. WAIVER.

CONSULTANT agrees that waiver by CITY of any breach or violation of any term or condition of this AGREEMENT shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition. The acceptance by CITY of the performance of any work or services by CONSULTANT shall not be deemed to be a waiver of any term or condition of this AGREEMENT.

SECTION 17. CONSULTANT'S BOOKS AND RECORDS.

- A. CONSULTANT shall maintain any and all ledgers, books of account, invoices, vouchers, cancelled checks and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to CITY for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to CONSULTANT pursuant to this AGREEMENT.
- B. CONSULTANT shall maintain all documents and records which demonstrate performance under this AGREEMENT for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this AGREEMENT.
- C. Any records or documents required to be maintained pursuant to this AGREEMENT shall be made available for inspection or audit at no cost to CITY, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such documents shall be provided to CITY for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at CONSULTANT's address indicated for receipt of notices in this AGREEMENT.
- D. Where CITY has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of CONSULTANT's business, CITY may, by written request by any of the above-named officers, require that custody of the records be given to CITY and that the records and documents be maintained in City Hall. Access to such records and documents shall be granted to any party authorized by CONSULTANT, CONSULTANT's representatives, or CONSULTANT's successor-in-interest.

SECTION 18. CONFLICT OF INTEREST.

CONSULTANT shall avoid all conflict of interest or appearance of conflict of interest in performance of this AGREEMENT. CONSULTANT's employees assigned to perform services as specified in EXHIBIT A of this AGREEMENT ("CONSULTANT's Assigned Employees") shall file an ASSUMING Office Disclosure Statement of Economic Interests (Form 700) as specified in EXHIBIT G, entitled "DISCLOSURE STATEMENT", which is attached hereto and incorporated herein. Such statement shall be filed within thirty (30) days of the date of this AGREEMENT and annually thereafter by the first of April. Upon termination of this AGREEMENT, CONSULTANT shall file a Leaving Office Disclosure Statement of Economic Interest (Form 700). CONSULTANT shall file the Form 700 with CITY's Clerk and submit a copy to Ken Davies. In addition to disclosure of financial interests, each employee is also subject to disqualification under the conflicts of interest prohibitions in the Political Reform Act §§ 87100 et seq. and Government Code Section 1090.

SECTION 19. GIFTS.

- A. CONSULTANT is familiar with CITY's prohibition against the acceptance of any gift by a CITY officer or designated employee, which prohibition is found in Chapter 12.08 of the San José Municipal Code.
- B. CONSULTANT agrees not to offer any CITY officer or designated employee any gift prohibited by said Chapter.
- C. The offer or giving of any gift prohibited by Chapter 12.08 shall constitute a material breach of this AGREEMENT by CONSULTANT. In addition to any other remedies CITY may have in law or equity, CITY may terminate this AGREEMENT for such breach as provided in SECTION 11 of this AGREEMENT.

SECTION 20. DISQUALIFICATION OF FORMER EMPLOYEES.

CONSULTANT is familiar with the provisions relating to the disqualification of former officers and employees of CITY in matters which are connected with former duties or official responsibilities as set forth in Chapter 12.10 of the San José Municipal Code ("Revolving Door Ordinance"). CONSULTANT shall not utilize, either directly or indirectly, any officer, employee, or agent of CONSULTANT to perform services under this AGREEMENT, if in the performance of such services, the officer, employee, or agent would be in violation of the Revolving Door Ordinance.

SECTION 21. NOTICES.

All notices and other communications required or permitted to be given under this AGREEMENT shall be in writing and shall be personally served or mailed, postage prepaid and return receipt requested, addressed to the respective parties as follows:

<p>To CITY: City of San José Department of Environmental Services 200 East Santa Clara Street, 10th Fl San José, CA 95113 Attn: Ken Davies</p>	<p>To CONSULTANT: RMC Water and Environment 2290 North First Street, Suite 212 San José, CA 95131 Attn: Tom Richardson</p>
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Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the mail.

SECTION 22. ENVIRONMENTALLY PREFERABLE PROCUREMENT POLICY.

CONSULTANT agrees that, in the performance of this AGREEMENT, CONSULTANT shall perform its obligations under the AGREEMENT in conformance with City Council Policy 4-6, Environmentally Preferable Procurement Policy. A description for environmentally preferable procurement and the Policy can be found on the CITY's website at the following link:

<http://www.sanjoseca.gov/esd/natural-energy-resources/epp.htm>.

Environmental procurement policies and activities related to the completion of work will include wherever practicable, but are not limited to:

- A. Use of recycled and/or recyclable products in daily operations. (i.e. 30, 50, 100% PCW paper, chlorine process free; triclosan free hand cleaner, etc.)
- B. Use of Energy Star Compliant equipment.
- C. Vehicles and vehicle operations (i.e. Alternative Fuel, Hybrid, etc.)
- D. Internal waste reduction and reuse protocol(s).
- E. Water and resource conservation activities within facilities, including bans on individual serving bottled water and the use of compostable food service products, etc.

SECTION 23. SPECIAL PROVISIONS.

Special provisions, if any, to this AGREEMENT are specified in EXHIBIT F, entitled, "SPECIAL PROVISIONS", which is attached hereto and incorporated herein.

SECTION 24. VENUE.

In the event that suit shall be brought by either party to this contract, the parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Northern District of California, San José, California.

SECTION 25. PRIOR AGREEMENTS AND AMENDMENTS.

This AGREEMENT, including all Exhibits attached hereto, represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This AGREEMENT may be modified only by a written amendment duly executed by the parties to this AGREEMENT.

WITNESS THE EXECUTION HEREOF on the day and year first hereinabove written.

“CITY”

APPROVED AS TO FORM:

CITY OF SAN JOSE, a municipal corporation

ROSA TSONGTAATARII
Deputy City Attorney

By _____
DENNIS D. HAWKINS, CMC
City Clerk

“CONSULTANT”

RMC WATER AND ENVIRONMENT

By _____
Name: _____
Title: _____

By _____
Name: _____
Title: _____

EXHIBIT A

RECITALS

WHEREAS, the CITY OF SAN JOSE desires to obtain consultant support to prepare a Strategic/Master Plan for the South Bay Water Recycling program; and

WHEREAS, RMC WATER AND ENVIRONMENT has the necessary professional expertise and skill to perform such services;

NOW, THEREFORE, the purpose of this AGREEMENT is to retain RMC WATER AND ENVIRONMENT as CONSULTANT to CITY to perform those services specified in SECTION 1 of this AGREEMENT.

EXHIBIT B

SCOPE OF SERVICES

CONSULTANT shall support the CITY's master planning effort for the South Bay Water Recycling Program. No work shall be done under this scope except pursuant to written Service Orders issued by the City's Director of Environmental Services or designee. Each Service Order shall include a detailed scope of work, budget, and list of deliverables for the work to be performed.

Contract Administration and Coordination

Throughout the term of this Agreement, CONSULTANT shall provide project administration as required to coordinate project work, i.e., phone calls, email, detailed scope/Service Orders, memorandums and correspondence.

CONSULTANT's services shall be provided as requested by the Director on an as-needed basis, as set forth in a specific project Service Order.

SECTION 1. GENERAL PROVISIONS.

- A. CONSULTANT shall perform all services to the satisfaction of the CITY'S Director.
- B. All of the services furnished by CONSULTANT under this AGREEMENT shall be of the currently prevailing professional standards and quality which prevail among consultant professionals of similar knowledge and skill engaged in related work throughout California under the same or similar circumstances. All documentation prepared by CONSULTANT shall provide for a completed project that conforms to all applicable codes, rules, regulations and guidelines which are in effect at the time such documentation is prepared.
- C. All work performed under this AGREEMENT shall be authorized by a specific Service Order. Each Service Order given by CITY shall detail the nature of the specific services to be performed by the CONSULTANT, the time limit within which such services must be completed and the compensation for such services. Such details shall include a description of the project for which CONSULTANT shall perform the services, the type and scope of services to be performed, the format and schedule for deliverables, the schedule of performance, and the schedule of compensation. CONSULTANT shall not perform any services unless authorized by a fully executed Service Order. Any unauthorized services performed by CONSULTANT shall be at no cost to the CITY.
- D. CONSULTANT shall begin work under the service order only after receipt of the Service Order bearing the approval signature of the Director or the Director's designee and the signature of the City Attorney approving the Service Order as to form. Each authorized Service Order issued under this AGREEMENT by CITY shall be incorporated into the terms and conditions of this AGREEMENT.

- E. CITY will assign a South Bay Water Recycling (SBWR) Master Plan Project Manager (Project Manager) to facilitate each Service Order authorized under this AGREEMENT. CONSULTANT shall coordinate with the designated Project Manager on the performance of each Service Order.
- F. The CONSULTANT will designate a project manager, acceptable to the CITY, who will be responsible for the work, developing the scope of work, implementing the project management procedures and controls, and maintaining effective communications among the CONSULTANT, the CITY, and other involved agencies and organizations.
- G. The CONSULTANT will be available for consultation with the CITY's Project Manager at all reasonable times and will immediately advise the project manager of requests, technical decisions, or problems that may significantly impact the approved schedule or budget, or materially affect the project scope, schedule, or cost.

SECTION 2. BASIC SERVICES.

CONSULTANT shall provide professional consultant services for preparation of Strategic and Master Planning documents to determine the future direction, policies, and priorities of the South Bay Water Recycling system, which may result in system improvements and expansions over a 20-year planning horizon. CONSULTANT shall provide the general types of services set forth below. This list of services is meant to be illustrative in nature only and is not meant to be a complete or exclusive list.

- A. CONSULTANT shall perform all services to the satisfaction of the DIRECTOR.
- B. All of the services furnished by CONSULTANT under this AGREEMENT shall be of the currently prevailing professional standards and quality which prevail among environmental and engineering consultant professionals of similar knowledge and skill engaged in related work throughout California under the same or similar circumstances. All documentation prepared by CONSULTANT shall provide for a completed project that conforms to all applicable codes, rules, regulations and guidelines which are in effect at the time such documentation is prepared.
- C. All work performed under this AGREEMENT shall be authorized by a specific Service Order. Each Service Order given by CITY shall detail the nature of the specific services to be performed by the CONSULTANT, the time limit within which such services must be completed and the compensation for such services. Such details shall include a description of the project for which CONSULTANT shall perform the services, the geographic limits of the project, the type and scope of services to be performed, the format and schedule for deliverables, the schedule of performance, and the schedule of compensation. CONSULTANT shall not perform any services unless authorized by a fully executed Service Order. Any unauthorized services performed by CONSULTANT shall be at no cost to the CITY.
- D. CONSULTANT shall begin work under the service order only after receipt of the

service order bearing the approval signature of the DIRECTOR or the DIRECTOR'S designee and the signature of the City Attorney approving the service order as to form. Each authorized Service Order issued under this AGREEMENT by CITY shall be incorporated into the terms and conditions of this AGREEMENT.

E. CITY will assign a Project Manager to facilitate each Service Order authorized under this AGREEMENT. CONSULTANT shall coordinate with the designated Project Manager on the performance of each Service Order.

F. The CONSULTANT will designate a project manager, acceptable to the CITY, who will be responsible for the work, developing the scope of work, implementing the project management procedures and controls, and maintaining effective communications among the CONSULTANT, the CITY, and other involved agencies and organizations.

G. The CONSULTANT will be available for consultation with the CITY's project manager at all reasonable times and will immediately advise the project manager of requests, technical decisions, or problems that may significantly impact the approved construction schedule or budget, or materially affect the project scope, schedule, or cost.

SECTION 3. SPECIFIC SERVICES.

A. Service Initiation

Prepare Service Order - Upon request of Project Manager, CONSULTANT shall discuss the Project with the Project Manager. CONSULTANT shall become familiar with the Project description, scope and goals and develop proposed scope of services.

Within fifteen (15) calendar days after being notified by the CITY of a project or services, the CONSULTANT will submit to the CITY a draft scope of services that will include:

a. Description of the CONSULTANT's approach to performing the scope of services, including any constraints, specific strategies, or special considerations that apply.

b. The roles and responsibilities of the project team members, including sub-consultants, if different from the proposal.

c. Cost proposals for each sub-task identified by the CITY including number of hours for each sub-task.

d. A schedule that details activities and deliverables for each sub-task in an appropriate time frame consistent with the duration of the project or service.

The scope of work will be prepared in the degree and detail appropriate for the Project Manager to review and incorporate in a draft Service Order. CONSULTANT shall not be compensated for work performed in preparing the scope of services for each Service Order.

B. Service Implementation

Upon receipt of an authorized Service Order, CONSULTANT shall begin Project services described in the Service Order in accordance with the Schedule of Performance in the Service Order. For each Project, in addition to the specified services, products and deliverables detailed in the Service Order, CONSULTANT shall perform the following tasks:

Task 0.1 – Initial Meeting - Prior to beginning substantive work on a project, CONSULTANT shall meet with CITY to establish procedures and notifications for any necessary meetings and communications with CITY staff; collect available data from the CITY and establish additional data needs and availability; confirm the format for all project products and deliverables; and address any preliminary project concerns. The meeting will be the primary opportunity to discuss the CITY'S intent, schedule and budget for the project. The CONSULTANT shall prepare minutes of the meeting and distribute minutes to meeting participants. The meeting may be in person, teleconference, or via email as appropriate.

Task 0.2 - Project Coordination Meetings - CONSULTANT shall attend and/or conduct project coordination meetings as required to perform authorized services and as required by Project Manager. CONSULTANT shall prepare minutes of each meeting and distribute minutes to participants.

Task 0.3 - Project Schedule - CONSULTANT shall prepare and submit a detailed schedule of performance consistent with the schedule contained in the Service Order to the Project Manager for review and approval. CONSULTANT shall confirm or update the schedule monthly at a minimum. Any changes to the schedule shall only be permitted with the written approval of CITY's Project Manager.

Task 0.4 - Project Progress Report - CONSULTANT shall submit a monthly report to the Project Manager detailing progress on the Project services.

Task 0.5 - Request for Payment / Invoice - CONSULTANT shall submit progress payment invoices to the Project Manager monthly, as specified in EXHIBIT D. The updated Project schedule and progress report may be submitted as attachments to the invoice. During the course of the project and to support each and every invoice, the Consultant will furnish reports that will include the following:

- a. A narrative progress report of specific accomplishments during the reporting period, problems encountered or anticipated, accomplishments scheduled for the next reporting period, and results of quality control programs, technical evaluations, inspections, etc.
- b. A cost report, for each specific service, that shows:

- 1 The current period and cumulative expenditures to date.
- 2 The estimated date to complete each task.
- 3 The approved budget.
- 4 A comparison of the estimated cost with the approved budget to show any variance.

Task 0.6 - Project Record - CONSULTANT shall develop and maintain a detailed record of the chronology of the project tasks and milestones completed that are decisive, conclusive or relevant to the outcome of the Project. CONSULTANT shall submit a copy of the Project Record to the Project Manager prior to final payment for services performed on the Project. The Record shall be submitted in both paper and electronic format.

Task 0.7 - Project Documents - Aside from deliverables specified in the Service Order, and before the conclusion of the Project and final payment for services performed on the Project, CONSULTANT shall submit to the Project Manager a copy of all project documents that are decisive, conclusive or relevant to the outcome of the Project such as technical reports, memoranda, comment letters. Documents shall be submitted in both paper and electronic format, as available.

A. **Specific Consultant Services**

Task 1: Institutional Framework, Financing Plan, and an Implementation Strategy

Task 1.1 Develop an implementation strategy that includes a program vision, goals, and objectives, along with alternative evaluation criteria.

- Building on work already completed as part of an earlier SBWR strategic planning effort, the CONSULTANT will develop a stakeholder engagement plan and convene workshops and utilize other engagement tools with SBWR stakeholders to assist in determining the following:
 - Define the best strategy to finance, operate, maintain, market, and rehabilitate current SBWR assets now and into the future.
 - Define the future of SBWR to satisfy regulatory, institutional and financial commitments.
 - Achieve consensus of partner agencies objectives that will lead to a clear and sustainable business model for SBWR's current operations.
 - Facilitate stakeholder meetings and prepare presentations.
 - Assist stakeholders in achieving consensus on program goals to meet the challenges associated with competing objectives for recycled water from the water and wastewater sectors.

- Provide a report that includes an updated vision for the future, sets measurable goals, and prioritizes strategies that ensure SBWR operations, costs, and future demands align with the needs of the Plant, Tributary agencies, and DISTRICT.
- Establish overall objectives with measurable criteria to achieve the goals within the 20-year planning horizon.
- Provide system planning triggers for recycled water infrastructure (pipelines, storage, brine management, and treatment facilities) from a wastewater and water supply perspective.

This Task will examine expanding the use of recycled water (landscape irrigation, dual plumbing, industrial cooling, etc.) and expansion beyond currently identified uses (restoration opportunities, groundwater recharge, recreation, direct potable reuse). This Task will evaluate the current market, as well as future market predictions, and determine methods to expand recycled water uses including city ordinances, green tech incentives, financial incentives, and exploitation of advantages recycled water has over potable water (consistent water quality, drought reliability, etc.).

Task 1.2 Review and update institutional framework and financing plan

CONSULTANT will review the institutional framework currently in place to identify governance, operational, legal, financial, rate setting, ordinances, water rights, and planning issues that affect the achievement of program vision, goals, and objectives. CONSULTANT will provide a comparative analysis of different governance models that have been successful for other recycled water systems. This review will include the Integration Agreement and the Ground Lease and Property Use Agreement between the City of San Jose and the DISTRICT executed on March 2, 2010 for the Silicon Valley Advanced Water Purification Center ("SVAWPC"), the Silver Creek Pipeline Agreement executed on January 22, 2002, and contractual agreements with SBWR retailers and other existing agreements, including any impacting the Tributary Agencies of the Plant.

Task 1.3 Institutional Framework, Financing Plan, and an Implementation Strategy Report

CONSULTANT will prepare a comprehensive report detailing the implementation strategy developed that discusses recommendations for SBWR governance, operation and maintenance, legal, financial, rate setting, local ordinances, water rights, and planning issues to achieve an agreed upon program vision, goals, and objectives. CONSULTANT will work with SBWR stakeholders to develop recommendations that specifically address and prioritize the above issues. The institutional framework, including the governance recommendations, will inform the subsequent tasks. Recommended programs, policies, and projects listed in subsequent tasks may only be considered if they can be achieved through the recommend governance structure.

Task 2: Water Quality and System Reliability

CONSULTANT will review and update descriptions of the available water supply, recycled water demands including seasonal and daily flows, source water quality, current and future regulatory requirements and wastewater treatment and disposal practices. The technologies needed for recycled water to be utilized as source water for indirect potable and potable reuse will be evaluated, including conventional and advanced treatment process like micro filtration, reverse osmosis, advanced oxidation, and ultra-violet disinfection to improve recycled water quality (e.g. Total Dissolved Solids (TDS), Phosphates, Nitrosodimethylamine (NDMA), and other Constituents of Emerging Concern) and meet the changing demands and needs of SBWR customers. The review will evaluate water quality to meet the demands and needs for potential users such as stream flow augmentation and indirect potable reuse.

CONSULTANT will review and update information related to recycled water supply from the Plant and the SVAWPC (including impacts from changes in the collection system as well as the wastewater treatment process), seasonal recycled water demand, and brine disposal activities and options. CONSULTANT will evaluate different options to improve source water quality (e.g. TDS management) through ordinances and other pollution prevention measures.

CONSULTANT will update the SBWR Rules and Regulations to address changing health code and state water quality requirements.

This task will also include various evaluations for system performance and reliability enhancements, including engineering designs for proposed reservoirs, pump stations, redundant contact channels, system loops, potable backups for low-pressure zones, double barrel transmission lines, redundant looping etc. as determined to meet reliability, energy performance, quantity, and quality demands over a 20-year planning horizon.

Task 3: Civil Engineering Analysis, Capital Project Determination, Designs

CONSULTANT will evaluate the current system design and recommend a list of prioritized future capital improvements to achieve the vision, goals, and objectives over a 20-year planning horizon. Projects that provide system reliability will be highlighted.

Other possible actions within this task include:

- System-wide asset management program strategies and tools.
- The development of a current and projected system-wide hydraulic model in the form of software that can be utilized by SBWR and the DISTRICT on an ongoing basis to analyze system efficiency, predict demand impacts on the system, and predict outcomes and resolutions to system faults.
- Site, designs, and seismic analysis for proposed capital projects.
- Other effluent diversions if recycled water is no longer a viable option.

CONSULTANT will provide a comprehensive marketing plan as needed to meet any expansion targets recommended and meet program goals. This plan shall

address barriers to meeting goals, and recommended timelines and strategies anticipated to be required in order to successfully reach program targets.

Task 4: Market Development

CONSULTANT will evaluate and develop rate structures to address cost recovery and encourage recycled water use. Economic analysis will also evaluate the long-term financial viability of SBWR given various scenarios of potable and recycled water demand, partnerships, and rates.

Other possible actions within this task include:

- Investigating the possibilities for recycled water use as direct and indirect potable reuse.
- Identifying and recommending technologies that may further improve recycled water quality and how these projects could be linked to the Plant Master Plan improvements.
- Evaluating the viability of other recycled water uses like stream-flow augmentation.
- Drafting new ordinances to encourage recycled water use.
- Developing revenue forecast based on current conditions and an expanded distribution system.
- Identifying additional Federal and State funding sources.

Task 5: Regional Coordination

In partnership with the DISTRICT, CONSULTANT will evaluate regional opportunities to promote the use of recycled water in Santa Clara County. The DISTRICT manages water supplies for the entire Santa Clara County. Recycled water used in any part of the county frees up potable water that can be used in other parts of the county. Components of this analysis will include (i) regional interconnectors between the Sunnyvale, Mountain View, Palo Alto, and South Bay Water Recycling systems, (ii) project alternatives for expanding recycled water towards direct/indirect potable reuse and stream-flow augmentation, and (iii) the institutional arrangements required to achieve these regional interconnectors and additional expansions. The study will analyze the most feasible and optimum interconnectors between each system, and will include an analysis of the energy efficiencies realized by using interconnectors rather than building additional potable water treatment and distribution facilities. The ultimate goal of this study component is to produce a guideline for a reliable water supply for our region, to augment supplies with recycled water during droughts or other hydrologic events, and to increase energy efficiencies by increasing the region's reliance on locally available water supplies such as recycled water.

Task 6: Report Preparation and Coordination

CONSULTANT will be expected to develop a comprehensive SBWR Master Plan, including a Feasibility Report that meets the requirements of WTR11-01, Reclamation Manual, Directives and Standards. CONSULTANT will provide a draft Project Feasibility Report that will be sent by CITY to Reclamation for review and approval. CONSULTANT will incorporate Reclamation's comments

and issue a final Project Feasibility Report. The feasibility study will provide recommendations for future actions that support the program vision.

The feasibility study will be expected to contain, but not be limited to, the following sections:

- Program vision, goals, objectives, and evaluation criteria
- Summary of the current system
- Market projections
- Reliability criteria

The following sections will contain project alternatives to meet the feasibility study goals, objectives, and evaluation criteria.

- A 20-year capital improvement program (projects defined by reliability, regulatory compliance, system expansion, efficiency improvements)
 - Projects may require preliminary/conceptual design drawings
 - Projects may also require documentation to comply with CEQA and NEPA
- Governance model(s)
- Financing Plan (market demand expansion if necessary)
- Updated geographic information system (GIS) planning and information management tools
- A notebook compiling all work related to completing the service orders and tasks.

CONSULTANT shall provide for management of all task activities under this Agreement, including: project team assignments; meeting preparation and attendance; maintenance and monitoring of the budget and schedule; quality assurance and quality control of all deliverables; and coordination of all subconsultants. The CONSULTANT will be expected to attend key feasibility study team meetings to track and follow the development and assessment of alternatives. CONSULTANT shall attend appropriate public meetings, workshops, and hearings related to the feasibility study.

Task 7: Environmental Review

CONSULTANT will provide sufficient documentation that may include the completion of an environmental impact report/statement to support CEQA and NEPA compliance detailing the environmental impacts from proposed projects where needed.

CONSULTANT will also investigate programmatic impacts related to the use of recycled water, which include potential groundwater impacts and the potential impacts of further reductions in Plant effluent flows and potentially eliminating the Plant discharge to the Bay as a result of increased recycled water use.

EXHIBIT C

SCHEDULE OF PERFORMANCE

All work under this AGREEMENT shall be completed on or before June 30, 2014. Work shall be initiated on an as-needed basis at the request of CITY, and work shall be prosecuted pursuant to details defined in each specific Service Order, as set forth in EXHIBIT B of this AGREEMENT.

At the discretion of CITY, the term and/or schedule of performance of this AGREEMENT may be extended up to six months in order to complete specific project work that is authorized by Service Order prior to June 30, 2014. Extension of the term and/or schedule of performance of the AGREEMENT shall be accomplished only by written authorization of the Director or the Director's designee, and only in the event that no other provision of this AGREEMENT is modified.

EXHIBIT D

COMPENSATION

Section 1. Maximum Compensation for Master Agreement.

1.1 Maximum Amount: The maximum amount of compensation the CITY will pay to the CONSULTANT under this Master Agreement, including both payment for professional services and reimbursable expenses, shall not exceed Two Million Four Hundred Thousand Dollars (\$2,400,000.00). Any hours worked for which payment would result in a total exceeding this maximum amount shall be at no cost to the CITY.

1.2 Manner of Payment: Each Service Order will set forth whether the CITY will pay the CONSULTANT for work performed under such Service Order on a lump sum basis or a time and materials basis. Section 2 of this Exhibit applies to each Service Order where the CITY will pay the CONSULTANT a lump sum for the work performed. Section 3 of this Exhibit applies to all Service Orders where the CITY will pay the CONSULTANT on an hourly basis for the work performed.

Section 2. Lump Sum Payment.

2.1 Lump Sum Amount: The Service Order shall specify the lump sum amount the CITY will pay the CONSULTANT for performing the required work. The lump sum amount compensates the CONSULTANT for all its costs necessary to complete the work. CONSULTANT shall complete all work set forth in the Service Order for the lump sum amount.

2.2 Progress Payment: The Service Order may provide for the CITY to pay the lump sum amount by making progress payments. Under such circumstances, the Service Order shall specify appropriate milestones and the amount payable upon successful completion of each milestone. Upon completion of a milestone to the Director's satisfaction, the CONSULTANT shall invoice the CITY for the appropriate progress payment. The CITY will make the appropriate progress payment to the CONSULTANT within forty-five (45) days of the Director's approval of the CONSULTANT's invoice, not to exceed sixty (60) days from receipt of CONSULTANT invoice that is acceptable to the CITY's project staff.

2.3 Lump Sum Payment: If the Service Order does not provide for the CITY to make progress payments, then the CITY shall make a single, lump sum payment to the CONSULTANT upon completion of all the work to the Director's satisfaction. Upon completion of the work to the Director's satisfaction, the CONSULTANT shall invoice the CITY for the lump sum amount. The CITY will make the appropriate progress payment to the CONSULTANT within forty-five (45) days of the Director's approval of the CONSULTANT's invoice, not to exceed sixty (60) days from receipt of CONSULTANT invoice that is acceptable to the CITY's project staff.

Section 3. Payment on an Hourly Basis.

3.1 Maximum Compensation: The Service Order shall specify the maximum amount of compensation for the work, including both payment for professional services and

reimbursable expenses. CONSULTANT shall complete all work it is required to perform under the Service Order for no more than the specified maximum amount. Any hours worked for which payment would result in a total exceeding this maximum amount shall be at no cost to CITY.

3.2 Budget: If the Service Order itemizes budget amounts for any phase or category of work then CONSULTANT shall not exceed such itemized amount without the Director's prior written authorization. The Director may approve, in writing, transfers of budget amounts between any of the phases or categories of work listed in the Service Order, provided the aggregate total compensation does not exceed the maximum compensation.

3.3 Hourly Rates: CITY will compensate CONSULTANT at the hourly rates in Exhibit D-I of this Master Agreement. As of January 1, 2014, the Director, in the Director's sole discretion, may approve hourly rate changes which may include an increase in the hourly rate in an amount not to exceed three percent (3 %) annually. To obtain an increase in the hourly rates, CONSULTANT must submit a written request to CITY in accordance with Section 22 of the AGREEMENT at least thirty (30) calendar days before January 1, 2014. The written request must include the proposed new rates and the basis for requesting the increase in rates. Hourly rates shall not at any time exceed the hourly rates then being charged by CONSULTANT to other local governmental agencies in the Bay Area region for similar work. Any rates for positions not included in the Schedule of Charges must be approved, in writing, in advance by the Director.

3.4 Reimbursable Expenses: CITY will reimburse for expenses subject to the following:

3.4.1 Each Service Order will specify the maximum amount of expenses for which CITY will reimburse CONSULTANT. CITY will reimburse expenses at actual cost plus five percent (5%). Any expenses CONSULTANT incurs beyond the specified amount is at no cost to CITY.

3.4.2 The following expenses are reimbursable to the extent CONSULTANT documents to the Director's satisfaction that they were incurred in performing the work required by the Service Order:

- a. Identifiable communications expenses including long-distance telephone, telegraph, cable, express charges, mail costs, and other communications costs.
- b. Printing, binding, multilith and other reproduction costs.
- c. Mileage at current IRS reimbursement rate, using the San Jose office of CONSULTANT as the base for all employees located in the nine Bay area counties. Mileage and travel costs for employees and subconsultants located outside the nine Bay Area counties shall only be reimbursed upon the prior written authorization of CITY's Director as authorized in a Service Order.
- d. Use of special equipment and tools used on the project and not considered "tools of the trade."

- e. All costs associated with outside services and facilities, other than subcontractors.

No other expenses are reimbursable unless the Director has pre-approved, in writing, such expense.

3.4.2 Subconsultant Cost and Expenses: The CITY will reimburse CONSULTANT for subconsultant costs and expenses at actual cost plus five percent (5%). The maximum amount payable for all subconsultant costs and expenses shall not exceed fifty percent (50%) of the maximum compensation payable to CONSULTANT. Each Service Order will specify the maximum amount of subconsultant costs and expenses for which CITY will reimburse the CONSULTANT. Any subconsultant cost or expense incurred by CONSULTANT beyond the amount specified in an approved Service Order shall be at no cost to CITY.

3.5 Invoice: Every month CONSULTANT shall invoice CITY for work performed during the immediately previous month. The monthly invoice shall set forth for the relevant invoice period a detailed description of the work completed, the number of hours worked and the applicable hourly rates, a detailed description of the reimbursable expenses incurred and the amount of such expenses, and documents supporting the reimbursable expenses. The invoice shall also show the total to be paid for the invoice period, the aggregate amounts of payments received to date under the Service Order and the balance of maximum compensation for remaining work on the Service Order.

EXHIBIT D-1

HOURLY RATE SCHEDULE

Labor Classification	Rate
RMC Water and Environment	
Principal Project Manager 3	\$265.00
Principal Project Manager 2	\$250.00
Principal Project Manager 1	\$240.00
Sr. Project Manager 3/Sr.Tech Specialist 3	\$230.00
Sr. Project Manager 2/Sr.Tech Specialist 2	\$225.00
Sr. Project Manager 1/Sr.Tech Specialist 1	\$220.00
Project Manager 3/Tech Specialist 3	\$205.00
Project Manager 2/Tech Specialist 2	\$200.00
Project Manager 1/Tech Specialist 1	\$195.00
Project Engineer 3/Project Planner 3	\$185.00
Project Engineer 2/Project Planner 2	\$175.00
Project Engineer 1/Project Planner 1	\$165.00
Associate Engineer 3/Associate Planner 3	\$155.00
Associate Engineer 2/Associate Planner 2	\$145.00
Associate Engineer 1/Associate Planner 1	\$135.00
Sr.CAD Designer	\$140.00
CAD Designer	\$125.00
IT Developer 3	\$130.00
IT Developer 2	\$125.00
IT Developer 1	\$120.00
Sr. Graphic Designer	\$125.00
Graphic Designer	\$115.00
Sr IT Staff	\$125.00
IT Staff	\$115.00
Sr. Project Accountant	\$120.00
Project Accountant	\$110.00
Sr. Project Administrator	\$105.00
Project Administrator	\$95.00
CDM Smith	
Senior Vice President	\$295.00
Vice President	\$275.00
Grade 7 & 8	\$200.00
Grade 6	\$180.00
Grade 4 & 5	\$160.00
Grade 1, 2 & 3	\$130.00
Draftsperson/Graphics	\$135.00
Contracts/Project Admin	\$140.00

Labor Classification	Rate
Desktop Publishing	\$130.00
Administrative Assistant	\$110.00
Technician/Clerk	\$70.00
Katz and Associates, Inc	
President/Principal in Charge	\$230.00
Senior Vice President	\$220.00
Executive Vice President/Facilitator	\$200.00
Vice President	\$190.00
Senior Director	\$180.00
Director	\$175.00
Senior Account Supervisor	\$170.00
Account Supervisor	\$160.00
Senior Account Executive	\$150.00
Account Executive II	\$130.00
Account Executive I	\$120.00
Assistant Account Executive	\$90.00
Account Coordinator	\$70.00
Project Support	\$60.00
Raftelis Financial Consultants	
Vice President	\$260.00
Senior Consultant	\$180.00
Consultant	\$155.00
Administrative	\$60.00
Other Charges	
Technology/Communications Charge	\$10/labor hour
Todd Engineers	
Principal Consultant	\$200.00
Principal Geologist/Hydrogeologist	\$200.00
Senior Engineer	\$170-\$200
Senior Hydrogeologist/Modeler	\$200.00
Senior Geochemist	\$190.00
Senior Hydrogeologist	\$170.00
Staff Engineer/Geologist	\$150.00
CAD/GIS/Drafting	\$97.00
Clerical	\$82.00
Towill	
Photogrammetry /Mapping / GIS	
Principal Photogrammetrist	\$189.00
Photogrammetry Project Manager	\$152.00
Senior Photogrammetrist	\$113.00
Digital Map Compiler/Photogrammetrist	\$91.00
Digital Map Editor/CADD Technician	\$85.00
GIS Analyst	\$94.50

Labor Classification	Rate
GIS Technician	\$74.50
Clerical Services	\$63.00
Survey	
Principal Land Surveyor	\$189.00
Survey Project Manager	\$162.50
Project Surveyor	\$147.00
Associate Surveyor	\$131.00
Survey Technical (Office)	\$103.50
Survey Party Chief*	\$121.00
Survey Instrument Person/Senior Chain Person*	\$110.00
Survey Rod Person/Chain Person*	\$105.00
Apprentice*	\$86.50
Clerical Services	\$63.00
Special Rates	
Hazmat Crew	Crew Rate + \$5.00/hr/person
Authorized Overtime	
Saturdays and in Excess of 8 hours on Weekdays	1.3 time regular
Sundays and Holidays	1.6 time regular
Materials and Equipment	
Digital Mapping / Orthophoto System	\$10/hour
Map Edit Station	\$10/hour
Computer Facilities	\$10/hour
Precision Photo Scanner	\$10/hour
Nellor Environmental Associates	
Margaret Nellor	\$190.00
ESA	
Executive	\$267.75
Senior Director II - Eng.	\$257.25
Senior Director II	\$246.75
Senior Director I	\$225.75
Senior Director I - Eng.	\$225.75
Director I - Eng.	\$210.00
Director II	\$210.00
Director I	\$194.25
Senior Managing Associate - Eng.	\$183.75
Senior Managing Associate II	\$183.75
Senior Technical Associate II	\$183.75
Senior Managing Associate I	\$178.50
Senior Technical Associate I	\$178.50
Managing Associate -Eng.	\$168.00
Managing Associate II	\$168.00

Labor Classification	Rate
Technical Associate II	\$168.00
Managing Associate I	\$157.50
Technical Associate I	\$157.50
Senior Associate II - Eng.	\$152.25
Senior Associate II	\$141.75
Hydrologist II	\$131.25
Senior Associate I	\$131.25
Hydrologist I	\$120.75
Associate II	\$115.50
Hydrographer	\$110.25
Senior Administrative	\$110.25
Senior Graphics	\$110.25
Associate II	\$105.00
Associate I	\$94.50
Administrative	\$89.25
Environmental Tech II	\$84.00
Clerical	\$73.50
Environmental Tech I	\$73.50
Trussel Technologies, Inc	
Senior Company Officer	\$291.00
Principal Engineer III	\$232.00
Principal Engineer II	\$215.00
Principal Engineer I	\$199.00
Supervising Engineer III	\$184.00
Supervising Engineer II	\$171.00
Supervising Engineer I	\$158.00
Senior Engineer III	\$146.00
Senior Engineer II	\$136.00
Senior Engineer I	\$125.00
Engineer II	\$116.00
Engineer I	\$108.00
Associate Engineer II	\$100.00
Associate Engineer I	\$92.00
Office Manager III	\$92.00
Assistance Engineer II	\$85.00
Office Manager II	\$85.00
Assistance Engineer I	\$79.00
Office Manager I	\$79.00
Office Assistant II	\$73.00
Office Assistant I	\$68.00
Other Rates and Markups	
Mileage	Current IRS Rate
Subconsultant Services	Cost plus 5%

EXHIBIT E
INSURANCE

CONSULTANT, at CONSULTANT's sole cost and expense, shall procure and maintain for the duration of this AGREEMENT insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the services hereunder by CONSULTANT, its agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. The coverage provided by Insurance Services Office Commercial General Liability coverage ("occurrence") Form Number CG 0001; and
2. The coverage provided by Insurance Services Office Form Number CA 0001 covering Automobile Liability. Coverage shall be included for all owned, non-owned and hired automobiles; and
3. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance; and
4. Professional Liability Errors & Omissions for all professional services.

There shall be no endorsement reducing the scope of coverage required above unless approved by the CITY's Risk Manager.

B. Minimum Limits of Insurance

CONSULTANT shall maintain limits no less than:

1. Commercial General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit; and
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and
3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident; and
4. Professional Liability Errors & Omissions: \$1,000,000 per claim/ aggregate

limit.

C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to, and approved by CITY's Risk Manager. At the option of CITY, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CITY, its officers, employees, agents and contractors; or CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the CITY's Risk Manager.

D. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverages
 - a. The City of San Jose, its officers, employees, agents and contractors are to be covered as additional insureds as respects: Liability arising out of activities performed by or on behalf of, CONSULTANT; products and completed operations of CONSULTANT; premises owned, leased or used by CONSULTANT; and automobiles owned, leased, hired or borrowed by CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, employees, agents and contractors.
 - b. CONSULTANT's insurance coverage shall be primary insurance as respects CITY, its officers, employees, agents and contractors. Any insurance or self-insurance maintained by CITY, its officers, employees, agents or contractors shall be excess of CONSULTANT's insurance and shall not contribute with it.
 - c. Any failure to comply with reporting provisions of the policies by CONSULTANT shall not affect coverage provided CITY, its officers, employees, agents, or contractors.
 - d. Coverage shall state that CONSULTANT's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 - e. Coverage shall contain a waiver of subrogation in favor of the City, its officers, employees, agents and contractors.
2. Workers' Compensation and Employers' Liability

Coverage shall contain waiver of subrogation in favor of the City of San Jose, its officers, employees, agents and contractors.

3. All Coverages

Each insurance policy required by this AGREEMENT shall be endorsed to state that notice of any changes to the policy shall be delivered in accordance with the policy provisions. In addition, CONSULTANT shall provide written notice to the CITY at least thirty (30) days' prior to any material changes to the policies including, but not limited to, suspension, expiration, cancellation, or reduction in limits.

E. Acceptability of Insurers

Insurance is to be placed with insurers acceptable to CITY's Risk Manager.

F. Verification of Coverage

CONSULTANT shall furnish CITY with certificates of insurance and with original endorsements affecting coverage required by this AGREEMENT. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be either emailed in pdf format to: Riskmgmt@sanjoseca.gov, or mailed to the following postal address or any subsequent address as may be directed in writing by the Risk Manager:

City of San Jose—Finance
Risk Management
200 East Santa Clara Street, 13th Floor Tower
San Jose, CA 95113-1905

G. Subcontractors

CONSULTANT shall include all subcontractors as insureds under its policies or shall obtain separate certificates and endorsements for each subcontractor.

SPECIAL PROVISIONS

A. OBLIGATIONS OF THE CONSULTANT

In addition to other remedies available to CITY, CITY may require CONSULTANT to promptly re-perform any services not meeting the standard of professional services detailed in EXHIBIT B, in which case CONSULTANT shall do so without additional compensation.

B. NONDISCRIMINATION

In the performance of this AGREEMENT:

1. Prohibition on Discrimination and Preferential Treatment.

CONSULTANT shall not discriminate against or grant preferential treatment to any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity or national origin.

This provision is applicable to recruiting, hiring, demotion, layoff, termination, compensation, fringe benefits, advancement, training, apprenticeship and other terms, conditions or privileges of employment, subcontracting and purchasing.

Nothing herein shall be interpreted as precluding any reasonable accommodation provided to any person with a disability.

2. Compliance Reports.

If directed by the Compliance Officer of the CITY, CONSULTANT shall file, and cause any subcontractor to file, compliance reports with the Compliance Officer. Compliance reports shall be in the form and filed at such times as may be designated by the Compliance Officer. Compliance reports shall contain such information and be supported by such data or records as may be requested by the Compliance Officer to determine whether CONSULTANT or its subcontractor is complying with the nondiscrimination and nonpreference provisions of this AGREEMENT and Chapter 4.08 of the Municipal Code.

3. Failure to Comply With Nondiscrimination Provisions.

If the Compliance Officer determines that the CONSULTANT has not complied with the nondiscrimination or nonpreference provisions of this AGREEMENT, the CITY may terminate or suspend this AGREEMENT, in whole or in part. Failure to comply with these provisions may also subject CONSULTANT and/or subconsultant to debarment proceedings pursuant to provisions of the San José Municipal Code. Failure to comply with these provisions is a violation of Chapter

4.08 of the San José Municipal Code and is a misdemeanor.

4. Subcontracts.

CONSULTANT shall include provisions 1 through 3, inclusive, in each subcontract entered into in furtherance of this AGREEMENT so that such provisions are binding upon each of its subcontractors.

5. Waiver of Nondiscrimination Provisions.

The nondiscrimination provisions of this AGREEMENT may be waived by the Compliance Officer, if the Compliance Officer determines that the CONSULTANT has its own nondiscrimination requirements or is bound in the performance of this AGREEMENT by the nondiscrimination requirements of another governmental agency, and the nondiscrimination provisions of the CONSULTANT or other governmental agency are substantially the same as those imposed by the CITY.

6. Prevailing Wages.

CONSULTANT acknowledges that portions of the services required by this AGREEMENT are a Public Work, subject to the provisions of Section 1771 of the California Labor Code. CONSULTANT shall pay, or cause to be paid, prevailing wages, as set forth in the California Labor Code Section 1770 *et. seq.*, for all labor performed to facilitate the professional services provided under this AGREEMENT, including, but not limited to, inspection, surveying, drilling, trenching, and excavation. CONSULTANT shall include in all agreements for such labor, a requirement that the employer provide all workers with written notice that prevailing wages apply.

CONSULTANT shall maintain, or cause to be maintained, all records documenting the payment of prevailing wages as required by the State prevailing wage law. CONSULTANT shall maintain these records for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to CONSULTANT under this AGREEMENT. CONSULTANT shall provide to the CITY, at no cost to the CITY, a copy of all such records within ten (10) working days of a request for such records by the CITY's Office of Equality Assurance.

CONSULTANT expressly agrees that the compensation agreed to between the parties includes all payment necessary to meet State prevailing wage law requirements. CONSULTANT shall indemnify the CITY for any claims, costs or expenses which the CITY incurs as a result of CONSULTANT's failure to pay, or cause to be paid, prevailing wages.

7. Third Party Beneficiary

The Santa Clara Valley Water District has a third party beneficiary interest in this

AGREEMENT to the extent that the CONSULTANT's performance or failure to perform is directly related to the tasks funded by the DISTRICT pursuant to the agreement entitled "Cost Sharing Agreement between the City of San Jose and Santa Clara Valley Water District for Feasibility Study for the South Bay Water Recycling Facilities."

EXHIBIT G

DISCLOSURE STATEMENT

CONSULTANT shall file with City Clerk a disclosure statement (Statement of Economic Interests -- Form 700) which includes disclosure of the following:

1. Schedule A - 1 -- Investments.
2. Schedule A - 2 -- Investments, Income and Assets of Business Entitles/Trusts.
3. Schedule B -- Interests in Real Property.
4. Schedule C -- Income and Business Positions.
5. Schedule D -- Income - Loans.
6. Schedule E -- Income - Gifts.
7. Schedule F -- Income - Gifts; Travel Payments, Advances and Reimbursements.