

PROFESSIONAL SERVICES AGREEMENT
BY AND BETWEEN
GSA NAME SUSTAINABILITY AGENCY
AND CONSULTANT

This Professional Services Agreement ("contract") by and between GSA NAME GROUNDWATER SUSTAINABILITY AGENCY, hereinafter referred to as "the Agency," and CONSULTANT, hereinafter referred to as "Consultant," shall be effective on the date it is fully executed and shall remain in effect until (INSERT END DATE OR LENGTH OF TIME).

R E C I T A L S

- A. The Agency requests consulting services necessary for describe service, in an amount not to exceed \$X.
- B. The Agency may contract for professional services, such as those provided by Consultant, under the terms of its Joint Exercise of Powers Agreement.
- C. The Consultant is qualified and experienced to provide such services.

NOW, THEREFORE, IT IS MUTUALLY AGREED by the parties as follows:

ARTICLE 1. SCOPE OF WORK

The consulting services to be provided under this contract shall consist of the work described in Exhibit "A," attached hereto and incorporated herein by reference. Any additional services to be performed or paid for must be evidenced by a written amendment to this contract. The Consultant shall serve as the Agency's professional Consultant for all of the work which the Consultant is to perform under this contract, and shall consult with and advise the Agency, as necessary, during the performance of any work required by this contract.

ARTICLE 2. CONSULTANT'S COMPENSATION

Payment for the services performed by the Consultant shall be as set forth in Exhibit "A," attached hereto and incorporated herein by reference, and shall be considered as full compensation for all personnel, materials, supplies, services, and equipment used in carrying out the work, and for all of the Consultant's costs and expenses, including any taxes required to be paid by the Consultant. The per-mile reimbursement rate is based on and equal to the U.S. Federal Government (IRS) per-mile reimbursement rate and this rate shall supersede or control over all inconsistencies and conflicts in any proposal. The Consultant shall submit monthly invoices showing the work performed for each component during the preceding month. Such invoices, if determined to be correct by the Agency, shall be paid within thirty (30) days of their receipt.

ARTICLE 3. STATE OR GRANT FUNDING

Funding for this project has been provided in fully or in part from the (INSERT NAME OF GRANT) and through an agreement with the (INSERT NAME OF GRANT FUNDING ENTITY). Consultant is informed and aware that this Agreement is funded by a grant from (INSERT NAME OF GRANT ENTITY OR PROPOSITION AND GRANT NUMBER) which grant is conditioned upon various terms that apply to Consultant. Consultant has reviewed the grant award documents attached hereto as Exhibit B (Grant Award Documents) and hereby agrees to comply with them to the extent they apply to a sub-recipient.

ARTICLE 4. TERMINATION OF CONTRACT

The Agency may terminate this contract or any part thereof at any time upon ten (10) days' written notice to the Consultant. In the event of any such termination, the Consultant is to be fairly compensated for all work performed to the date of termination, and the Agency shall be entitled to all work including, but not limited to, the budget, outreach strategy and materials, presentations, fee calculations and associated data, and administrative records, performed to that date.

If the Agency fails to pay the Consultant within thirty (30) days of the date provided for any payments hereunder, the Agency agrees that the Consultant shall have the right to consider such default a breach of this contract, and the duties of the Consultant terminated upon five (5) days' written notice.

ARTICLE 5. NOTICE OF DETRIMENTAL INFORMATION

The Consultant shall promptly notify the Agency of the discovery of any information that would be detrimental to the successful completion of the approval process. The Consultant shall provide in writing to the Agency said detrimental information within twenty-four (24) hours of the time of discovery.

The Agency shall then promptly review such detrimental information and notify the Consultant to proceed with or terminate the remainder of the work.

ARTICLE 6. INSURANCE

A. Indemnity. To the extent permitted by California Civil Code section 2782.8, the Consultant shall indemnify and hold harmless, and when requested by the Agency to do so, defend the Agency, its directors, volunteers, employees, and independent contractors from any and all claims, demands or charges, and from any loss or liability including attorneys' fees and expenses of litigation arising out of the negligence, recklessness, or willful misconduct of the Consultant, its employees or anyone retained by the Consultant in the performance of the contract.

B. Workers' Compensation. The Consultant shall maintain for the entire duration of this contract such insurance as will protect it from claims under workers' compensation and employers' liability acts, such insurance to be maintained, as to type and amount, in strict

compliance with state and federal statutes, with employers' liability limits to be not less than \$1,000,000 per accident.

WORKERS' COMPENSATION PROVIDER: **Insert Consultant Insurance Information**

INSURANCE POLICY NUMBER: **X**

POLICY EFFECTIVE DATES: **1/21/2017 – 1/21/2018**

C. Commercial General and Automobile Liability. The Consultant shall maintain for the entire duration of this contract such broad form commercial general liability and automobile liability insurance that shall protect the Agency, directors, employees, volunteers, and independent contractors from claims which may arise from the Consultant's operation under this contract whether such operations be by the Consultant or by its employees, subcontractors, consultants or anyone directly or indirectly employed by any of the foregoing. The liability insurance shall include, but shall not be limited to, protection against claims arising from bodily or personal injury or damage to property resulting from operations, equipment, or products of the Consultant or by its employees, subcontractors, consultants or anyone directly or indirectly employed by any of the foregoing. The amount of commercial general liability insurance will not be less than \$1,000,000 combined single limit per occurrence coverage for bodily and personal injury and property damage, and \$2,000,000 general aggregate. The amount of automobile liability insurance will not be less than \$1,000,000 per occurrence. The Consultant shall be required to provide prior to beginning work a certificate of insurance and an additional insured endorsement for its commercial general liability and automobile liability policies, and it shall name the Agency, its directors, volunteers, employees, and as covered insureds.

D. Errors and Omissions. The Consultant shall maintain, for the entire duration of this contract, such errors and omissions insurance as shall protect it from claims based on negligent errors or omissions, which may arise from the Consultant's operations under this contract, whether such operations be by the Consultant or by its employees, subcontractors, consultants or anyone else directly or indirectly employed by any of the foregoing. The amount of this insurance shall not be less than \$1,000,000.

E. Certificates of Insurance. The Consultant shall provide the Agency with certificates of insurance, and if requested by the Agency, certified copies of the policies required by paragraphs B, C, and D of this Article. Approval of the insurance by the Agency shall not relieve or decrease the liability of the Consultant. The certificates shall provide that thirty (30) days' written notice of any material change or cancellation of the insurance will be provided to the Agency, and the certificates of insurance and an Additional Insured Endorsement required by paragraph C of this Article, and the underlying policy therefore, shall expressly include the Agency as an additional insured thereunder. All insurance shall be issued by insurers with a Best's rating of no less than A- or equivalent or as otherwise approved by the Agency.

ARTICLE 7. MISCELLANEOUS PROVISIONS

A. Consulting Standard. All work to be performed by the Consultant under this contract shall be done in accordance with the prevailing professional standards and in conformance with applicable laws, rules, and regulations, and the Consultant represents to the Agency that it and its employees are fully experienced and properly qualified to perform the work and services called for herein, and that they are properly licensed, equipped, organized, and financed to perform such work and operations.

B. Consultant is an Independent Contractor. The Consultant shall finance its own operations hereunder, shall operate as an independent contractor and not as the agent or employee of the Agency, and nothing in this contract shall be construed to be inconsistent with this relationship or status.

C. Consultant's Records. The Consultant shall maintain and make available for inspection by the Agency and its auditors accurate records of its costs, disbursements, and receipts with respect to any work under this contract that is to be compensated for on the basis of the Consultant's salary or other costs or percentage of work completed. Such inspections may be made during regular office hours at any time until six (6) months after the final payment under this contract is made to the Consultant.

D. Responsibility for Changes in Work. If the Agency or any persons other than the Consultant make any changes in the work performed by the Consultant hereunder which affect the Consultant's work, any and all liability arising out of such changes is waived as against the Consultant, and the Agency shall assume full responsibility for such changes, unless the Agency has given the Consultant prior notice and has received from the Consultant such written consent for such changes.

E. Use of Unsigned Plans. Not Applicable.

F. Litigation Costs. Should litigation be necessary to enforce any terms or provisions of this contract or to collect any portion of the amounts payable under this contract, litigation and collection expenses, witness fees, court costs, and reasonable attorneys' fees shall be paid to the prevailing party in the amounts set by a California court.

G. Arbitration. All questions between the parties as to their rights and obligations under this contract are subject to arbitration if agreed to by both parties. In case of any dispute, either party may request arbitration by submitting a written request for arbitration to the other party. If the other party agrees to arbitration, the disputed matter shall be referred to and decided by two competent persons who are experts in the subject matter of the dispute, one to be selected by the Agency and the other by the Consultant. In case these two experts cannot agree, they shall select a third arbitrator and the decision of any two of them shall be binding on both parties.

H. Assignment. This contract shall be binding upon the heirs, successors, executors, administrators, and assigns of the parties; however, no assignment or subcontract by one party shall be valid without the prior written consent of the other party.

I. Notices. All notices that are required to be given by one party to the other under this contract shall have been deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited in a United States Post Office for delivery by registered or certified mail, return receipt requested addressed to the parties at the following addresses, unless such addresses are changed by notice to the other party:

GSA NAME GROUNDWATER SUSTAINABILITY AGENCY
c/o designate contact person
address

Consultant's Name
c/o consultant's contact person/department
consultant's address

J. Invalidity of Contract Provisions. Should any provision of this contract be found or deemed to be invalid, this contract shall be construed as not containing such provision, and all other provisions which are otherwise lawful shall remain in full force and effect, and to this end, the provisions of this contract are declared to be severable.

K. Agency Responsibilities. See Exhibit C, attached hereto and incorporated herein by reference, regarding data needs that the Agency needs to provide to Consultant.

L. Place of Making and Performance of Contract. This contract shall be deemed to have been made in Sonoma County, California and deemed to be required to be performed in Sonoma County, California.

M. Financial Disclosure. The Consultant shall make all disclosures required by the Agency's conflict of interest code in accordance with the Consultant category designated by the Agency, unless the Agency's General Manager determines in writing that the Consultant's duties are more limited in scope than is warranted by the Consultant category and that a narrower disclosure category should apply. The Consultant also agrees to make disclosure in compliance with the Agency's conflict of interest code if, at any time after the execution of this contract, the Agency determines and notifies the Consultant in writing that the Consultant's duties under this contract warrant greater disclosure by the Consultant than was originally contemplated. The Consultant shall make disclosures in the time, place and manner set forth in the Agency's conflict of interest code and as directed by the Agency.

N. Entire Agreement. This Agreement together with the Exhibits to this Agreement contains the entire agreement and understanding among the parties hereto with respect to the subject matter of this Agreement, and supersedes all prior and contemporaneous agreements, understandings, inducements and conditions, express or implied, oral or written, of any nature whatsoever with respect to this Agreement. The express terms of this Agreement control and supersede any prior Agreement between the parties.

ARTICLE 8. SPECIAL CONDITIONS. Insert special conditions, if none apply insert text "Not applicable."

GSA NAME GROUNDWATER
SUSTAINABILITY AGENCY

By: _____
NAME
Chair, Board of Directors

Dated: _____

CONSULTANT

By: _____
Name
Title

Dated: _____

Approved as to form:

Holly Roberson, General Counsel
GSA NAME Groundwater Sustainability Agency