

AGREEMENT FOR PROFESSIONAL SERVICES
WATER SYSTEM OPERATION & MAINTENANCE

This agreement (“Agreement”), dated as of June 4, 2024 (“Effective Date”) is by and between the County of Sonoma, a political subdivision of the State of California (hereinafter “County”), and Russian River Utility Company (hereinafter “Operator”).

R E C I T A L S

WHEREAS, Operator represents that it is a duly qualified, experienced in operating and maintaining public water systems and related services; and

WHEREAS, in the judgment of the Board of Supervisors of County, it is necessary and desirable to employ the services of Operator for routine operating and maintenance, including monitoring, testing, notification, meter reading, customer service, and other related services associated with Fitch Mountain, Freestone, Jenner, Salmon Creek public water systems in County Service Area No. 4, and West Water Company.

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

A G R E E M E N T

I. Scope of Services.

1.1 Operator’s Specified Services.

- A. Routine Services to be Provided by Operator. Operator shall provide all labor, tools, supplies and equipment to perform the following services detailed in Tasks 1 – 9 listed below. Routine services shall be paid according to the terms in Section 2.1 below.

Task 1. Routine servicing of system filtration and disinfection facilities by an appropriately licensed Water Treatment Plant Operator. All disinfection chemicals to be paid for by Operator. Any additional fluids and/or chemicals required specific to each of the four water treatment systems, such as calibration fluid for turbidimeters.

Task 2. Routine maintenance of all wells, pumps, tanks, and supply facilities. Proposer shall provide miscellaneous materials when material cost is less than \$100.00.

Task 3. Testing, monitoring and reporting of the water sources and applicable notification of customers as dictated by the State Water Resources Control Board, Division of Drinking Water (Division) in accordance with Health and Safety Code Sections 4010 through 4039.5; California Code of Regulations Title 22, Chapters 15, 16 and 17; and the Water Supply Permit.

Task 4. Reading of all meters on a monthly basis during the second and third business week of the month.

Task 5. Maintenance of records for all work performed. Copy County on all correspondence with customers, suppliers (if payable by CSA No. 41), regulatory agencies, etc. Records shall be open to County inspection at reasonable times for audit for a period of five (5) years after the expiration or termination of this Agreement.

Task 6. Maintain a staffed office from 9:00 to 5:00 p.m., Monday through Friday, except for observed national holidays, to receive routine phone calls and process routine mail. Maintain a 7-day/week, 24-hour/day, emergency telephone number and pager system.

Task 7. Maintenance of dedicated phone lines, fax machines, and radio links to receive treatment plant operation, pump and storage status information, and transmit control signals, including alarms, and emergency pager information, and communications charges for the same.

Task 8. Investigation of complaints involving water service or illegal service connections.

Task 9. Provide membership in the Underground Service Alert (U.S.A.) program.

- B. Customer Relations Services to be Provided by Operator. Operator shall provide all labor, tools, supplies and equipment to perform the following services detailed in Tasks 10 – 16 listed below. Customer relations services shall be paid according to the terms in Section 2.1 below.

Task 10. Prepare and mail monthly customer billings, based on data provided by County according to Section G (1) below, for each System based on the meter charges, meter usage rates, and other identified rates, as adjusted annually, detailed in the governing ordinance approved by the County.

Task 11. Provide all billing stationery stock and postage for monthly billing.

Task 12. Provide an online billing and payment platform for the Fitch Mountain water system that may also be used for additional water systems.

Task 13. Provide customer relations involving communicating with customers, accepting 24-hour calls, responding to comments, delivering late payment notices, attend community meetings, and placing telephone calls as needed.

Task 14. Prepare and respond to all work orders relating to customer complaints and repairs.

Task 15. Communicate via email with the County collection department regarding water bill payments on customer accounts, as needed. Recommend issuance of lien notices, as needed.

Task 16. Provide monthly System Total Reports on water usage history, average water usage, percent of water loss, water production (amount pumped or purchased versus amount sold), status of each system, account fiscal status (reports may include Adjustments, Billing Register, Exceptional Usage (greater than 10,000 gallons), Past Due Customers, Receipts This Month, Unread Meters (double checks that all customers are accounted for), Sales and Receipts), and other available information, via email to the County engineer or designee.

- C. Non-Routine Services to be Provided by Operator. Operator shall provide all labor, tools, supplies and equipment to perform the following services detailed in Tasks 17 – 23 listed below. All non-routine services described in Tasks 17 and Task 18 are not required to have prior County approval. All non-routine services described in Tasks 19 – 23 below shall be required to have prior written approval of the Director of Sonoma County Public Infrastructure or designee before the task(s) are conducted by Operator. Non-routine services shall be paid according to the terms in Section 2.2 below.

Task 17. Provide chemicals used in corrosion control and filtration treatment processes.

Task 18. Operator shall provide all labor, tools, supplies and equipment to prepare a comprehensive lead and copper inventory for the West Water Company system and all water systems under County Service Area No. 41, with the exception of the Jenner system. This includes the Fitch Mountain, Salmon Creek, and Freestone systems. Identify all water lines within these systems as lead, galvanized requiring replacement, non-lead, or lead-status unknown, and subsequently update this inventory annually. This includes examination of historical documents, visual inspections, excavation, and water sampling, as well as ensuring public accessibility to the compiled inventory. Operator must ensure compliance with the latest Environmental Protection Agency's Lead and Copper Rule, meeting the specific requirements to complete and submit a detailed inventory of lead and copper lines by October 16, 2024.

Task 19. Installation of new water services.

Task 20. Contract management for services provided by engineering and administrative consultants.

Task 21. Remove and dispose of all sludge and chemical waste accumulated at each treatment plant.

Task 22. Prepare applications for grants and/or low-interest loans, including submission of operations plans and planning documents.

Task 23. Additional Services. Provide labor, tools, materials and equipment, based on a not-to-exceed budget approved by the Director of Sonoma County Public Infrastructure or designee, to construct improvements and replacements, and perform other work when directed in writing by the Director of Sonoma County Public Infrastructure or his designee.

- D. Emergency Services to be Provided by Operator. Operator shall provide all labor, tools, supplies and equipment to respond to treatment plant emergencies, alarms and shutdowns, and reinstate normal operations in a timely manner, all on a 24-hour/day basis, and to perform the following services detailed in Tasks 24 – 25 listed below. Emergency non-routine services shall be paid according to the terms in Section 2.2 below.

Task 24. Emergency notification of customers and County of any violations of drinking water standards. Notification shall be by posting, mailing or other form of communication required by the Division and applicable regulations.

Task 25. Emergency repairs as needed on a time-and-materials basis. Emergency repairs are defined as replacement of pumps, controls, telemetry and pipelines when the material cost exceeds \$100.00 or any such repair work and emergency calls performed outside of normal working hours (8:00 a.m. to 5:00 p.m., Monday through Friday). Operator shall notify County of all emergency repairs within forty-eight (48) hours with an estimate of the total costs of any such emergency repairs.

- 1.2 Cooperation With County. Operator shall cooperate with County and County staff in the performance of all work hereunder.

- 1.3 Performance Standard. Operator shall perform all work hereunder in a manner consistent with the level of competency and standard of care normally observed by a person practicing in Operator's profession. County has relied upon the professional ability and training of Operator as a material inducement to enter into this Agreement. Operator hereby agrees to provide all services under this Agreement in accordance with generally accepted professional practices and standards of care, as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Contractor's work by County shall not operate as a waiver or release. If County determines that any of Operator's work is not in accordance with such level of competency and standard of care, County, in its sole discretion, shall have the right to do any or all of the following: (a) require Operator to meet with County to review the quality of the work and resolve matters of concern; (b) require Operator to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of Article 4; or (d) pursue any and all other remedies at law or in equity.

1.4 Assigned Personnel.

- a. Operator shall assign only competent personnel to perform work hereunder. In the event that at any time County, in its sole discretion, desires the removal of any person or persons assigned by Operator to perform work hereunder, Operator shall remove such person or persons immediately upon receiving written notice from County.
- 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 County to be key personnel whose services were a material inducement to County to enter into this Agreement, and without whose services County would not have entered into this Agreement. Operator shall not remove, replace, substitute, or otherwise change any key personnel without the prior written consent of County. With respect to performance under this Agreement, Operator shall employ the following key personnel:

James Dunton	Owner, President, Treasurer
Stephanie Voet	Owner, Vice President, Secretary
Robert Sherod	Grade III Water Treatment License #37339 Grade II Water Distribution License #45865
Cory Cresswell	Grade II Water Treatment License #42660 Grade II Water Distribution License #51037
Jedidiah McJunkins	Grade II Water Treatment License #46444 Grade II Water Distribution License #56472
Corinne Wood	Meter Reader, Account Clerk Manager

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

2. Payment.

For all services and incidental costs required hereunder, Operator shall be paid in accordance with the following terms:

- 2.1 Operator shall be paid at the rate shown below per month for services described in Sections 1.1(A) and 1.1(B), Tasks 1-16, upon monthly submission of progress reports, verified claims and invoices. Payment for satisfactory performance includes salary, fringe benefits, overhead, profit and all other expenses except as otherwise provided in this Agreement. Payment shall be made within 30 days of

receipt of invoice and progress reports. Such lump sum amount shall be allocated to the five water systems as follows:

Monthly Service Fee for Routine Service Tasks 1-8 and Customer Relations Service Tasks 9-16

<u>Zone of Benefit</u>	<u>Monthly Fee</u>
Fitch Mountain	\$16,124.33
Salmon Creek	\$6,153.09
Freestone	\$3,813.98
Jenner	\$8,482.76
West Water	\$1,075.00
TOTAL	\$35,649.16

The monthly fee shall be adjusted effectively January 1 of each year based upon the U.S. Bureau of Labor Statistics consumer price index for all urban consumers (CPI-U) as approved by the California Public Utilities Commission.

2.2 County shall reimburse Operator at actual cost for materials, chemicals and outside contractual services plus fifteen percent (15%) for profit and overhead for services rendered in accordance with Sections 1.1(C) and 1.1(D), Tasks 17-25 upon submission of progress reports, verified claims and invoices. The labor charges shall be at the rates listed in Exhibit "A."

2.3 In no event shall the total amount for Tasks 1-25 of this Agreement exceed \$800,000/year.

Unless otherwise noted in this Agreement, payments shall be made within the normal course of County business after presentation of an invoice in a form approved by the County for services performed. Payments shall be made only upon the satisfactory completion of the services as determined by the County.

Pursuant to California Revenue and Taxation code (R&TC) Section 18662, the County shall withhold seven percent of the income paid to Operator for services performed within the State of California under this agreement, for payment and reporting to the California Franchise Tax Board, if Operator 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.

If Operator does not qualify, County requires that a completed and signed Form 587 be provided by the Operator in order for payments to be made. If Operator is qualified, then the County 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, the Operator agrees to promptly notify the County of any changes in the facts. Forms should be sent to the County pursuant to Article 12. To reduce the amount withheld, Operator has the option to provide County with either a full or partial waiver from the State of California.

3. Term of Agreement. The term of this Agreement shall be from the Effective Date, and shall be for five (5) years, expiring on June 30, 2029 to unless terminated earlier in accordance with the provisions of Article 4 below. The term may be extended for up to two (2), three (3) year periods on all the same terms and conditions, as mutually agreed to by the Operator and the Director of Sonoma County Public Infrastructure and approved in writing by the Director of Sonoma County Public Infrastructure, or designee. Upon expiration or termination of this Agreement, all duties and responsibilities of Operator will immediately return to the County.

4. Termination.

4.1 Termination Without Cause. Notwithstanding any other provision of this Agreement, at any time and without cause, County shall have the right, in its sole discretion, to terminate this Agreement by giving 5 days written notice to Operator.

4.2 Termination for Cause. Notwithstanding any other provision of this Agreement, should Operator 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, County may immediately terminate this Agreement by giving Operator written notice of such termination, stating the reason for termination.

4.3 Delivery of Work Product and Final Payment Upon Termination.

In the event of termination, Operator, within 14 days following the date of termination, shall deliver to County all reports, original drawings, graphics, plans, studies, and other data or documents, in whatever form or format, assembled or prepared by Operator or Operator's subcontractors, Operators, and other agents in connection with this Agreement and shall submit to County an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.

4.4 Payment Upon Termination. Upon termination of this Agreement by County, Operator 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 Operator bear to the total services otherwise required to be performed for such total payment; provided, however, that if services which have been satisfactorily rendered are to be paid on a per-hour or per-day basis, Operator shall be entitled to receive as full payment an amount equal to the number of hours or days actually worked prior to the termination times the applicable hourly or daily rate; and further provided, however, that if County terminates the Agreement for cause pursuant to Section 4.2, County shall deduct from such amount the amount of damage, if any, sustained by County by virtue of the breach of the Agreement by Operator.

4.5 Authority to Terminate. The Board of Supervisors has the authority to terminate this Agreement on behalf of the County. In addition, the Purchasing Agent or Public

Infrastructure Department Head, in consultation with County Counsel, shall have the authority to terminate this Agreement on behalf of the County.

5. Indemnification. Operator agrees to accept all responsibility for loss or damage to any person or entity, including County, and to indemnify, hold harmless, and release County, 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 Operator, that arise out of, pertain to, or relate to Operator's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. Operator agrees to provide a complete defense for any claim or action brought against County based upon a claim relating to such Operator's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. Operator's obligations under this Section apply whether or not there is concurrent or contributory negligence on County's part, but to the extent required by law, excluding liability due to County's conduct. County shall have the right to select its legal counsel at Operator's expense, subject to Operator's approval, which shall not be unreasonably withheld. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Operator or its agents under workers' compensation acts, disability benefits acts, or other employee benefit acts.

A. Insurance. With respect to performance of work under this Agreement, Operator shall maintain and shall require all of its subcontractors, Operators, and other agents to maintain, insurance as described in Exhibit B, which is attached hereto and incorporated herein by this reference.

7. Prosecution of Work. The execution of this Agreement shall constitute Operator's authority to proceed immediately with the performance 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 Operator's performance of this Agreement shall be extended by a number of days equal to the number of days Operator has been delayed.

8. Extra or Changed Work. Extra or changed work or other changes to the Agreement may be authorized only by written amendment to this Agreement, signed by both parties. Minor changes, which do not exceed the delegated signature authority of the Department Head and which do not significantly change the scope of work or significantly lengthen time schedules may be executed by the Department Head in a form approved by County Counsel. The [Board of Supervisors/Purchasing Agent] must authorize all other extra or changed work. The parties expressly recognize that, pursuant to Sonoma County Code Section 1-11, County personnel are without authorization to order extra or changed work or waive Agreement requirements. Failure of Operator 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 Operator shall be entitled to no compensation whatsoever for the performance

of such work. Operator 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 the County.

9. Software/Computer Application Purchase Online Accessibility:

9.1 Accessibility. County policy requires that all County websites and web-based applications must be accessible to staff members and members of the public with disabilities.

a. Standards. Operator shall certify that all Electronic and Information Technology (“EIT”) products, services, or other deliverables (collectively “EIT Deliverables”) furnished hereunder that will be made available to members of the general public in connection with County’s ordinary course of business, comply with the following accessibility standards:

b. Federal accessibility standards established by 36 C.F.R. Section 1194, pursuant to Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794(d)), the County’s Web Standards & Guidelines located at <https://sonomacounty.ca.gov/Services/Web-Standards-and-Guidelines/>, and the County’s Web Site Accessibility Policy located at <https://sonomacounty.ca.gov/CAO/Administrative-Policies/9-3-Website-Accessibility-Policy/>.

The foregoing standards shall collectively be referred to hereinafter as “County Accessibility Standards.” For the purposes of this Agreement, the term “EIT” shall include Information Technology (as defined below) and any equipment or interconnected system or subsystem of equipment that is used in the creation, conversion, or duplication of data or information including, but not limited to equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. The term “Information Technology” includes computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources.

9.2 Noncompliant EIT; Obligation to Cure. If County, in its sole and absolute discretion, determines that any EIT Deliverable does not comply with County Accessibility Standards, County will promptly inform Operator in writing. Upon such notice, Operator shall, without charge to County, repair or replace the non-compliant EIT Deliverables within such period of time as specified by County in writing. If the required repair or replacement is not completed within the time specified, County shall have the right to do any or all of the following, without prejudice to County’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 4; and/or

- c. In the case of custom EIT developed by Operator for County, County may have any necessary changes or repairs performed by itself or by another contractor. In such event, Operator shall be liable for all expenses incurred by County in connection with such changes or repairs.

9.3 Upgrades Upon Renewal or Extension. Notwithstanding the foregoing, County may accept EIT Deliverables that are not strictly compliant with County Accessibility Standards if County, in its sole and absolute discretion, determines that acceptance of such products or services is in County's best interest. For every EIT Deliverable accepted by County that does not fully comply with County Accessibility Standards, Operator shall, at the discretion of County, make every effort to replace or upgrade it with a compliant equivalent product or service, if commercially available and cost neutral, upon the renewal or extension date of this Agreement.

9.4 Warranty; Indemnity. Operator represents and warrants (i) that its EIT Deliverables will be accessible to the full extent required hereunder and (ii) that it shall defend, indemnify and hold County harmless from and against any and all claims and expenses, including attorneys' fees and litigation expenses, that may be incurred by or asserted against County, its officers, directors, agents, or employees arising out of or related to Operator's breach of this Article 9.

9.5. Representation, Warranty and Responsibility as to Data Security. Operator represents and warrants that it shall implement and maintain Payment Card Industry ("PCI") Data Security Standard ("DSS") certification and that it shall provide an annual Report of Compliance ("ROC") prepared by a Qualified Security Assessor Company ("QSAC"). Upon request of the County, Operator agrees to promptly provide PCI DSS validation by a QSAC. Operator shall undergo quarterly system scans performed by a PCI Security Standards Council ("SSC") Approved Scanning Vendor ("ASV") that audit for all known methods hackers use to access private information, in addition to vulnerabilities that would allow malicious software (i.e., viruses and worms) to gain access to or disrupt the network devices. Further, Operator shall maintain and protect in accordance with all applicable federal, state, local, and PCI laws, rules and regulations the security of all cardholder data when performing the contracted Services on behalf of the County.

In addition to the indemnity obligations specified in Article 5 of this Agreement, Operator shall indemnify, defend, protect and hold County harmless from and against any and all claims, losses, damages, notices and expenses, including, without limitation, any fines which County may be required to pay, which result from Operator's breach of the provisions of this Section 9.5. Within thirty (30) days of County delivering written notice, Operator will reimburse the County for its actual costs associated with any information security breach that results from the Contractor's failure to adhere to PCI data security standards and other applicable industry best practice. Such costs include but are not limited to: the costs of investigating the breach, fees associated with bankcard replacement, client credit monitoring, litigation costs, Court ordered penalties; and any additional fees charged by the County's bank Operator, at its sole cost and expense, shall

fully cooperate with any investigation, whether instituted by County or any other entity with jurisdiction to conduct such investigation, of any data loss or other breach of Operator's obligations under this Section 9.5.

In connection with credit card transactions processed for County, Operator will implement fraud prevention controls and provide reasonable care and effort to detect fraudulent credit card activity. In performing the Services, Operator shall comply with all applicable rules and requirements, including security rules and requirements, of County's financial institutions, including its acquiring bank, the major credit card associations and credit card companies. If during the term of the Agreement, Operator undergoes, or has reason to believe that it will undergo, an adverse change in its certification or compliance status with the PCI standards and/or other material payment card industry standards, it will promptly notify the County of such circumstances.

Operator represents and warrants that software applications it provides for the purpose of performing Services related to processing payments, particularly credit card payments, are developed in accordance with and are in compliance with the standards known as Payment Application Data Security Standards (PA-DSS) or Payment Applications Best Practices (PABP). As verification of this, the Operator agrees to provide PABP validation by a PCI SSC Qualified Payment Application Security Company ("QPASC") that any such application it provides is certified by the PCI SSC as complying with these standards and agrees to continue to maintain that certification as may be required from time to time.

10. Content Online Accessibility. County 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.

10.1 Standards. All consultants responsible for preparing content intended for use or publication on a County-managed or County-funded web site must comply with applicable Federal accessibility standards established by 36 C.F.R. Section 1194, pursuant to Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794(d)), the County's Web Standards & Guidelines located at <https://sonomacounty.ca.gov/Services/Web-Standards-and-Guidelines/>, and the County's Web Site Accessibility Policy located at <https://sonomacounty.ca.gov/CAO/Administrative-Policies/9-3-Website-Accessibility-Policy/>.

10.2 Alternate Format: When it is strictly impossible due to the unavailability of technologies required to produce an accessible document, Operator shall identify the anticipated accessibility deficiency prior to commencement of any work to produce such deliverables. Operator agrees to cooperate with County staff 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.

10.3 Noncompliant Materials; Obligation to Cure. Remediation of any materials that do not comply with County's Web Site Accessibility Policy shall be the responsibility of Operator. If County, in its sole and absolute discretion, determines that any deliverable intended for use or publication on any County-managed or County-funded Web site does not comply with County Accessibility Standards, County will promptly inform Operator in writing. Upon such notice, Operator shall, without charge to County, repair or replace the non-compliant materials within such period of time as specified by County in writing. If the required repair or replacement is not completed within the time specified, County shall have the right to do any or all of the following, without prejudice to County'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 4; and/or
- c. In the case of custom EIT developed by Operator for County, County may have any necessary changes or repairs performed by itself or by another contractor. In such event, contractor shall be liable for all expenses incurred by County in connection with such changes or repairs.

11. Prevailing Wage. For all activity constituting "public work" under this Agreement, the following apply:

11.1. Operator and its contractors and subcontractors shall ensure that all workers who perform work are paid not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations (DIR). Two hundred dollars (\$200) shall be forfeited as penalty for each calendar day, or portion thereof, for each worker paid less than applicable prevailing wage rates. Operator acknowledges and will comply with Labor Code section 1775.

11.2. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute work, as determined by Director of the State of California Department of Industrial Relations, are deemed included herein. State prevailing wage requirements are published by the Director of the State of California Department of Industrial Relations and can be found online at www.dir.ca.gov. Prevailing wage requirements can also be found at Public Infrastructure's Purchasing Department, located at 2300 County Center Dr., Suite A208, Santa Rosa, CA 95403. Said rates shall be posted at all public work job sites.

11.3. Operator shall post (or cause the posting of) all required notices, including those required pursuant to 8 CCR 16451, and shall make them available to any interested party upon request.

11.4. Prior to commencement of work, Operator shall contact the Division of Apprenticeship Standards. Operator shall be responsible for compliance with Section 1777.5, 1777.6, and 1777.7 of the Labor Code and Title 8, Cal. Code of Regulations, Div. 1 Chapter 2.

11.5. Operator and its contractors and subcontractors shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code or engage in the performance of any contract for public work, unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5.

11.6. Payroll Records: All payroll record keeping, availability, certification, and confidentiality requirements set forth in Labor Code section 1776 and 8 CCR sections 16400 et seq. shall be complied with.

11.7. Accurate records of the work performed, as set forth in Labor Code Section 1812, shall be maintained.

11.8. All work is subject to the requirements of Title 8, Cal. Code of Regulations Div. 1, Chapter 8, Subchapter 4.5 (starting at 8 CCR § 16450), including the requirement to furnish certified payroll records directly to the Labor Commissioner and otherwise in compliance with 8 CCR § 16461, and is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

11.9. In accordance with California Labor Code section 3700, Operator is required to secure the payment of compensation of its employees and ensure the same by subcontractors and other third parties. By signing this Agreement, Operator certifies awareness of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and certifies they will comply (or cause compliance) with such provisions before commencing any work.

11.10. Eight hours labor shall constitute a legal day's work. Workers may not work more than eight hours a day or 40 hours in any one calendar week, unless compensated at not less than time and a half as set forth in Labor Code Section 1815 or as otherwise required by law. Twenty-five dollars (\$25) shall be forfeited as penalty for each worker employed in violation of the provisions of Labor Code sections 1810 et seq.

11.11. With regard to every contract, subcontract or other arrangement which Operator may make for performance of such work or labor on work, Operator shall comply with and/or cause compliance with all requirements specified in Labor Code Sections 1776(g), 1777.5, 1810, 1813, and 1860, including all requirements to insert required provisions in subcontracts and other third party contracts including provision that the contractor or subcontractor shall pay persons performing labor or rendering

service under contract or subcontract or other arrangement not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed in the Labor Code.

12. Representations of Operator.

12.1 Standard of Care. County has relied upon the professional ability and training of Operator as a material inducement to enter into this Agreement. Operator hereby agrees that all its work will be performed and that its operations shall be conducted in accordance with generally accepted and applicable professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Operator's work by County shall not operate as a waiver or release.

12.2 Status of Operator. The parties intend that Operator, 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. Operator is not to be considered an agent or employee of County and is not entitled to participate in any pension plan, worker's compensation plan, insurance, bonus, or similar benefits County provides its employees. In the event County exercises its right to terminate this Agreement pursuant to Article 4, above, Operator expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.

12.3 No Suspension or Debarment. Operator 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. Operator 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 the Operator becomes debarred, Operator has the obligation to inform the County.

12.4 Representation, Warranty and Responsibility as to Data Security.

- a. Data Security: Operator shall preserve, and shall ensure that its sub-consultants or vendors preserve, the confidentiality, integrity, and availability of County data with administrative, technical and physical measures that conform to generally recognized industry standards and best practices that the selected firm then applies to its own processing environment. Maintenance of a secure processing environment includes, but is not limited to, the timely application of patches, fixes and updates to operating systems and applications as provided by Operator and/or its sub-consultants or vendors. Operator agrees to, and shall ensure that its sub-consultants or vendors, comply with the County's current and future information security policies, standards, procedures, and guidelines.

b. Encryption Requirements: Operator shall encrypt, and shall ensure that its sub-consultants or vendors encrypt, confidential information whether the data is in transit, or at rest, including but not limited to Personally Identifiable Information (PII) or Protected Health Information (e.g. PHI, ePHI).

c. Security Breach: Operator shall comply, and shall ensure that its sub-consultants or vendors comply, with all applicable laws that require the notification of individuals in the event of unauthorized release of personally identifiable information (PII) or protected health information (e.g. PHI, ePHI) or other event requiring notification. In the event of a breach, or other event requiring notification under applicable law, Operator shall:

i. Notify the County by telephone and e-mail within twenty-four (24) hours of any suspected or actual breach of security, intrusion, or unauthorized use or disclosure of information of which Operator or its agents become aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations.

ii. Assume responsibility for informing all such individuals in accordance with applicable federal or state laws or regulations.

iii. Pursuant to Article 5 of the Agreement, provide indemnity and other protection as specified therein.

d. Request to Audit: Operator will accommodate and upon reasonable notice by Sonoma County, work with Sonoma County and/or its subcontractors to submit to a random information security audit. This is to ensure that the consultants and/or vendor's information security practices or standards comply with Sonoma County's information security policies, standards, procedures and guidelines. Operator shall ensure that its sub-consultants or vendors comply with this requirement.

e. Cyber Risk Insurance Requirements: Operator shall include, and shall ensure that its sub-consultants or vendors include, cyber risk insurance requirements in compliance with County of Sonoma Risk Management standards.

12.5 Taxes. Operator 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. Operator agrees to indemnify and hold County harmless from any liability which it may incur to the United States or to the State of California as a consequence of Operator's failure to pay, when due, all such taxes and obligations. In case County is audited for compliance regarding any withholding or other applicable taxes, Operator agrees to furnish County with proof of payment of taxes on these earnings.

12.6 Records Maintenance. Operator 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 County for inspection at any reasonable time. Operator shall maintain such records for a period of four (4) years following completion of work hereunder.

12.7 Conflict of Interest. Operator 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. Operator further covenants that in the performance of this Agreement no person having any such interests shall be employed. In addition, if requested to do so by County, Operator shall complete and file and shall require any other person doing work under this Agreement to complete and file a "Statement of Economic Interest" with County disclosing Operator's or such other person's financial interests.

12.8 Statutory Compliance/Living Wage Ordinance. Operator agrees to comply 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, Operator expressly acknowledges and agrees that this Agreement may be 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.

12.9 Nondiscrimination. Without limiting any other provision hereunder, Operator 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's Non-Discrimination Policy. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated herein by this reference.

12.10 AIDS Discrimination. Operator 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.

12.11 Assignment of Rights. Operator assigns to County all rights throughout the world in perpetuity in the nature of copyright, trademark, patent, right to ideas, in and to all versions of the plans and specifications, if any, now or later prepared by Operator in connection with this Agreement. Operator agrees to take such actions as are necessary to protect the rights assigned to County in this Agreement, and to refrain from taking any action which would impair those rights. Operator'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 County may direct, and refraining from disclosing any versions of the plans and specifications to any third party without first obtaining written permission of County. Operator 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 County.

12.12 Ownership and Disclosure of Work Product. [see alternate provision below for clause which may be used when County only wants the final version 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 Operator or Operator’s subcontractors, Operators, and other agents in connection with this Agreement shall be the property of County. County 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, Operator shall promptly deliver to County all such documents, which have not already been provided to County in such form or format, as County deems appropriate. Such documents shall be and will remain the property of County without restriction or limitation. Operator 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 County.

12.13 Authority. The undersigned hereby represents and warrants that he or she has authority to execute and deliver this Agreement on behalf of Operator.

13. Demand for Assurance. 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 limits County’s right to terminate this Agreement pursuant to Article 4.

14. Assignment and Delegation. 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.

15. Method and Place of Giving Notice, Submitting Bills and Making Payments. All notices, bills, and payments shall be made in writing and shall be given by personal delivery or by U.S. Mail or courier service. Notices, bills, and payments shall be addressed as follows:

TO: COUNTY: Sonoma County Public Infrastructure
County of Sonoma
Integrated Waste Division
Attn: Adrian Diaz, Department Analyst
2300 County Center Drive, Suite A220
Santa Rosa, CA 95403
Email: Adrian.Diaz@sonoma-county.org

TO: OPERATOR: Russian River Utility
PO Box 730
Forestville, CA 95436
(707) 887-7735
Email: rruwater@sonic.net

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 facsimile or email, 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 promptly deposited in the U.S. mail and postmarked on the date of the facsimile or email (for a payment, on or before the due date), (2) the sender has a written confirmation of the facsimile transmission or email, and (3) the facsimile or email 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 paragraph.

16. Miscellaneous Provisions.

16.1 No Waiver of Breach. The waiver by County of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or provision or any subsequent breach of the same or any other term or promise contained in this Agreement.

16.2 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. Operator and County 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. Operator and County acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

16.3 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.

16.4 No Third-Party Beneficiaries. Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

16.5 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 the forum nearest to the city of Santa Rosa, in the County of Sonoma.

16.6 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.

16.7 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. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

16.8. 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.

16.9 Time of Essence. Time is and shall be of the essence of this Agreement and every provision hereof.

16.10. 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 facsimile, electronic mail (including PDF) 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.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

OPERATOR: _____

COUNTY: COUNTY OF SONOMA

CERTIFICATES OF
INSURANCE REVIEWED, ON
FILE, AND APPROVED AS TO
SUBSTANCE FOR COUNTY:

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Department Director or Designee

Date: _____

APPROVED AS TO FORM FOR
COUNTY:

By: _____

County Counsel

Date: _____

EXECUTED BY:

By: _____

Director, Public Infrastructure

Date: _____