

Third Amended Agreement for Study of Russian River Estuary Circulation and Water Quality Monitoring (Seasons 2014 through 2021)

This third amended agreement (“Third Amended Agreement” or “Agreement”) is by and between **Sonoma County Water Agency**, a body corporate and politic of the State of California (“Sonoma Water”) and **The Regents of the University of California, on behalf of its Davis campus Bodega Marine Lab**, (“University”). The Effective Date of this Agreement is the date the Agreement is last signed by the parties to the Agreement, unless otherwise specified in Article 5 (Term of Agreement).

RECITALS

- A. University represents that it is a duly qualified research institution dedicated to the understanding and preservation of healthy marine ecosystems.
- B. The 2008 Biological Opinion issued by the National Marine Fisheries Service (NMFS) directs Sonoma Water to change its management of the Russian River Estuary’s (Estuary) water surface elevations to improve juvenile salmonid habitat while minimizing flood risks.
- C. Sonoma Water actively monitors water quality in the Estuary during the juvenile salmonid rearing season, May 15 to October 15, to assess how changes in management affect water quality.
- D. Sonoma Water and University first entered into this Agreement on October 10, 2014 (“Original Agreement”).
- E. The Original Agreement provided for an annual monitoring program in 2014, 2015 and 2016 to evaluate the water quality and flow dynamics of the estuary both prior to and during the juvenile salmonid rearing season. Monitoring data collected under this Agreement will be used to evaluate the impacts of revised estuary management and to support studies to evaluate Sonoma Water’s long term estuary management alternatives.
- F. The First Amended Agreement extended the term to October 15, 2018, to continue work begun under the Original Agreement.
- G. The Second Amended Agreement extended the term to October 15, 2019 at no additional cost to Sonoma Water.
- H. In addition, the Second Amended Agreement changed occurrences of “Water Agency” to “Sonoma Water.”
- I. This Third Amended Agreement updates the scope of work, extends the term to May 31, 2022, and adds \$415,000 to the amount for a new agreement total of \$775,000.
- J. This Third Amended Agreement supersedes all previous agreements 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.

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-1: Estimated Breakdown of Costs Under Second Amended Agreement
- d. Exhibit C-2: Estimated Breakdown of Costs Under Third Amended Agreement

3. SCOPE OF SERVICES

3.1. University's Specified Services: University 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:* University shall cooperate with Sonoma Water in the performance of all work hereunder. University shall coordinate the work with Sonoma Water's Project Manager. Contact information and mailing addresses:

Sonoma Water	University
Project Manager: Chris Delaney 404 Aviation Boulevard Santa Rosa, CA 95403-9019 Phone: 707-547-1946 Email: cdelaney@scwa.ca.gov	Contact: John Largier P.O. Box 247 Bodega Bay, CA 94923 Phone: 707-875-1930 Email: jlargier@ucdavis.edu
	Cynthia C. Rosario, Contracts & Grants Analyst Office of Research, Sponsored Programs 1850 Research Park Drive, Suite 300 Davis, CA 95618-6153
	Phone: (530) 754-8266
	Email: crosario@ucdavis.edu
Remit invoices to: Accounts Payable Same address as above or	Remit payments to: Cashier's Office University of California, Davis

Email:
ap_agreements@scwa.ca.gov

P.O. Box 989062
West Sacramento, CA 95798-9062

- 3.3. *Performance Standard and Standard of Care:* University 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 University's work by Sonoma Water shall not operate as a waiver or release. Sonoma Water has relied upon the professional ability and training of University as a material inducement to enter into this Agreement. If Sonoma Water determines that any of University's work is not conducted in accordance the Scope of Work, Sonoma Water, in its sole discretion, shall have the right to do any or all of the following: (a) require University to meet with Sonoma Water to review the quality of the work and resolve matters of concern; (b) provide a time extension so the University can continue to perform under the Agreement; (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. The persons 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. University shall not remove, replace, substitute, or otherwise change any key personnel without the prior written consent of Sonoma Water.
- b. With respect to performance under this Agreement, the following are key personnel:

<i>Title</i>	<i>Name</i>
Principal Investigator	John Largier

- c. In the event that any of University's personnel assigned to perform services under this Agreement become unavailable due to resignation, sickness, or other factors outside of University's control, University 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 \$775,000.
- b. Total costs for Tasks 1.1 through 1.4 shall not exceed \$745,000 (not more than \$128,300 each fiscal year).
- c. Total costs for Optional Task 1.5, if requested in writing by Sonoma Water's Project Manager, shall not exceed \$30,000.

- 4.2. *Method of Payment:* University shall be paid in accordance with the following terms:
- University shall be paid in accordance with Exhibit B (Schedule of Costs). Expenses not expressly authorized by the Agreement shall not be reimbursed.
- 4.3. *Invoices:* University shall submit its bills in arrears on a monthly basis, based on work completed for the period, in a form approved by Sonoma Water's Project Manager. The bills shall show or include:
- University name
 - Name of Agreement
 - Sonoma Water's Project-Activity Code T0219B041
 - Task performed with an itemized description of services rendered by date
 - Summary of work performed by subconsultants, as described in Paragraph 13.4
 - Time in quarter hours devoted to the task
 - Hourly rate or rates of the persons performing the task
 - List of reimbursable materials and expenses
- 4.4. *Cost Tracking:* University has provided an estimated breakdown of costs, included in Exhibit C (Estimated Breakdown of Costs). 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.a above.
- 4.5. *Rate Changes:* Upon at least 30 days written notice, University may change rates listed in Exhibit B to reflect the then-current rates established pursuant to University policy.
- 4.6. *Funding:*
- Funding for this Agreement is as follows:

<i>Current Fiscal Year</i>	<i>Budgeted Appropriation</i>
2014/2015	\$ 150,000
<i>Subsequent Fiscal Years</i>	<i>Planned Appropriation</i>
2015/2016	\$ 110,000
2016/2017	\$ 100,000
2017/2018	\$0
2018/2019	\$0
2019/2020	\$415,000
2020/2021	\$0
2021/2022	\$0

- Availability of Funding in Subsequent Fiscal Years:
 - 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 for subsequent fiscal years if sufficient funds are not appropriated in said 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 University to reflect the reduced amount.

5. TERM OF AGREEMENT

- 5.1. The term of this Agreement shall be from July 1, 2014 ("Effective Date") to May 31, 2022, unless terminated earlier in accordance with the provisions of Article 6 (Termination).

6. TERMINATION

- 6.1. *Authority to Terminate:* Sonoma Water's right to terminate may be exercised by Sonoma Water's General Manager.
- 6.2. *Termination Without Cause:* Notwithstanding any other provision of this Agreement, at any time and without cause, either party shall have the right, in its sole discretion, to terminate this Agreement by giving 30 days written notice to the other party.
- 6.3. *Termination for Cause:* Notwithstanding any other provision of this Agreement, should University 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 University 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, University, within 14 days following the date of termination, shall deliver to Sonoma Water all materials and work product subject to Paragraph 12.7 and shall submit to Sonoma Water an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.
- 6.5. *Payment Upon Termination:* Upon termination of this Agreement by Sonoma Water, University shall be entitled to receive as full payment for all services rendered in accordance with Exhibit A (Scope of Work) and expenses incurred hereunder, including uncancellable obligations, an amount which bears the same ratio to the total payment specified in the Agreement as the services rendered in accordance with Exhibit A (Scope of Work) hereunder by University 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 University shall be entitled to receive as full payment an amount equal to the number of hours or days actually worked prior to termination times the applicable hourly or daily rate; and further provided, however, that if Sonoma Water terminates the Agreement for cause pursuant to Paragraph 6.3, Sonoma Water shall deduct from such amounts the amount of damage, if any, sustained by Sonoma Water by virtue of the breach of the Agreement by University.

7. MUTUAL INDEMNIFICATION

- 7.1. Each party agrees to defend, indemnify and hold harmless the other party, its officers, employees and agents, from and against any and all liability, loss, expense, attorneys' fees, or claims for injury or damages arising out of the performance of this Agreement, but only in proportion to, and to the extent such liability, loss, expense, attorneys' fees, claims for injury or damages are caused by, or result from the negligent or intentional acts or omissions of the Indemnifying Party .

8. INSURANCE

8.1. Self-Insurance.

- a. Each party shall maintain a program of self-insurance or excess insurance or any combination thereof, and shall name the other party as an additional insured thereon to protect against any liability for bodily injury or property damage arising out of or in connection with the performance of the insuring party, its officers, agents, and employees, under this Agreement. The liability coverage under such program of self-insurance or excess insurance shall not be less than \$1,000,000 (one million dollars) for each occurrence. Each party shall supply a certificate of self-insurance to the other party on or before the time of execution of this Agreement by the parties. Each party shall notify the other party in writing prior to any termination of such self-insurance program.

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 University's performance of this Agreement shall be extended by a number of days equal to the number of days University 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 University 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 University shall be entitled to no compensation whatsoever for the performance of such work. University 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/County-managed or Sonoma Water/County-funded web site must comply with applicable federal accessibility standards established by 36 C.F.R. Section 1194, pursuant to Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794(d)), and Sonoma Water's Web Site Accessibility Policy located at <http://webstandards.sonoma-county.org>.
- 11.3. *Certification:* With each final receivable 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, University shall identify the anticipated accessibility deficiency prior to commencement of any work to produce such Deliverables. University 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 University. If Sonoma Water, in its sole and absolute discretion, determines that any deliverable intended for use or publication on any Sonoma Water/County-managed or Sonoma Water/County-funded Web site does not comply with Sonoma Water Accessibility Standards, Sonoma Water will promptly inform University in writing. Upon such notice, University shall, without charge to Sonoma Water, replace the non-compliant Deliverable within a reasonable period

of time, but no more than 30 days. If the required replacement is not completed within the time specified, Sonoma Water shall have the right to terminate this Agreement pursuant to the provisions of Article 6 (Termination).

- 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 UNIVERSITY

- 12.1. *Status of University:* The parties intend that University, 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. University 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), University expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.
- 12.2. *Taxes:* University 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. University 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 University'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, University agrees to furnish Sonoma Water with proof of payment of taxes on these earnings.
- 12.3. *Records Maintenance:* University 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. University shall maintain such records for a period of four (4) years following completion of work hereunder.
- 12.4. *Conflict of Interest:* University 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. University 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, University 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.

- 12.5. *Statutory Compliance/Living Wage Ordinance:* University 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, University 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.
- 12.6. *Nondiscrimination:* University 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.
- 12.7. *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 University or University’s subcontractors, consultants, and other agents in performance of the Scope of Work under this Agreement, which are incorporated into interim and final reports as defined in the Scope of Work (“Deliverables”), shall be the property of Sonoma Water. University shall deliver a copy of said Deliverables to Sonoma Water upon as described in the Exhibit A, Section 1.3 and 1.4.

Upon expiration or termination of this Agreement, University shall promptly deliver to Sonoma Water all such Deliverables which have not already been provided to Sonoma Water as described in Exhibit A, Section 1.3. Such Deliverables shall be and will remain the property of Sonoma Water without restriction or limitation. University may retain copies of the above described Deliverables and documents.

University shall have the right to copyright, publish, disclose, disseminate, and use, in whole or in part, any data and information developed by University under this Agreement or received that is not subject to the Confidentiality Obligations of Article 12.7 below. University agrees not to disclose any information gathered, discovered, or generated in any way through this Agreement without providing Sonoma Water an informational copy of materials intended for disclosure by University at least thirty (30) days prior to University’s release for publication or

other dissemination during the term of this agreement and for a period of 90 days following expiration of the term of this Agreement. The University will acknowledge Sonoma Water's support in its publications unless Sonoma Water desires otherwise and so advises University.

- 12.8. *Confidentiality Obligations:* "Confidential Information" shall mean any business, marketing, technical, scientific, or other information disclosed by Agency which, at the time of disclosure, is designated as confidential (or like designation) or is disclosed in circumstances of confidence. Where Confidential Information is disclosed in tangible form, it shall be labeled as confidential or proprietary at the time of disclosure. Where Confidential Information is disclosed in non-tangible form, it shall be identified as confidential or proprietary at the time of disclosure and summarized in writing, designated as confidential or proprietary, and delivered to the University within thirty (30) days after disclosure. However, "Confidential Information" shall not include any information which:
- a. Is within, or later falls within, the public domain without breach of this Agreement by University;
 - b. That is or becomes available to University from third parties who have received such information from Sonoma Water without restriction on use or further disclosure;
 - c. Was already known to University as evidenced by tangible evidence;
 - d. Is disclosed in accordance with the written approval of Sonoma Water;
 - e. Is independently developed by employees of University who have not had access to such Confidential Information; or
 - f. Is required to be disclosed by law.

13. ASSIGNMENT AND DELEGATION

- 13.1. *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.
- 13.2. *Subcontracts:* Notwithstanding the foregoing, University 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.
- 13.3. *Change of Subcontractors or Subconsultants:* If, after execution of the Agreement, parties agree that subconsultants not listed in Paragraph 13.2 will be utilized, University may enter into subcontracts with subconsultants to perform other specific duties pursuant to the provisions of this Paragraph 13.3. The following provisions apply to any subcontract entered into by University other than those listed in Paragraph 13.2 above:

- a. Prior to entering into any contract with subconsultant, University shall obtain Sonoma Water approval of subconsultant. Sonoma Water's Board of Directors must approve the selection of any subconsultant if the amount payable to subconsultant under the agreement exceeds \$25,000. In connection with such approval, University shall provide Sonoma Water with copies of the responses to University's Request for Proposals (RFP) to subconsultants, the names of key personnel who will be performing work under the agreement, and an explanation of University's reasons for choosing the recommended subconsultant based upon the criteria in the RFP.
 - 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, (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.
- 13.4. *Summary of Subconsultants' Work:* If applicable, University 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.

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

- 14.1. *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.
- 14.2. *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 14.

15. MISCELLANEOUS PROVISIONS

- 15.1. *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.

- 15.2. *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.
- 15.3. *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. University 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. University and Sonoma Water acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.
- 15.4. *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.
- 15.5. *No Third-Party Beneficiaries:* Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.
- 15.6. *Applicable Law and Forum:* This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts .
- 15.7. *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.
- 15.8. *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. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.
- 15.9. *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.
- 15.10. *Time of Essence:* Time is and shall be of the essence of this Agreement and every provision hereof.

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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 13/14-163C

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
Sonoma Water

Date/TW Initials: 5/21/19 JES

Sonoma County Water Agency

**The Regents of the University of California,
on behalf of its Davis campus Bodega Marine
Lab**

By: _____
Grant Davis
General Manager
Authorized per Sonoma County Water
Agency's Board of Directors Action on
September 10, 2019

By: _____

(Please print name here)

Title: _____

Date: _____

Date: _____

EXHIBIT A

Scope of Work

1. STUDIES

Each year for the term of this agreement, University shall conduct a study of the Russian River estuary (hereinafter called "Study Area"). Each study shall provide a view of circulation, stratification, residence, salinity, temperature, and dissolved oxygen in the Russian River estuary for the summer and fall. Field data will be collected primarily during the months of May through November of each year, specifically during periods in which the mouth is in a closed or outlet channel condition. By identifying critical hydrological phenomena and processes, this effort will provide the Agency with a basis for future management of the estuary and multiple human and ecosystem uses of this environment.

The following work shall be included as part of each study:

1.1 Collection of Data

University staff shall collect field data in the Russian River estuary. This work shall be in collaboration with ongoing monitoring by Sonoma Water. Five specific tasks shall be accomplished:

- a. Deploy and maintain a camera to obtain hourly photos of the estuary mouth year-round, and transmit these photos for quasi-real-time display on Sonoma Water or University website. Archived photos shall be delivered to Sonoma Water on an annual basis.
- b. Deploy two water level recorders during the summer-fall field season, and prepare graphical representation and narrative description of these data to be included in Annual Report described in Section 1.4.
- c. Deploy and maintain two Acoustic Doppler Current Profiler (ADCPs) "moorings" with additional sensors during the summer-fall field season, and prepare graphical representation and narrative description of these data to be included in Annual Report described in Section 1.4.
- d. Deploy and maintain one weather station during the summer-fall field season, recording wind data and other meteorological parameters, and prepare graphical representation and narrative description of these data to be included in Annual Report described in Section 1.4.
- e. Conduct high-resolution boat-based surveys of the vertical distribution of temperature, salinity, dissolved oxygen and chlorophyll fluorescence along the estuary ("CTD surveys"), resolving salinity/temperature/oxygen/chlorophyll structure when the mouth is closed or with an outlet channel in place. Graphical representation and narrative description of data shall be prepared in Annual Report described in Section 1.4.

- f. Collect data on biological oxygen demand (BOD) when the mouth is closed or with an outlet channel in place, including in deep seawater layer. Graphical representation and narrative description of data shall be prepared in Annual Report described in Section 1.4.
- g. Conduct lateral surveys of water properties, from bank to bank, in mid/upper estuary – as feasible when the water level is high enough to flood the vegetated margins, beaches and banks of the estuary. Parameters include salinity, temperature, flow rate and oxygen concentration. Graphical representation and narrative description of data shall be prepared in Annual Report described in Section 1.4.

1.2 Analysis of Data

University staff shall conduct analyses of both University-collected and Sonoma Water-collected data on currents, temperature, salinity, dissolved oxygen, BOD, chlorophyll fluorescence, wind and water levels in the context of changes in river flow, tide range, wave conditions and mouth state. Specific attention shall be given to:

- a. Circulation patterns and statistical description of current speeds when mouth closed or with an outlet channel in place.
- b. Salinity intrusion (i.e., landward extent of saline waters).
- c. Stratification strength and resistance to vertical mixing (i.e., stability) and how stability evolves during long-closure periods.
- d. Residence times for both low-salinity surface waters and high-salinity bottom waters in the estuary.
- e. Quantification of dissolved oxygen levels, BOD levels, and de-oxygenation rates in estuary waters during periods of closure, barrier overflow, and immediately after breaching of the mouth.
- f. Participate in annual adaptive management meetings, meetings with collaborators and Sonoma Water staff, and prepare documentation annually describing results of analysis and recommendations for continued monitoring to be included in the Annual Report described in Section 1.4. .

University staff shall interact with Sonoma Water staff and collaborators in relating estuarine hydrology to water quality (e.g., concurrent data on nutrient and fecal indicator bacteria levels), ecological productivity (e.g., concurrent invertebrate surveys), human uses (e.g., salinity intrusion into water sources) and ecosystem functions (e.g., quantity and quality of juvenile salmon habitat) in the estuary.

These data will be collected as a basis for (i) assessment of the hydrological condition of the estuary during the dry season each year, (ii) future analyses that will provide understanding of how river flow and mouth state control estuary hydrology and through that estuary pelagic habitat, and (iii) validation and inputs for numerical modeling of the estuary.

1.3 Deliverables

- a. Data files shall be delivered to Sonoma Water following data upload and quality control.
- b. Plots of data shall be prepared within 3 months of the end of data collection.
- c. A final annual report shall be prepared to summarize data and findings in the estuary. This shall be prepared as described in section 1.4.
- d. University staff shall meet with Sonoma Water staff during the course of the season to discuss both Sonoma Water and University data as it becomes available.

1.4 Annual Reports

- a. Contents: University shall annually prepare a report of study results that includes the following:
 - Table of Contents
 - Summary of study results
 - A detailed description of the work performed, including methodology, literature reviewed, and individuals and agencies contacted
 - A map of Study Area with monitoring locations
 - Other information to support the study
- b. First Draft: The report shall be prepared in draft form and an electronic copy of the draft shall be submitted to Sonoma Water for review and approval within 4 months of completion of data collection (or 1 April, if that date comes first). Sonoma Water will return the electronic draft report to University with comments or approval in writing within 2 weeks of receipt.
- c. Revised Draft: If Sonoma Water requests revisions, University shall revise the draft report and resubmit an electronic copy of the report for Sonoma Water approval within 1 month of receipt.
- d. Final: Following Sonoma Water approval and prior to Sonoma Water's acceptance of Deliverables under this Agreement, University shall submit 1 electronic copy of the final approved report to Sonoma Water within 2 weeks of receipt of Sonoma Water's approval.
- e. Sonoma Water "approval" of reports and Deliverables as used in this Exhibit A means only a review of the reports and Deliverables to ensure adequate compliance with the provisions of this Agreement and will consist of a general technical review to ensure that all aspects of the research provided for by this Agreement have been adequately carried out and documented. Correction of the deficiencies found in this review is a requirement for Sonoma Water acceptance of a report or Deliverable as evidence of partial or final fulfillment of Agreement objectives.

<i>Deliverable</i>	<i>Due Date</i>
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Draft Report for Monitoring Season May – November 2018 and May – November 2019	April 1, 2020
Draft Report for Monitoring Season May – November 2020	April 1, 2021
Draft Report for Monitoring Season May – November 2021	April 1, 2022
Draft Revisions	Within 1 month of receipt of comments by Sonoma Water
Final Report	Within 2 weeks of receipt of final comments by Sonoma Water

1.5 Optional Task- Additional Services:

- a. Perform additional services as requested by Sonoma Water to support the study effort. The additional services will be agreed to by Sonoma Water and University and described in writing by Sonoma Water.
- b. Any optional study performed, or additional data gathered will be analyzed and included in the reports as described in Scope above.

Exhibit B

Schedule of Costs

Title	Rate
Principle Investigator	\$105.50 per hour
Staff Research Associate	\$32.30 per hour
Dev Tech	\$51.00 per hour
Graduate Student Researcher	\$42.60 per hour
Programmer	
Item	Cost
Henricia Boat	\$46.00 per hour
Truck and Trailer for Boat	\$24.00/day plus mileage
Weather Station Array	at cost
Field Sensors (repair/replace)	at cost
Water Quality Monitoring (lab fees)	at cost
Fee Remission: Graduate Student	\$13,037 (3yr total)
Copies	at cost
Postage	at cost
Overnight mail	at cost
Telephone	at cost
Mileage for car	0.56 per mile
Instrument calibration	\$500.00 each(annual)
Boat supplies/motor	\$3,000(annual)
Indirect Costs (Federally negotiated rate based on Modified Total Direct Costs)	\$114,210

Exhibit C-1

Estimated Breakdown of Costs Under Second Amended Agreement

PERSONNEL		
Title		Subtotal (three years)
Principal Investigator		\$38,700
Staff Research Associate II		\$100,684
Graduate Student Researcher III		\$16,415
Programmer III		\$4,987
Development Technician II		\$7,575
EXPENSES		
Item		Cost
Supplies and Materials		\$31,900
Travel		\$2,492
Grad Student Fee Remission		\$13,037
Indirect Costs (Federally negotiated rate based on Modified Total Direct Costs)		\$114,210
Optional task (if requested)		up to \$30,000
	TOTAL	\$360,000

Exhibit C-2

Estimated Breakdown of Costs Under Third Amended Agreement

PERSONNEL		
Title		Subtotal (three years)
Principal Investigator		\$59,896
Staff Research Associate I		\$147,817
Development Technician		\$28,520
Data Systems Analyst		\$7,235
EXPENSES		
Item		Cost
Supplies and Materials		\$13,050
Travel		\$6,632
Other Direct Costs		\$1,181
Indirect Costs (Federally negotiated rate based on Modified Total Direct Costs)		\$150,669
	TOTAL	\$415,000

No.: 119-2018-B

Risk Management Services
University of California, Davis
One Shields Avenue
Davis, California 95616

This Certificate is issued to:

Sonoma County Water Agency
404 Aviation Boulevard
Santa Rosa, California 95403-9019

UNIVERSITY OF CALIFORNIA CERTIFICATE OF SELF-INSURANCE

This is to certify that the University of California is self-insured for the following coverages:

Type of Coverage	Self-Insured Limits
I. GENERAL LIABILITY: Each Occurrence Employers Liability Errors and Omissions Liability Personal and Advertising Injury Products and Completed Operations Aggregate General Aggregate (Bodily Injury & Property Damage)	 \$ 1,000,000 \$ \$ \$ \$ \$ 1,000,000
II. AUTOMOBILE LIABILITY: Vehicles owned, Non-owned, Hired (Each Occurrence)	 \$
III. SPECIAL TERMS & CONDITIONS: 1. Sonoma County Water Agency, its officers, agents and employees are hereby named as additional insureds, but only in connection with The Regents of the University of California, Project #201500442, on behalf of the UC Davis Office of Research Sponsored Program, for the project entitled "Study of the Russian River Estuary Circulation and Water Quality Monitoring", for the period beginning October 16, 2018 and ending October 15, 2019. This provision shall apply to claims, costs, injuries, or damages but only in proportion to and to the extent such claims, costs, injuries, or damages are caused by or result from the negligent acts or omissions of The Regents of the University of California, its officers, agents, or employees. 2. The insurance evidenced herein follows the provisions of the Bylaws and Standing Orders of The Regents of the University of California and self-insurance programs as administered by the University of California, Office of the President, Office of Risk Management, which do not permit any assumption of liability which does not result from and is not caused by the negligent acts or omissions of its officers, agents, or employees. Any indemnification or hold harmless clause with broader provisions than required under such Bylaws and Standing Orders shall invalidate this certificate. THIS CERTIFICATE SHALL BECOME EFFECTIVE UPON EXECUTION OF THE AGREEMENT BY BOTH PARTIES.	

Should any of the above described programs of self-insurance be materially modified or cancelled before the expiration date shown below, The Regents of the University of California will give 30 days written notice to the named certificate holder.

Date Prepared: October 4, 2018

Authorized Signature: _____

Certificate Expires: October 15, 2019

Name: Ibiyemi Olowoyeye

Date: 10/4/2018

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
OFFICE OF THE DIRECTOR

NUMBER 7559

CERTIFICATE OF CONSENT TO SELF-INSURE

THIS IS TO CERTIFY, That

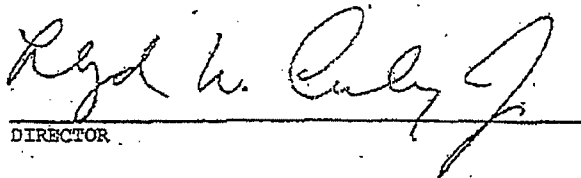
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

has complied with the requirements of the Director of Industrial Relations under the provisions of Sections 3700 to 3705, inclusive, of the Labor Code of the State of California and is hereby granted this Certificate of Consent to Self-Insure.

This certificate may be revoked at any time for good cause pursuant to Labor Code Section 3702.

EFFECTIVE March 1, 1993

DEPARTMENT OF INDUSTRIAL RELATIONS
OF THE STATE OF CALIFORNIA


DIRECTOR



MANAGER, SELF-INSURANCE PLANS

SUPERCEDDES CERTIFICATE NO. P-1344