

DRAFT Fourth Amended and Restated Agreement for Biological Assessment for Second Russian River Biological Opinion

This fourth amended and restated agreement (“Fourth Amended and Restated Agreement” or “Agreement”) is by and between **Sonoma County Water Agency**, a body corporate and politic of the State of California (“Sonoma Water”) and **Environmental Science Associates**, 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 environmental science and engineering firm, experienced in biological assessments and related services.
- B. Three species of salmon in the Russian River are listed as threatened or endangered under the Endangered Species Act of 1973, as amended: Central California Coast (CCC) coho salmon, CCC steelhead, and California Coastal Chinook salmon.
- C. On September 24, 2008, the National Marine Fisheries Service (NMFS) issued a Biological Opinion (BO) for water supply, flood control operations, and channel maintenance conducted by the U.S. Army Corps of Engineers (Corps), Sonoma Water, and the Mendocino County Russian River Flood Control and Water Conservation Improvement District (MCRRFCD).
- D. NMFS found that the continued water supply, flood control operations, and channel maintenance operations of the Corps and Sonoma Water are likely to jeopardize the continued existence of threatened CCC steelhead and endangered CCC coho salmon and adversely modify their critical habitats.
- E. The 2008 BO requires Sonoma Water and the Corps to implement a series of actions to minimize impacts to listed species and enhance their habitats within the Russian River and its tributaries.
- F. In anticipation of the expiration of the 15-year 2008 Biological Opinion, Sonoma Water is working with NMFS, the Corps, and California Department of Fish and Wildlife (CDFW) to reinitiate consultation and develop a biological assessment for continuation of the Corps and Sonoma Water operations in the Russian River watershed.
- G. Under this Agreement, Consultant will work with Sonoma Water to complete a biological assessment (BA) that can be used by both the Corps and NMFS for a new Biological Opinion authorizing incidental take of Chinook salmon, coho salmon, and steelhead related to water supply, flood control operations, and channel maintenance in portions of Russian River watershed.
- H. Sonoma Water and Consultant first entered into this Agreement on January 1, 2021, in the amount of \$999,360 (Original Agreement).

- I. The First Amended and Restated Agreement added one year to the Agreement term, at no additional cost to Sonoma Water, for a new term end date of December 31, 2024, due to delays associated with the complexity of the project and time-consuming negotiations among the Corps, NMFS, CDFW, and Sonoma Water.
- J. The Second Amended and Restated Agreement increased the amount by \$200,000 and extended the Agreement term by one year for a new not-to-exceed Agreement total of \$1,199,360 and term end date of December 31, 2025.
- K. On April 29, 2025, NMFS issued the new 2025 Russian River Biological Opinion. The 2025 Biological Opinion has a 10-year term and covers the Corps' and Sonoma Water's operations and maintenance activities, including water supply, flood control, channel maintenance and habitat restoration in the Russian River watershed.
- L. The Third Amended and Restated Agreement extended the Agreement term by six months for a new term end date of June 30, 2026, to allow time to prepare the Fourth Amended and Restated Agreement for Board approval.
- M. This Fourth Amended and Restated Agreement increases the amount by \$200,000, expands the scope of work to include implementation support to comply with NMFS 2025 BO and CDFW Incidental Take Permit (ITP), and extends the Agreement term by five years for a new not-to-exceed Agreement total of \$1,399,360 and new term end date of June 30, 2031. In addition, this Fourth Amended and Restated Agreement corrects a typographical error in Task 3.8 of Exhibit C, Estimated Budget for Scope of Work.
- N. This Fourth Amended and Restated Agreement supersedes all previous agreements and amendments between the parties.

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

AGREEMENT

1. RECITALS

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

2. LIST OF EXHIBITS

- 2.1. The following exhibits are attached hereto and incorporated herein:
 - a. Exhibit A: Scope of Work.
 - b. Exhibit B: Schedule of Costs.
 - c. Exhibit C: Estimated Budget for Scope of Work.
 - d. Exhibit D: Insurance Requirements.

3. SCOPE OF SERVICES

- 3.1. *Consultant's Specified Services:* Consultant shall perform the services described in Exhibit A (Scope of Work), within the times or by the dates provided for in Exhibit A and pursuant to Article 9 (Prosecution of Work). In the event of a

conflict between the body of this Agreement and Exhibit A, the provisions in the body of this Agreement shall control.

- 3.2. *Cooperation with Sonoma Water:* Consultant shall cooperate with Sonoma Water in the performance of all work hereunder. Consultant shall coordinate the work with Sonoma Water’s Project Manager. Contact information and mailing addresses:

Sonoma Water	Consultant
Project Manager: David Manning 404 Aviation Boulevard Santa Rosa, CA 95403-9019 Phone: 707-547-1988 Email: David.Manning@scwa.ca.gov	Contact: Chris Fitzer 1425 N. McDowell Boulevard, Suite 200 Petaluma, CA 94954 Phone: 916-806-7834 Email: CFitzer@esassoc.com
Remit invoices to:	Remit payments to:
Accounts Payable Same address as above or Email: ap.agreements@scwa.ca.gov	ESA P.O. Box 92170 Elk Grove, IL 60009 TIN #: 94-1698350

- 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>
Senior Vice President	Jim O'Toole,
Senior Engineering Hydrologist	Matt Brennan
Engineer	Dane Behrens

- 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 \$1,399,360.
 - a. Total costs for Tasks 1-8 shall not exceed \$1,285,560.
 - b. Total costs for Optional Task 9, if requested in writing by Sonoma Water, shall not exceed \$95,800.
 - c. No more than \$1,200,00 for Tasks 1-8 will be paid until the draft Reservoir Operations Plan 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 B (Schedule of Costs). Billed hourly rates shall include all costs for overhead and any other charges, other than expenses specifically identified in Exhibit B. 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. Name of Agreement and TW# 20/21-055D.
 - c. Sonoma Water's Project-Activity Codes T0479C018, W0021C018, D0011C018, T0144B012, D0056C018 and T0219B012
 - 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. *Cost Tracking:* Consultant has provided an estimated breakdown of costs, included in Exhibit C (Estimated Budget for Scope of Work). Exhibit C 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.
- 4.5. *Rate Changes:* Upon at least 30 days written notice, Consultant may change the hourly rates up to 3% per year, commencing one year from the Effective Date of this Agreement and no more than once every 12 months thereafter.
- 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.

4.8. *Funding:*

a. Funding for this Agreement is as follows:

<i>Fiscal Years</i>	<i>Appropriation</i>
2020/2021	\$500,000
2021/2022	\$258,000
2022/2023	\$241,360
2023/2024	\$0
2024/2025	\$200,000
2025/2026	\$200,0000
2026/2027	\$0
2027/2028	\$0
2028/2029	\$0
2029/2030	\$0
2030/2031	\$0

b. Availability of Funding in Subsequent Fiscal Years:

- i. Sonoma Water’s performance under this Agreement in subsequent years is contingent upon appropriation of funds by Sonoma Water’s Board of Directors. Sonoma Water shall have no liability under this Agreement if sufficient funds are not appropriated in subsequent fiscal years by Sonoma Water’s Board of Directors for the purpose of this Agreement.
- ii. If funding for this Agreement for any fiscal year is reduced or eliminated by Sonoma Water’s Board of Directors, Sonoma Water shall have the option to either terminate this Agreement in accordance with Article 6 (Termination) or offer an amendment to Consultant to reflect the reduced amount.

5. TERM OF AGREEMENT AND COMMENCEMENT OF WORK

5.1. *Term of Agreement:*

- a. The term of this Agreement shall be from January 1, 2021 (“Effective Date”), to June 30, 2031, unless terminated earlier in accordance with the provisions of Article 6 (Termination).
- b. Sonoma Water shall have one option to extend this Agreement for a period of one year by providing written notice to Consultant thirty days in advance of the expiration date noted in this Article.

5.2. *Commencement of Work:* Consultant is authorized to proceed immediately with the performance of this Agreement upon the Effective Date of this Agreement.

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 by Consultant:* At any time and without cause, except while services are being or remain to be performed, Consultant shall have the right, in its sole discretion, to terminate this Agreement by giving 30 days' written notice to Sonoma Water.
- 6.4. *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.
- 6.5. *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 12.10 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.
- 6.6. *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 6.4, 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 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, to the extent that they arise out of, pertain to, or relate to Consultant's or its agents', employees', contractors', subcontractors', or invitees' negligent performance or obligations under this Agreement. Consultant agrees to provide a defense for any claim or action brought against Sonoma County Water Agency based upon a claim to the extent relating to Consultant's or its agents', employees', contractors', subcontractors', or invitees' negligent performance or obligations under this Agreement. Consultant's obligations under this Article 7 apply 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 conduct of Sonoma County Water Agency. Sonoma County Water Agency shall have the right to select its legal counsel at Consultant's expense, subject to Consultant'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 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 D (Insurance Requirements).

9. PROSECUTION OF WORK

9.1. 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)), and Sonoma Water's Web Site Accessibility Policy located at <https://sonomacounty.ca.gov/CAO/Administrative-Policies/9-3-Website-Accessibility-Policy/>.
- 11.3. *Certification:* With each final deliverable intended for public distribution (report, presentations posted to the internet, public outreach materials), Consultant shall include a descriptive summary describing how all deliverable documents were assessed for accessibility (e.g., Microsoft Word accessibility check; Adobe Acrobat accessibility check, or other commonly accepted compliance check).
- 11.4. *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 deliverables. Consultant agrees to cooperate with Sonoma Water 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.
- 11.5. *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 deliverable intended for use or publication on any Sonoma Water managed or Sonoma Water funded Web site does not comply with Sonoma Water Accessibility Standards, Sonoma Water will promptly inform 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.
- 11.6. *Sonoma Water's Rights Reserved:* Notwithstanding the foregoing, Sonoma Water may accept deliverables that are not strictly compliant with Sonoma Water Accessibility Standards if Sonoma Water, in its sole and absolute discretion, determines that acceptance of such products or services is in Sonoma Water's best interest.

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. *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.
- 12.3. *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.

- 12.4. *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.
- 12.5. *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.
- 12.6. *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.
- 12.7. *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. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated herein by this reference.
- 12.8. *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.
- 12.9. *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 versions of the 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 work as Sonoma Water may direct, and refraining from disclosing any versions of the work to any third party without first obtaining written permission of Sonoma Water. Consultant shall not use or permit another to use the work in connection with this or any other project without first obtaining written permission of Sonoma Water.

- 12.10. *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. Sonoma Water acknowledges that any use, reuse, or modification of, or derivation from, any of documents described herein made without Consultant's written consent other than for purposes contemplated by Consultant's scope of work in this Agreement is at Sonoma Water's own risk and without liability to Consultant.
- 12.11. *Authority:* The undersigned hereby represents and warrants that the undersigned has authority to execute and deliver this Agreement on behalf of Consultant.

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.
- 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, and any counterpart so delivered shall be deemed to have been duly and validly delivered, be valid and effective for all purposes, and shall have the same legal force and effect as an original document. This Agreement, and any counterpart, may be electronically signed by each or any of the parties through the use of any commercially-available digital and/or electronic signature software or other electronic signature method in compliance with the U.S. federal ESIGN Act of 2000, California's Uniform Electronic Transactions Act (Cal. Civil Code § 1633.1 et seq.), or other applicable law. By its use of any electronic signature below, the signing party agrees to have conducted this transaction and to execution of this Agreement by electronic means.

/

/

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

TW 20/21-055D

Reviewed as to funds:

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

**Environmental Science Associates, a
California corporation**

By: _____
Grant Davis
General Manager
Authorized per Board(s) of Directors
Action on April 28, 2026

By: _____

Name: _____

Date: _____

Title: _____

Date: _____

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Exhibit A

Scope of Work

1. TASKS

1.1. Task 1: Attend Coordination Meetings

- a. Attend meetings and collaborate with Sonoma Water, NMFS, Corps, and other partners, on development of the BA.
 - i. Monthly team meetings
 - ii. Regular check-in meetings with NMFS (quarterly, or as needed depending on workflow)
- b. Coordination: Facilitate meetings, including scheduling meetings with staff who are critical to the development of the BA; prepare agendas, meeting materials (e.g., data presentations, etc.), and meeting minutes that clearly spell out points of resolution, actions items, and next steps.
- c. Communication: Prepare and disseminate meeting results/minutes to participants and other interested parties.

Deliverable	Due Date
Draft Agendas	Within 5 calendar days prior to each meeting
Final Agendas	At each meeting
Draft Meeting Minutes	Within 7 calendar days after each meeting
Final Meeting Minutes	Within 14 calendar days of Sonoma Water's approval of draft OR meeting date

1.2. Task 2: Develop Environmental Baseline

- a. Work with Sonoma Water staff to thoroughly review all aspects of work completed as part of compliance with the 2008 BO.
- b. Based on the information developed, prepare Draft and Final Technical Memoranda for each element reviewed. Submit memoranda to Sonoma Water for review.
 - i. First Draft: Prepare memo(s) in draft form and submit to Sonoma Water for review and approval in accordance with the date listed for this deliverable. Sonoma Water will return the draft to Consultant with comments or approval in writing.
 - ii. Subsequent Draft: If Sonoma Water requests revisions, revise the draft report and resubmit for Sonoma Water approval.
 - iii. Final: Following Sonoma Water approval and prior to Sonoma Water's acceptance of work under this Agreement, submit the final approved report to Sonoma Water in accordance with the date listed for this deliverable.

Deliverable	Due Date
Draft Technical memo(s)	April 9, 2021
Final Technical memo(s)	May 7, 2021

- 1.3. Task 3: Develop Description of Proposed Action
- a. Work with Sonoma Water to develop a detailed description of the Proposed Action, building on the information developed in Task 2.
 - b. Use the description of the Proposed Action as the basis for the effects analysis in the BA.
 - c. Prepare the following technical memoranda (draft and final, electronic and hard copies for each).
 - i. Estuary Management Opportunities and Constraints Technical Memorandum
 - ii. Channel Maintenance Activities for Russian River Mainstem and Dry Creek Technical Memorandum
 - iii. Reservoir Operations Technical Memorandum – Coyote Valley Dam and Warm Springs Dam
 - iv. Hatchery Operations Technical Memorandum
 - v. Lake Mendocino Sediment/Upper River Turbidity Management Plan
 - vi. Central Sonoma Watershed Project Technical Memorandum
 - vii. Monitoring and Adaptive Management Technical Memorandum
 - viii. Description of Proposed Action
 - d. First Draft: Prepare memo(s) in draft form and submit to Sonoma Water for review and approval in accordance with the date listed for this deliverable. Sonoma Water will return the draft to Consultant with comments or approval in writing.
 - e. Subsequent Draft: If Sonoma Water requests revisions, revise the draft report and resubmit for Sonoma Water approval.
 - f. Final: Following Sonoma Water approval and prior to Sonoma Water’s acceptance of work under this Agreement, submit the final approved report to Sonoma Water in accordance with the date listed for this deliverable.

Deliverable	Due Date
Estuary Management Opportunities and Constraints Technical Memorandum	
draft	07/13/21
final	10/12/21
Channel Maintenance Activities for Russian River Mainstem and Dry Creek	
draft	10/19/21
final	11/16/21

Deliverable	Due Date
Reservoir Operations Technical Memorandum – Coyote Valley Dam and Warm Springs Dam	
draft	10/19/21
final	11/16/21
Hatchery Operations Technical Memorandum	
draft	10/19/21
final	11/16/21
Lake Mendocino Sediment/Upper River Turbidity Management Plan	
draft	10/19/21
final	11/16/21
Central Sonoma Watershed Project Technical Memorandum	
draft	10/19/21
final	11/16/21
Monitoring and Adaptive Management Technical Memorandum	
draft	12/01/21
final	01/18/22
Description of Proposed Action	
draft	12/01/21
final	01/18/22

- 1.4. Task 4: Prepare BA
- a. Prepare an outline of the BA
 - b. Prepare and Administrative Draft BA
 - c. Work with Sonoma Water to develop a comprehensive BA. Draft key sections of the BA, including:
 - i. Introduction and Background, Table of Contents,
 - ii. Consultation to Date,
 - iii. Description of the Proposed Action (including conservation measures),
 - iv. Environmental Baseline,
 - v. Status of the Species and Critical Habitat,
 - vi. Effects of the Proposed Action,
 - vii. Cumulative Effects,
 - viii. Integration and Synthesis of Effects,
 - ix. Conclusions and Determinations,
 - x. Literature Cited
 - xi. Technical Appendices.
 - xii. Other information to support the BA or as requested by Sonoma Water

- d. Review. Submit to Sonoma Water for review.
 - i. First Draft: Prepare the report in draft form and submit to Sonoma Water for review and approval in accordance with the date listed for this deliverable. Sonoma Water will return the draft report to Consultant with comments or approval in writing.
 - ii. Subsequent Draft(s): If Sonoma Water requests revisions, revise the draft report and resubmit for Sonoma Water approval.
 - iii. Final: Following Sonoma Water approval and prior to Sonoma Water's acceptance of work under this Agreement, submit the final approved report to Sonoma Water in accordance with the date listed for this deliverable.

Deliverable	Due Date
Outline	
	12/08/21
Administrative Draft BA #1	
	10/03/22
Administrative Draft BA #2	
	11/29/22
Agency Review Draft BA	
	3/14/23
Draft BA Submittal to Corps and NMFS	
	08/23/23
Final BA for Submittal to Corps and NMFS	
	09/05/23

- 1.5. Task 5: Support Sonoma Water in Ongoing Consultation with NMFS and Corps to Develop BO
 - a. Review interim technical document and the draft and final BO to ensure consistency with assumptions and commitments made as part of the consultation process.

Deliverable	Due Date
Agendas, meeting materials including technical materials and presentations, meeting minutes, document reviews	<ul style="list-style-type: none"> • Agendas within 5 calendar days prior to each meeting • Technical materials at each meeting • Draft minutes within 7 calendar days after each meeting • Final minutes within 14 calendar days of Sonoma Water's approval of draft OR meeting date

- 1.6. Task 6: Support Sonoma Water in Obtaining Incidental Take Coverage under California Endangered Species Act (CESA)

- a. Support Sonoma Water in ongoing discussions and negotiations with CDFW (and indirectly NMFS) in obtaining incidental take coverage under CESA.
- b. Develop information to support the decisions on whether to pursue obtaining incidental take coverage under CESA through a Fish and Game Code 2081 (Incidental Take Permit [ITP]) or 2080.1 (Consistency Determination with the NMFS BO)

Deliverable	Due Date
Agendas, meeting materials including technical materials and presentations, meeting minutes	<ul style="list-style-type: none"> • Agendas within 5 calendar days prior to each meeting • Technical materials at each meeting • Draft minutes within 7 calendar days after each meeting • Final minutes within 14 calendar days of Sonoma Water's approval of draft OR meeting date
Administrative Draft ITP Application #1	01/26/25
Draft ITP Application #1	02/11/26
Agency Review Draft ITP Application	02/18/26
Final ITP Applications	04/16/26

1.7. Task 7: Project Management

- a. Attend meetings, calls, workshops as necessary to ensure close coordination and effective project work flow.
- b. Documents (such as data sets, references, and other material used to develop the BA) to be provided as part of the administrative record will be provided in PDF format. (Sonoma Water, NMFS, and Corps will collect/obtain relevant administrative record documentation not involving ESA.)

1.8. Task 8: NMFS 2025 BO and CDFW ITP Implementation Support

- a. Provide Sonoma Water with implementation support to comply with NMFS 2025 BO and CDFW ITP.
 - i. At the direction of Sonoma Water, develop Reservoir Operations Plan consistent with NMFS BO requirements. Sonoma Water will provide all reservoir modeling outputs to inform the development of the plan.

Deliverable	Due Date
Agendas, meeting materials including technical materials and presentations, meeting minutes	<ul style="list-style-type: none"> • Agendas within 5 calendar days prior to each meeting • Technical materials at each meeting • Draft minutes within 7 calendar days after each meeting • Final minutes within 14 calendar days of Sonoma Water’s approval of draft OR meeting date
Administrative Draft 1 Reservoir Operations Plan	
	3/6/26
Draft 1 Reservoir Operations Plan	
	4/3/26
Agency Review Draft 1 Reservoir Operations Plan*	
	4/24/26
Administrative Draft 2 Reservoir Operations Plan	
	6/19/26
Draft 2 Reservoir Operations Plan	
	7/17/26
Agency Review Draft 2 Reservoir Operations Plan	
	8/7/26
Final Reservoir Operations Plan	
	9/7/26
From BO: *A draft of the plan will be provided to the Reservoir Operations Group within 1 year of publication of the Opinion (April 29, 2025).	

1.9. Optional Task 9: Additional Services

- 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.

2. DELIVERABLES

- 2.1. In addition to the requirements above, if any, submit one electronic copy in PDF format (emailed, on USB flash drive, or via internet) of each final deliverable to Sonoma Water.
- 2.2. Comply with requirements of Article 11 (Content Online Accessibility).
- 2.3. Include Agreement title and TW 20/21-055D on first page or cover of each deliverable.

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Exhibit B

Schedule of Costs (Original Agreement)

PERSONNEL	
Title	Hourly Rates
Principal Water Resources Engineer	\$300 per hour
Chief Engineer	\$300 per hour
Senior Project Director	\$300 per hour
Project Manager	\$240 per hour
Senior Engineering Hydrologist	\$225 per hour
Senior Geomorphologist III	\$225 per hour
Senior Geomorphologist II	\$190 per hour
Senior Scientist/Fisheries	\$190 per hour
Senior Hydrologist	\$170 per hour
Deputy Project Manager, Fisheries	\$160 per hour
GIS /Graphics	\$130 per hour
Fisheries Biologist	\$125 per hour
Word Processing /Admin	\$110 per hour
EXPENSES	
Item	Cost
Copies	\$0.10 per page, or at cost
Printing	at cost
Postage	at cost
Overnight mail	at cost
Mileage for company car	current IRS rate
Rental car	daily rate, at cost

Schedule of Costs (Fourth Amended and Restated Agreement)

PERSONNEL	
Title	Hourly Rates

Principal Water Resources Engineer	\$315 per hour
Chief Engineer	\$315 per hour
Senior Project Director	\$315 per hour
Project Manager	\$255 per hour
Senior Engineering Hydrologist	\$240 per hour
Senior Geomorphologist III	\$240 per hour
Senior Geomorphologist II	\$200 per hour
Senior Scientist/Fisheries	\$200 per hour
Senior Hydrologist	\$180 per hour
Deputy Project Manager, Fisheries	\$170 per hour
GIS /Graphics	\$140 per hour
Fisheries Biologist	\$130 per hour
Word Processing /Admin	\$120 per hour
EXPENSES	
Item	Cost
Copies	\$0.20 per page, or at cost
Printing	at cost
Postage	at cost
Overnight mail	at cost
Mileage for company car	current IRS rate
Rental car	daily rate, at cost

Exhibit C

Estimated Budget for Scope of Work

TASKS	ESTIMATED COST
Task 1: Attend Coordination Meetings	\$90,240
Task 2: Develop Environmental Baseline	\$110,740
Task 3: Develop Description of Proposed Action	\$33,680
3.1: Non-flood Water Supply Releases	\$14,630
3.2: Russian River Estuary Management	0
3.2.1 Estuary Management Opportunities and Constraints	\$32,950
3.2.2 Estuary Management Feasibility Study	\$49,650
3.3: Channel Maintenance Actions (RR/Dry Creek)	\$22,540
3.4: Reservoir Operations – Coyote Valley and Warm Springs Dams	\$64,350
3.5: Hatchery Operations	\$16,220
3.6: Hydroelectric Facilities at Coyote Valley and Warm Springs Dams	\$21,920
3.7: Central Sonoma Watershed Project	\$17,300
3.8 Monitoring and Adaptive Management Plan	\$33,170
Task 4: Prepare Draft and Final BA	\$99,280
Task 5: Support Consultation with NMFS and Corps to Develop BO	\$224,840
Task 6: Obtain CESA Coverage	\$203,450
Task 7: Project Management	\$150,600
Task 8: NMFS BO and CDFW ITP Implementation	\$100,000
Task 9: Optional Task	\$95,800
Total labor cost	\$1,381,360
DIRECT COSTS	
Travel (mileage to meetings, etc.)	\$8,500
Printing, reproduction	\$9,500
Total Direct Costs	\$18,000
Total Estimated Fee	\$1,399,360

Exhibit D

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 \$25,000 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:
 - i. Copy of the additional insured endorsement or policy language granting additional insured status, and
 - ii. 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; \$1,000,000 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 \$25,000 it must be approved in advance by Sonoma Water.

- c. If Consultant's services include: (1) programming, customization, or maintenance of software: or (2) access to individuals' private, personally identifiable information, the insurance shall cover:
 - i. Breach of privacy; breach of data; programming errors, failure of work to meet contracted standards, and unauthorized access; and
 - ii. Claims against Consultant arising from the negligence of Consultant, Consultant's employees and Consultant's subcontractors.
 - d. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work.
 - e. 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.
 - f. 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 20/21-055D.
 - 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, CA 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.

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