



REQUEST FOR PROPOSALS

FOR

PHYTOPLANKTON AND ZOOPLANKTON ENUMERATION SERVICES

**SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT
POLICY AND PLANNING DEPARTMENT**

ISSUE DATE: April 20, 2016

DUE DATE: May 11, 2016

1. Introduction

The mission of the Sacramento Regional County Sanitation District (Regional San) is to protect public health and the environment through reliable and safe conveyance, treatment and disposal of wastewater in the most cost-effective manner possible, now and into the future. At Regional San, we provide wastewater conveyance and treatment services to residential, industrial and commercial customers throughout unincorporated Sacramento County; the cities of Citrus Heights, Elk Grove, Folsom, Rancho Cordova, Sacramento and West Sacramento; and the communities of Courtland and Walnut Grove.

Regional San is conducting scientific studies to investigate how phytoplankton and zooplankton abundance and community composition vary within the lower Sacramento River and its water sources, and how plankton can be affected by multiple environmental and biological factors. Regional San is inviting environmental laboratories to submit proposals to identify and perform enumeration analyses on our collected phytoplankton and zooplankton samples.

The anticipated term for the on-call biological consulting services contract will be two years, with the potential opportunity to extend. Final enumeration analysis protocols and funding limits for the project will be established in discussions with the selected consultant(s).

2. Objective

The objective of this request is to retain a consultant to provide phytoplankton and zooplankton enumeration services on an as-needed and per-sample basis, as determined by Regional San.

3. Scope of Services

Regional San requires four types of enumeration services as listed below:

- Picoplankton Enumeration: We plan to collect about 125 of these samples in May-June 2016, and 50 samples in October 2016, as water grabs by hand or pump.
- Phytoplankton Enumeration (nano-sized): We plan to collect about 125 of these samples in May-June 2016, and 50 samples in October 2016, as water grabs by hand or pump.
- Microzooplankton Enumeration: We plan to collect about 50 of these samples in May-June 2016, and 50 samples in October 2016, using vertical hauls with a 35-micron zooplankton net.
- Macrozooplankton Enumeration: We plan to collect about 50 of these samples in May-June 2016, and 50 samples in October 2016, using vertical hauls with a 153-micron zooplankton net.

4. BASIS FOR COMPENSATION

Compensation will be on a fixed fee per sample basis, following the prices defined in the consultant's submitted rate sheet, with a not-to-exceed dollar ceiling for the entire contract.

5. ORGANIZATION AND CONTENT OF PROPOSAL

Consultants must provide all information requested in this RFP. A qualifying proposal must address all items for each project proposed. Incomplete proposals will be rejected.

Consultants must organize and submit proposals in the format prescribed below in order to facilitate the comparison of proposals. Please letter your replies to correspond with the questions below.

A. Company Background (one page maximum)

Provide a brief introduction of your firm including office locations, types of analysis services offered, number of staff, certifications, affiliations, and company background and history.

B. Related Experience (two pages maximum for description, no page limit for the species identification list)

Provide a brief description of recent and current enumeration analyses provided to contracting agencies, beginning with the most recent. Include the dates during which the work was performed, the name of the contracting agency, and the number of samples processed. Also include the name, title, and phone number of an agency contact person for each analysis listed.

Provide a past identification list, showing the genus and species for both phytoplankton and zooplankton that your firm has identified from samples collected in the lower Sacramento River and Sacramento-San Joaquin River Delta, CA. Specify the number of samples enumerated, sampling locations, and collection periods that were used to compile your firm's past identification list. If your firm has not analyzed phytoplankton and zooplankton samples from the Sacramento River Watershed, please provide a genus and species identification list for a different freshwater system for which your firm has enumerated samples. Scoring will favor firms with more robust species lists and greater experience in identifying plankton species collected from the Sacramento River and Delta watershed.

C. Consultant Team (three pages maximum)

Provide a consultant team organization diagram, including the main contact person assigned to manage the contract on behalf of your firm. Identify the geographic locations of the firm and each team member. Provide a résumé for the main project contact person. List each of the firm's staff members who may perform enumeration analyses and their expected level of participation, qualifications, and experience (including years of service at your firm) to perform these analyses.

Identify any proposed sub-consultants: include locations, qualifications, experience, and expertise similar to that to be provided for the firm's own project personnel.

D. Enumeration Methods and Output (three pages maximum, no page limit for the example data output)

Please provide a brief description of the methods used to perform each of the requested enumeration analyses and an example output data sheet for each type of analysis (picoplankton, phytoplankton, microzooplankton, and macrozooplankton). Include your preferred sample volumes and preservation methods for the four enumeration analyses.

The enumeration output shall identify organisms to the lowest discernable taxonomic level and provide estimates for the species density (individual species count / volume) and biovolume or biomass (individual species body volume or mass / volume, calculated from established length-weight relationships) within each analyzed sample. Please identify the species' broad taxonomic grouping, such as the species division (Bacillariophyta, Chlorophyta, etc.) in the data output sheet.

Provide a description of your sample shipping and storage procedures, including answers to the following questions. Do you supply enumeration sampling containers? Do you have a receiving room for shipped samples? Will you return-ship our empty transport coolers? Do you hold samples post-processing so they can be reevaluated if the results appear to suggest a sampling error? What are your sample storage facilities and how long will you store processed samples after analysis?

You may also include suggestions for other phytoplankton and zooplankton analysis services provided by your company in this section, which might further inform Regional San's research activities.

E. Cost Information

Provide a cost sheet that includes analysis prices on a fixed fee per sample basis for each of the four requested enumeration analyses (picoplankton, phytoplankton, microzooplankton, and macrozooplankton). Any additional costs, such as sample handling and disposal or reporting costs should be included in the submitted fixed fee cost per sample. Consultants may also include rates for other phytoplankton and zooplankton analysis services that you think may provide additional input to Regional San's research studies, as described in section 5. E.

F. Availability and Capacity (one page maximum)

Describe the availability of your staff and equipment needed to perform picoplankton enumeration analyses in May - June, and October - November 2016, and your flexibility to adjust to changes in schedule if needed. Describe the availability of your staff to perform phytoplankton, microzooplankton, and macrozooplankton enumeration analyses in June - December 2016. Describe the expected amount of time required to process received samples and send output results to Regional San. Describe the expected total workload and other commitments for the consultant team during the project period.

G. Consulting References

Provide a minimum of three contacts for which your consultant team (as a member of your firm) has provided similar analysis services. List the name, address, telephone number, and e-mail address of the agency and a brief description of the services that were provided.

H. Conflicts of Interest

Firms submitting proposals in response to this RFP must disclose to Regional San any actual, apparent, direct or indirect, or potential conflicts of interest that may exist with respect to the firm, management, or employees of the firm or other persons relative to the services to be provided under the Agreement for consulting services to be awarded pursuant to this RFP. If a firm has no conflicts of interest, a statement to that effect will be included in the Proposal. The consultant may use the attached "Conflict of Interest and Non-Collusion Affidavit" Form (see Attachment 1).

I. Insurance

In a table, provide a summary of the firm's (and any sub consultant's) insurance coverage (including comprehensive general liability, automobile liability, worker's compensation, employer's liability, and professional liability or errors and omissions liability), and compare to requirements stated in the attached sample agreement.

J. Proprietary Information

Any information submitted in a proposal in response to this RFP which the respondent considers to be proprietary must be identified as such, and the respondent must include the legal basis for a claim of confidentiality. Regional San will not assert the confidentiality of such information unless the respondent executes and submits a written agreement prepared by Regional San to defend and indemnify Regional San for any liability, costs and expense incurred in asserting such confidentiality as part of the proposal. The final determination as to whether Regional San will assert the claim of confidentiality on behalf of the respondent is in the sole discretion of Regional San.

K. Employment Practices

Provide a summary of your firm's employment policies and procedures, including any equal employment opportunity and affirmative action policies. Also, include a brief summary outlining the present composition of your work force.

L. Exceptions to Contract Terms and Conditions

Provide a list of any exceptions to contract terms and conditions which the consultant will seek from the standard Regional San contract language. Please see Attachment 2, Sample Agreement.

6. SPECIFIC REGIONAL SAN REQUIRMENTS

A. Solicitation of Subconsultants, Subcontractors, Other Service Providers, and Suppliers

If the prime consultant intends to solicit sub proposals and/or quotes for certain tasks from qualified sub-consultants, subcontractors, other service providers and suppliers, the prime consultant must not discriminate in the solicitation process and is encouraged to include qualified minority and women-owned firms in such solicitation opportunities.

Substitution of any subconsultants, subcontractors, other service providers and suppliers identified in the agreement will not be made without the written consent of Regional San.

B. Indemnification

Consultant will be expected to agree to the following indemnity:

To the fullest extent permitted by law, for work or services provided under this Agreement, CONSULTANT shall indemnify, defend, and hold harmless REGIONAL SAN, SACRAMENTO AREA SEWER DISTRICT, the COUNTY OF SACRAMENTO, their respective governing Boards, officers, directors, officials, employees, and authorized volunteers and agents, from and against any and all claims, demands, actions, losses, liabilities, damages, and all expenses and costs incidental thereto, including cost of defense, settlement, arbitration, and reasonable attorneys' fees, resulting from injuries to or death of persons, including but not limited to employees of either Party hereto, and damage to or destruction of property, or loss of use thereof, including but not limited to the property of either Party hereto, arising out of, pertaining to, or relating to the negligence, recklessness or willful misconduct of the Consultant, its employees, or the Consultant's subconsultants or subcontractors.

This indemnity shall not be limited by the types and amounts of insurance or self-insurance maintained by the Consultant or the Consultant's Subconsultants or Subcontractors.

Nothing in this Indemnity shall be construed to create any duty to, any standard of care with reference to, or any liability or obligation, contractual or otherwise, to any third party.

The provisions of this Indemnity shall survive the expiration or termination of the Agreement.

7. SUBMITTAL INSTRUCTIONS

Please submit one original proposal plus three hard copies and one electronic copy on digital media (exclude cost information in all copies) as follows:

Due Date: May 11, 2016 @ 4:00 p.m.

Deliver to: Sacramento Regional County Sanitation District
Attn: Tim Mussen
10060 Goethe Road
Sacramento, CA 95827

All questions regarding this RFP should be submitted in writing to Tim Mussen, Scientist, Sacramento Regional County Sanitation District by May 4, 2016 via e-mail at mussent@sacsewer.com. Addenda will be issued to address substantive submitted questions and provide answers. Addenda will be uploaded to the Regional San Business Opportunities Page (<http://www.regionalsan.com/general-opportunities>). It is the Consultant's responsibility to check Regional San's Business Opportunities Page for issued addenda.

8. **SELECTION PROCESS**

In order to be considered, interested consultants must submit a complete proposal document, with organization and content consistent with Section 5 of this RFP, by the closing date and time shown on the cover page (page 1).

Each proposal will be evaluated on an individual basis. Regional San reserves the right to award multiple contracts to multiple contractors if it is in the best interest to Regional San to do so.

Ranking of the proposals will be based on best value, taking into consideration the cost, experience, procedures, capacity, and qualification criteria. Proposals will be evaluated in three phases as follows:

Phase 1: Proposals will be examined as to whether or not the consultant understood and responded in accordance with the following requirements:

- 1) Proper completion and submittal of required proposal documents
- 2) Acceptability of exceptions taken to proposal terms and conditions
- 3) Experience requirement met or exceeded

Phase 2: Proposals that meet the requirements in Phase 1 will be evaluated and scored using the table below. The table identifies criteria used in the determination of the final proposal ranking. If any single criterion score fails to be above zero (averaged across all reviewers), the proposal will be automatically rejected.

Item	Rating Criteria	Possible Points	Score
1	Experience ¹	30	
2	Consultant Team ²	10	
3	Enumeration Methods and Output ³	10	
4	Cost Information ⁴	20	

5	Availability and Capacity ⁵	20	
6	Consulting References ⁶	10	
	Total	100	

1. Considers the firm's familiarity with plankton in the Sacramento River watershed, precision in enumeration identification, and scope of past enumeration projects.
2. Considers the team's organization experience, ability, and qualifications to perform the defined work. Considers the stability of the team. Considers the subcontractor's ability if applicable.
3. Considers enumeration testing methods and data output formatting.
4. Considers competitive pricing.
5. Considers the firm's availability of equipment and staff during the desired timeframe, and the time required to complete analyses.
6. References from other public agencies and private sector companies, based on past contracts with the consultant.

Phase 3: Regional San staff will enter into negotiations with the consultant receiving the highest score. If a mutually agreeable contract is unable to be negotiated, Regional San will disqualify the consultant and move on to the consultant with the next highest ranked proposal. This process will continue until a contract is successfully negotiated, or the entire list of eligible consultants is exhausted.

Regional San reserve the right to:

- Reject any or all proposals, or any part thereof;
- Waive any informality in the proposal
- Accept the proposal that is in the best interest of Regional San

Regional San's decision will be final.

9. FINAL SELECTION AND NOTIFICATION

A Notice of Intent to Award will be issued on or about May 27, 2016 to all consultants who submitted a proposal.

Attachments: 1 – Conflict of Interest and Non-Collusion Affidavit Form
 2 – Sample Agreement

Conflict of Interest and Non-Collusion Affidavit

IN ACCORDANCE WITH THIS PROPOSAL, I CERTIFY THAT OUR BUSINESS:

1. Does not and will not have a financial interest in any business, property, or source of income that could be financially affected or otherwise conflict in any manner with the performance of services under this request for proposals;
2. Has not, directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free, competitive bidding in connection with this request for proposals; and
3. Is not currently suspended or debarred from doing business with any government entity.

I affirm that the above is true and correct to the best of my knowledge under penalty of perjury under the laws of the State of California.

Name

Date

Title

Business Name

SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT

**AGREEMENT FOR
PHYTOPLANKTON AND ZOOPLANKTON ENUMERATION SERVICES**

THIS AGREEMENT is made and entered into on this _____ day of _____, 2016 by and between the SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT, a county sanitation district pursuant to and operating under the authority of the County Sanitation District Act, commencing at Health and Safety Code section 4700, hereinafter referred to as "REGIONAL SAN," and , a hereinafter referred to as "CONSULTANT".

RECITALS

WHEREAS, REGIONAL SAN Resolution No. SR-2747, Authority No. 4 authorizes the District Engineer (hereinafter referred to as "DISTRICT ENGINEER") to contract for consulting services on behalf of REGIONAL SAN; and

WHEREAS, DISTRICT ENGINEER, pursuant to the provisions of Resolution No. SR-2747, Authority No. 4 has determined that it is desirable to retain a consultant to provide phytoplankton and zooplankton enumeration services; and

WHEREAS, CONSULTANT has proposed to provide the requested services for the compensation to be provided herein; and

WHEREAS, REGIONAL SAN issued a Request for Proposals and selected CONSULTANT from among the respondents on the basis of CONSULTANT'S experience, qualifications and facilities for performing the requested services; and

WHEREAS, REGIONAL SAN and CONSULTANT desire to enter into this Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, REGIONAL SAN and CONSULTANT agree as follows:

1. SCOPE OF SERVICES

CONSULTANT shall provide services in the amount, type and manner described in Exhibit A, which is attached hereto and incorporated herein.

2. TERM

This Agreement shall be effective and commence as of the date first written above and shall remain in effect until all services covered by this Agreement are completed, which is estimated to be **TBD**.

3. NOTICE

Any notice, demand, request, consent, or approval that either party hereto may or is required to give the other pursuant to this Agreement shall be in writing and shall be either personally delivered or sent by mail, addressed as follows:

TO REGIONAL SAN:

Regional San
8521 Laguna Station Rd.
Elk Grove, CA 95758
Attn: Contracts Payment Desk

TO CONSULTANT:

TBD

Either party may change the address to which subsequent notice and/or other communications can be sent by giving written notice designating a change of address to the other party, which shall be effective upon receipt.

4. COMPLIANCE WITH LAWS

CONSULTANT shall observe and comply with all applicable federal, state, and county and REGIONAL SAN laws, regulations and ordinances.

5. GOVERNING LAWS AND JURISDICTION

This Agreement shall be deemed to have been executed and to be performed within the State of California and shall be construed and governed by the internal laws of the State of California. Any legal proceedings arising out of or relating to this Agreement shall be brought in Sacramento County, California.

6. LICENSES AND PERMITS

- A. CONSULTANT shall possess and maintain all necessary licenses, permits, certificates and credentials required by the laws of the United States, the State of California, County of Sacramento and all other appropriate governmental agencies, including any certification and credentials required by REGIONAL SAN. Failure to maintain the licenses, permits, certificates, and credentials shall be deemed a breach of this Agreement and constitutes grounds for the termination of this Agreement by REGIONAL SAN.
- B. CONSULTANT further certifies to REGIONAL SAN that it and its principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state or county government contracts. Consultant certifies that it shall not contract with a Subcontractor that is so debarred or suspended.

7. PERFORMANCE STANDARDS

CONSULTANT shall perform its services under this Agreement in accordance with the industry and/or professional standards applicable to CONSULTANT'S services.

8. OWNERSHIP OF WORK PRODUCT

All technical data, evaluations, plans, specifications, reports, documents, or other work products developed by CONSULTANT provided hereunder shall be the exclusive property of REGIONAL SAN and shall be delivered to REGIONAL SAN upon completion of the services authorized hereunder. CONSULTANT may retain copies thereof for its files and internal use. Publication of the information directly derived from work performed or data obtained in connection with services rendered under this Agreement must first be approved in writing by REGIONAL SAN. REGIONAL SAN recognizes that all technical data, evaluations, plans, specifications, reports, and other

work products are instruments of CONSULTANT'S services and are not designed for use other than what is intended by this Agreement.

9. **STATUS OF CONSULTANT**

[FOR SERVICE PROVIDERS WITH FIVE OR MORE FULL-TIME EMPLOYEES]

- A. It is understood and agreed that CONSULTANT (including CONSULTANT'S employees) is an independent contractor and that no relationship of employer-employee exists between the parties hereto. CONSULTANT'S assigned personnel shall not be entitled to any benefits payable to employees of REGIONAL SAN. REGIONAL SAN is not required to make any deductions or withholdings from the compensation payable to CONSULTANT under the provisions of this Agreement; and as an independent contractor, CONSULTANT hereby indemnifies and holds REGIONAL SAN harmless from any and all claims that may be made against REGIONAL SAN based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.
- B. It is further understood and agreed by the parties hereto that CONSULTANT in the performance of its obligation hereunder is subject to the control or direction of REGIONAL SAN as to the designation of tasks to be performed, the results to be accomplished by the services hereunder agreed to be rendered and performed, and not the means, methods, or sequence used by CONSULTANT for accomplishing the results.
- C. If, in the performance of this Agreement, any third persons are employed by CONSULTANT, such person shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. All terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by CONSULTANT, and REGIONAL SAN shall have no right or authority over such persons or the terms of such employment.
- D. It is further understood and agreed that as an independent contractor and not an employee of REGIONAL SAN, neither the CONSULTANT nor CONSULTANT'S assigned personnel shall have any entitlement as an REGIONAL SAN employee, right to act on behalf of REGIONAL SAN in any capacity whatsoever as agent, nor to bind REGIONAL SAN to any obligation whatsoever. CONSULTANT shall not be covered by worker's compensation; nor shall CONSULTANT be entitled to compensated sick leave, vacation leave, retirement entitlement, participation in group health, dental, life and other insurance programs, or entitled to other fringe benefits payable by REGIONAL SAN to employees of REGIONAL SAN.
- E. It is further understood and agreed that CONSULTANT must issue W-2 and 941 Forms for income and employment tax purposes, for all of CONSULTANT'S assigned personnel under the terms and conditions of this Agreement.

[FOR ALL OTHER SERVICE PROVIDERS]

- A. It is understood and agreed that CONSULTANT (including CONSULTANT'S employees) is an independent contractor and that no relationship of employer-employee exists between the parties hereto. CONSULTANT'S assigned personnel shall not be entitled to any benefits payable to employees of REGIONAL SAN as an independent contractor, CONSULTANT hereby indemnifies and holds REGIONAL SAN harmless from any and all claims that may be made against REGIONAL SAN based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.
- B. It is further understood and agreed by the parties hereto that CONSULTANT in the performance of its obligation hereunder is subject to the control or direction of REGIONAL SAN as to the designation of tasks to be performed, the results to be accomplished by the services hereunder agreed to be rendered and performed, and not the means, methods, or sequence used by CONSULTANT for accomplishing the results.
- C. If, in the performance of this Agreement, any third persons are employed by CONSULTANT, such person shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. All terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by CONSULTANT, and REGIONAL SAN shall have no right or authority over such persons or the terms of such employment.
- D. It is further understood and agreed that as an independent contractor and not an employee of REGIONAL SAN, neither the CONSULTANT nor CONSULTANT'S assigned personnel shall have:
- (1) Any entitlement as a REGIONAL SAN employee.
 - (2) Except as otherwise provided by this Agreement, the right to act on behalf of REGIONAL SAN in any capacity whatsoever as agent, nor to bind COUNTY to any obligation whatsoever.
 - (3) CONSULTANT shall not be covered by worker's compensation; nor shall CONSULTANT be entitled to compensated sick leave, vacation leave, retirement entitlement, participation in group health, dental, life and other insurance programs, or entitled to other fringe benefits payable by REGIONAL SAN to employees of REGIONAL SAN.
- E. Notwithstanding CONSULTANT'S status as an independent contractor, REGIONAL SAN shall withhold from payments made to CONSULTANT such sums as are required to be withheld from employees by the Federal Internal Revenue Code; the Federal Insurance Compensation Act; the State Personal Income Tax Law and the State Unemployment Insurance Code; provided, however, that said withholding is for the purpose of avoiding REGIONAL SAN'S

liability under said laws and does not abrogate CONSULTANT'S status as an independent contractor as described in this Agreement. Further, CONSULTANT is not included in any group covered by REGIONAL SAN'S present agreement with the federal Social Security Administration.

[FOR OUT-OF-STATE SERVICE PROVIDERS]

- F. Notwithstanding subparagraphs (A) and (E), it is further understood and agreed that REGIONAL SAN shall withhold seven percent (7%) of all income paid to CONSULTANT under this Agreement for payment and reporting to the California Franchise Tax Board because CONSULTANT does not qualify as (1) a corporation with its principal place of business in California, (2) a partnership with a permanent place of business in California, (3) a corporation qualified to do business in California by the Secretary of State, or (4) an individual with a permanent residence in the State of California.
- 10. CONSULTANT IDENTIFICATION**
CONSULTANT shall provide REGIONAL SAN with the following information for the purpose of compliance with California Unemployment Insurance Code section 1088.8: CONSULTANT'S name, address, telephone number, social security number, and whether dependent health insurance coverage is available to CONSULTANT.
- 11. BENEFITS WAIVER**
If CONSULTANT is unincorporated, CONSULTANT acknowledges and agrees that CONSULTANT is not entitled to receive the following benefits and/or compensation from REGIONAL SAN: medical, dental, vision and retirement benefits, life and disability insurance, sick leave, bereavement leave, jury duty leave, parental leave, or any other similar benefits or compensation otherwise provided to permanent civil service employees pursuant to the County Charter, the County Code, the Civil Service Rule, the Sacramento County Employees' Retirement System and/or any and all memoranda of understanding between REGIONAL SAN and its employee organizations. Should CONSULTANT or any employee or agent of CONSULTANT seek to obtain such benefits from REGIONAL SAN, CONSULTANT agrees to indemnify and hold harmless REGIONAL SAN from any and all claims that may be made against REGIONAL SAN for such benefits.
- 12. CONFLICT OF INTEREST**
CONSULTANT and CONSULTANT'S officers and employees shall not have a financial interest, or acquire any financial interest, direct or indirect, in any business, property or source of income which could be financially affected by or otherwise conflict in any manner or degree with the performance of services required under this Agreement.
- 13. LOBBYING AND UNION ORGANIZATION ACTIVITIES**
A. CONSULTANT shall comply with all certification and disclosure requirements prescribed by Section 319, Public Law 101-121 (31 U.S.C. § 1352) and any implementing regulations.

- B. If services under this Agreement are funded with state funds granted to REGIONAL SAN, CONSULTANT shall not utilize any such funds to assist, promote or deter union organization by employees performing work under this Agreement and shall comply with the provisions of Government Code Sections 16645 through 16649.

14. NONDISCRIMINATION IN EMPLOYMENT, SERVICES, BENEFITS AND FACILITIES

- A. CONSULTANT agrees and assures REGIONAL SAN that CONSULTANT and any subconsultants shall comply with all applicable federal, state, and local Anti-discrimination laws, regulations, and ordinances and to not unlawfully discriminate, harass, or allow harassment against any employee, applicant for employment, employee or agent of REGIONAL SAN, or recipient of services contemplated to be provided or provided under this Agreement, because of race, ancestry, marital status, color, religious creed, political belief, national origin, ethnic group identification, sex, sexual orientation, age (over 40), medical condition (including HIV and AIDS), or physical or mental disability. CONSULTANT shall ensure that the evaluation and treatment of its employees and applicants for employment, the treatment of REGIONAL SAN employees and agents, and recipients of services are free from such discrimination and harassment.
- B. CONSULTANT represents that it is in compliance with and agrees that it will continue to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), the Fair Employment and Housing Act (Government Code § 12900 et seq.), and regulations and guidelines issued pursuant thereto.
- C. CONSULTANT agrees to compile data, maintain records and submit reports to permit effective enforcement of all applicable anti-discrimination laws and this provision.
- D. CONSULTANT shall include this nondiscrimination provision in all subcontracts related to this Agreement.

15. INDEMNIFICATION

To the fullest extent permitted by law, for work or services provided under this Agreement, CONSULTANT shall indemnify, defend, and hold harmless SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT, SACRAMENTO AREA SEWER DISTRICT, and the COUNTY OF SACRAMENTO, their respective governing boards, officers, directors, employees, authorized agents and volunteers from and against any and all claims, demands, actions, losses, liabilities, damages, and all expenses and costs incidental thereto, including cost of defense, settlement, arbitration, and reasonable attorneys' fees, resulting from injuries to or death of persons, including but not limited to employees of either Party hereto, and damage to or destruction of property or loss of use thereof, including but not limited to the property of either Party hereto, arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the Consultant, its employees, or the Consultant's subconsultants or subcontractors.

This indemnity shall not be limited by the types and amounts of insurance or self-insurance maintained by the Consultant or the Consultant's Subconsultants or Subcontractors.

Nothing in this Indemnity shall be construed to create any duty to, any standard of care with reference to, or any liability or obligation, contractual or otherwise, to any third party.

The provisions of this Indemnity shall survive the expiration or termination of the Agreement.

16. INSURANCE

Without limiting CONSULTANT'S indemnification, CONSULTANT shall maintain in force at all times during the term of this Agreement and any extensions or modifications thereto, insurance as specified in Exhibit B. It is the responsibility of CONSULTANT to notify its insurance advisor or insurance carrier(s) regarding coverage, limits, forms and other insurance requirements specified in Exhibit B. It is understood and agreed that REGIONAL SAN shall not pay any sum to CONSULTANT under this Agreement unless and until REGIONAL SAN is satisfied that all insurance required by this Agreement is in force at the time services hereunder are rendered. Failure to maintain insurance as required in this agreement may be grounds for material breach of contract.

17. INFORMATION TECHNOLOGY ASSURANCES

CONSULTANT shall take all reasonable precautions to ensure that any hardware, software, and/or embedded chip devices used by CONSULTANT in the performance of services under this Agreement, other than those owned or provided by REGIONAL SAN, shall be free from viruses. Nothing in this provision shall be construed to limit any rights or remedies otherwise available to REGIONAL SAN under this Agreement.

18. COMPENSATION AND PAYMENT OF INVOICES LIMITATIONS

- A. Compensation under this Agreement shall be limited to the Maximum Total Payment Amount set forth in Exhibit C, or Exhibit C as modified by REGIONAL SAN in accordance with express provisions in this Agreement.
- B. CONSULTANT shall submit an invoice in accordance with the procedures prescribed by REGIONAL SAN fixed fee basis, upon completion of services, for services provided in the prior month. Invoices shall be submitted to REGIONAL SAN no later than the fifteenth (15th) day following the invoice period, and REGIONAL SAN shall pay CONSULTANT within thirty (30) days after receipt of an appropriate and correct invoice.
- C. REGIONAL SAN operates on a July through June fiscal year. Invoices for services provided in any fiscal year must be submitted no later than July 31, one month after the end of the fiscal year. Invoices submitted after July 31 for the prior fiscal year shall not be honored by REGIONAL SAN unless CONSULTANT has obtained prior written REGIONAL SAN approval to the contrary.

- D. CONSULTANT shall maintain for four years following termination of this Agreement full and complete documentation of all services and expenditures associated with performing the services covered under this Agreement. Expense documentation shall include: time sheets or payroll records for each employee; receipts for supplies; applicable subcontract expenditures; applicable overhead and indirect expenditures.
- E. In the event CONSULTANT fails to comply with any provisions of this Agreement, REGIONAL SAN may withhold payment until such non-compliance has been corrected.

19. SUBCONTRACTS, ASSIGNMENT

- A. CONSULTANT shall obtain prior written approval from REGIONAL SAN before subcontracting any of the services delivered under this Agreement. CONSULTANT remains legally responsible for the performance of all contract terms including work performed by third parties under subcontracts. Any subcontracting will be subject to all applicable provisions of this Agreement. CONSULTANT shall be held responsible by REGIONAL SAN for the performance of any subconsultant whether approved by REGIONAL SAN or not.
- B. This Agreement is not assignable by CONSULTANT in whole or in part, without the prior written consent of REGIONAL SAN.

20. AMENDMENT AND WAIVER

Except as provided herein, no alteration, amendment, variation, or waiver of the terms of this Agreement shall be valid unless made in writing and signed by both parties. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent, or any other right hereunder. No interpretation of any provision of this Agreement shall be binding upon REGIONAL SAN unless agreed in writing by the District Engineer and counsel for REGIONAL SAN.

21. SUCCESSORS

This Agreement shall bind the successors of REGIONAL SAN and CONSULTANT in the same manner as if they were expressly named.

22. TIME

Time is of the essence of this Agreement.

23. INTERPRETATION

This Agreement shall be deemed to have been prepared equally by both of the parties, and the Agreement and its individual provisions shall not be construed or interpreted more favorably for one party on the basis that the other party prepared it.

24. DISTRICT ENGINEER

As used in this Agreement, "District Engineer" shall mean the District Engineer of Sacramento Regional County Sanitation District, and Sacramento Area Sewer District, or his designee.

25. DISPUTES

In the event of any dispute arising out of or relating to this Agreement, the parties shall attempt, in good faith, to promptly resolve the dispute mutually between themselves. Pending resolution of any such dispute, CONSULTANT shall continue without delay to carry out all its responsibilities under this Agreement unless the Agreement is otherwise terminated in accordance with the Termination provisions herein. REGIONAL SAN shall not be required to make payments for any services that are the subject of this dispute resolution process until such dispute has been mutually resolved by the parties. If the dispute cannot be resolved within 15 calendar days of initiating such negotiations or such other time period as may be mutually agreed to by the parties in writing, either party may pursue its available legal and equitable remedies, pursuant to the laws of the State of California. Nothing in this Agreement or provision shall constitute a waiver of any of the government claim filing requirements set forth in Title 1, Division 3.6, of the California Government Code or as otherwise set forth in local, state and federal law.

26. TERMINATION

- A. REGIONAL SAN may terminate this Agreement without cause upon thirty (30) days written notice to the other party. Notice shall be deemed served on the date of mailing. If notice of termination for cause is given by REGIONAL SAN to CONSULTANT and it is later determined that CONSULTANT was not in default or the default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to this paragraph (A).
- B. REGIONAL SAN may terminate this Agreement for cause immediately upon giving written notice to CONSULTANT should CONSULTANT materially fail to perform any of the covenants contained in this Agreement in the time and/or manner specified. In the event of such termination, REGIONAL SAN may proceed with the work in any manner deemed proper by REGIONAL SAN. If notice of termination for cause is given by REGIONAL SAN to CONSULTANT and it is later determined that CONSULTANT was not in default or the default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to paragraph (A) above.
- C. REGIONAL SAN may terminate or amend this Agreement immediately upon giving written notice to CONSULTANT, 1) if advised that funds are not available from external sources for this Agreement or any portion thereof, including if distribution of such funds to REGIONAL SAN is suspended or delayed; 2) if funds for the services and/or programs provided pursuant to this Agreement are not appropriated by the State; 3) if funds in REGIONAL SAN 'S yearly proposed and/or final budget are not appropriated by REGIONAL SAN for this Agreement or any portion thereof; or 4) if funds that were previously appropriated for this Agreement are reduced, eliminated, and/or re-allocated by REGIONAL SAN as a result of mid-year budget reductions.
- D. If this Agreement is terminated by REGIONAL SAN under paragraph (A) or (C) above:

1. CONSULTANT shall cease rendering services pursuant to this Agreement as of the termination date.
2. CONSULTANT shall deliver to REGIONAL SAN copies of all writings prepared pursuant to this Agreement. The term "writings" shall be construed to mean and include: handwriting, typewriting, drawings, blueprints, printing, electronic media, photostating, photographing, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof.
3. CONSULTANT shall not incur any expenses under this Agreement after notice of termination and shall cancel any outstanding expenses obligations to a third party that CONSULTANT can legally cancel.

E. If this Agreement is terminated under paragraphs (A) or (C), above, CONSULTANT shall be paid for authorized and approved services performed prior to the termination date in accordance with the provisions of the Compensation and Payment of Invoices Limitations provision of this Agreement.

27. REPORTS

CONSULTANT shall, without additional compensation therefor, make fiscal, program evaluation, progress, and such other reports as may be reasonably required by the District Engineer concerning CONSULTANT'S activities as they affect the contract duties and purposes herein. REGIONAL SAN shall explain procedures for reporting the required information.

28. AUDITS AND RECORDS

Upon REGIONAL SAN'S request, REGIONAL SAN or its designee shall have the right at reasonable times and intervals to audit, at CONSULTANT'S premises, CONSULTANT'S financial and program records as REGIONAL SAN deems necessary to determine CONSULTANT'S compliance with legal and contractual requirements and the correctness of claims submitted by CONSULTANT. CONSULTANT shall maintain such records for a period of four years following termination of the Agreement, and shall make them promptly available for copying upon REGIONAL SAN'S request at REGIONAL SAN'S expense. REGIONAL SAN shall have the right to withhold any payment under this Agreement until CONSULTANT has provided access to CONSULTANT'S financial and program records related to this Agreement.

29. PRIOR AGREEMENTS

This Agreement constitutes the entire contract between REGIONAL SAN and CONSULTANT regarding the subject matter of this Agreement. Any prior agreements, whether oral or written, between REGIONAL SAN and CONSULTANT regarding the subject matter of this Agreement are hereby terminated effective immediately upon full execution of this Agreement.

30. SEVERABILITY

If any term or condition of this Agreement or the application thereof to any person(s) or circumstance is held invalid or unenforceable, such invalidity or unenforceability shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application; to this end the terms and conditions of this Agreement are declared severable.

31. FORCE MAJEURE

Neither CONSULTANT nor REGIONAL SAN shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control of such party and without fault or negligence of such party. Such events shall include but not be limited to acts of God, strikes, lockouts, riots, acts of war, epidemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism, or other disasters, whether or not similar to the foregoing, and acts or omissions or failure to cooperate of the other party or third parties (except as otherwise specifically provided herein).

32. SURVIVAL OF TERMS

All services performed and deliverables provided pursuant to this Agreement are subject to all of the terms, conditions, price discounts and rates set forth herein, notwithstanding the expiration of the initial term of this Agreement or any extension thereof. Further, the terms, conditions and warranties contained in this Agreement that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Agreement shall so survive.

33. DUPLICATE COUNTERPARTS

This Agreement may be executed in duplicate counterparts. The Agreement shall be deemed executed when it has been signed by both parties.

34. AUTHORITY TO EXECUTE

Each person executing this Agreement represents and warrants that he or she is duly authorized and has legal authority to execute and deliver this Agreement for or on behalf of the parties to this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligations hereunder have been duly authorized.

(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first written above.

**SACRAMENTO REGIONAL COUNTY
SANITATION DISTRICT**, a county
sanitation district pursuant to and operating
under the authority of the County Sanitation
District Act, commencing at Health and Safety
Code section 4700

TBD

By: _____
Prabhakar Somavarapu, District Engineer

By: _____

Name: _____

Title: _____

Date: _____

Date: _____

THIS AGREEMENT FORMAT HAS BEEN APPROVED BY DISTRICT COUNSEL

Prepared by: _____
Katherine E. Manne, Senior Contract Services Officer
Internal Services Department
Sanitation Districts Agency
Phone: (916) 876-6074

EXHIBIT A to Agreement
Between SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT
and **TBD**

SCOPE OF SERVICES

1. REQUEST FOR PROPOSAL AND CONSULTANT'S PROPOSAL

- A. The scope of services to be provided by this Agreement are those services identified in REGIONAL SAN'S Request for Proposal (RFP) dated **_____**, and CONSULTANT'S Proposal dated **_____**. Both the RFP and the Proposal are hereby incorporated into this Agreement as Attachments 1 and 2, respectively, and made a part of this Agreement. In the event of any inconsistencies or ambiguities, the Proposal shall govern over the RFP, and this Agreement shall govern over all. CONSULTANT agrees to perform all services stated in this Agreement for the compensation described herein.
- B. The District Engineer or designee, may negotiate with CONSULTANT and approve reasonable modifications in tasks, work products, schedules, milestones, and staff assignments so long as such modifications are within the general scope of services provided under this Agreement, do not exceed the Maximum Total Payment Amount, and are determined to be in the best interest of REGIONAL SAN.

2. SCHEDULE

CONSULTANT shall perform the services in an expeditious manner in accordance with a mutually acceptable schedule developed between REGIONAL SAN and CONSULTANT.

3. RESPONSIBILITIES OF REGIONAL SAN AND CONSULTANT FOR SCOPE

- A. REGIONAL SAN, or its authorized representatives, shall review all documents submitted by CONSULTANT and render decisions pertaining thereto as promptly as is reasonable under the circumstances at the time in order to avoid unreasonable delay of the progress of CONSULTANT. REGIONAL SAN shall furnish information and services as required by this Agreement and shall render approvals and decisions as expeditiously as is reasonably necessary under the circumstances at the time for the orderly progress of the CONSULTANT'S services and of the project.
- B. CONSULTANT shall be solely responsible for the quality and accuracy of its work and the work of its subconsultants performed in connection with this Agreement. Any review, approval, or concurrence therewith by REGIONAL SAN shall not be deemed to constitute acceptance or waiver by REGIONAL SAN of any error or omission as to such work. CONSULTANT shall coordinate the activities of any subconsultants and is responsible to ensure that all plans, drawings, and specifications are coordinated and interface with the other

applicable plans, drawings, and specifications to produce a unified, workable, and acceptable whole functional product.

4. AUTHORITY OF CONSULTANT PERFORMING SCOPE OF WORK

CONSULTANT is retained to provide and perform the scope of services covered by this Agreement. CONSULTANT, including CONSULTANT'S assigned personnel, shall have no authority to represent REGIONAL SAN or REGIONAL SAN staff at any meetings of public or private agencies unless an appropriate REGIONAL SAN official provides prior written authorization for such representation which outlines the purpose, scope and duration of such representation. CONSULTANT shall possess no authority or right to act on behalf of REGIONAL SAN in any capacity whatsoever as agent, nor to bind REGIONAL SAN to any obligations whatsoever. REGIONAL SAN is responsible for making all policy and governmental decisions related to the work covered by this Agreement.

5. PUBLICATION OF DOCUMENTS AND DATA

CONSULTANT shall not publish, or disclose to any third party, documents, data, or any confidential information relative to the work of REGIONAL SAN without the prior written consent of REGIONAL SAN, however submission or distribution to meet official regulatory requirements, or for other purposes authorized by this Agreement, shall not be construed as publication in derogation of the rights of either REGIONAL SAN or CONSULTANT.

6. PROJECT PERSONNEL

In the performance of the services hereunder, CONSULTANT shall provide the personnel as set forth in the Proposal. Any change in such personnel or reassignment in their project responsibilities must be agreed to in writing by the District Engineer or his authorized representative before any such change may be made. Key contacts for this project shall be as follows:

REGIONAL SAN:

NAME:
PHONE:
FAX:
E-MAIL:

CONSULTANT:

NAME:
PHONE:
FAX:
E-MAIL:

EXHIBIT B to Agreement
between SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT
and **TBD**

REGIONAL SAN INSURANCE REQUIREMENTS

Without limiting CONSULTANT's indemnification, CONSULTANT shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by CONSULTANT, its agents, representatives, or employees. REGIONAL SAN shall retain the right at any time to review the coverage, form, and amount of the insurance required hereby. If in the opinion of REGIONAL SAN Risk Manager, insurance provisions in these requirements do not provide adequate protection for REGIONAL SAN and for members of the public, REGIONAL SAN may require CONSULTANT to obtain insurance sufficient in coverage, form and amount to provide adequate protection. REGIONAL SAN's requirements shall be reasonable but shall be imposed to assure protection from and against the kind and extent of risks that exist at the time a change in insurance is required.

1. Verification of Coverage

CONSULTANT shall furnish REGIONAL SAN with certificates evidencing coverage required below. Copies of required endorsements must be attached to certificates provided. REGIONAL SAN Risk Manager may approve self-insurance programs in lieu of required policies of insurance if, in the opinion of the Risk Manager, the interests of REGIONAL SAN and general public are adequately protected. All certificates, evidences of self-insurance, and additional insured endorsements are to be received and approved by REGIONAL SAN before performance commences. REGIONAL SAN reserves the right to require that CONSULTANT provide complete, certified copies of any policy of insurance including endorsements offered in compliance with these specifications.

2. Minimum Scope of Insurance

Coverage shall be at least as broad as:

GENERAL LIABILITY: Insurance Services Office's Commercial General Liability occurrence coverage form CG 0001. Including, but not limited to Premises/Operations, Products/Completed Operations, Contractual, and Personal & Advertising Injury, without additional exclusions or limitations, unless approved by REGIONAL SAN Risk Manager.

AUTOMOBILE LIABILITY: Insurance Services Office's Commercial Automobile Liability coverage form CA 0001. Commercial Automobile Liability: auto coverage symbol "1" (any auto) for corporate/business owned vehicles. If there are no owned or leased vehicles, symbols 8 and 9 for non-owned and hired autos shall apply. Personal Lines automobile insurance shall apply if vehicles are individually owned.

WORKERS' COMPENSATION: Statutory requirements of the State of California and Employer's Liability Insurance, if applicable.

PROFESSIONAL LIABILITY or Errors and Omissions Liability insurance appropriate to CONSULTANT's profession.

UMBRELLA or Excess Liability policies are acceptable where the need for higher liability limits is noted in the Minimum Limits of Insurance and shall provide liability coverages that at least follow form over the underlying insurance requirements where necessary for Commercial General Liability, Commercial Automobile Liability, Employers' Liability, and any other liability coverage (other than Professional Liability) designated under the Minimum Scope of Insurance.

3. Minimum Limits of Insurance

CONSULTANT shall maintain limits no less than:

General Liability shall be on an Occurrence basis (as opposed to Claims Made basis). Minimum limits and structure shall be:

General Aggregate:	\$2,000,000
Products Comp/Op Aggregate:	\$2,000,000
Personal & Adv. Injury:	\$1,000,000
Each Occurrence:	\$2,000,000

Automobile Liability:

- a. Commercial Automobile Liability for Corporate/business owned vehicles including non-owned and hired, \$1,000,000 Combined Single Limit.
- b. Personal Lines Automobile Liability for Individually owned vehicles, \$250,000 per person, \$500,000 each accident, \$100,000 property damage.

Workers' Compensation: Statutory.

Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

Professional Liability or Errors and Omissions Liability: \$2,000,000 per claim and aggregate.

4. Deductibles and Self-Insured Retention

Any deductible or self-insured retention that apply to any insurance required by this Agreement must be declared and approved by REGIONAL SAN.

5. Claims Made Professional Liability Insurance

If professional liability coverage is written on a Claims Made form:

- a. The "Retro Date" must be shown, and must be on or before the date of the Agreement or the beginning of Agreement performance by CONSULTANT.

- b. Insurance must be maintained and evidence of insurance must be provided for at least one (1) year after completion of the Agreement.
- c. If coverage is cancelled or non-renewed, and not replaced with another claims made policy form with a "Retro Date" prior to the contract effective date, CONSULTANT must purchase "extended reporting" coverage for a minimum of one (1) year after completion of the Agreement.

6. Other Insurance Provisions

The insurance policies required in this Agreement are to contain, or be endorsed to contain, as applicable, the following provisions:

7. All Policies:

- a. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-: VII. SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT and SACRAMENTO AREA SEWER DISTRICT Risk Manager may waive or alter this requirement, or accept self-insurance in lieu of any required policy of insurance if, in the opinion of the Risk Manager, the interests of SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT and SACRAMENTO AREA SEWER DISTRICT and the general public are adequately protected.
- b. **MAINTENANCE OF INSURANCE COVERAGE:** The CONSULTANT shall maintain all insurance coverages and limits in place at all times and provide SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT and SACRAMENTO AREA SEWER DISTRICT with evidence of each policy's renewal within ten (10) days of its anniversary date. CONSULTANT is required by this Agreement to immediately notify SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT and SACRAMENTO AREA SEWER DISTRICT if they receive a communication from their insurance carrier or agent that any required insurance is to be canceled, non-renewed, reduced in scope or limits or otherwise materially changed. CONSULTANT shall provide evidence that such cancelled or non-renewed or otherwise materially changed insurance has been replaced or its cancellation notice withdrawn without any interruption in coverage, scope, or limits. Failure to maintain required insurance in force shall be considered a material breach of the Agreement.

8. Commercial General Liability and/or Commercial Automobile Liability:

- a. **ADDITIONAL INSURED STATUS:** SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT, SACRAMENTO AREA SEWER DISTRICT and the County of Sacramento, their respective governing boards, officers, directors, officials, employees, and authorized agents and volunteers are to be endorsed as additional insureds as respects: liability arising out of activities performed by or on behalf of CONSULTANT; products and completed operations of CONSULTANT; premises owned, occupied or used by CONSULTANT; or automobiles owned, leased, hired or borrowed by CONSULTANT. The coverage shall contain no endorsed limitations on the scope of protection afforded to SACRAMENTO REGIONAL COUNTY SANITATION

DISTRICT, SACRAMENTO AREA SEWER DISTRICT, and the County of Sacramento, their respective governing boards, officers, directors, officials, employees, and authorized agents and volunteers.

- b. **PRIMARY INSURANCE:** For any claims related to this agreement, CONSULTANT'S insurance coverage shall be endorsed to be primary insurance as respects SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT, SACRAMENTO AREA SEWER DISTRICT and the County of Sacramento, their respective governing boards, officers, officials, employees and authorized agents and volunteers. Any insurance or self-insurance maintained by SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT, SACRAMENTO AREA SEWER DISTRICT and the County of Sacramento, their respective governing boards, officers, directors, officials, employees, and authorized agents and volunteers shall be excess of CONSULTANT's insurance and shall not contribute with it.
- c. **SEVERABILITY OF INTEREST:** CONSULTANT's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- d. **SUBCONTRACTORS:** CONSULTANT shall be responsible for the acts and omissions of all its subcontractors and additional insured endorsements as provided by CONSULTANT's subcontractor.

9. Professional Liability:

PROFESSIONAL LIABILITY PROVISION: Any professional liability or errors and omissions policy required hereunder shall apply to any claims, losses, liabilities, or damages, demands, and actions arising out of or resulting from professional services provided under this Agreement.

10. Workers' Compensation:

WORKERS' COMPENSATION WAIVER OF SUBROGATION: The workers' compensation policy required hereunder shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT, SACRAMENTO AREA SEWER DISTRICT and the County of Sacramento, their respective governing boards, officers, directors, officials, employees, and authorized agents and volunteers, which might arise by reason of payment under such policy in connection with performance under this Agreement by CONSULTANT. Should CONSULTANT be self-insured for workers' compensation, CONSULTANT hereby agrees to waive its right of subrogation against SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT, SACRAMENTO AREA SEWER DISTRICT and the County of Sacramento, their respective governing boards, officers, directors, officials, employees, authorized agents and volunteers.

11. Notification of Claim

If any claim for damages is filed with CONSULTANT or if any lawsuit is instituted against CONSULTANT, that arise out of or are in any way connected with CONSULTANT's performance under this Agreement and that in any way, directly or indirectly, contingently or otherwise, affect or might reasonably affect SACRAMENTO

REGIONAL COUNTY SANITATION DISTRICT and SACRAMENTO AREA SEWER DISTRICT, CONSULTANT shall give prompt and timely notice thereof to SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT and SACRAMENTO AREA SEWER DISTRICT. Notice shall be prompt and timely if given within thirty (30) days following the date of receipt of a claim or ten (10) days following the date of service of process of a lawsuit.

SAMPLE

EXHIBIT C to Agreement
between SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT
and **TBD**

COMPENSATION

1. MAXIMUM PAYMENT TO CONSULTANT

The Maximum Total Payment Amount under this Agreement is: \$ _____.

2. COMPENSATION COMPONENTS

A. Fixed Fee: Compensation for services rendered shall be paid on a fixed fee basis at the usual and customary rates for the services actually rendered, as stated in the Scope of Services, attached hereto as Attachment 1 and by this reference incorporated herein, and shall not exceed \$ _____. The rates stated in Attachment 1 shall apply for all services provided throughout the term of this Agreement. Total compensation, including fees, expenses, and profit for services rendered by CONSULTANT shall not exceed the Maximum Total Payment Amount under this Agreement listed above.

3. ITEMIZED TASKS AND SUBTASKS

If CONSULTANT'S Proposal contains a schedule of tasks or subtasks with identified levels of effort such as estimated hours and/or estimated costs, or identifiable work products, milestones, or other events, then compensation for these individual tasks or activities shall not exceed the identified estimate or other limiting factors without the written approval of REGIONAL SAN'S Project Manager. CONSULTANT shall promptly notify REGIONAL SAN'S Project Manager in writing of any tasks, subtasks, work products, or milestones that need to be reevaluated and indicate the reason and/or justification for such reevaluation. REGIONAL SAN'S Project Manager is authorized to negotiate adjustments of individual tasks so long as the work is within the general scope of the project and the total compensation does not exceed the Maximum Total Payment Amount under this Agreement listed above.

4. WORK NOT IN SCOPE OF SERVICES

CONSULTANT shall immediately notify REGIONAL SAN'S Project Manager in writing of any work that REGIONAL SAN requests to be performed that CONSULTANT believes is outside of the original scope of work covered by this Agreement. If it is determined that said request is outside of the scope of work, such work shall not be performed unless and until the District Engineer approves such request in writing and authorizes the use of any contingency funds for such work, or an amendment providing for an adjustment in CONSULTANT'S compensation is approved and executed by both parties.

5. NOTIFICATION OF 75% EXPENDITURE OF COMPENSATION

CONSULTANT shall notify REGIONAL SAN'S Project Manager in writing upon expenditure of seventy-five percent (75%) of the authorized Agreement amount. Such notice shall identify the percentage of funds expended, the percentage of work completed,

an explanation of any variation between these two (2) percentages, and an assessment of the cost of the remaining work to be performed.

6. SUBMISSION OF INVOICES

CONSULTANT shall address and submit all invoices associated with this Agreement by U.S. mail or personal delivery to the following address:

Sacramento Regional Wastewater Treatment Plant
8521 Laguna Station Road
Elk Grove, CA 95758
ATTN: CONTRACTS PAYMENT DESK

CONSULTANT shall include the following information on all invoices:

1. Contract Number: **TBD**
2. Project Name: Phytoplankton & Zooplankton Enumeration Services
3. Date of Invoice Submission
4. Time Period Invoice Covers
5. Services Provided and Respective Compensation Requested
6. Any other information deemed necessary by CONSULTANT and/or REGIONAL SAN

REGIONAL SAN may change the address to which subsequent invoices shall be sent by giving written notice designating a change of address to CONSULTANT, which shall be effective upon receipt.

7. PAYMENTS

In accordance with the Compensation and Payment of Invoices Limitations provision of this Agreement, REGIONAL SAN shall address and submit payments to CONSULTANT at address in the Notice provision of this Agreement.

CONSULTANT may change the address to which subsequent payments shall be sent by giving written notice designating a change of address to REGIONAL SAN, which shall be effective upon receipt.