

DRAFT Agreement for Stream Maintenance Support and Hydraulic Analysis

This agreement ("Agreement") is by and between **Sonoma County Water Agency**, a body corporate and politic of the State of California ("Sonoma Water") and **Horizon Water and Environment, LLC**, a limited liability company ("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 firm experienced in watershed science, water resources management, regulatory compliance, and the preparation of hydraulic analyses and related services.
- B. Sonoma Water received long-term programmatic permits and authorizations from the U.S. Army Corps of Engineers (USACE), U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), California Department of Fish and Wildlife (DFW), and the North Coast Regional Water Quality Control Board and the San Francisco Bay Regional Water Quality Control Board (RWQCBs) for its Stream Maintenance Program (SMP).
- C. The RWQCBs issued an order providing Waste Discharge Requirements and Water Quality Certification for Sonoma Water's SMP. This order included a Monitoring and Reporting Program.
- D. Since 2008, Consultant has assisted Sonoma Water with its SMP, providing a variety of consulting services. Between 2012 and 2015, Consultant assisted Sonoma Water with several permitting tasks mandated by the San Francisco Bay and North Coast RWQCBs and helped Sonoma Water renew its permit with the San Francisco Bay RWQCB, which was issued in April 2016.
- E. Under this Agreement, Consultant will continue providing SMP support services, including USACE and RWQCB permitting renewals and support, ongoing regulatory agency coordination, sediment quality testing and reporting, and project management.

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: Estimated Budget for Scope of Work
- d. Exhibit D: Insurance Requirements

3. **SCOPE OF SERVICES**

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

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

Sonoma Water	Consultant
Project Manager: Chase Takajo 404 Aviation Boulevard Santa Rosa, CA 95403-9019 Phone: 707-521-1872 Email: chase.takajo@scwa.ca.gov	Contact: Ken Schwarz, Ph.D. 180 Grand Avenue Oakland, CA 94612 Phone: 510-986-1851 Email: ken@horizonh2o.com
Remit invoices to:	Remit payments to:
Accounts Payable Same address as above or Email: ap_agreements@scwa.ca.gov	Attn: Accounts Receivable Same address as above Contact: Ken Schwarz, Ph.D.

3.3. *Performance Standard and Standard of Care:* Consultant hereby agrees that all its work will be performed and that its operations shall be conducted in accordance with the standards of a reasonable professional having specialized knowledge and expertise in the services provided under this Agreement and in accordance with all applicable federal, state and local laws, it being understood that acceptance of Consultant's work by Sonoma Water shall not operate as a waiver or release. Sonoma Water has relied upon the professional ability and training of Consultant as a material inducement to enter into this Agreement. If Sonoma Water determines that any of Consultant's work is not in accordance with such level of competency and standard of care, Sonoma Water, in its sole discretion, shall have the right to do any or all of the following: (a) require Consultant to meet with Sonoma Water to review the quality of the work and resolve matters of concern; (b) require Consultant to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to

the provisions of Article 6 (Termination); or (d) pursue any and all other remedies at law or in equity.

3.4. *Assigned Personnel:*

- a. Consultant shall assign only competent personnel to perform work hereunder. In the event that at any time Sonoma Water, in its sole discretion, desires the removal of any person or persons assigned by Consultant to perform work hereunder, Consultant shall remove such person or persons immediately upon receiving written notice from Sonoma Water.
- b. Any and all persons identified in this Agreement or any exhibit hereto as the project manager, project team, or other professional performing work hereunder are deemed by Sonoma Water to be key personnel whose services were a material inducement to Sonoma Water to enter into this Agreement, and without whose services Sonoma Water would not have entered into this Agreement. Consultant shall not remove, replace, substitute, or otherwise change any key personnel without the prior written consent of Sonoma Water.
- c. With respect to performance under this Agreement, Consultant shall employ the following key personnel:

<i>Title</i>	<i>Name</i>
Principal	Ken Schwarz, Ph.D.

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

4. **PAYMENT**

4.1. *Total Costs:*

- a. Total costs under this Agreement shall not exceed \$525,000.
- b. No more than \$472,500 will be paid until the draft 10-year summary report in Task 2 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 Sonoma Water. The bills shall show or include:

- a. Consultant name
- b. Name of Agreement

- c. Sonoma Water's Project-Activity Codes F0138C018, F0222C018, F0261C018, F0296M038, and F0331C018
 - d. Task performed with an itemized description of services rendered by date
 - e. Summary of work performed by subconsultants, as described in Paragraph 14.4
 - f. Time in quarter hours devoted to the task
 - g. Hourly rate or rates of the persons performing the task
 - h. List of reimbursable materials and expenses
 - i. Copies of receipts for reimbursable materials and expenses
- 4.4. *Cost Tracking:* Consultant has provided an estimated breakdown of costs, included in Exhibit C (Estimated Budget for Scope of Work). Exhibit C will only be used as a tool to monitor progress of work and budget. Actual payment will be made as specified in Paragraph 4.2 above.
- 4.5. *Timing of Payments:* Unless otherwise noted in this Agreement, payments shall be made within the normal course of Sonoma Water business after presentation of an invoice in a form approved by Sonoma Water for services performed. Payments shall be made only upon the satisfactory completion of the services as determined by Sonoma Water.
- 4.6. *Taxes Withheld by Sonoma Water:*
- a. Pursuant to California Revenue and Taxation Code (R&TC) section 18662, Sonoma Water shall withhold seven percent of the income paid to Consultant for services performed within the State of California under this Agreement, for payment and reporting to the California Franchise Tax Board, if Consultant does not qualify as: (1) a corporation with its principal place of business in California, (2) an LLC or Partnership with a permanent place of business in California, (3) a corporation/LLC or Partnership qualified to do business in California by the Secretary of State, or (4) an individual with a permanent residence in the State of California.
 - b. If Consultant does not qualify, as described in Paragraph 4.6.a, Sonoma Water requires that a completed and signed Form 587 be provided by Consultant in order for payments to be made. If Consultant is qualified, as described in Paragraph 4.6.a, then Sonoma Water requires a completed Form 590. Forms 587 and 590 remain valid for the duration of the Agreement provided there is no material change in facts. By signing either form, Consultant agrees to promptly notify Sonoma Water of any changes in the facts. Forms should be sent to Sonoma Water pursuant to Article 15 (Method and Place of Giving Notice, Submitting Bills, and Making Payments) of this Agreement. To reduce the amount withheld, Consultant has the option to provide Sonoma Water with either a full or partial waiver from the State of California.

5. TERM OF AGREEMENT AND COMMENCEMENT OF WORK

5.1. *Term of Agreement:*

- a. This Agreement shall expire on April 28, 2025, unless terminated earlier in accordance with the provisions of Article 6 (Termination).
- b. Sonoma Water shall have two options to extend this Agreement for a period of one year each by providing written notice to Consultant thirty days in advance of the expiration date noted in this Article and of the first extension option.

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

6. TERMINATION

6.1. *Authority to Terminate:* Sonoma Water's right to terminate may be exercised by Sonoma County Water Agency's General Manager.

6.2. *Termination Without Cause:* Notwithstanding any other provision of this Agreement, at any time and without cause, Sonoma Water shall have the right, in its sole discretion, to terminate this Agreement by giving 5 days written notice to Consultant.

6.3. *Termination for Cause:* Notwithstanding any other provision of this Agreement, should Consultant fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, Sonoma Water may immediately terminate this Agreement by giving Consultant written notice of such termination, stating the reason for termination.

6.4. *Delivery of Work Product and Final Payment Upon Termination:* In the event of termination, Consultant, within 14 days following the date of termination, shall deliver to Sonoma Water all reports, original drawings, graphics, plans, studies, and other data or documents, in whatever form or format, assembled or prepared by Consultant or Consultant's subcontractors, consultants, and other agents in connection with this Agreement subject to Paragraph 12.9 and shall submit to Sonoma Water an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.

6.5. *Payment Upon Termination:* Upon termination of this Agreement by Sonoma Water, Consultant shall be entitled to receive as full payment for all services satisfactorily rendered and reimbursable expenses properly incurred hereunder, an amount which bears the same ratio to the total payment specified in the Agreement as the services satisfactorily rendered hereunder by Consultant bear to the total services otherwise required to be performed for such total payment; provided, however, that if services are to be paid on a per-hour or per-day basis,

then Consultant shall be entitled to receive as full payment an amount equal to the number of hours or days actually worked prior to termination multiplied by the applicable hourly or daily rate; and further provided, however, that if Sonoma Water terminates the Agreement for cause pursuant to Paragraph 6.3, Sonoma Water shall deduct from such amounts the amount of damage, if any, sustained by Sonoma Water by virtue of the breach of the Agreement by Consultant.

7. INDEMNIFICATION

- 7.1. Consultant agrees to accept responsibility for loss or damage to any person or entity, including Sonoma County Water Agency, and to defend, indemnify, hold harmless, and release Sonoma County Water Agency, its officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity, including Consultant, that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant or its agents, employees, contractors, subcontractors, or invitees hereunder, whether or not there is concurrent or contributory negligence on Sonoma County Water Agency's part, but, to the extent required by law, excluding liability due to Sonoma County Water Agency's conduct. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Consultant or its agents under workers' compensation acts, disability benefits acts, or other employee benefit acts.

8. INSURANCE

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

9. PROSECUTION OF WORK

- 9.1. Performance of the services hereunder shall be completed within the time required herein, provided, however, that if the performance is delayed by earthquake, flood, high water, or other Act of God or by strike, lockout, or similar labor disturbances, the time for Consultant's performance of this Agreement shall be extended by a number of days equal to the number of days Consultant has been delayed.

10. EXTRA OR CHANGED WORK

- 10.1. Extra or changed work or other changes to the Agreement may be authorized only by written amendment to this Agreement, signed by both parties. Changes to lengthen time schedules or make minor modifications to the scope of work, which do not increase the amount paid under the Agreement, may be executed by Sonoma County Water Agency's General Manager in a form approved by

County Counsel. The parties expressly recognize that Sonoma Water personnel are without authorization to order all other extra or changed work or waive Agreement requirements. Failure of Consultant to secure such written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the Agreement price or Agreement time due to such unauthorized work and thereafter Consultant shall be entitled to no compensation whatsoever for the performance of such work. Consultant further expressly waives any and all right or remedy by way of restitution and quantum meruit for any and all extra work performed without such express and prior written authorization of Sonoma Water.

11. CONTENT ONLINE ACCESSIBILITY

- 11.1. *Accessibility:* Sonoma Water policy requires that all documents that may be published to the Web meet accessibility standards to the greatest extent possible, and utilizing available existing technologies.
- 11.2. *Standards:* All consultants responsible for preparing content intended for use or publication on a Sonoma Water managed or Sonoma Water funded web site must comply with applicable federal accessibility standards established by 36 C.F.R. section 1194, pursuant to section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. section 794(d)), and Sonoma Water's Web Site Accessibility Policy located at <http://sonomacounty.ca.gov/Services/Web-Standards-and-Guidelines/>.
- 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, Consultant shall identify the anticipated accessibility deficiency prior to commencement of any work to produce such deliverables. Consultant agrees to cooperate with Sonoma Water staff in the development of alternate document formats to maximize the facilitative features of the impacted document(s); e.g., embedding the document with alt-tags that describe complex data/tables.
- 11.5. *Noncompliant Materials; Obligation to Cure:* Remediation of any materials that do not comply with Sonoma Water's Web Site Accessibility Policy shall be the responsibility of Consultant. If Sonoma Water, in its sole and absolute discretion, determines that any deliverable intended for use or publication on any Sonoma Water managed or Sonoma Water funded Web site does not comply with Sonoma Water Accessibility Standards, Sonoma Water will promptly inform Consultant in writing. Upon such notice, Consultant shall, without charge to Sonoma Water, repair or replace the non-compliant materials within such period

of time as specified by Sonoma Water in writing. If the required repair or replacement is not completed within the time specified, Sonoma Water shall have the right to do any or all of the following, without prejudice to Sonoma Water's right to pursue any and all other remedies at law or in equity:

- a. Cancel any delivery or task order
- b. Terminate this Agreement pursuant to the provisions of Article 6 (Termination); and/or
- c. In the case of custom Electronic and Information Technology (EIT) developed by Consultant for Sonoma Water, Sonoma Water may have any necessary changes or repairs performed by itself or by another contractor. In such event, Consultant shall be liable for all expenses incurred by Sonoma Water in connection with such changes or repairs.

- 11.6. *Sonoma Water's Rights Reserved:* Notwithstanding the foregoing, Sonoma Water may accept deliverables that are not strictly compliant with Sonoma Water Accessibility Standards if Sonoma Water, in its sole and absolute discretion, determines that acceptance of such products or services is in Sonoma Water's best interest.

12. REPRESENTATIONS OF CONSULTANT

- 12.1. *Status of Consultant:* The parties intend that Consultant, in performing the services specified herein, shall act as an independent contractor and shall control the work and the manner in which it is performed. Consultant is not to be considered an agent or employee of Sonoma Water and is not entitled to participate in any pension plan, worker's compensation plan, insurance, bonus, or similar benefits Sonoma Water provides its employees. In the event Sonoma Water exercises its right to terminate this Agreement pursuant to Article 6 (Termination), Consultant expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.
- 12.2. *No Suspension or Debarment:* Consultant warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Consultant also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration.
- 12.3. *Taxes:* Consultant agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Consultant agrees to indemnify and hold Sonoma Water harmless from any liability which it may incur to the United States or to the State of California or to any other public entity as a consequence of Consultant's failure to pay, when due, all such taxes and

obligations. In case Sonoma Water is audited for compliance regarding any withholding or other applicable taxes, Consultant agrees to furnish Sonoma Water with proof of payment of taxes on these earnings.

- 12.4. *Records Maintenance:* Consultant shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this Agreement and shall make such documents and records available to Sonoma Water for inspection at any reasonable time. Consultant shall maintain such records for a period of four (4) years following completion of work hereunder.
- 12.5. *Conflict of Interest:* Consultant covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Consultant further covenants that in the performance of this Agreement no person having any such interests shall be employed. In addition, if required by law or requested to do so by Sonoma Water, Consultant shall submit a completed Fair Political Practices Commission Statement of Economic Interests (Form 700) with Sonoma Water within 30 calendar days after the Effective Date of this Agreement and each year thereafter during the term of this Agreement, or as required by state law.
- 12.6. *Statutory Compliance/Living Wage Ordinance:* Consultant agrees to comply, and to ensure compliance by its subconsultants or subcontractors, with all applicable federal, state and local laws, regulations, statutes and policies, including but not limited to the County of Sonoma Living Wage Ordinance, applicable to the services provided under this Agreement as they exist now and as they are changed, amended or modified during the term of this Agreement. Without limiting the generality of the foregoing, Consultant expressly acknowledges and agrees that this Agreement is subject to the provisions of Article XXVI of Chapter 2 of the Sonoma County Code, requiring payment of a living wage to covered employees. Noncompliance during the term of the Agreement will be considered a material breach and may result in termination of the Agreement or pursuit of other legal or administrative remedies.
- 12.7. *Nondiscrimination:* Consultant shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, sexual orientation or other prohibited basis. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated herein by this reference.
- 12.8. *Assignment of Rights:* Consultant assigns to Sonoma Water all rights throughout the world in perpetuity in the nature of copyright, trademark, patent, right to ideas, in and to all versions of the 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 Sonoma Water in this Agreement, and to refrain from taking any action which would impair those rights. Consultant's responsibilities under this provision include, but are not limited to, placing proper notice of copyright on all versions of the plans and specifications as Sonoma Water may direct, and refraining from disclosing any versions of the plans and specifications to any third party without first obtaining written permission of Sonoma Water. Consultant shall not use or permit another to use the plans and specifications in connection with this or any other project without first obtaining written permission of Sonoma Water.

- 12.9. *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 Sonoma Water. Sonoma Water shall be entitled to immediate possession of such documents upon completion of the work pursuant to this Agreement. Upon expiration or termination of this Agreement, Consultant shall promptly deliver to Sonoma Water all such documents, which have not already been provided to Sonoma Water in such form or format as Sonoma Water deems appropriate. Such documents shall be and will remain the property of Sonoma Water without restriction or limitation. Consultant may retain copies of the above described documents but agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of Sonoma Water.

13. DEMAND FOR ASSURANCE

- 13.1. Each party to this Agreement undertakes the obligation that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party, the other may in writing demand adequate assurance of due performance and until such assurance is received may, if commercially reasonable, suspend any performance for which the agreed return has not been received. "Commercially reasonable" includes not only the conduct of a party with respect to performance under this Agreement, but also conduct with respect to other agreements with parties to this Agreement or others. After receipt of a justified demand, failure to provide within a reasonable time, but not exceeding thirty (30) days, such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of this Agreement. Acceptance of any improper delivery, service, or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance. Nothing in this Article 13 limits Sonoma Water's right to terminate this Agreement pursuant to Article 6 (Termination).

14. **ASSIGNMENT AND DELEGATION**

14.1. *Consent:* Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented.

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

<i>Name</i>	<i>Type of Services</i>	<i>Prevailing Wages Apply? Y/N</i>
Maxon Consulting	Sediment testing, regulatory reporting, toxicology	N
ESA	Hydrology, hydraulics, stream analysis	N

14.3. *Change of Subcontractors or Subconsultants:* If, after execution of the Agreement, parties agree that subconsultants not listed in Paragraph 14.2 will be utilized, Consultant may enter into subcontracts with subconsultants to perform other specific duties pursuant to the provisions of this Paragraph 14.3. The following provisions apply to any subcontract entered into by Consultant other than those listed in Paragraph 14.2:

- a. Prior to entering into any contract with subconsultant, Consultant shall obtain Sonoma Water approval of subconsultant.
- b. All agreements with subconsultants shall (a) contain indemnity requirements in favor of Sonoma Water in substantially the same form as that contained in Article 7 (Indemnification), (b) contain language that the subconsultant may be terminated with or without cause upon reasonable written notice, and (c) prohibit the assignment or delegation of work under the agreement to any third party.

14.4. *Summary of Subconsultants' Work:* Consultant shall provide Sonoma Water with a summary of work performed by subconsultants with each invoice submitted under Paragraph 4.3. Such summary shall identify the individuals performing work on behalf of subconsultants and the total amount paid to subconsultant, broken down by the tasks listed in the Scope of Work.

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

15.1. *Method of Delivery:* All notices, bills, and payments shall be made in writing and shall be given by personal delivery, U.S. Mail, courier service, or electronic

means. Notices, bills, and payments shall be addressed as specified in Paragraph 3.2.

- 15.2. *Receipt:* When a notice, bill, or payment is given by a generally recognized overnight courier service, the notice, bill, or payment shall be deemed received on the next business day. When a copy of a notice, bill, or payment is sent by electronic means, the notice, bill, or payment shall be deemed received upon transmission as long as (1) the original copy of the notice, bill, or payment is deposited in the U.S. mail and postmarked on the date of the electronic transmission (for a payment, on or before the due date), (2) the sender has a written confirmation of the electronic transmission, and (3) the electronic transmission is transmitted before 5 p.m. (recipient's time). In all other instances, notices, bills, and payments shall be effective upon receipt by the recipient. Changes may be made in the names and addresses of the person to whom notices are to be given by giving notice pursuant to this Article 15.

16. MISCELLANEOUS PROVISIONS

- 16.1. *No Bottled Water:* In accordance with Sonoma Water Board of Directors Resolution No. 09-0920, dated September 29, 2009, no Sonoma Water funding shall be used to purchase single-serving, disposable water bottles for use in Sonoma Water facilities or at Sonoma Water-sponsored events. This restriction shall not apply when potable water is not available.
- 16.2. *No Waiver of Breach:* The waiver by Sonoma Water of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or promise or any subsequent breach of the same or any other term or promise contained in this Agreement.
- 16.3. *Construction:* To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. Consultant and Sonoma Water acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. Consultant and Sonoma Water acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.
- 16.4. *Consent:* Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.

- 16.5. *No Third-Party Beneficiaries:* Except as provided in Article 7 (Indemnification), nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.
- 16.6. *Applicable Law and Forum:* This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts to the contrary in any jurisdiction. Any action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in Santa Rosa or in the forum nearest to the City of Santa Rosa, in the County of Sonoma.
- 16.7. *Captions:* The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.
- 16.8. *Merger:* This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure section 1856. Each Party acknowledges that, in entering into this Agreement, it has not relied on any representation or undertaking, whether oral or in writing, other than those which are expressly set forth in this Agreement. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.
- 16.9. *Survival of Terms:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- 16.10. *Time of Essence:* Time is and shall be of the essence of this Agreement and every provision hereof.

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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 19/20-077

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: 4/1/20 JES

Sonoma County Water Agency

**Horizon Water and Environment, LLC, a
limited liability company**

By: _____
Grant Davis
General Manager
Authorized per Sonoma County Water
Agency's Board of Directors Action on
June 9, 2020

By: _____

(Please print name here)

Title: _____

Date: _____

Date: _____

Exhibit A

Scope of Work

1. TASKS

1.1. Task 1: Ongoing Regulatory Agency Coordination

- a. Provide ongoing coordination and support services with regulatory agencies involved in the SMP, in person and via email. Provide emails to Sonoma Water.
- b. Prepare for and participate in interagency tours and annual meetings.
- c. Assist Sonoma Water in revising the SMP Manual based on feedback received from regulatory agencies or help address questions on the program.

Deliverable	Due Date
Coordination emails with regulatory agencies	Within 14 calendar days of Effective Date
Interagency meeting and tour notes	Within 14 calendar days of Effective Date
SMP Manual updates	Within 14 calendar days of Effective Date

1.2. Task 2: Sediment Testing Quality and Reporting

- a. Prepare a report that evaluates temporal and spatial trends in sediment pollutant data submitted to the RWQCBs over a 10-year sampling period (e.g., 2011-2020 or 2010-2019) with the objective of making recommended changes to the SMP's sampling design and decision-making criteria used to determine the need for future sampling at each creek site.
 - i. Contents. Prepare a 10-year summary report (Report) that includes, but is not limited to, the items below.
 - a) Table of Contents
 - b) A detailed description of the work performed, including methodology, literature reviewed, and individuals and agencies contacted
 - c) Other information as requested by Sonoma Water
 - ii. Review. Submit to Sonoma Water for review.
 - a) First Draft: Prepare the Report in draft form and submit to Sonoma Water for review and approval in accordance with the date listed for this deliverable. Sonoma Water will return the draft Report to Consultant with comments or approval in writing.
 - b) Subsequent Draft(s): If Sonoma Water requests revisions, revise the draft Report and resubmit for Sonoma Water approval.
 - iii. Final: Following Sonoma Water approval and prior to Sonoma Water's acceptance of work under this Agreement, submit the final approved Report to Sonoma Water in accordance with the date listed for this deliverable.

- b. Annual Sediment Testing Plan Development Support: Assist Sonoma Water in the development of the annual sediment testing plans for the RWQCBs based on Sonoma Water's proposed sediment removal plan for the year.
 - i. Contents. Prepare one sediment testing plan (Plan) each for the RWQCBs that includes, but is not limited to, the items below.
 - a) Table of Contents
 - b) Evaluation of test requirements for each project site
 - c) A detailed description of the work performed, including methodology, literature reviewed, and individuals and agencies contacted
 - d) Other information as requested by Sonoma Water
 - ii. Review. Submit to Sonoma Water for review.
 - a) First Draft: Prepare each Plan in draft form and submit to Sonoma Water for review and approval in accordance with the date listed for this deliverable. Sonoma Water will return each draft Plan to Consultant with comments or approval in writing.
 - b) Subsequent Draft(s): If Sonoma Water requests revisions, revise each draft Plan and resubmit for Sonoma Water approval.
 - iii. Final: Following Sonoma Water approval and prior to Sonoma Water's acceptance of work under this Agreement, submit each final approved Plan to Sonoma Water in accordance with the date listed for this deliverable.
- c. Annual Sampling Results Memoranda for RWQCBs
 - i. Contents. Prepare one sampling results memorandum (Memorandum) each for the RWQCBs that includes, but is not limited to, the items below.
 - a) Table of Contents
 - b) Summary of annual sampling results
 - c) Confirmation or refinement of the sampling methods and list of analytes
 - d) Sediment disposal or reuse recommendations for the sediment removal sites based on the test results
 - e) A map (.shp file) or Google Earth .kmz file with the sample collection sites shown
 - f) A detailed description of the work performed, including methodology, literature reviewed, and individuals and agencies contacted
 - g) Other information as requested by Sonoma Water
 - ii. Review. Submit to Sonoma Water for review.
 - a) First Draft: Prepare each Memorandum in draft form and submit to Sonoma Water for review and approval in accordance with the date listed for this deliverable. Sonoma Water will return each draft Memorandum to Consultant with comments or approval in writing
 - b) Subsequent Draft(s): If Sonoma Water requests revisions, revise each draft Memorandum and resubmit for Sonoma Water approval.
 - iii. Final: Following Sonoma Water approval and prior to Sonoma Water's acceptance of work under this Agreement, submit each final approved

Memorandum to Sonoma Water in accordance with the date listed for this deliverable.

- d. Provide Sonoma Water as-needed support during negotiations with the RWQCBs for approval of the sediment disposal or reuse plans and proposed changes to the SMP including in-person meetings or conference calls to review sampling plans or results with each RWQCB.

Deliverable	Due Date
Draft 10-year summary report	July 2021
Revised 10-year summary report	Within 14 calendar days of receipt of draft
Final 10-year summary report	Within 14 calendar days of Sonoma Water approval of draft
Draft sediment sampling plans (one for each RWQCB)	Once each year during the term of the Agreement
Final sediment sampling plans	Within 14 calendar days of Sonoma Water approval of draft
Draft sampling results memoranda (one for each RWQCB)	Within 14 calendar days of Effective Date
Final sampling results memoranda	Within 14 calendar days of Sonoma Water approval of draft

1.3. Task 3: Wetland Delineation Report Update (2020)

- a. Coordinate with Sonoma Water to verify the SMP area to be included in the wetland delineation study area. Facilities to be included in the delineation study area are located in and adjacent to the cities of Santa Rosa, Cotati, and Rohnert Park, and Town of Windsor in Zone 1A; City of Petaluma (Zone 2A); and City of Sonoma (Zone 3A). Use a combination of GIS investigation, aerial photo interpretation, field verification, and on-the-ground delineation to map potential jurisdictional features. Work includes, but is not limited to, the following:
 - i. Review the previous delineation and field work conducted by Jones & Stokes (2006 and 2007) and Wetlands Research Associates (2009) and prepare a list of sites that need further field work to be completed, if any. If needed, re-verify a portion of remotely mapped reaches from these efforts.
 - ii. Analyze historical and existing GIS and Lidar datasets depicting vegetation communities and canopy cover, then compare and contrast those datasets with previously mapped wetlands within the SMP area. Focus on identifying areas with previously mapped emergent wetlands that currently have high levels of canopy closure. Identify sites where previously mapped wetlands may have converted to waters due to increases in canopy shading. Field verify potential conversion sites based

on the degree of change in vegetation type or cover and probability of wetland conversion.

- iii. Prepare a preliminary list of sites for verification and further field delineation. Review the list of sites with Sonoma Water and add sites where extensive or recent maintenance work may have occurred. Receive approval of list from Sonoma Water prior to conducting field work.
 - iv. Conduct field visits to verify and map wetlands and waters in accordance with USACE 1987 Wetland Delineation Manual, the 2008 Arid West Regional Supplement, and the Field Guide to the Identification of the Ordinary High Water Mark (OHWM) in the Arid West Region. Use a Global Positioning System (GPS) receiver with sub-meter accuracy to map the extent of potential wetlands and waters of the U.S., as well as determine waters of the State subject to RWQCB jurisdiction. Describe and map vegetation communities at each site using a combination of aerial photo interpretation and field mapping. Where applicable, utilize the stream assessments within the SMP manual to support characterization of physical and biological stream conditions.
- b. Prepare Wetland Delineation Report
- i. Prepare a preliminary jurisdictional determination report (wetland delineation report) that includes, but is not limited to, the items below.
 - a) Table of Contents
 - b) Description of the methods used and the existing site conditions
 - c) Summary of potential wetlands and waters subject to federal or state regulations
 - d) Discussion of permitting implications
 - e) Maps of identified wetlands and their respective field data forms that show potentially jurisdictional wetlands and waters as characterized by the Cowardin classification system.
 - f) Sampling of field data points recording data on hydrology, vegetation, and soils.
 - g) A detailed description of the work performed, including methodology, literature reviewed, and individuals and agencies contacted
 - h) Other information to support the study or as requested by Sonoma Water
 - ii. Review. Submit to Sonoma Water for review:
 - a) First Draft: Prepare the wetland delineation report in draft form and submit to Sonoma Water for review and approval in accordance with the date listed for this deliverable. Sonoma Water will return the draft wetland delineation report to Consultant with comments or approval in writing.
 - b) Subsequent Draft(s): If Sonoma Water requests revisions, revise the draft rep wetland delineation report and resubmit for Sonoma Water approval.

- iii. Revised wetland delineation report for USACE: Following Sonoma Water approval and prior to Sonoma Water's acceptance of work under this Agreement, submit the revised wetland delineation report to Sonoma Water in accordance with the date listed for this deliverable.
- c. USACE Coordination and Field Verification(s)
 - i. If requested by USACE through Sonoma Water, organize and attend two (2) field visits with a USACE representative to review the wetland delineation report.
 - ii. Final wetland delineation report: Based on feedback received from USACE, revise the wetland delineation report and submit the final version to Sonoma Water prior to submitting to USACE. After Sonoma Water approval, submit final wetland delineation report to USACE.
 - iii. Provide as-needed support to Sonoma Water for coordination and communication with USACE, or other regulatory permitting related issues related to USACE jurisdictional boundaries.

Deliverable	Due Date
Preliminary and final list of sites for verification and field delineation (electronic)	TBD
Final list of sites for verification and field delineation (electronic)	TBD
Field visits	TBD
Draft wetland delineation report (electronic)	TBD
Revised wetland delineation report for submittal to USACE (electronic; GIS shapefiles)	TBD
Site visits with USACE	TBD
Final wetland delineation report to Sonoma Water (electronic; GIS shapefiles)	TBD

1.4. Task 4: Permitting Renewal and Support

- a. RWQCBs Permit Renewal Application and Support
 - i. Coordinate with the RWQCBs to confirm required contents for a permit renewal application package for Sonoma Water's Waste Discharge Requirements (WDR) and 401 Water Quality Certification (WQC) for Zones 2A and 3A (Order No. R2-2011-0020).
 - ii. Prepare a permit renewal application package (Package) for each RWQCB that includes, but is not limited to, the items below.
 - a) A cover letter briefly describing the SMP program updates and the contents of the Package.

- b) Form R2C502-E, Application for 401 Water Quality Certification and/or Report of Waste Discharge.
 - c) Supplemental information identified in collaboration with the RWQCBs.
 - d) Other information as requested by Sonoma Water
- iii. Review. Submit to Sonoma Water for review.
 - a) First Draft: Prepare each Package in draft form and submit to Sonoma Water for review and approval in accordance with the date listed for this deliverable. Sonoma Water will return each draft Package to Consultant with comments or approval in writing.
 - b) Subsequent Draft(s): If Sonoma Water requests revisions, revise each draft Package and resubmit for Sonoma Water approval.
- iv. Final: Following Sonoma Water approval and prior to Sonoma Water's acceptance of work under this Agreement, submit each final approved Package to Sonoma Water in accordance with the date listed for this deliverable.
- b. USACE Permit Renewal Application and Support
 - i. Assist Sonoma Water in preparing contents for a permit renewal application package for Sonoma Water's USACE Section 404 Individual Permits (No. 2009-00079N and 2009-00136N).
 - ii. Coordinate with the USACE to confirm required contents for a permit renewal application package.
 - iii. Prepare two sets of draft and final permit application packages (Package): one Package each for the Russian River watershed (Zone 1A) and the Petaluma River and Sonoma Creek watersheds (Zones 2A and 3A) that include, but are not limited to, the items below.
 - a) A cover letter briefly describing the SMP program updates and the contents of the Package.
 - b) Engineer Form 4345, Application for Standard Permits.
 - c) Alternatives analysis according to Clean Water Act Section 404(b)(1) Guidelines (40 CFR 230).
 - d) Updated biological assessments and updated cultural resources report prepared by Sonoma Water.
 - e) The wetland delineation report prepared under Task 3.
 - f) Other information as requested by Sonoma Water
 - iv. Review. Submit to Sonoma Water for review.
 - a) First Draft: Prepare each Package in draft form and submit to Sonoma Water for review and approval in accordance with the date listed for this deliverable. Sonoma Water will return each draft Package to Consultant with comments or approval in writing.
 - b) Subsequent Draft(s): If Sonoma Water requests revisions, revise each draft Package and resubmit for Sonoma Water approval.

- v. Final: Following Sonoma Water approval and prior to Sonoma Water's acceptance of work under this Agreement, submit each final approved Package to Sonoma Water in accordance with the date listed for this deliverable.
- c. NMFS/USFWS Consultation Support
 - i. Support Sonoma Water throughout the consultation process with NMFS and USFWS, which will involve Sonoma Water making updates to three biological opinions (BOs).
 - a) The SMP is covered under three BOs: one from U.S. Fish and Wildlife Service (USFWS) for the entire program area, the National Marine Fisheries Service (NMFS) BO for salmonids in Zone 1A, and one from NMFS for salmonids in Zones 2A/3A.
 - b) As described in 1.4 b.iii d) above, Sonoma Water will prepare updated biological assessments to support the USACE permit renewal process.
 - ii. If requested by Sonoma Water, this task may include Consultant's participation in meetings and conference calls, preparation of meeting notes, conducting or supporting development of other technical studies, and preparing technical memoranda.
- d. Permit Renewal Coordination
 - i. Conduct or support meetings and phone calls with regulatory agency staff to advance the permitting renewal process following submittal of the RWQCBs and USACE permit renewal applications as described above.
 - ii. Conduct regular permit tracking and communications with regulatory staff. Prepare meeting agendas, presentations, and notes.
 - iii. Engage with regulators in both individual meetings and, where appropriate, collective multi-agency meetings. Prepare meeting agendas, presentations, and notes.

Deliverable	Due Date
Draft RWQCB permit renewal application packages	TBD
Final RWQCB permit renewal application packages	TBD
Draft USACE permit renewal application packages (electronic)	TBD
Final USACE permit renewal application package (2 hard copies and electronic)	TBD
NMFS/USFWS Consultation Support: Meeting notes and technical memoranda (electronic)	TBD
Permit Renewal Coordination: Meeting agendas, presentations, and notes	TBD

1.5. Task 5: Ongoing Creek Monitoring

- a. Collect and monitor streamflow data and channel conditions at SMP channels in the Petaluma River Watershed (Zone 2A) annually during the 2021-2025 period, or as required under regulatory permits. Use collected streamflow data to refine and further develop preliminary rating curves (identifying creek stage [height] for certain levels of streamflow [discharge]) for SMP channels.
- b. Annual Event Monitoring
 - i. Monitor up to four discharge events annually during the 2021-2025 period, for up to 20 total events.
 - ii. Measure storm-based stage and discharge at locations in the Petaluma River Watershed (Zone 2A) established during the previous RWQCB permit term (Order Number R2-2016-0020). Observe and calculate measurements including discharge velocity, water surface locations, and the slope of the water surface. Calculate and report errors associated with each discharge method.
- c. Data Analysis, Maintenance Nomograph Updates, and Reporting
 - i. Following each season of data collection, integrate the field data and update the existing rating curves and channel roughness (n-values).
 - ii. Develop an annual channel monitoring report (Report) for Sonoma Water to submit with their annual SMP notifications or reports to the RWQCB that includes, but is not limited to, the items below.
 - a) Table of Contents
 - b) Data results
 - c) A detailed description of the work performed, including methodology, literature reviewed, and individuals and agencies contacted
 - d) Other information as requested by Sonoma Water
 - iii. Review. Submit to Sonoma Water for review.
 - a) First Draft: Prepare the Report in draft form and submit to Sonoma Water for review and approval in accordance with the date listed for this deliverable. Sonoma Water will return the draft Report to Consultant with comments or approval in writing.
 - b) Subsequent Draft(s): If Sonoma Water requests revisions, revise the draft Report and resubmit for Sonoma Water approval.
 - iv. Final: Following Sonoma Water approval and prior to Sonoma Water's acceptance of work under this Agreement, submit the final approved Report to Sonoma Water in accordance with the date listed for this deliverable.

Deliverable	Due Date
Draft annual channel monitoring report	August 2021
Final annual channel monitoring report	Within 21 calendar days of Sonoma Water approval of draft

1.6. Task 6: Project Management

- a. Provide project management support to coordinate task activities and communicate regularly with Sonoma Water including, but not limited to, the following:
 - i. Track the project budget
 - ii. Track staff labor
 - iii. Oversee internal staff assignments
 - iv. Manage subcontractor activities
 - v. Supervise overall contract performance
 - vi. Conduct project management meetings. Prepare summary notes via email outlining key points and action items
- b. Conduct as-needed conference calls with Sonoma Water to track progress on various deliverables.
- c. Provide monthly project task tracking table that identifies work items that were completed or were in progress during the previous month by task.

Deliverable	Due Date
Project task tracking table	Monthly with invoices

2. **DELIVERABLES**

- 2.1. Unless otherwise indicated, submit one electronic copy in PDF format (emailed, on USB flash drive, or via internet) of each final deliverable to Sonoma Water.
- 2.2. Comply with requirements of Article 11 (Content Online Accessibility).

Exhibit B

Schedule of Costs

PERSONNEL	
Title	Hourly Rates
Principal	\$215
Director	\$185
Senior Associate II	\$175
Senior Associate I	\$165
Associate II	\$155
Associate I	\$150
Analyst II	\$135
Analyst I	\$125
Surveyor	\$120
Technician II	\$95
Technician I	\$85
Publication Specialist	\$90
Technical Editor	\$95
GIS Analyst/CAD Technician	\$105
Administrative Assistant	\$80
PREVAILING WAGES	
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.	
EXPENSES	
Item	Cost
Subconsultant:	\$_____ per hour
Mileage for personal car	Current IRS rate
Printing (in-house)	
• Black/white prints	\$.015 per page
• Color prints	\$1.00 per page

<ul style="list-style-type: none"> • CDs (including label and envelope) 	\$1.50 each
GIS mapping	\$25 per hour
GPS unit	\$100 per day
Outside vendors; includes: <ul style="list-style-type: none"> • Equipment rentals • Document production • Document supplies (e.g., binders) 	At cost

Exhibit C

Estimated Budget for Scope of Work

Horizon	Annual Cost	5-Year Total Cost	Task Total
1. Ongoing Regulatory Agency Coordination			\$50,000
- General coordination, tour, annual meeting, etc.	\$10,000	\$50,000	
2. Sediment Testing Quality and Reporting			\$180,000
- 10-year summary report (2020)		\$70,000	
- Annual sediment testing plan development support	\$3,000	\$15,000	
- Annual sampling results memoranda for RWQCBs	\$14,500	\$72,500	
- RWQCB coordination	\$4,500	\$22,500	
3. Wetland Delineation (2020)			\$50,000
- Update wetland delineation report		\$50,000	
4. Permitting Renewals and Support (2020-2021)			\$170,000
- RWQCBs permit renewal application and support		\$45,000	
- USACE permit renewal application and support		\$65,000	
- NMFS/USFWS consultation support		\$20,000	
- Permit renewal coordination		\$40,000	
5. Ongoing Creek Monitoring			\$60,000
- Ongoing creek monitoring	\$12,000	\$60,000	
6. Project Management			\$15,000
-Ongoing project management	\$3,000	\$15,000	
TOTAL:	\$47,000	\$525,000	\$525,000

Exhibit D

Insurance Requirements

With respect to performance of work under this Agreement, Consultant shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain insurance as described below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*. Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.

Sonoma Water reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Consultant from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

1. INSURANCE

1.1. Workers Compensation and Employers Liability Insurance

- a. Required if Consultant has employees as defined by the Labor Code of the State of California.
- b. If Consultant currently has no employees as defined by the Labor Code of the State of California, Consultant agrees to obtain the above-specified Workers Compensation and Employers' Liability insurance should employees be engaged during the term of this Agreement or any extensions of the term.

1.2. General Liability Insurance

- a. Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
- b. Minimum Limits: \$1,000,000 per Occurrence; \$2,000,000 General Aggregate; \$2,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of General Liability Insurance and Commercial Excess or Commercial Umbrella Liability Insurance. If Consultant maintains higher limits than the specified minimum limits, Sonoma Water requires and shall be entitled to coverage for the higher limits maintained by Consultant.
- c. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by Sonoma Water. Consultant is responsible for any deductible or self-insured retention and shall fund it upon Sonoma Water's written request, regardless of whether Consultant has a claim against the insurance or is named as a party in any action involving Sonoma Water.

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

1.3. Automobile Liability Insurance

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

1.4. Professional Liability/Errors and Omissions Insurance

- a. Minimum Limit: \$1,000,000 per claim or per occurrence; \$1,000,000 annual aggregate.
- b. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by Sonoma Water.
- c. If Consultant’s services include: (1) programming, customization, or maintenance of software: or (2) access to individuals’ private, personally identifiable information, the insurance shall cover:
 - i. Breach of privacy; breach of data; programming errors, failure of work to meet contracted standards, and unauthorized access; and
 - ii. Claims against Consultant arising from the negligence of Consultant, Consultant’s employees and Consultant’s subcontractors.

- d. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work.
 - e. Coverage applicable to the work performed under this Agreement shall be continued for two (2) years after completion of the work. Such continuation coverage may be provided by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement insurance with a retroactive date no later than the commencement of the work under this Agreement.
 - f. Required Evidence of Insurance: Certificate of Insurance specifying the limits and the claims-made retroactive date.
- 1.5. Standards for Insurance Companies
- a. Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best's rating of at least A:VII.
- 1.6. Documentation
- a. The Certificate of Insurance must include the following reference:
TW 19/20-077.
 - b. All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Consultant agrees to maintain current Evidence of Insurance on file with Sonoma Water for the entire term of this Agreement and any additional periods if specified in Sections 1.1, 1.2, 1.3, or 1.4, above. Update fields, delete any error messages, ensure "or" is before last cross reference.
 - c. The name and address for mailing Additional Insured endorsements and Certificates of Insurance is: Sonoma County Water Agency, 404 Aviation Boulevard, Santa Rosa, CA 95403-9019.
 - d. Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.
 - e. Consultant shall provide immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.
 - f. Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.
- 1.7. Policy Obligations
- a. Consultant's indemnity and other obligations shall not be limited by the foregoing insurance requirements.
- 1.8. Material Breach
- a. If Consultant fails to maintain insurance which is required pursuant to this Agreement, it shall be deemed a material breach of this Agreement. Sonoma Water, at its sole option, may terminate this Agreement and obtain

damages from Consultant resulting from said breach. Alternatively, Sonoma Water may purchase the required insurance, and without further notice to Consultant, Sonoma Water may deduct from sums due to Consultant any premium costs advanced by Sonoma Water for such insurance. These remedies shall be in addition to any other remedies available to Sonoma Water.



HORIWAT-02

SUMMANR

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/31/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0E67768 IOA Insurance Services 3875 Hopyard Road Suite 200 Pleasanton, CA 94588	CONTACT NAME: David Sifuentes PHONE (A/C, No, Ext): 50027 FAX (A/C, No): (925) 416-7869 E-MAIL ADDRESS: David.Sifuentes@ioausa.com																					
INSURED Horizon Water and Environment LLC 266 Grand Avenue, Suite 210 Oakland, CA 94610	<table><tr><th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr><tr><td>INSURER A :</td><td>Travelers Casualty & Surety Company of America</td><td>31194</td></tr><tr><td>INSURER B :</td><td>Travelers Property Casualty Company of America</td><td>25674</td></tr><tr><td>INSURER C :</td><td>Hartford Casualty Insurance Company</td><td>29424</td></tr><tr><td>INSURER D :</td><td></td><td></td></tr><tr><td>INSURER E :</td><td></td><td></td></tr><tr><td>INSURER F :</td><td></td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A :	Travelers Casualty & Surety Company of America	31194	INSURER B :	Travelers Property Casualty Company of America	25674	INSURER C :	Hartford Casualty Insurance Company	29424	INSURER D :			INSURER E :			INSURER F :		
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INSURER D :																						
INSURER E :																						
INSURER F :																						

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE 2,000,000
	CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	680-4J499027	4/27/2019	4/27/2020	DAMAGE TO RENTED PREMISES - (a occurrence) 1,000,000
							MED EXP (Any one person) 5,000
							PERSONAL & ADV INJURY 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER						GENERAL AGGREGATE 4,000,000
	POLICY <input checked="" type="checkbox"/> PRO <input checked="" type="checkbox"/> LOC <input type="checkbox"/>						PRODUCTS - COMP/OP AGG 4,000,000
	OTHER						
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT Per accident 2,000,000
	ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	680-4J499027	4/27/2019	4/27/2020	BODILY INJURY (Per person)
	HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY <input checked="" type="checkbox"/>						BODILY INJURY (Per accident)
							PROPERTY DAMAGE (Per accident)
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	CUP-4J784766	4/27/2019	4/27/2020	EACH OCCURRENCE 1,000,000
	DED <input type="checkbox"/> RETENTION \$ <input type="checkbox"/>						AGGREGATE 1,000,000
C	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Mandatory in NH <input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>	57 WEC AC8732	4/27/2019	4/27/2020	E.L. EACH ACCIDENT 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE 1,000,000
							E.L. DISEASE - POLICY LIMIT 1,000,000
A	<input checked="" type="checkbox"/> Professional Liab.			106728846	4/27/2019	4/27/2020	Each Claim 2,000,000
A	<input checked="" type="checkbox"/> Professional Liab.			106728846	4/27/2019	4/27/2020	Aggregate 4,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Agreement for Stream Maintenance Support and Hydraulic Analysis: TW 19/20-077

Sonoma County Water Agency, its officers, authorized agents, and employees are included as Additional Insured on Commercial General Liability Policy /
Hired and Non-Owned Auto Policy per Endorsement, as required by written contract. Waiver of Subrogation and Primary and Non-Contributory Provision
included on Commercial General Liability Policy / Hired and Non-Owned Auto Policy per Endorsement, as required by written contract. Waiver of Subrogation
Provision included on Workers Compensation policy, as required by written contract. Commercial Umbrella Liability policy follows form with the Commercial
General Liability and Workers Compensation policies. Should any of the above described policies be cancelled before the expiration date thereof, notice will
be delivered in accordance with the policy provisions. Professional Liability is a claims made policy and includes Waiver of Subrogation Provision as required
SEE ATTACHED ACORD 101

CERTIFICATE HOLDER

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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

ACORD 25 (2016/03)

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**ADDITIONAL REMARKS SCHEDULE**

AGENCY IOA Insurance Services		License # 0E67768	NAMED INSURED Horizon Water and Environment LLC 266 Grand Avenue, Suite 210 Oakland, CA 94610
POLICY NUMBER SEE PAGE 1			
CARRIER SEE PAGE 1	NAIC CODE SEE P 1	EFFECTIVE DATE: SEE PAGE 1	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

Description of Operations/Locations/Vehicles:
by written contract.

General Liability Deductible: \$0. Auto Liability Deductible: Comp \$500/Coll \$500. Professional Liability deductible per claim is \$20,000/per aggregate is \$60,000.

Retroactive date - N/A

30-Day Notice of Cancellation is included per policy provisions.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED (ARCHITECTS, ENGINEERS AND SURVEYORS)

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

1. The following is added to SECTION II – WHO IS AN INSURED:

Any person or organization that you agree in a "written contract requiring insurance" to include as an additional insured on this Coverage Part, but:

- a. Only with respect to liability for "bodily injury", "property damage" or "personal injury"; a
- b. If, and only to the extent that, the injury damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the "written contract requiring insurance" applies, or in connection with premises owned by or rented to you.

The person or organization does not qualify as an additional insured:

- c. With respect to the independent acts or omissions of such person or organization; or
- d. For "bodily injury", "property damage" or "personal injury" for which such person or organization has assumed liability in a contract or agreement.

The insurance provided to such additional insured is limited as follows:

- e. This insurance does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this Coverage Part.
- f. This insurance does not apply to the rendering of or failure to render any "professional services".
- g. In the event that the Limits of Insurance of the Coverage Part shown in the Declarations exceed the limits of liability required by the "written contract requiring insurance", the insurance provided to the additional insured shall be limited to the limits of liability required by that "written contract requiring insurance". This endorsement does not increase the limits of insurance described in Section III – Limits Of Insurance.

- h. This insurance does not apply to "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the "written contract requiring insurance" specifically requires you to provide such coverage for that additional insured, and then the insurance provided to the additional insured applies only to such "bodily injury" or "property damage" that occurs before the end of the period of time for which the "written contract requiring insurance" requires you to provide such coverage or the end of the policy period, whichever is earlier.

2. The following is added to Paragraph 4.a. of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:

The insurance provided to the additional insured is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured for a loss we cover. However, if you specifically agree in the "written contract requiring insurance" that this insurance provided to the additional insured under this Coverage Part must apply on a primary basis or a primary and non-contributory basis, this insurance is primary to other insurance available to the additional insured which covers that person or organizations as a named insured for such loss, and we will not share with the other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought occurs; and
- (2) The "personal injury" for which coverage is sought arises out of an offense committed;

after you have signed that "written contract requiring insurance". But this insurance provided to the additional insured still is excess over valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured when that person or organization is an additional insured under any other insurance.

COMMERCIAL GENERAL LIABILITY

3. The following is added to Paragraph 8., **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

We waive any right of recovery we may have against any person or organization because of payments we make for "bodily injury", "property damage" or "personal injury" arising out of "your work" performed by you, or on your behalf, done under a "written contract requiring insurance" with that person or organization. We waive this right only where you have agreed to do so as part of the "written contract requiring insurance" with such person or organization signed by you before, and in effect when, the "bodily injury" or "property damage" occurs, or the "personal injury" offense is committed.

4. The following definition is added to the **DEFINITIONS** Section:

"Written contract requiring insurance" means that part of any written contract under which you are required to include a person or organization as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs and the "personal injury" is caused by an offense committed:

- a. After you have signed that written contract;
- b. While that part of the written contract is in effect; and
- c. Before the end of the policy period.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

HIRED AUTO AND NONOWNED AUTO LIABILITY

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

SCHEDULE

Insurance is provided only with respect to those coverages for which a specific premium charge is shown:

COVERAGE	ADDITIONAL PREMIUM
Hired Auto Liability	\$ INCLUDED
Nonowned Auto Liability	\$ INCLUDED

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

PROVISIONS

A. COVERAGE

If a premium charge is shown in the SCHEDULE above, the insurance provided under **Section I – Coverage A – Bodily Injury And Property Damage Liability** applies to "bodily injury" and "property damage" arising out of the maintenance or use of a "hired auto" or "nonowned auto". Maintenance or use of a "nonowned auto" includes test driving in connection with an "auto business".

B. EXCLUSIONS

With respect to the insurance provided by this endorsement:

1. The exclusions, under **Section I – Coverage A – Bodily Injury And Property Damage Liability**, other than exclusions **a., b., d., e., f.** and **i.** and the Nuclear Energy Liability Exclusion (Broad Form) are deleted and replaced by the following:
 - a. "Bodily injury" to:
 - (1) Any fellow "employee" of the insured arising out of and in the course of:
 - (a) Employment by the insured; or
 - (b) Performing duties related to the conduct of the insured's business.
 - b. "Property damage" to:
 - (1) Property owned or being transported by, or rented or loaned to the insured; or
 - (2) Property in the care, custody or control of the insured.

C. WHO IS AN INSURED

Section II – Who Is An Insured is replaced by the following:

Each of the following is an insured under this insurance to the extent set forth below:

1. You;
2. Anyone else including any partner or "executive officer" of yours while using with your permission a "hired auto" or a "nonowned auto" except:
 - a. The owner or lessee (of whom you are a sublessee) of a "hired auto" or the owner or lessee of a "nonowned auto" or any agent or "employee" of any such owner or lessee;
 - b. Your "employee" if the covered "auto" is owned by that "employee" or a member of his or her household;
 - c. Your "employee" if the covered "auto" is leased, hired or rented by him or her or a member of his or her household under a lease or rental agreement for a period of 180 days or more;
 - d. Any partner or "executive officer" with respect to any "auto" owned by such partner or officer or a member of his or her household;
 - e. Any partner or "executive officer" with respect to any "auto" leased or rented to such partner or officer or a member of his or her household under a lease or rental agreement for a period of 180 days or more;

- f. Any person while employed in or otherwise engaged in duties in connection with an "auto business", other than an "auto business" you operate;
 - g. Anyone other than your "employees", partners, a lessee or borrower or any of their "employees", while moving property to or from a "hired auto" or a "nonowned auto"; or
3. Any other person or organization, but only with respect to their liability because of acts or omissions of an insured under 1. or 2. above.

D. AMENDED DEFINITIONS

The Definition of "insured contract" of **Section V – Definitions** is amended by the addition of the following exceptions to paragraph f.:

Paragraph f. does not include that part of any contract or agreement:

- (4) That pertains to the loan, lease or rental of an "auto" to you or any of your "employees", if the "auto" is loaned, leased or rented with a driver; or
- (5) That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of a covered "auto" over a route or territory that person or organization is authorized to serve by public authority.

E. ADDITIONAL DEFINITIONS

Section V – Definitions is amended by the addition of the following definitions:

- 1. "Auto Business" means the business or occupation of selling, repairing, servicing, storing or parking "autos".
- 2. "Hired auto" means any "auto" you lease, hire, rent or borrow. This does not include:
 - a. Any "auto" you lease, hire or rent under a lease or rental agreement for a period of 180 days or more, or
 - b. Any "auto" you lease, hire, rent or borrow from any of your "employees", partners, stockholders, or members of their households.
- 3. "Nonowned auto" means any "autos" you do not own, lease, hire, rent or borrow that are being used in the course and scope of your business at the time of an "occurrence". This includes "autos" owned by your "employees" or partners or members of their households but only while being used in the course and scope of your business at the time of an "occurrence".

If you are a sole proprietor, "nonowned auto" means any "autos" you do not own, lease, hire, rent or borrow that are being used in the course and scope of your business or personal affairs at the time of an "occurrence".



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**WAIVER OF OUR RIGHT TO RECOVER FROM
OTHERS ENDORSEMENT - CALIFORNIA**

Policy Number: 57 WEC AC8732

Endorsement Number:

Named Insured and Address: HORIZON WATER AND ENVIRONMENT LLC

PO BOX 2727
OAKLAND, CA 94602

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 2 % of the California workers' compensation premium otherwise due on such remuneration.

SCHEDULE

Person or Organization

Job Description

ANY PERSON OR ORGANIZATION
FROM WHOM YOU ARE REQUIRED BY
WRITTEN CONTRACT OR AGREEMENT
TO OBTAIN THIS WAIVER OF
RIGHTS FROM US.

BLANKET OPERATIONS

Countersigned by _____
Authorized Representative