

DRAFT Agreement for Engineering and Design Services for Todd Channel Bank Repair Project

This agreement ("Agreement") is by and between **Sonoma County Water Agency**, a body corporate and politic of the State of California ("Sonoma Water") and **Brelje & Race Consulting Engineers**, a California corporation ("Consultant"). 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 5.1.

RECITALS

- A. Consultant represents that it is a duly qualified and licensed engineering firm, experienced in engineering and design of concrete channel bank repair and related services.
- B. Sonoma County Water Agency owns, operates, and maintains flood protection projects and provides flood protection services for Laguna de Santa Rosa/Mark West Creek (Zone 1A), ("Flood Protection Zone").
- C. Sonoma Water owns and maintains the existing Todd Channel located outside the southern city limits of Santa Rosa, California. Sonoma Water has identified issues with the condition of vertical concrete retaining walls near the confluence of the Todd Channel and Wilfred Channel, which combine into the Bellevue-Wilfred Channel, approximately 1,800 feet south of Scenic Avenue and 700 feet north of Millbrae Avenue, east of the Sonoma-Marin Area Rail Transit (SMART) railroad tracks and west of Highway 101.
- D. In July 2023, Sonoma Water engaged Consultant to conduct a preliminary engineering evaluation of the facilities of concern. Consultant provided a Preliminary Engineering Evaluation, dated December 15, 2023, which assessed the condition of the channel liners, determined potential causes of their degradation, provided conceptual repair recommendations for budgeting purposes, and recommended next steps for further investigation and design efforts towards repair.
- E. Under this Agreement, Consultant will provide engineering and design services for the repair of concrete retaining walls and related infrastructure as recommended in the Preliminary Engineering Evaluation.

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 and Submittals.
- c. Exhibit C: Sonoma Water Standards.
- d. Exhibit D: Map.
- e. Exhibit E: Schedule of Costs.
- f. Exhibit F: Estimated Budget for Scope of Work.
- g. Exhibit G: Insurance Requirements.

3. **SCOPE OF SERVICES**

3.1. *Consultant's Specified Services:* Consultant shall perform the services and provide submittals outlined in Exhibit A (Scope of Work) within the times or by the dates provided for in Exhibit B (Schedule and Submittals) and pursuant to Exhibit C (Sonoma Water Standards) and Article 9 (Prosecution of Work). In the event of a conflict between the body of this Agreement and Exhibit A (Scope of Work) or Exhibit C (Sonoma Water Standards), the provisions in the body of this Agreement shall control.

3.2. *Cooperation with Sonoma Water:* Consultant shall cooperate with Sonoma Water in the performance of all work hereunder. Consultant shall coordinate the work, except assistance during construction, with Sonoma Water's Project Manager. Consultant shall coordinate assistance during construction with Sonoma Water's Construction Management Principal Engineer. Contact information and mailing addresses:

Sonoma Water	Consultant
Project Manager: Alex Bodulow 404 Aviation Boulevard Santa Rosa, California 95403-9019 Phone: (707) 521-1823 Email: alex.bodulow@scwa.ca.gov Construction Management Principal Engineer: Mike West Phone: 707-547-1984 Email: Mike.West@scwa.ca.gov	Contact: Benjamin Bryant 475 Aviation Boulevard, Suite 120 Santa Rosa, California 95403 Phone: (707) 576-1322, extension 217 Email: bryant@brce.com
Remit invoices to: Accounts Payable Same address as above or Email: ap.agreements@scwa.ca.gov	Remit payments to: Same address as above

3.3. *Performance Standard and Standard of Care:* Consultant 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 Consultant's work by Sonoma Water shall not operate as a waiver or release. Sonoma Water has relied upon the professional ability and training of Consultant as a material inducement to enter into this Agreement. If Sonoma Water determines that any of Consultant'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 Consultant to meet with Sonoma Water to review the quality of the work and resolve matters of concern; (b) require Consultant to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of Article 6 (Termination); or (d) pursue any and all other remedies at law or in equity.

3.4. *Assigned Personnel:*

- a. Consultant 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 Consultant to perform work hereunder, Consultant 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. Consultant 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, Consultant shall employ the following key personnel:

<i>Title</i>	<i>Name</i>
Associate Principal	Benjamin L. Bryant, P.E.

- d. In the event that any of Consultant's personnel assigned to perform services under this Agreement become unavailable due to resignation, sickness, or other factors outside of Consultant's control, Consultant shall be responsible for timely provision of adequately qualified replacements.

4. **PAYMENT**

- 4.1. *Total Costs:* Total costs under this Agreement shall not exceed \$294,075.
- a. Total costs for all work except Optional Task shall not exceed \$254,075.

- b. Total costs for Optional Task, if requested in writing by Sonoma Water, shall not exceed \$40,000.
 - c. No more than \$142,544 will be paid until the 99% design review submittal is submitted.
- 4.2. *Method of Payment:* Consultant shall be paid in accordance with the following terms: Consultant shall be paid in accordance with Exhibit E (Schedule of Costs). Billed hourly rates shall include all costs for overhead and any other charges, other than expenses specifically identified in Exhibit F (Schedule of Costs). Expenses not expressly authorized by the Agreement shall not be reimbursed.
- 4.3. *Invoices:* Consultant shall submit its bills in arrears on a monthly basis, based on work completed for the period, in a form approved by Sonoma Water. The bills shall show or include:
- a. Consultant name.
 - b. Agreement title and TW 24/25-049.
 - c. Sonoma Water's Project-Activity Code F0477C005.
 - d. Task performed with an itemized description of services rendered by date.
 - e. Summary of work performed by subconsultants, as described in Paragraph 14.4.
 - f. Time in quarter hours devoted to the task.
 - g. Hourly rate or rates of the persons performing the task.
 - h. List of reimbursable materials and expenses.
 - i. Copies of receipts for reimbursable materials and expenses.
- 4.4. *Rate Changes:* Upon at least 30 days written notice, Consultant may change the hourly rates up to 6 percent per year, commencing one year from the Effective Date of this Agreement and no more than once every 12 months thereafter.
- 4.5. *Cost Tracking:* Consultant has provided an estimated breakdown of costs, included in Exhibit F (Estimated Budget for Scope of Work). Exhibit F (Estimated Budget for Scope of Work) will only be used as a tool to monitor progress of work and budget. Actual payment will be made as specified in Paragraph 4.2 above.
- 4.6. *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.
- 4.7. *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 Consultant for services performed within the State of California under this

Agreement, for payment and reporting to the California Franchise Tax Board, if Consultant 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 Consultant does not qualify, as described in Paragraph 4.7.a, Sonoma Water requires that a completed and signed Form 587 be provided by Consultant in order for payments to be made. If Consultant is qualified, as described in Paragraph 4.7.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, Consultant agrees to promptly notify Sonoma Water of any changes in the facts. Forms should be sent to Sonoma Water pursuant to Article 15 (Method and Place of Giving Notice, Submitting Bills, and Making Payments) of this Agreement. To reduce the amount withheld, Consultant has the option to provide Sonoma Water with either a full or partial waiver from the State of California.

5. TERM OF AGREEMENT

5.1. *Term of Agreement:*

- a. This Agreement shall expire on July 7, 2029, unless terminated earlier in accordance with the provisions of Article 6 (Termination).
- b. Sonoma County Water Agency's General Manager shall have the ability to extend the term of this Agreement for up to two additional years by providing written notice to Consultant thirty days in advance of the expiration date noted in this Article. The extension shall be formalized in an amended agreement or amendment signed by Sonoma Water and Consultant.

6. TERMINATION

- 6.1. *Authority to Terminate:* Sonoma Water's right to terminate may be exercised by Sonoma County Water Agency's General Manager.
- 6.2. *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 Consultant.
- 6.3. *Termination for Cause:* Notwithstanding any other provision of this Agreement, should Consultant 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 Consultant written notice of such termination, stating the reason for termination.

- 6.4. *Delivery of Work Product and Final Payment Upon Termination:* In the event of termination, Consultant, 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 Consultant or Consultant's subcontractors, consultants, and other agents in connection with this Agreement subject to Paragraph 12.11 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.
- 6.5. *Payment Upon Termination:* Upon termination of this Agreement by Sonoma Water, Consultant 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 Consultant 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 Consultant 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 6.3, 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 Consultant.

7. INDEMNIFICATION

- 7.1. Consultant agrees to accept responsibility for loss or damage to any person or entity, including Sonoma County Water Agency, and to defend, indemnify, hold harmless, and release Sonoma County Water Agency, its 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 Consultant, that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant or its agents, employees, contractors, subcontractors, or invitees hereunder, whether or not there is concurrent or contributory negligence on the part of Sonoma County Water Agency, but, to the extent required by law, excluding liability due to Sonoma County Water Agency's conduct. 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 Consultant or its agents, employees, contractors, subcontractors, or invitees under workers' compensation acts, disability benefits acts, or other employee benefit acts.

8. INSURANCE

- 8.1. With respect to performance of work under this Agreement, Consultant shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain, insurance as described in Exhibit G (Insurance Requirements).

9. PROSECUTION OF WORK

- 9.1. Consultant 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 Consultant's performance of this Agreement shall be extended by a number of days equal to the number of days Consultant has been delayed.

10. EXTRA OR CHANGED WORK

- 10.1. Extra or changed work or other changes to the Agreement may be authorized only by written amendment to this Agreement, signed by both parties. Changes to lengthen time schedules or make minor modifications to the scope of work, which do not increase the amount paid under the Agreement, may be executed by Sonoma County Water Agency's General Manager in a form approved by County Counsel. 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 Consultant 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 Consultant shall be entitled to no compensation whatsoever for the performance of such work. Consultant 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.

11. CONTENT ONLINE ACCESSIBILITY

- 11.1. *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.
- 11.2. *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. section 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

- 11.3. *Alternate Format*: When it is strictly impossible due to the unavailability of technologies required to produce an accessible document, Consultant shall identify the anticipated accessibility deficiency prior to commencement of any work to produce such submittals. Consultant 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.
- 11.4. *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 Consultant. If Sonoma Water, in its sole and absolute discretion, determines that any submittal 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 Consultant in writing. Upon such notice, Consultant 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 6 (Termination); and/or
 - c. In the case of custom Electronic and Information Technology (EIT) developed by Consultant for Sonoma Water, Sonoma Water may have any necessary changes or repairs performed by itself or by another contractor. In such event, Consultant shall be liable for all expenses incurred by Sonoma Water in connection with such changes or repairs.
- 11.5. *Sonoma Water's Rights Reserved*: Notwithstanding the foregoing, Sonoma Water may accept submittals 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.

12. REPRESENTATIONS OF CONSULTANT

- 12.1. *Status of Consultant*: The parties intend that Consultant, 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. Consultant 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 6 (Termination), Consultant expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.

- 12.2. *Communication with Sonoma Water's Contractor:* All communication shall be between Consultant and Sonoma Water. Consultant 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. Nothing in this provision shall serve to limit Consultant's responsibility to provide such engineering or related services as are required to complete other work or correct any errors or omissions of Consultant in the performance of services under this Agreement.
- 12.3. *No Suspension or Debarment:* Consultant 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. Consultant 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 Consultant becomes debarred, Consultant has the obligation to inform Sonoma Water.
- 12.4. *Taxes:* Consultant 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. Consultant 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 Consultant'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, Consultant agrees to furnish Sonoma Water with proof of payment of taxes on these earnings.
- 12.5. *Records Maintenance:* Consultant 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. Consultant shall maintain such records for a period of four (4) years following completion of work hereunder.
- 12.6. *Conflict of Interest:* Consultant 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. Consultant 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, Consultant 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.

- 12.7. *Statutory Compliance/Living Wage Ordinance:* Consultant 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, Consultant 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.
- 12.8. *Nondiscrimination:* Consultant 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.
- 12.9. *AIDS Discrimination:* Consultant 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.
- 12.10. *Assignment of Rights:* Consultant 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 work, if any, now or later prepared by Consultant in connection with this Agreement. Consultant 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. Consultant'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. Consultant 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.
- 12.11. *Ownership and Disclosure of Work Product:* All reports, original drawings, graphics, plans, studies, and other data or documents ("documents"), in

whatever form or format, assembled or prepared by Consultant or Consultant's subcontractors, consultants, and other agents in connection with this Agreement shall be the property of Sonoma Water. Sonoma Water shall be entitled to immediate possession of such documents upon completion of the work pursuant to this Agreement. Upon expiration or termination of this Agreement, Consultant shall promptly deliver to Sonoma Water all such documents, which have not already been provided to Sonoma Water in such form or format as Sonoma Water deems appropriate. Such documents shall be and will remain the property of Sonoma Water without restriction or limitation. Consultant may retain copies of the above-described documents but 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.

- 12.12. *Authority:* The undersigned hereby represents and warrants that the undersigned has authority to execute and deliver this Agreement on behalf of Consultant.
- 12.13. *Nondisclosure of Confidential Information:* While doing the work required by this Agreement, Consultant 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 Consultant, Consultant 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, Consultant shall give Sonoma Water written notice and a copy of the request and the time period, if any, within which Consultant is required to respond to the request. Upon termination of this Agreement, Consultant shall return Confidential Information in its possession, including copies, to Sonoma Water. Consultant'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 12.11, Consultant 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.
- 12.14. *Zone Liability:* The term "Zone" or "Zones" as used in this Paragraph 12.14 shall mean any applicable Flood Protection Zone, as described in Recital B of this Agreement. To the extent any work under this Agreement relates to Zone activities, Consultant shall be paid exclusively from Zone funds. Consultant agrees that Consultant shall make no claim for compensation for Consultant's

services against other funds available to Sonoma County Water Agency and Consultant expressly waives any right to be compensated from other funds available to Sonoma County Water Agency. In addition, Consultant 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 that Zone.

13. **DEMAND FOR ASSURANCE**

- 13.1. 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 13 limits Sonoma Water's right to terminate this Agreement pursuant to Article 6 (Termination).

14. **ASSIGNMENT AND DELEGATION**

- 14.1. *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.
- 14.2. *Subcontracts:* Notwithstanding the foregoing, Consultant 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. Approved subconsultants are as follows:

<i>Full Legal Name</i>	<i>Type of Services</i>	<i>Prevailing Wages Apply? Y/N</i>
RGH Geotechnical and Environmental Consultants	Geotechnical	N
ZFA Structural Engineers	Structural	N

- 14.3. *Change of Subcontractors or Subconsultants:* If, after execution of the Agreement, parties agree that subconsultants not listed in Paragraph 14.2 will be utilized, Consultant may enter into subcontracts with subconsultants to perform other specific duties pursuant to the provisions of this Paragraph 14.3. The following provisions apply to any subcontract entered into by Consultant other than those listed in Paragraph 14.2:
- a. Prior to entering into any contract with subconsultant, Consultant 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 7 (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.
- 14.4. *Summary of Subconsultants' Work:* Consultant shall provide Sonoma Water with a summary of work performed by subconsultants with each invoice submitted under Paragraph 4.3. 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.

15. METHOD AND PLACE OF GIVING NOTICE, SUBMITTING BILLS, AND MAKING PAYMENTS

- 15.1. *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.
- 15.2. *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 15.

16. MISCELLANEOUS PROVISIONS

- 16.1. *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.

- 16.2. *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.
- 16.3. *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. Consultant 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. Consultant and Sonoma Water acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.
- 16.4. *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.
- 16.5. *No Third-Party Beneficiaries:* Except as provided in Article 7 (Indemnification), nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.
- 16.6. *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.
- 16.7. *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.
- 16.8. *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.

16.9. *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.

16.10. *Time of Essence:* Time is and shall be of the essence of this Agreement and every provision hereof.

16.11. *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 E-SIGN 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.

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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.

Reviewed as to funds:

TW 24/25-049

By: _____
Sonoma County Water Agency
Division Manager - Administrative
Services

Approved as to form:

By: _____
Cory Wurtzel O'Donnell, Chief Deputy
County Counsel

Insurance Documentation is on file with
Sonoma Water

Date/TW Initials: _____

Sonoma County Water Agency

Brelje & Race Consulting Engineers, a
California corporation

By: _____
Grant Davis
General Manager

By: _____

Name: _____

Title: _____

Date: _____

Date: _____

DIR Registration #: _____

Exhibit A

Scope of Work

1. GENERAL

- 1.1. Project Description: Several sections of concrete retaining wall in Todd Channel have begun to lean. This project will develop construction documents for the recommended measures to repair defects to the retaining wall and address the deficient drainage system. See Exhibit D (Map) for the approximate project location.
- 1.2. The scope of work for this Project includes design for the following:
 - a. Replacement of two sections of concrete retaining walls.
 - b. Replacement or repair of drainage system behind failed retaining walls.

2. HAZARDOUS WASTE

- 2.1. Services relating to the identification, investigation, or remediation of hazardous waste contamination are not included in the Scope of Work.

3. ENVIRONMENTAL SERVICES

- 3.1. Not included in Scope of Work.

4. RIGHTS-OF-WAY

- 4.1. Not included in Scope of Work.

5. COST ESTIMATES

- 5.1. In accordance with Exhibit C (Sonoma Water Standards).

6. DESIGN SERVICES

- 6.1. In accordance with Exhibit C (Sonoma Water Standards), except as modified below.
 - a. In Paragraph 6.1, combine the 30% and 60% design phases into one 50% design phase.

7. SURVEYING SERVICES

- 7.1. Not included in Scope of Work (Sonoma Water will perform surveying services in accordance with Exhibit C [Sonoma Water Standards]). Consultant shall coordinate with Sonoma Water regarding survey services, if any. Consultant and Sonoma Water shall mutually agree upon schedule for survey.

8. DRAFTING SERVICES

8.1. In accordance with Exhibit C (Sonoma Water Standards).

9. SPECIFICATIONS PREPARATION

9.1. In accordance with Exhibit C (Sonoma Water Standards).

10. OPERATIONS AND MAINTENANCE MANUAL(S) MODIFICATIONS

10.1. Not included in Scope of Work.

11. ASSISTANCE DURING BIDDING AND CONSTRUCTION

11.1. In accordance with Exhibit C (Sonoma Water Standards), except as modified below. Modifications are shown as follows: Double-underline designates text to be inserted; ~~strikeout~~ designates text to be deleted.

a. Modify Paragraph 11.1.e as follows:

Upon request from Sonoma Water, prepare up to two addenda to clarify, correct, or change the technical specifications or drawings in accordance with the following:

b. Modify Paragraph 11.2.c as follows:

Assist Sonoma Water by answering request(s) for information (RFIs), as requested by Sonoma Water (up to ~~304~~ RFIs).

c. Modify first sentence of Paragraph 11.2.d.i. as follows:

Review up to eight contractor's submittals of information and shop drawings for the Project and either mark "No Exceptions Taken," "Make Corrections Noted," "Revise and Resubmit," or "Rejected" on each submittal. Review up to one re-submittal for each of the eight contractor submittals.

d. Modify Paragraph 11.2.e as follows:

Upon request from Sonoma Water, provide up to ten construction site visits. Write summary memo of each site visit requested and provide to Sonoma Water 2 working days after date of site visit.

e. Add the following as Paragraph 11.2.g:

g. Perform special inspection of reinforcing steel in foundations and walls, placement of concrete in foundations and walls, and epoxy setting and dowels.

12. SUBMITTAL OF DOCUMENTS

12.1. In accordance with Exhibit C (Sonoma Water Standards).

13. OPTIONAL TASK(S)

13.1. Optional Task: Additional Services (Cost Included in Agreement):

a. Do not proceed with this task unless requested in writing by Sonoma Water.

- b. Perform additional services as requested by Sonoma Water to support the work under this Agreement. The additional services will be agreed to by Consultant and Sonoma Water and described in writing by Sonoma Water. Submittals and due dates to be determined.

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Exhibit B

Schedule and Submittals

MILESTONE	DOCUMENTS TO BE SUBMITTED	CALENDAR DAYS
Kick-off Meeting Submittal	<ul style="list-style-type: none"> • Meeting agenda • Preliminary Statement of Probable Construction Costs 	7 calendar days prior to Kick-off Meeting
Kick-off Meeting	-	14 calendar days following Notice to Proceed with Design
Kick-off Meeting Minutes	<ul style="list-style-type: none"> • Meeting minutes 	within 7 calendar days after Kick-off meeting
Design Workshop Submittal	<ul style="list-style-type: none"> • Meeting agenda • Draft Design Report • Assumptions and preliminary conclusions to be included in the draft Design Report 	within 14 calendar days after Kick-off meeting
Design Workshop	-	within 21 calendar days after Kick-off meeting
Design Workshop Minutes	<ul style="list-style-type: none"> • Meeting minutes 	within 7 calendar days after Design Workshop
Sonoma Water comments on draft Design Report, if any	<ul style="list-style-type: none"> • - 	within 49 calendar days after receipt of draft Design Report
Resubmittal of Design Report	<ul style="list-style-type: none"> • Revised Design Report 	within 14 calendar days of receipt of Sonoma Water comments
50% Design Submittal	<ul style="list-style-type: none"> • Meeting agenda • Drawings • Technical specifications • Bid item descriptions • Construction Schedule • Revised Preliminary Statement of Probable Construction Costs • Design Notebook 	90 calendar days after Resubmittal of Design Report
50% Design Review Meeting	-	within 21 calendar days after 50% Design Submittal
50% Design Review Meeting Minutes	Meeting minutes	within 7 calendar days after 50% Design Review Meeting

MILESTONE	DOCUMENTS TO BE SUBMITTED	CALENDAR DAYS
90% Design Submittal	<ul style="list-style-type: none"> • Meeting agenda • Drawings • Technical specifications • Bid item descriptions • Construction Schedule • Revised Preliminary Statement of Probable Construction Costs • Design Notebook 	60 calendar days after 50% Design Review Meeting
90% Design Review Meeting	-	within 21 calendar days after 90% Design Submittal
90% Design Review Meeting Minutes	Meeting minutes	within 7 calendar days after 90% Design Review Meeting
99% Design Submittal	<ul style="list-style-type: none"> • Meeting minutes • Drawings • Technical specifications • Bid item descriptions • Revised Statement of Probable Construction Costs • Construction Schedule • Design Notebook 	within 42 calendar days after 90% Design Review Meeting
99% Design Review Meeting	-	at least 35 calendar days after 99% Design Submittal
99% Design Review Meeting Minutes	Meeting minutes	within 7 calendar days after 99% Design Review Meeting
Final Submittal	<ul style="list-style-type: none"> • Design Notebook • Statement of Probable Construction Costs • Complete set of revised and final technical specifications • Stamped and signed Section 00007 (Seals Page) • AutoCAD drawings • Half-size (11" x 17") drawings (PDF) • Full-size (22" x 34") drawings (PDF) 	within 28 calendar days after 99% Design Review Meeting
Draft Addenda submittals, if applicable	<ul style="list-style-type: none"> • as required 	At least 8 calendar days prior to Project bid opening
Final Addenda submittals, if applicable	<ul style="list-style-type: none"> • as required 	At least 7 calendar days prior to Project bid opening

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Exhibit C

Sonoma Water Standards

1. GENERAL

- 1.1. Consultant agrees to perform obligations described in this Agreement and to furnish necessary engineering (or architectural, if applicable) skills, services, labor, supplies, supervision, and material required to perform and complete the Project.
- 1.2. By execution of this Agreement, Consultant warrants that it has carefully examined the Project site and has satisfied itself of local and any special conditions affecting this Scope of Work. Tests, survey results, geotechnical reports, or other data or information, whether furnished by Sonoma Water, or referenced in this Agreement, are for Consultant's convenience. Sonoma Water does not guarantee that such tests or preliminary investigations or other data and information are accurate and assumes no responsibility whatsoever as to their accuracy or interpretation. Consultant shall satisfy itself as to the accuracy or interpretation of such tests or survey results or other information or data.

2. HAZARDOUS WASTE

- 2.1. If applicable, see Exhibit A (Scope of Work).

3. ENVIRONMENTAL SERVICES

- 3.1. If applicable, see Exhibit A (Scope of Work).

4. RIGHTS-OF-WAY

- 4.1. Sonoma Water will acquire such permissions or rights necessary for Sonoma Water and its Consultant(s) to gain lawful entry into, across, over or upon property not owned by Sonoma Water, which are necessary for investigations, surveys, or studies required for Consultant to provide the services described in Exhibit A (Scope of Work).
- 4.2. At the project Kick-off meeting and thereafter, identify the entry/access in/onto private property (not owned by Sonoma Water) that is needed in connection with investigations, surveys, or studies required for Consultant to provide the services described in Exhibit A (Scope of Work).
- 4.3. Coordinate with Sonoma Water in a timely manner to allow Sonoma Water to obtain the permission or legal rights required, and set and adjust the schedule and timing of Consultant's services and activities required under Exhibit A (Scope of Work) as needed.

- 4.4. Submit requests for Permission to Enter needed for Consultant's access to private property (not owned by Sonoma Water) to Sonoma Water at least 7 calendar days in advance of desired access date. Requests submitted shall indicate properties to be accessed (by Assessor's Parcel Number, date and time, planned activities, approximate number of staff, and anticipated number of vehicles). Include a map showing proposed access route and areas of the property to be visited.
- 4.5. Determine the extents of the property areas (Footprint) needed for Project construction and provide information to Sonoma Water including, but not limited to, disturbance limit for work, areas needed for access and staging, improvements needed to access the site or perform the work, and obstacles or impediments that may restrict access to or mobility within the site or conflict with proposed Project features (e.g., tight corners, inadequate ingress/egress ramps, narrow bridges, utility poles and lines, vineyard infrastructure, and other physical features).

5. COST ESTIMATES

- 5.1. Prepare a Statement of Probable Construction Costs broken down by bid item, and revise and submit at each design phase. Provide estimated quantities for unit priced items.

6. DESIGN SERVICES

- 6.1. Design Stages:
 - a. Preliminary Design:
 - i. Conduct Kick-off meeting to consult with Sonoma Water to define and clarify Sonoma Water's requirements for the Project and available data.
 - ii. Present assumptions and preliminary conclusions to be included in the draft Design Report at Design Workshop. Sonoma Water may direct the Consultant regarding the assumptions made that may alter the conclusions.
 - iii. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project designed or specified by Consultant.
 - iv. Identify and evaluate at least three alternative solutions available to Sonoma Water and, after consultation with Sonoma Water, recommend to Sonoma Water those solutions that in Consultant's judgment meet Sonoma Water's requirements for the Project.
 - v. Identify key utility locations and identify utility conflicts, if any.
 - vi. For sanitation projects, smoke test sewer mains between manholes, and between manholes and cleanouts, and locate and log any locations where smoke exits the subsystems other than at cleanouts, manholes, or roof vents.

- vii. For sanitation projects, inspect the existing condition of manholes and document condition using Sonoma Water-supplied form.
- viii. For sanitation projects, inspect the existing condition of sewer main cleanouts and log any variances from Sonoma County Water Agency Sanitation Standards.
- ix. Site investigation(s):
 - a) Shall be sufficient for purpose of obtaining permits, satisfying CEQA requirements, performing engineering analyses and modeling to support Project design.
 - b) Following any investigation(s) at the Project site, return site to pre-existing conditions, including filling holes and excavations, and grading as required.
- b. 30%:
 - i. Project parameters shall be fully defined; calculations, including sizing of Project components, shall be complete; outline of technical specifications and preliminary sketches and drawings shall be available.
 - ii. Drawings shall indicate topographic property boundaries, proposed access routes, USA mark-out, and potholing, if applicable.
- c. 60%:
 - i. Drawings shall describe the general size, nature, and complexity of the Project and indicate the information for Sonoma Water to identify the right-of-way acquisitions needed for Project completion including, but is not limited to, the disturbance limit for work, areas needed for access and staging, temporary improvements needed to access the site or perform the work, and obstacles or impediments that may be present. Alignment and location of facilities shall be final; draft specifications, all-inclusive and in their entirety, shall be 60% completed with sufficient detail to allow Sonoma Water review and comment.
- d. 90%:
 - i. Drawings shall indicate the scope, extent, and character of the work to be provided by the contractor. Specifications and drawings, all-inclusive and in their entirety, shall be 90% completed and rights-of-way, permits, and regulatory considerations shall be resolved.
- e. 99%:
 - i. Changes and modifications from Sonoma Water shall be incorporated, any outstanding issues resolved, and specifications and drawings essentially complete.
- f. Final:
 - i. Specifications and drawings shall be complete and Sonoma Water comments incorporated into a final construction documents set.

6.2. Design Report:

- a. Prepare a design report for the Project (Design Report) that includes the following:
 - i. Title page with name of Project, name of preparer, preparer's company name and address, and date.
 - ii. Table of Contents.
 - iii. A summary of results.
 - iv. Conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, considerations involved, and those alternative solutions available to Sonoma Water that Consultant recommends.
 - v. A description of the work performed, including methodology, a detailed description of the inspections performed, literature reviewed, documents and records reviewed, and individuals and agencies contacted.
 - vi. Construction cost estimate itemized by bid item, as described in Paragraph 5.
 - vii. Appendix, including copies of documents, photographs, manufacturer's literature, and other records deemed appropriate. For sanitation projects, also include video logs, smoke testing logs, sewer manhole inspection logs, and sewer main cleanout inspection logs.
 - viii. Schematic drawings, sketches, and exhibits as necessary to illustrate the recommended Project.
 - ix. Other information to support the recommendations.

6.3. Prepare Project design, as recommended in Sonoma Water-approved Design Report.

6.4. Design Notebook:

- a. Design Notebook shall contain, as appropriate, copies of the Design Report, stamped and signed design calculations, conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, engineering sketches, schematic layouts, product and material selection evaluation, alternate solutions available to Sonoma Water that Consultant recommends, and supporting information pertaining to the design of the Project. The design calculations and engineering sketches shall be in sufficient detail to design the Project with its appurtenances. The Design Notebook shall include a technical memorandum summarizing the design parameters. Submit updated Design Notebook at each design phase.

6.5. Construction Schedule: Construction schedule shall show the anticipated timeframe for completing construction of major units. Use a simple bar chart approach for each item and indicate the anticipated critical path of construction.

6.6. Additional Requirements:

- a. Obtain encroachment permits as required for inclusion in the Project specifications from the applicable agencies having jurisdiction.
- b. Determine right-of-way needs for the Project and provide information to Sonoma Water, including, but not limited to disturbance limit for work, areas needed for access and staging, temporary improvements needed to access the site or perform the work, and obstacles or impediments that may be present.
- c. Identify requirements, if any, which Sonoma Water may not have identified. Possible requirements include, but are not limited to, provisions in the environmental documents, including the Mitigation Monitoring Plan (if applicable), permits (if applicable), right-of-way agreements, and local ordinances.
- d. Incorporate applicable requirements into Project.

6.7. Meeting Requirements:

- a. Arrange, attend, prepare agendas for, and conduct meetings at each design stage.
- b. At meetings, discuss the progress and direction of the design. Advise Sonoma Water in writing how Sonoma Water comments impact Project scheduling and cost.
- c. Prepare meeting minutes for each meeting.
- d. Meetings shall be held at Sonoma Water's Office, 404 Aviation Boulevard, Santa Rosa, California, or by teleconference.

7. SURVEYING SERVICES

7.1. General:

- a. Surveying and mapping services and data collected, mapped, or produced shall meet or exceed Geospatial Positioning Accuracy Standards as endorsed by the Federal Geographic Data Committee, and as may be updated from time to time during the term of this Agreement, in particular but not specifically limited to (Part 4) Standards for Architecture, Engineering, Construction (A/E/C) and Facilities Management as recommended by the Federal Geographic Data Committee (FGDC)- Publication FGDC-STD-007.4-2002.
- b. Horizontal datum for surveying services shall be North American Datum of 1983 (NAD 83).
- c. Vertical Datum of surveying and mapping services and data provided shall be the North American Vertical Datum of 1988 (NAVD88) when or where practical. The National Geodetic Vertical Datum of 1929 (NGVD29) is acceptable for projects/locations where sufficient reference marks necessary to recover NAVD88 are not practically available.

- d. Surveys and mapping shall be projected upon the California Coordinate System of 1983 (CCS83), Zone 2 in US Survey feet (Coordinates and Elevations) unless directed otherwise by Sonoma Water.
- e. Surveys and mapping services shall comply with sections 6731.1 and 6731.2 of the Business and Professions Code of the State of California, and section 8801-8819 of the Public Resources Code of the State of California.
- f. File a Record of Survey in accordance with and when required under section 8762 of the Business and Professional Code of the State of California, and/or Corner Record(s) where applicable under section 8771 of the Business and Professional Code of the State of California.
- g. Comply with industry accepted standards associated with a given element of the services provided by Consultant and implement best practices whenever and wherever possible to achieve the highest quality and integrity of the resulting data and services produced. Whenever and wherever the signals from Global Navigation Satellite Systems (GNSS) are leveraged by Consultant to determine precise positioning (generally required Network Control as may be requested by Sonoma Water or as necessary to comply with the requirements of this Agreement), comply with the GNSS Surveying and Specification Version 1.1, Dated December 10, 2014, and/or such updates as may be endorsed from time to time during the term of this Agreement by the Joint Task Force of the California Land Surveyors Association and California Spatial Reference Center.
- h. Conduct such research and other due diligence required to comply with the requirements outlined herein.

7.2. Project Survey Control:

- a. Use only a class and character (Order/Accuracy/Stability) of reference control required and appropriate to meet the accuracy requirements for the works proposed by the Project.
- b. Establish such inter-visible project survey control (points) that are necessary to facilitate the design and construction surveys required for the Project. Project survey control points set shall be a durable character and suitably tagged, capped, and stamped or otherwise durably identified to allow for their recovery for future work and reference.
- c. Project survey control points established shall be sited in publicly accessible areas that can be safely reoccupied without traffic control (when practical) and placed such that their destruction from roadway overlay or other construction is minimized to the greatest degree possible or practical.
- d. Place such monuments necessary to witness and conduct the surveys necessary to locate and reference existing monuments at risk of destruction as necessary for the Consultant, Sonoma Water or its contractors to comply with the requirements section 8771 of the Business and Professional Code of the State of California.

- e. Place and state monuments and control set in accordance with section 8771 of the Business and Professional Code of the State of California such that the surveys can be retraced and any monuments destroyed by construction can be efficiently reestablished by Sonoma Water or its contractors.
- f. Memorialize project survey control (points) established by Consultant or monuments surveyed in accordance with section 8771 of the Business and Professional Code of the State of California by appropriate field notes that include a thorough description and character of existing monuments and materials used to monument the points or monuments set.
- g. Provide an organized binder or digital package with the 60% design submittal that includes a control diagram overlaid over a topographic, orthographic aerial photo, or other suitable base showing:
 - a) Reference stations, marks, monuments, and points used, set by the Consultant for control surveys.
 - b) Locations, character, and description of the monuments set and surveyed in connection with section 8771 of the Business and Professional Code of the State of California.
 - c) Line-work representing the observation network (where applicable).
 - d) Traverse lines and survey ties.
 - e) Original field notes and observation or session sheets.
 - f) Raw data and coordinate files.
 - g) Monument records and data sheets for control constraints.
 - h) Data processing and adjustment reports.
 - i) Tabular list of final adjusted coordinates and elevations.
 - j) Other information required under Sec. 8813.2 of the Public Resources Code of the State of California.

7.3. Design Surveys:

- a. Provide surveys and mapping services necessary to identify, represent and depict existing conditions, which in the judgment of Consultant are material to or required for design and construction of the Project (Design Survey).
- b. Represent, depict, identify, and include the project survey control (points) or set and surveyed in connection with section 8771 of the Business and Professional Code of the State of California, in the resulting mapping and the Construction Drawings.
- c. Representations of existing property or parcel boundaries, easements and rights of way shall be referenced to the source maps, documents, and information they were derived from and identified in the resulting mapping and the Construction Drawings.
- d. Provide copies of design coordinates, elevations, survey notes, maps, records, reference documents, and other pertinent information generated during design ("Design Survey Data").
- e. Perform research and inquiries, investigations, utility locating or surveys necessary to identify and depict existing utilities material to the design or

construction of the Project. The location of existing utilities discovered, disclosed, or located by Consultant shall be appropriately identified, depicted, labeled, or otherwise represented (including pipe diameter and invert elevations for gravity pipelines, rim elevations of man holes, grate or flow-line elevations of catch basins or drop inlet structures) in the resulting mapping to be provided and the Construction Drawings.

- f. Where the possibility of discrepancies exist between the surveys and data being collected by Consultant and existing utilities or other physical impediments that might materially affect the Project, the details of potholing or other verification efforts (reference locations or elevations) shall be represented and depicted in the resulting Design Survey.
- g. Where the possibility of conflicts or clearance issues between proposed construction and existing utilities exist, the details of potholing or other verification efforts (reference locations/elevations) shall be represented and depicted in the resulting Design Survey, and the conflict shall be indicated on the staging and access sheet of the plans.
- h. Provide the source of reference (example: utility mapping, USA paint, or potholing) of underground or other utilities represented and depicted in the resulting Design Survey. Such items shall be distinctly layered, labeled, or otherwise distinguished from utilities whose location was determined by survey.
- i. Represent and depict features that present a possible clearance limitation or accessibility or other physical constraint to contractor(s) constructing the work and that are not being relocated, temporarily removed, diverted, or otherwise modified as part of work to be done as part of the Project (example: structures, overhead wires, watercourses), or that potentially affect right of way to be acquired for the Project.
- j. Represent and depict vegetation and trees (including driplines as of the date of survey) that potentially are impacted or are to be removed in connection with the Project in the resulting mapping and Construction Drawings. Trees depicted shall be identified by species and labeled by their diameter at breast height. The footprint of the trunk (at ground level) of trees to be removed, whose trunk touches or spans a property owned by Sonoma Water ("Boundary Trees") shall be accurately represented and depicted in the resulting Design Survey.

8. DRAFTING SERVICES

- 8.1. Prepare drawings necessary for bidding and construction of the Project. Include the following with sufficient detail to describe construction of the Project for Project advertisement and bidding purposes:
 - a. Title sheet with location map, vicinity map, access, index to drawings, and legend (abbreviations, symbols, etc.).
 - b. Right-of-way drawings.

- c. Plans.
 - d. Profiles (where applicable).
 - e. Sections.
 - f. Construction details.
 - g. Other drawings as may be needed for construction.
- 8.2. Include the following features on each plan and profile drawing:
- a. Location of control points with point number identification, elevation, and description, include bearings and distances for alignments and right-of-way lines where applicable.
 - b. Graphic scale.
 - c. North arrow.
 - d. Key map.
 - e. For sanitation projects include building street addresses.
 - f. Mapping showing streets, edges of pavement, ditch flowlines, and top of curb.
- 8.3. Use Sonoma Water-provided template drawings, title blocks, and border drawings. Basic layers and line types are part of template drawings and are recommended where applicable.
- 8.4. Prepare drawings using a scale acceptable to Sonoma Water.
- 8.5. Drawings:
- a. Provide final contract drawings in native AutoCAD format along with supporting files such as fonts, Xref and image files, point data, plotter and/or pen style table configuration files. Include CTB or STB plot configuration file with electronic submittals to ensure correct and intended image quality when plotting from file. No hand-drawn media is allowed. Ensure that drawings converted to PDF do not contain SHX AutoCAD data.
 - b. Electronic drawing file names shall be at the direction of Sonoma Water's Drafting/GIS Section. Xref files shall have filename with an "X" prefix (i.e., X_ExTopo for original existing topographic file used as base reference file). Drawings shall have filenames displayed per Sonoma Water-provided standards.
 - c. Existing and design features shall be represented spatially accurate in "real world model space" in the CAD files. Coordinate information shall be preserved in its true and original orientation in real world space (X axis= East Coordinates, Y axis = North Coordinates, Z axis =Elevation; all in US Survey Feet Units; Scale 1:1). Data files, such as topo files and point files, may be "Xrefed" provided the Xref file is inserted at 0,0,0 and no rotation is imposed on the file.

- d. Each drawing file shall contain a layer named "CadNotes." This layer shall be a non-plot layer and shall contain pertinent "metadata" that includes, but is not limited to, the following:
 - i. Coordinate or projection basis.
 - ii. Relevant survey, data dates.
 - iii. Data sources, references.
 - iv. Design notes, assumptions, or other relevant information useful to design review.
 - e. Prepare construction detail drawings in the same manner as described in this Paragraph 8.5 such that each detail item is represented in its full size in model space and is represented in a scale and orientation to appropriately and adequately convey the necessary information for construction on layout space.
 - f. Sonoma Water will accept electronic drawing files with multiple "drawings" or "Sheet" layouts. Tab layouts are to be setup as follows:
 - i. Each layout tab's label shall be the drawing name (i.e., C1, G1, D1, P1, etc.) and therefore only include one sheet per layout tab. The layouts shall be set to the standard 22" x 34" sheet at a 1:1 scale.
- 8.6. Minimize the use of notes on drawings. Specifications of any type shall be written in the specifications and shall not be added to drawings.
- 8.7. Use match lines with appropriate sheet numbers.
- 8.8. Use lettering size no smaller than 0.12-inch tall for construction notes and data.
- 8.9. Ensure that drawings are easily readable when reduced to 11" x 17."
- 8.10. Reconcile drawings with specifications to minimize redundancies and avoid conflicts.
- 8.11. If requested by Sonoma Water, provide conformed drawings within 7 calendar days of request. Sonoma Water's standard will be provided by Sonoma Water's Project Manager.

9. SPECIFICATIONS PREPARATION

- 9.1. Assist Sonoma Water's Project Manager in completing Sonoma Water's Project Manual Initiation Questionnaire.
- 9.2. Prepare Divisions 2 through 49 (Technical Specifications), as appropriate, of the Project Manual as necessary for construction of the Project in conformance with the Project Manual concept of the Construction Specification Institute (CSI), using Sonoma Water's template, CSI's Project Resource Manual, and the 2018 edition of CSI's MasterFormat, including SectionFormat and PageFormat.

- 9.3. Comply with applicable provisions of the Public Contract Code including, but not limited to, formal and informal bid procedures and the avoidance of closed proprietary specifications (where no substitutions are allowed).
- 9.4. Assist Sonoma Water to develop justification memos for any proposed single-source products or materials; for special qualification of bidders, manufacturers, installers, or other professionals performing construction work for the Project; and for other special circumstances that require justification to Sonoma Water's Board of Directors.
- 9.5. Provide bid item descriptions for inclusion in Division 1. Ensure that method of payment for materials, equipment, and work required to complete Project is described clearly.
- 9.6. In coordination with Sonoma Water's Project Manager, eliminate redundancies or conflicts with Sonoma Water-prepared Division 0 and Division 1 requirements.

10. OPERATION AND MAINTENANCE MANUAL(S) MODIFICATIONS

- 10.1. Prepare modifications to Sonoma Water's existing Operations and Maintenance Manual(s). At a minimum, include the following:
 - a. New sections to cover aspects of the Project that are not included in existing manual(s).
 - b. Modifications and revisions to existing sections that are affected by the Project.

11. ASSISTANCE DURING BIDDING AND CONSTRUCTION

- 11.1. For bidding:
 - a. Answer questions submitted by Sonoma Water ("questions") during bid advertisement period.
 - b. Communicate only through Sonoma Water.
 - c. Immediately hand-deliver or email copies of bidder questions (non-Sonoma Water questions) directed to Consultant to Sonoma Water.
 - d. Alert Sonoma Water to potential impacts, if any, associated with questions including, but not limited to, impacts on schedule and cost.
 - e. Upon request from Sonoma Water, prepare addenda to clarify, correct, or change the technical specifications or drawings in accordance with the following:
 - i. Article 8, Article 9, and Article 12.
 - ii. Sonoma Water-provided drafting standards and standard form for addenda.
 - iii. Submit within 2 working days after request.

11.2. For construction:

- a. Assist Sonoma Water by providing engineering and related services after the receipt of construction bids as requested by Sonoma Water.
- b. Attend preconstruction conference.
- c. Assist Sonoma Water by answering request(s) for information (RFIs), as requested by Sonoma Water (up to 30 RFIs).
- d. Submittal Review:
 - i. Review contractor's submittals of information and shop drawings for the Project and either mark "No Exceptions Taken," "Make Corrections Noted," "Revise and Resubmit," or "Rejected" on each submittal. Provide Sonoma Water with a brief written narrative of what is required from the contractor for items Consultant marks on each submittal response. Provide complete responses within 21 calendar days of receipt for submittals and within 10 calendar days for RFIs.
 - ii. Ensure that submittals reviewed are stamped, dated, and signed by the person reviewing.
 - iii. Review items that have been submitted by the contractor as a substitution or an "approved equal" for specified items. Review each substitution request for compliance with performance requirements specified in the Project specifications and ensure its compatibility with other components of the operating system (electrical connections, size). Consult with Sonoma Water's Project Manager regarding acceptability of the proposed substitution.
 - iv. Upon completion of review, return the submittals with any written narratives to Sonoma Water.
- e. Upon request from Sonoma Water, provide construction site visits. Write summary memo of each site visit requested and provide to Sonoma Water 2 working days after date of site visit.
- f. Review and comment on proposed change order(s), if any. Provide comments to Sonoma Water in writing within 2 working days after receipt of the proposed change order(s).

12. SUBMITTAL OF DOCUMENTS

12.1. Submittal requirements:

- a. Submit one electronic copy in PDF format (emailed, on USB flash drive, or via Internet) of each submittal to Sonoma Water (unless noted otherwise).
- b. Comply with requirements of Article 11 (Content Online Accessibility).
- c. If changes that Sonoma Water has not previously approved are made to the drawings or specifications after the 99% design review meeting, submit drawing(s) or specifications to Sonoma Water for approval prior to preparing the final submittal.

12.2. Electronic media formats:

- a. Survey information and drawings: Provide in electronic media format compatible with current Sonoma Water AutoCAD version at time of Agreement execution. Earlier compatible versions or alternate compatible Autodesk vertical products may only be used upon written approval of Sonoma Water.
- b. Technical Specifications and Operation and Maintenance Manual(s) modifications (including tables, charts, and drawings): Provide in electronic media format compatible with Microsoft® 365. Ensure that there are no discrepancies between electronic and hard copies.

12.3. Signatures:

- a. Signatures: Design Report, specifications, and drawings, including modifications, shall have the license seal and signature of the licensed professional (i.e., civil, electrical, structural, etc.) assigned responsibility for its preparation. Sign in accordance Paragraph 16.11 (Counterpart; Electronic Signatures).

12.4. Final Drawing Submittal Requirements:

- a. AutoCAD version sent via ETRANSMIT; remove signature from the file before sending.
- b. Half-size (11" x 17") signed version as PDF.
- c. Full-size (22" x 34") signed version as PDF.

Exhibit D

Map

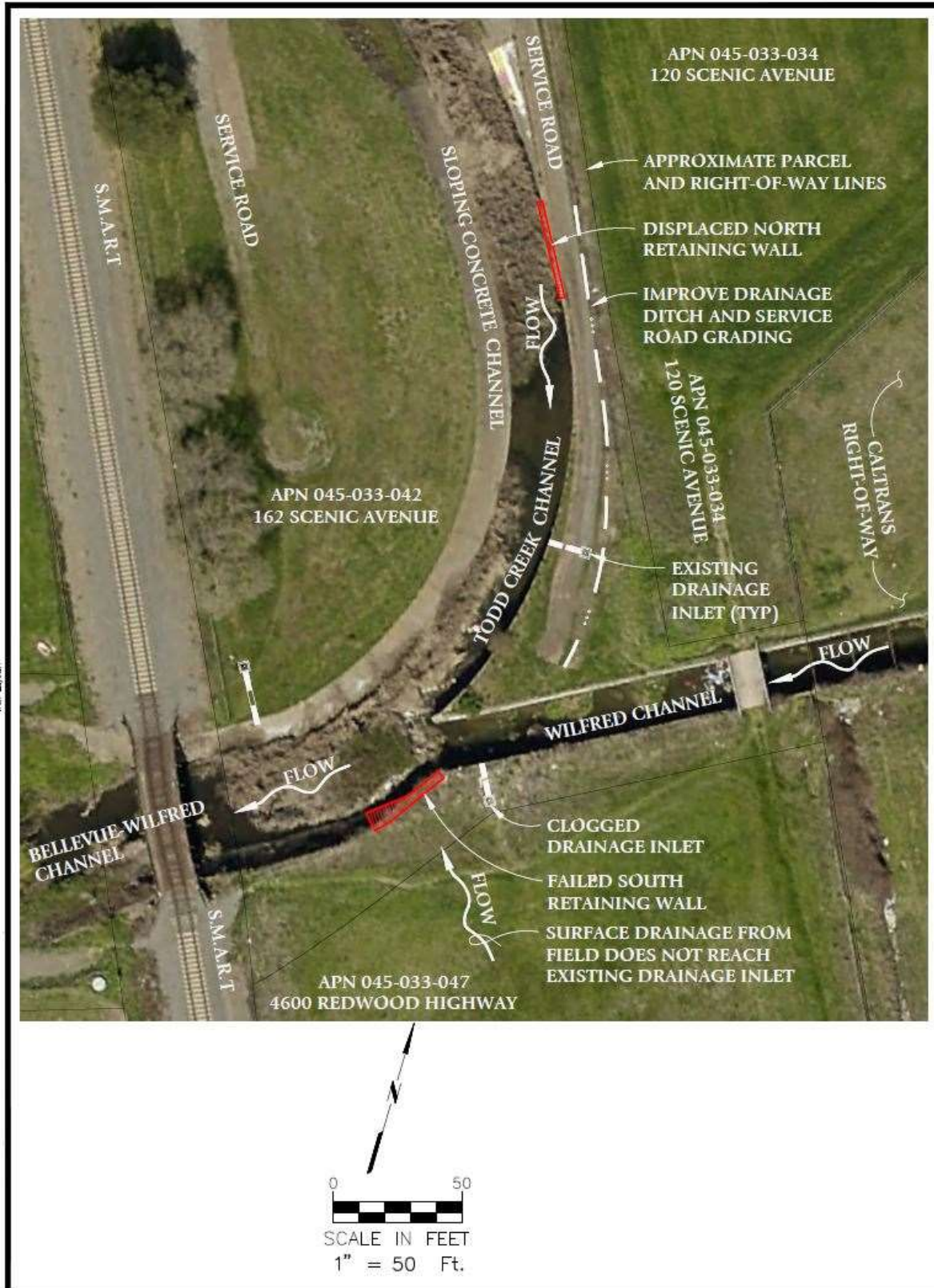


Exhibit E

Schedule of Costs

PERSONNEL	
Title(s)	Hourly Rate(s)
Associate Principal	\$255
Engineer II	\$215
Engineering Technician I	\$175
Senior Planner	\$200
CAD Designer	\$160
Technical Writer	\$135
EXPENSES	
Item	Cost
Subconsultant: RGH Geotechnical and Environmental Consultants	at cost plus 10 percent, not to exceed \$27,335
Subconsultant: ZFA Structural Engineers	at cost plus 10 percent, not to exceed \$37,290
Outside plotting and reproduction	at cost plus 10 percent

* The hourly rates are inclusive of all expenses for vehicle mileage; surveying materials; incidental copying services; and computer hardware, software, and other information technology costs.

Exhibit F

Estimated Budget for Scope of Work

TASK	DESCRIPTION	WORKHOURS								Task/Subtask Total (Including Subconsultant Markup)
		Associate Principal	Engineer II	Engineering Technician I	CAD Designer	Senior Planner	Technical Writer	Subconsultant (\$)	Subconsultant (\$)	
		Bryant	Gong	-	-	Witt	Morand	ZFA	RGH	
1 Preliminary Design	1.01 Admin. of Consultant Services	24	4							\$6,980
	1.02 Document Review & Base Maps	8	20	8	24					\$11,820
	1.03 Geotech Site Exploration & Report	Work Performed Under Separate Contract								\$0
	1.04 50% Design Package	24	72	20	60		8	\$10,500		\$47,930
	1.05 Review and Coordination Meeting	4	4							\$1,880
	Subtotal	60	100	28	84	0	8	\$10,500	\$0	\$68,610
2 Contract Documents	2.01 90% Design Package	24	42	10	32		20	\$6,250	\$850	\$32,850
	2.02 99% Design Package	4	24	4	16		8	\$1,100	\$200	\$12,110
	2.03 Final CD Package	2	12	2	8		4	\$550	\$100	\$6,055
	2.04 Bidding Assistance	8	12							\$4,620
	Subtotal	38	90	16	56	0	32	\$7,900	\$1,150	\$55,635
3 Construction Phase Services	3.01 Construction Assistance	20	24							\$10,260
	3.02 Field Reviews & Site Visits	24	32					\$3,250	\$17,250	\$35,550
	3.03 Project Coord. & Correspondence	24	12					\$550		\$9,305
	3.04 Submittal Reviews	8	32					\$2,100		\$11,230
	3.05 Requests for Information	4	12					\$550		\$4,205
	3.06 Special Inspection Services	2	8						\$15,500	\$19,280
	Subtotal	82	120	0	0	0	0	\$6,450	\$32,750	\$89,830
4 Optional Task ¹	4.01 Optional Task - TBD									\$40,000
	Subtotal									\$40,000
	Total Hours	180	310	44	140	0	40	N/A	N/A	
	Hourly Rate	\$255	\$215	\$175	\$170	\$200	\$135	N/A	N/A	
	Subtotal Cost	\$45,900	\$66,650	\$7,700	\$23,800	\$0	\$5,400	\$24,850	\$33,900	
	SUBTOTAL	\$208,200								
	CONTINGENCY	\$40,000								
	SUBCONSULTANT MARK-UP 10%	\$5,875								
	TOTAL	\$254,075								

Exhibit G

Insurance Requirements

With respect to performance of work under this Agreement, Consultant shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain insurance as described below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*. Any requirement for insurance to be maintained 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. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Consultant 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 Consultant 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. Required Evidence of Insurance: Certificate of Insurance.
 - e. If Consultant currently has no employees as defined by the Labor Code of the State of California, Consultant 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 required limits may be provided by a combination of General Liability Insurance and Commercial Excess or Commercial Umbrella Liability Insurance. If Consultant maintains higher limits than the specified minimum limits, Sonoma Water requires and shall be entitled to coverage for the higher limits maintained by Consultant.
 - 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. Consultant is responsible for any deductible or self-insured retention and shall fund it upon Sonoma Water's written request, regardless of whether Consultant has a claim against the insurance or is named as a party in any action involving Sonoma Water.

- d. Sonoma County Water Agency, its officers, agents, and employees, shall be endorsed as additional insureds for liability arising out of operations by or on behalf of Consultant in the performance of this Agreement.
- e. The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.
- f. 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 Insurance Services Office form CG 00 01, or equivalent).
- g. The policy shall cover inter-insured suits between the additional insureds and Consultant and include a "separation of insureds" or "severability" clause which treats each insured separately.
- h. Required Evidence of Insurance: Certificate of Insurance.

1.3. Automobile Liability Insurance

- a. Minimum Limit: \$1,000,000 combined single limit per accident. The required limit may be provided by a combination of Automobile Liability Insurance and Commercial Excess or Commercial Umbrella Liability Insurance.
- b. Insurance shall cover all owned autos. If Consultant currently owns no autos, Consultant agrees to obtain such insurance should any autos be acquired during the term of this Agreement or any extensions of the term.
- c. Insurance shall cover hired and non-owned autos.
- d. Required Evidence of Insurance: Certificate of Insurance.

1.4. Professional Liability/Errors and Omissions Insurance

- a. Minimum Limit: \$1,000,000 per claim or per occurrence; \$2,000,000 annual aggregate.
- b. 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.
- c. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work.
- d. Coverage applicable to the work performed under this Agreement shall be continued for two (2) years after completion of the work. Such continuation coverage may be provided by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement

insurance with a retroactive date no later than the commencement of the work under this Agreement.

- e. Required Evidence of Insurance: Certificate of Insurance specifying the limits and the claims-made retroactive date.

1.5. Standards for Insurance Companies

- a. Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best's rating of at least A:VII.

1.6. Documentation

- a. The Certificate of Insurance must include the following reference:
TW 24/25-049.
- b. All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Consultant agrees to maintain current Evidence of Insurance on file with Sonoma Water for the entire term of this Agreement and any additional periods if specified in Sections 1.1, 1.2, 1.3, or 1.4 above.
- c. The name and address for mailing Additional Insured endorsements and Certificates of Insurance is: Sonoma County Water Agency, 404 Aviation Boulevard, Santa Rosa, California 95403-9019.
- d. Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.
- e. Consultant shall provide immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.
- f. Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.

1.7. Policy Obligations

- a. Consultant's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

1.8. Material Breach

- a. If Consultant fails to maintain insurance which is required pursuant to this Agreement, it shall be deemed a material breach of this Agreement. Sonoma Water, at its sole option, may terminate this Agreement and obtain damages from Consultant resulting from said breach. Alternatively, Sonoma Water may purchase the required insurance, and without further notice to Consultant, Sonoma Water may deduct from sums due to Consultant any premium costs advanced by Sonoma Water for such insurance. These remedies shall be in addition to any other remedies available to Sonoma Water.