**State and Federal Contractors Water Agency**

**Consulting Services Agreement With**

**Contractor/Consultant**

**SFCWA Contract \_\_-\_\_**

This Personal Services Agreement hereafter referred to as “Agreement,” is entered into effective \_\_\_\_\_\_\_\_ \_\_, 20\_\_ by and between the State and Federal Contractors Water Agency, hereafter referred to as “SFCWA”, and Contractor, hereafter referred to as “Consultant”. Under this Agreement, Consultant shall provide professional services as a technical consultant to SFCWA according to the following terms:

1. **Recitals**

a. SFCWA is a joint powers agency formed pursuant to California Government Code section 6500 et seq. to pursue ecosystem and water supply projects and to carry out research and studies concerning the State Water Project and the Central Valley Project, and to pursue any and all activities related or incidental thereto.

b. The SFCWA members are Kern County Water Agency, Metropolitan Water District of Southern California, San Luis & Delta Mendota Water Authority, Santa Clara Valley Water District, State Water Project Contractors Authority, and Westlands Water District. The SFCWA members are third party beneficiaries of this Agreement.

c. SFCWA requires the services of Consultant to provide [BRIEF DESCRIPTION OF SERVICES].

d. SFCWA desires to retain Consultant, and Consultant desires to perform the services required by SFCWA according to the terms set forth hereinafter.

2. **Scope of Services**

a. SFCWA retains Consultant to provide consulting services necessary to complete the tasks set forth in Attachment A in a professional, technically competent, and timely manner.

b. Consultant shall supply SFCWA with an initial fact sheet before work has begun. Consultant shall also provide a final fact sheet within 60 days of completion of the project. A fact sheet template will be provided to Consultant by SFCWA.

c. Consultant shall provide SFCWA with monthly invoices, as outlined in Section 5.

d. Consultant shall supply SFCWA with Quarterly Reports by mail or email to the addresses provided in Section 5. Quarterly Reports should describe work performed and any significant initial findings that might provide an explanation for any delay or other fundamental changes in Consultant achieving the Scope of Work as set forth herein. Consultant will also hold regular status briefings in person, by phone, or by email depending on the topics to be addressed.

e. In performance of the services requested under this Agreement, Consultant shall report to and receive instructions from the SFCWA Executive Director or such person or officer whom the SFCWA may designate.

3. **Term and Termination**

a. This Agreement shall be effective on XX/XX/XXXX, and shall remain in effect until XX/XX/XXXX, unless terminated earlier, consistent with Section 3(b).

b. This Agreement may be terminated by either SFCWA or Consultant upon thirty (30) days written notice or upon satisfactory completion of the services by Consultant and payment by SFCWA. Upon termination, SFCWA shall pay Consultant for services and expenses up to and including the effective date of termination.

c. In the event of termination, all finished and unfinished data, studies, documents, and reports prepared by Consultant shall become SFCWA’s property and Consultant shall deliver such items to the SFCWA.

4. **Financial Arrangements**

a. All payments by SFCWA to Consultant under this Agreement shall be consistent with the budget and schedule of fees set out in Attachment B. Fees under this Agreement shall be billed on an hourly basis. Consultant shall be entitled to reimbursement for documented reasonable and necessary direct expenses incurred in performing services under this Agreement, including travel, long-distance telephone calls, facsimile transmissions, postage and shipping, reproduction and printing of reports and other documents, computer processing, messengers and air couriers, and other expenses approved by SFCWA.

b. Total fees, including expenses, for work performed under this Agreement shall not exceed $XXXX for tasks 1-XX D. This agreement may be amended to account for increased costs. Consultant shall provide to SFCWA justification for such additional costs or time required to complete tasks as soon as Consultant becomes aware of facts it believes justify said amendment. Consultant agrees to provide written notice to SFCWA when expenditures for each task under this Agreement reach seventy-five per cent (75%) of the total task expenditures.

5. **Billings and Payments**

a. Any notice, billing, demand, or request regarding this Agreement shall be in writing, and shall be personally served or sent by email or mail, with postage prepaid, to the addresses supplied herein:

Consultant:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attn:\_\_\_\_\_\_\_\_\_\_\_\_\_

Accounting Email:

[accounting@sfcwa.org](mailto:accounting@sfcwa.org)

State and Federal Contractors Water Agency:

State and Federal Contractors Water Agency

1121 L Street, Suite 806

Sacramento, California 95814

Attention: Byron Buck

b. Either the Consultant and/or SFCWA may, at any time, by written notice to the other party, designate different or additional persons or different addresses for the giving of notices hereunder.

c. Consultant shall submit an invoice on the 7th day of each month to SFCWA to the mailing or email address provided in this section (5). The individual listed in the Agreement as Consultant’s key personnel or other identified designee shall sign and certify the invoice to be true and correct to the best of his/her knowledge. Consultant’s invoices shall include the following information:

* 1. Consultant’s name and mailing address, SFCWA’s project name, the beginning and ending billing dates, the maximum amount payable, a summary of costs for the current invoice, amount due for this invoice, and total amount previously invoiced.
  2. A brief description of the work performed under the Agreement, appropriate for briefing the SFCWA Board of Directors and Member Agencies. This description shall provide an explanation of any delay or other fundamental changes in Consultant achieving the Scope of Work as set forth herein.
  3. Invoices with Consultant and sub-consultant labor charges shall be itemized by date of service, employee name, title/classification, corresponding labor rate, number of hours worked, description of work performed, total amount due for labor charges, and shall include the following affirmation:

*“By signing this invoice, consultant certifies that the billing hours and work described herein is an accurate and correct record of services performed for SFCWA under this Agreement and these hours have not been billed on any other client invoices.”*

* 1. Invoices shall itemize allowable expenses and include receipts for which reimbursement is sought. Attached receipts should itemize each cost and provide descriptive information so that expenses are separately identified.
  2. Consultant shall attach a copy of each sub-consultant invoice for which reimbursement is sought. Sub-consultant’s invoices shall set forth the actual rates and expenses charged to the Consultant.

d. Subject to the approval of the Agreement Administrator, SFCWA shall make payment to Consultant 30 days after date of the invoice. Consultant’s invoices submitted more than 90 days after completion of work, may be delayed or not otherwise timely paid.

6. **Staffing**

a. The Consultant agrees to provide his or her professional services, to perform and guide the work called for under this Agreement.

b. The Consultant is not authorized to subcontract with other consultants in connection with any portion of the work called for herein without express permission of SFCWA.

6. **Governing Law**

a. The Consultant shall perform such services in accordance with recognized professional standards and will comply with all applicable regulatory requirements, including federal, state, and local laws, rules and regulations, codes, criteria, and standards in effect at the time the services are performed.

b. This Agreement shall be deemed a contract under the laws of the State of California, and for all purposes shall be interpreted in accordance with such laws. Consultant hereby agrees and consents to the exclusive jurisdiction of the courts of the State of California.

7. **Entire Agreement**

a. It is mutually agreed and understood that this Agreement represents the complete agreement of SFCWA, and that no alteration or variation of the terms of the Agreement shall be valid and binding unless made in writing and signed by both parties.

8. **Other Terms and Conditions**

a. Unless such release is required by law, Consultant shall not release or disclose information obtained in the course of consultant’s work for the SFCWA under this agreement to others without receiving prior written permission from the SFCWA or its designee, which consent shall be at the sole discretion of SFCWA.

b. No delay or failure by either party to exercise or enforce at any time any right or provision of this Agreement shall be considered a waiver thereof or of such party’s right thereafter to exercise or enforce each and every right and provision of this Agreement. A waiver to be valid shall be in writing but need not be supported by consideration. No single waiver shall constitute a continuing or subsequent waiver.

c. Consultant will furnish consulting services in the capacity of an independent contractor and neither consultant nor any of its employees shall be considered, or be, an employee or agent of SFCWA.

d. Consultant agrees to refrain from accepting assignments from other entities or individuals on issues within the Scope of Work provided as Attachment A of this Agreement, unless the specific assignment(s) has been submitted to SFCWA and approved by the SFCWA or its designee, which approval shall be at the sole discretion of SFCWA.

e. Subject to the total fees set forth in paragraph 3(b) of this Agreement, in the performance of Consultant’s services, the services and hours Consultant is to work in any given day will be within Consultant’s control and SFCWA will rely upon Consultant to put in such hours as are reasonably necessary to fulfill the spirit and purpose of this Agreement and accomplish Consultant’s assignments.

f. The execution of this Agreement by the parties hereto shall constitute an authorization for Consultant to commence work hereunder. Consultant shall promptly notify SFCWA of any anticipated delays or circumstances beyond Consultant’s control that may affect any agreed-to work schedule.

g. All data, studies, and documents shall, upon payment in full for the services described in the Agreement, be furnished to and become property of SFCWA.

h. Consultant agrees that all work products, materials, calculations, notes, data, studies, reports, electronic files, or other documents prepared or developed by Consultant pursuant to this Agreement, including but not limited to, computer software, shall be the sole property of SFCWA. Consultant further agrees that SFCWA is free to use, reuse, publish, or otherwise deal with all such materials or work products. Consultant shall have no responsibility or liability for any revisions, changes, or corrections made by SFCWA, or any use or reuse inconsistent with the use contemplated in this Agreement, unless Consultant accepts such responsibility in writing.

i. SFCWA will have the right to review, obtain, and copy all books, records, computer records, accounts, invoices, documentation, and any other materials pertaining to performance of this Agreement (collectively “Records”), including any Records in the possession of any subcontractors, for the purpose of monitoring, auditing, or otherwise examining the Records. Consultant agrees to maintain such Records during the term of this Agreement and for a period of three years after final payment under the Agreement or three years from the conclusion or resolution of any and all audits or litigation relevant to this Agreement, whichever is later. Upon reasonable notice from SFCWA, Consultant shall cooperate fully with any audit of its billings conducted by SFCWA and shall permit access to its books, records and accounts as may be necessary to conduct such audits.

9. **Indemnity**

a. All work covered by this Agreement shall be at the risk of Consultant alone. Consultant shall defend (with counsel selected by SFCWA, in its sole discretion), indemnify and hold harmless, SFCWA, its officers, officials, employees, agents, invitees, and volunteers (the “Indemnitees") from and against any claims, damages, losses and expenses, including but not limited to attorneys’ fees, arising out of or resulting from Consultant’s performance of this Agreement, however caused, regardless of any negligent act of an Indemnitee, whether active or passive, excepting only such claims as may be the sole active negligence or willful misconduct of an Indemnitee, Consultant shall pay all costs and expenses that may be incurred by SFCWA in enforcing this indemnity, including reasonable attorneys' fees. The provisions of this section shall survive the expiration, termination, or assignment of this Agreement.

b. In any contract that Consultant enters into with any subcontractor in any capacity related to any and all duties under this Agreement, there must be an indemnification provision requiring the subcontractor to assume the defense, indemnify and save harmless, SFCWA, to the same extent as Consultant. Consultant’s failure to include such an indemnification provision in any contract with a subcontractor shall constitute a material breach of this Agreement.

10. **Insurance**

Consultant will provide to SFCWA evidence of general liability insurance in the amount of not less than $1,000,000. *Insert/revise based on insurance policies*

11. **Amendments**

No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.

12. **Counterparts**

This Agreement may be executed in counterparts. Each counterpart shall be deemed an original, and all counterparts shall be deemed the same instrument with the same effect as if all parties hereto had signed the same signature page.

IN WITNESS THEREOF, SFCWA and Consultant have executed this Agreement on the date set forth below.

**STATE AND FEDERAL CONTRACTORS WATER AGENCY**

BY: **ATTEST:**

DATE: BY:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Byron M. Buck Jason Peltier, Secretary

Executive Director Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Contractor/consultant**

BY:

DATE:

CONTRACTOR/CONSULTANT

**Attachment A**

SCOPE OF WORK

**ATTACHMENT B**

**SCHEDULE OF FEES AND BUDGET**

**For Professional Services by**

**‘Contractor/Consultant’**

**Schedule of Fees**

|  |  |
| --- | --- |
| **Description** | Hourly Rate |
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#### Budget

##### Maximum Amount Payable: $000,000