

## **DRAFT Agreement for Ultraviolet Light Capacity Bioassay Study**

This agreement (“Agreement”) is by and between **Russian River County Sanitation District** (“District”) and **Trussell Technologies, Inc.**, 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 engineering firm, experienced in ultraviolet light disinfection capacity bioassay studies and related services.
- b. Sonoma County Water Agency operates and manages District under contract with District. References to District employees are understood to be Sonoma County Water Agency employees acting on behalf of District.
- c. As part of the treatment process at its wastewater treatment facility, District uses an ultraviolet light (UV) disinfection system to meet its regulatory permitting requirements. In October 2012, District changed its disinfection process from a chlorine disinfection system to a UV disinfection system (UV System) to reduce the chemical byproducts that might form using chlorine, thereby allowing District to comply with regulations on the amount of disinfectant byproducts discharged into the Russian River.
- d. District’s current UV System capacity limits wastewater treatment facility flow rates during storm events. To mitigate this, District evaluated the capacity of the UV System at its wastewater treatment plant (TP) under a previous agreement. The initial evaluation determined that a physical bioassay study would need to be conducted to determine if the capacity of the UV System could be increased.
- e. Under this Agreement, Consultant will install a temporary recirculation loop to control flow during testing, conduct bioassay testing, and develop a spot check bioassay testing report.

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

<b>District</b>	<b>Consultant</b>
Project Manager: George Lincoln 404 Aviation Boulevard Santa Rosa, California 95403-9019 Phone: 707-521-1808 Email: George.Lincoln@scwa.ca.gov	Contact: David Hokanson 224 N. Fair Oaks Avenue, Floor 2 Pasadena, California 91103 Phone: 626-318-5147 Email: davidh@trusselltech.com
<b>Remit invoices to:</b>	<b>Remit payments to:</b>
Accounts Payable Same address as above or Email: ap.agreements@scwa.ca.gov	Same address as above Email: invoicing@trusselltech.com

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 District shall not operate as a waiver or release. District has relied upon the professional ability and training of Consultant as a material inducement to enter into this Agreement. If District determines that any of Consultant’s work is not in accordance with such level of competency and standard of care, District, in its sole discretion, shall have the right to do any or all of the following: (a) require Consultant to meet with District 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 District, 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 District.

- 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 District to be key personnel whose services were a material inducement to District to enter into this Agreement, and without whose services District 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 District.
- c. 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:***

- a. Total costs under this Agreement shall not exceed \$102,260.
- b. No more than \$92,034 will be paid until completion of UV spot check bioassay testing under Task 3 is submitted.

##### **4.2. *Method of Payment:*** 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 District. The bills shall show or include:

- a. Consultant name.
- b. Agreement title and TW 23/24-094.
- c. District's Project-Activity Code R0019B012.
- d. Task performed with an itemized description of services rendered by date.
- e. Summary of work performed by subconsultants, as described in Paragraph 15.4.
- 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 percent 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 District business after presentation of an invoice in a form approved by District for services performed. Payments shall be made only upon the satisfactory completion of the services as determined by District.
- 4.7. *Taxes Withheld by District:*
  - a. Pursuant to California Revenue and Taxation Code (R&TC) section 18662, District 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, District 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 District 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 District of any changes in the facts. Forms should be sent to District pursuant to Article 16 (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 District with either a full or partial waiver from the State of California.

## **5. TERM OF AGREEMENT AND COMMENCEMENT OF WORK**

- 5.1. *Term of Agreement:*
  - a. This Agreement shall expire on December 31, 2025, unless terminated earlier in accordance with the provisions of Article 6 (Termination).
  - b. Sonoma County Water Agency's General Manager shall have the ability to extend the term of this Agreement for two additional years by providing written notice to Consultant thirty days in advance of the expiration date noted in this Article. The extension shall be formalized in an amended agreement or amendment signed by District and Consultant.

- 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:* District'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, District shall have the right, in its sole discretion, to terminate this Agreement by giving 5 days written notice to Consultant.
- 6.3. *Termination for Cause:* Notwithstanding any other provision of this Agreement, should Consultant fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, District may immediately terminate this Agreement by giving Consultant written notice of such termination, stating the reason for termination.
- 6.4. *Delivery of Work Product and Final Payment Upon Termination:* In the event of termination, Consultant, within 14 days following the date of termination, shall deliver to District 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 12.9 and shall submit to District an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.
- 6.5. *Payment Upon Termination:* Upon termination of this Agreement by District, 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 District terminates the Agreement for cause pursuant to Paragraph 6.3, District shall deduct from such amounts the amount of damage, if any, sustained by District 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 Russian River County

Sanitation District, and to defend, indemnify, hold harmless, and release Sonoma County Water Agency and Russian River County Sanitation District, their officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant or its agents, employees, contractors, subcontractors, or invitees hereunder, whether or not there is concurrent or contributory negligence on Sonoma County Water Agency or Russian River County Sanitation District's part, but, to the extent required by law, excluding liability due to Sonoma County Water Agency or Russian River County Sanitation District's conduct. All such legal costs shall be apportioned in accordance with California Civil Code section 2782.8 and shall be payable only upon final conclusion of any action brought under this Article 7.1. 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 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 District 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 District.

## **11. CONTENT ONLINE ACCESSIBILITY**

- 11.1. *Accessibility:* District 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 District managed or District 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)), District's Web Standards & Guidelines located at <https://sonomacounty.ca.gov/Services/Web-Standards-and-Guidelines/> and District's Web Site Accessibility Policy located at <https://sonomacounty.ca.gov/CAO/Administrative-Policies/9-3-Website-Accessibility-Policy/>.
- 11.3. *Alternate Format:* When it is strictly impossible due to the unavailability of technologies required to produce an accessible document, Consultant shall identify the anticipated accessibility deficiency prior to commencement of any work to produce such deliverables. Consultant agrees to cooperate with District in the development of alternate document formats to maximize the facilitative features of the impacted document(s); e.g., embedding the document with alt-tags that describe complex data/tables.
- 11.4. *Noncompliant Materials; Obligation to Cure:* Remediation of any materials that do not comply with District's Web Site Accessibility Policy shall be the responsibility of Consultant. If District, in its sole and absolute discretion, determines that any deliverable intended for use or publication on any District managed or District funded Web site does not comply with District Accessibility Standards, District will promptly inform Consultant in writing. Upon such notice, Consultant shall, without charge to District, repair or replace the non-compliant materials within such period of time as specified by District in writing. If the required repair or replacement is not completed within the time specified, District shall have the right to do any or all of the following, without prejudice to District'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 District, District 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 District in connection with such changes or repairs.

- 11.5. *District's Rights Reserved:* Notwithstanding the foregoing, District may accept deliverables that are not strictly compliant with District Accessibility Standards if District, in its sole and absolute discretion, determines that acceptance of such products or services is in District'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 District and is not entitled to participate in any pension plan, worker's compensation plan, insurance, bonus, or similar benefits District provides its employees. In the event District 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.
- 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 District 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 District is audited for compliance regarding any withholding or other applicable taxes, Consultant agrees to furnish District 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 District 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 District, Consultant shall submit a completed Fair Political Practices Commission Statement of Economic Interests (Form 700) with District 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. *Assignment of Rights:* Consultant assigns to District 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 Consultant in connection with this Agreement. Consultant agrees to take such actions as are necessary to protect the rights assigned to District in this Agreement, and to refrain from taking any action which would impair those rights. Consultant's responsibilities under this provision include, but are not limited to, placing proper notice of copyright on all versions of the plans and specifications as District may direct, and refraining from disclosing any versions of the plans and specifications to any third party without first obtaining written permission of District. Consultant shall not use or permit another to use the plans and specifications in connection with this or any other project without first obtaining written permission of District.
- 12.9. *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 District. District 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 District all such documents, which have not already been provided to District in such form or format as District deems appropriate. Such documents shall be and will remain the property of District 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 District or as otherwise provided in Article 12.10 below.

- 12.10. *Nondisclosure of Confidential Information:* While doing the work required by this Agreement, Consultant may have access to technical information and materials pertaining to District's sensitive information or data determined by District to be confidential ("Confidential Information"). The Confidential Information may include confidential or proprietary information or trade secrets exempt from disclosure under provisions of the California Public Records Act. In consideration of disclosure by District of Confidential Information to Consultant, Consultant and its agents shall hold any material or information designated by District as Confidential in strict confidence and shall not disclose it or otherwise make it available, in any form or matter whatsoever, to any person or entity without the prior written consent of District, except as may be ordered by a court of law or as reasonably required to fulfill the purposes of this Agreement, such as in consultation with approved subconsultants subject to a similar nondisclosure provision. Promptly upon receipt of any request or demand for disclosure of any Confidential Information within the scope of this Agreement, Consultant shall give District written notice and a copy of the request and the time period, if any, within which Consultant is required to respond to the request. Upon termination of this Agreement, Consultant shall return Confidential Information in its possession, including copies, to District. Consultant's obligation to maintain material and information designated as Confidential in strict confidence shall survive completion of work under this Agreement and termination of this Agreement and, as provided for in Paragraph 12.9, Consultant agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of District.
- 12.11. *District Liability:* District is a separate legal entity from Sonoma County Water Agency, operated under contract by Sonoma County Water Agency. To the extent any work under this Agreement relates to District activities, Consultant shall be paid exclusively from District funds. Consultant agrees that it shall make no claim for compensation for Consultant's services against Sonoma County Water Agency funds and expressly waives any right to be compensated from other funds available to Sonoma County Water Agency.

### 13. **PREVAILING WAGES**

- 13.1. *General:* Consultant shall pay to any worker on the job for whom prevailing wages have been established an amount equal to or more than the general prevailing rate of per diem wages for (1) work of a similar character in the locality in which the work is performed and (2) legal holiday and overtime work in said locality. The per diem wages shall be an amount equal to or more than the stipulated rates contained in a schedule that has been ascertained and determined by the Director of the State Department of Industrial Relations and District to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this Agreement. Consultant shall also cause a copy of this determination of the prevailing rate of per diem wages to be posted at each site work is being performed, in addition to all other job site notices prescribed by regulation. Copies of the prevailing wage rate of per diem wages are on file at District and will be made available to any person upon request.
- 13.2. *Subcontracts:* Consultant shall insert in every subcontract or other arrangement which Consultant may make for performance of such work or labor on work provided for in the Agreement, provision that Subcontractor shall pay persons performing labor or rendering service under subcontract or other arrangement not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed in the Labor Code. Pursuant to Labor Code section 1775(b)(1), Consultant shall provide to each Subcontractor a copy of sections 1771, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code.
- 13.3. *Compliance Monitoring and Registration:* This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Consultant shall furnish and shall require all subcontractors to furnish the records specified in Labor Code section 1776 (e.g., electronic certified payroll records) directly to the Labor Commissioner in a format prescribed by the Labor Commissioner at least monthly (Labor Code § 1771.4 (a)(3)). Consultant and all subcontractors performing work that requires payment of prevailing wages shall be registered and qualified to perform public work pursuant to Labor Code section 1725.5 as a condition to engage in the performance of any services under this Agreement.
- 13.4. *Compliance with Law:* In addition to the above, Consultant stipulates that it shall comply with all applicable wage and hour laws, including without limitation Labor Code sections 1725.5, 1775, 1776, 1777.5, 1813, and 1815 and California Code of Regulations, Title 8, section 16000, et seq.
- a. If Consultant currently has no employees who will perform work for which prevailing wages have been established but hereafter does engage employees to do applicable prevailing wage work, Consultant agrees to

follow the provisions of this Article 13 should such employees be engaged during the term of this Agreement or any extensions of the term.

**14. DEMAND FOR ASSURANCE**

14.1. 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 District's right to terminate this Agreement pursuant to Article 6 (Termination).

**15. ASSIGNMENT AND DELEGATION**

15.1. *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.

15.2. *Subcontracts:* Notwithstanding the foregoing, Consultant may enter into subcontracts with the subconsultants specifically identified herein. If no subconsultants are listed, then no subconsultants will be utilized in the performance of the work specified in this Agreement. Approved subconsultants are as follows:

<i>Full Legal Name</i>	<i>Type of Services</i>	<i>Prevailing Wages Apply? Y/N</i>
GAP EnviroMicrobial Services Ltd	MS2 Testing	N
Rain for Rent	Recirculation Loop	Y

15.3. *Change of Subcontractors or Subconsultants:* If, after execution of the Agreement, parties agree that subconsultants not listed in Paragraph 15.2 will be utilized, Consultant may enter into subcontracts with subconsultants to perform other specific duties pursuant to the provisions of this Paragraph 15.3. The

following provisions apply to any subcontract entered into by Consultant other than those listed in Paragraph 15.2:

- a. Prior to entering into any contract with subconsultant, Consultant shall obtain District approval of subconsultant.
- b. All agreements with subconsultants shall (a) contain indemnity requirements in favor of District 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, and (d) contain provisions substantially the same as contained in Articles 12.9 (Ownership and Disclosure of Work Product) and 12.10 (Nondisclosure of Confidential Information).

15.4. *Summary of Subconsultants' Work:* Consultant shall provide District 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.

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

16.1. *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.

16.2. *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 16.

## **17. MISCELLANEOUS PROVISIONS**

17.1. *No Bottled Water:* In accordance with District Board of Directors Resolution No. 09-0920, dated September 29, 2009, no District funding shall be used to purchase single-serving, disposable water bottles for use in District facilities or at

District-sponsored events. This restriction shall not apply when potable water is not available.

- 17.2. *No Waiver of Breach:* The waiver by District 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.
- 17.3. *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 District 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 District acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.
- 17.4. *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.
- 17.5. *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.
- 17.6. *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.
- 17.7. *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.
- 17.8. *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.

17.9. *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.

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

17.11. *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 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 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.

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

Reviewed as to funds:

TW 23/24-094

By: \_\_\_\_\_  
Sonoma County Water Agency  
Division Manager - Administrative  
Services

Approved as to form:

By: \_\_\_\_\_  
Adam Brand, Deputy County Counsel

Insurance Documentation is on file with  
District

Date/TW Initials: \_\_\_\_\_

**Russian River County Sanitation District**

**Trussell Technologies, Inc., a California corporation**

By: \_\_\_\_\_  
Grant Davis  
General Manager  
Authorized per Sonoma County Water  
Agency's Board of Directors Action on  
August 13, 2024

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

DIR Registration #: 1000037503



# Exhibit A

## Scope of Work

### 1. TASKS

- 1.1. Task 1: Recirculation Loop/Testing UV System
  - a. Install a temporary recirculation loop that permits consistent flow control across the target testing flow rates and provides a suitable injection location for MS2 bacteriophage (MS2).
    - i. Design, install, test, and disassemble the recirculation loop.
    - ii. Conduct a preliminary site visit to assess installation of the recirculation loop, take measurements as necessary, and provide opportunity for discussion between District and Consultant.
    - iii. Size the recirculation loop for a maximum flow rate of 3.0 million gallons per day through one channel. Include, at minimum, the following components:
      - a) Recirculation piping.
      - b) Feed pump.
      - c) Method of flow control (VFD, butterfly valve).
      - d) Magnetic flow meter.
      - e) Data logger.
      - f) Air release valve.
    - iv. Conduct a second site visit to facilitate installation of the recirculation loop and perform preliminary testing to ensure functionality for bioassay testing. Preliminary testing shall include, but not be limited to, the following items:
      - a) Recirculation pump.
      - b) Flow rate controller.
      - c) Data logger.
      - d) Injection equipment.
  - b. Prepare a technical memorandum that includes, but is not limited to, the following items:
    - i. Table of Contents.
    - ii. A detailed description of equipment selected for the temporary recirculation loop.
    - iii. Results of preliminary tests.
    - iv. Confirmation of functionality for bioassay testing.
    - v. Other information to support the technical memorandum or as requested by District.
  - c. Deliverables: Submit the below deliverables in accordance with Paragraph 2.1 (Review and Acceptance of Deliverables).

<b>Deliverable</b>	<b>Due Date</b>
Final technical memorandum	Within 30 calendar days of completion of preliminary testing

- 1.2. Task 2: Witness UV spot check bioassays
  - a. Act as a witness as defined by the California State Water Resources Control Board's Division of Drinking Water (DDW) for UV spot check bioassay testing to demonstrate that the UV system at the WTF delivers expected performance as designed, fabricated, installed, operated, and maintained.
  - b. Conduct tests at varying flow rates, UV transmittance (UVT), and power level requirements as specified in the DDW approved bioassay test protocol and National Water Research Institute Guidelines, 3rd edition (NWRI Guidelines).
  - c. Testing includes but is not limited, the following items:
    - i. Flow-through reactor microbiological testing with MS2.
    - ii. Collimated beam testing.
    - iii. UVT measurement with a calibrated instrument.
    - iv. Flow rate verification.
  - d. Incorporate results from witness UV spot check bioassay testing into the UV Spot Check Bioassay Report under Paragraph 1.4.
  
- 1.3. Task 3: Conduct UV spot check bioassay test
  - a. Execute UV Spot Check Bioassay test protocol as approved by DDW and in accordance with NWRI Guidelines.
  - b. Include a minimum of eight test conditions per the NWRI Guidelines with varying UV reactor power levels, flow rates, and UVT.
  - c. Conduct a control test for quality assurance and quality control (QA/QC) with a UV dose of zero to ensure there is no alternate disinfection occurring other than UV disinfection.
  - d. Collect MS2 samples for MS2 analysis.
    - i. For each test, collect a minimum of three samples for MS2 analysis.
    - ii. For each day of testing, collect additional raw water samples at the UV reactor inlet for collimated beam dose-response correlation testing using a minimum of five UV doses.
    - iii. Ship collected MS2 samples and raw water samples for off-site laboratory testing.
  - e. For each test, collect a minimum of three UVT samples for on-site analysis using a calibrated instrument.
  - f. Incorporate results from UV spot check bioassay testing into the UV Spot Check Bioassay Report under Paragraph 1.4.

- 1.4. Task 4: UV Spot Check Bioassay Report
- a. Prepare a report of study results that includes, but is not limited to, the items below:
    - i. Table of Contents.
    - ii. Summary of test results from Paragraph 1.2 and Paragraph 1.3 (Tasks 2 and 3) above.
    - iii. Data analysis as required by NWRI Guidelines, including a comparison of the measured and predicted UV doses.
    - iv. A detailed description of the physical components of the recirculation loop that are necessary for DDW to understand the testing facilities. This may include a written description of the recirculation loop, photos from the testing, and/or a schematic diagram if significant changes were made from the schematic already included in the test protocol.
    - v. Other information to support the study or as requested by District.
  - b. Deliverables: Submit the below deliverables in accordance with Paragraph 2.1 (Review and Acceptance of Deliverables).

<b>Deliverable</b>	<b>Due Date</b>
Draft UV Spot Check Bioassay Report	Within 30 calendar days of receipt of MS2 laboratory results
Final UV Spot Check Bioassay Report	Within 30 calendar days of District's approval of draft

## **2. DELIVERABLES**

- 2.1. Review and Acceptance of Deliverables
  - a. First Draft: Prepare each deliverable in draft form and submit to District for review and approval in accordance with the date listed for the deliverable in the applicable task. District will return the draft deliverable to Consultant with comments or approval in writing.
  - b. Subsequent Draft(s): If District requests revisions, revise the draft deliverable and resubmit for District approval.
  - c. Final. Following District approval and prior to District's acceptance of work under this Agreement, submit the final approved deliverable to District in accordance with the date listed for this deliverable.
- 2.2. In addition to the requirements above, if any, submit one electronic copy in PDF format (emailed, on USB flash drive, or via internet) of each final deliverable to District.
- 2.3. Comply with requirements of Article 11 (Content Online Accessibility).
- 2.4. Include Agreement title and TW 23/24-094 on first page or cover of each deliverable.

## Exhibit B

### Schedule of Costs

<b>PERSONNEL</b>	
<b>Title(s)</b>	<b>Hourly Rate(s) not Subject to Prevailing Wage</b>
Principal Engineer II	\$360
Senior Engineer I	\$230
Associate Engineer II	\$180
<b>PREVAILING WAGES</b>	
For work subject to prevailing wage rates, the hourly rate charged will be equivalent to the prevailing wage rate applicable to the work performed by each laborer.	
<b>Item</b>	<b>Cost</b>
Outside Professional Services: GAP EnviroMicrobial Services Ltd	at cost + 5%
Rental Equipment	at cost
Other Direct Costs	at cost + 15%
Copies	\$0.10 per page
Postage	at cost
Overnight mail	at cost
Mileage for personal car	current IRS rate
Other direct costs (airfare, rental car, hotel)	at cost + 5%

## Exhibit C

### Estimated Budget for Scope of Work

Task No.	Staff Classification	Principal Engineer II	Senior Engineer I	Associate Engineer II	Total Labor Hours	Cost	ODCs <sup>a,b</sup>	Total
		\$360	\$230	\$180				
<b>1</b>	<b>Recirculation Loop/Testing UV System</b>	4	44	16	64	\$ 14,440.00	\$ 16,470.09	\$ 30,910.09
1.1	Site Visit with Contractor	2	20		22	\$ 5,320.00	\$ 840.00	\$ 6,160.00
1.2	Recirculation Loop Installation and Testing	2	24	16	42	\$ 9,120.00	\$ 15,630.09	\$ 24,750.09
<b>2</b>	<b>Witnessing</b>	32	0	0	32	\$ 11,520.00	\$ 1,575.00	\$ 13,095.00
2.1	Witness UV Spot Check Bioassays	32				\$ 11,520.00	\$ 1,575.00	\$ 13,095.00
<b>3</b>	<b>Conduct Testing</b>	0	40	32	72	\$ 14,960.00	\$ 13,335.00	\$ 28,295.00
3.1	Setup		24	16	40	\$ 8,400.00	\$ 3,570.00	\$ 11,970.00
3.2	Testing		16	16	32	\$ 6,560.00	\$ 9,765.00	\$ 16,325.00
<b>4</b>	<b>Develop Final Report</b>	24	52	52	128	\$ 29,960.00	\$ -	\$ 29,960.00
4.1	Data Analysis	4	8	40	52	\$ 10,480.00		\$ 10,480.00
4.2	Draft Report	16	40		56	\$ 14,960.00		\$ 14,960.00
4.3	Final Report	4	4	12	20	\$ 4,520.00		\$ 4,520.00
<b>TOTAL</b>		<b>60</b>	<b>136</b>	<b>100</b>	<b>296</b>	<b>\$70,880.00</b>	<b>\$ 31,380.09</b>	<b>\$ 102,260.09</b>

<sup>a</sup>ODCs include cost of travel for Trussell staff (Tasks 1, 2, and 3) including airfare/mileage, meals, motel stays, and a rental car.

<sup>b</sup>ODCs also include rental cost for a recirculation loop (Task 1), cost to ship Trussell testing supplies to Plant (Task 1), and MS2 analytical work and collimated beam testing (Task 2).

# 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.

District 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, District requires and shall be entitled to coverage for the higher limits maintained by Consultant.
  - c. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$100,000 it

must be approved in advance by District. Consultant is responsible for any deductible or self-insured retention and shall fund it upon District's written request, regardless of whether Consultant has a claim against the insurance or is named as a party in any action involving District.

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

#### 1.3. Automobile Liability Insurance

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

#### 1.4. Professional Liability/Errors and Omissions Insurance

- a. Minimum Limit: \$1,000,000 per claim or per occurrence; \$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 \$100,000 it must be approved in advance by District.
- c. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work.
- d. Coverage applicable to the work performed under this Agreement shall be continued for two (2) years after completion of the work. Such continuation coverage may be provided by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement

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

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

1.5. Standards for Insurance Companies

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

1.6. Documentation

- a. The Certificate of Insurance must include the following reference: TW 23/24-094.
- 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 District 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: Russian River County Sanitation District, c/o Sonoma County Water Agency, 404 Aviation Boulevard, Santa Rosa, California 95403-9019.
- d. Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.
- e. Consultant shall provide immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.
- f. Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.

1.7. Policy Obligations

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

1.8. Material Breach

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