



REQUEST FOR PROPOSALS

FOR

CONSULTANT SERVICES FOR
PROCUREMENT OF AN
ENTERPRISE RESOURCE PLANNING SYSTEM

SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT
SACRAMENTO AREA SEWER DISTRICT

INTERNAL SERVICES DEPARTMENT
INFORMATION TECHNOLOGY

RFP No. 9097

ISSUE DATE: June 15, 2022

DUE DATE & TIME: July 20, 2022, by 5:00 p.m.

TABLE OF CONTENTS

- 1. Introduction**
 - 2. Background**
 - 3. Objective**
 - 4. Key Action Dates**
 - 5. Scope of Services**
 - 6. Basis for Compensation**
 - 7. Organization and Content of Proposal**
 - 8. Submittal Instructions**
 - 9. Proposal Rating Criteria**
 - 10. Selection Process**
 - 11. Award of Contract**
 - 12. Additional Terms and Conditions**
- Attachment A – Conflict of Interest and Non-Collusion Affidavit**
- Attachment B – Sample Agreement**

1. INTRODUCTION

The Sacramento Regional County Sanitation District (Regional San) and Sacramento Area Sewer District (SASD) provide wastewater collection, conveyance, and treatment services to over one million residents in the greater Sacramento region.

Regional San

In 1973, the County of Sacramento and Cities of Sacramento and Folsom coordinated to form Regional San, which assumed responsibility for regional wastewater conveyance and treatment. Regional San built the Sacramento Regional Wastewater Treatment Plant (SRWTP) near Elk Grove and a vast interceptor conveyance system to link the area's local sewer collection systems to the treatment plant. The SRWTP began providing service in 1982.

Regional San's mission statement is as follows:

"Regional San protects public health and the environment by conveying, treating, and recovering resources from wastewater responsibly and cost-effectively."

SASD

SASD is a sewer collection utility providing service to more than one million people in the Sacramento region. SASD's service area includes the unincorporated areas of Sacramento County; the cities of Citrus Heights, Rancho Cordova, and Elk Grove; and portions of the cities of Folsom and Sacramento. SASD serves residential, commercial and industrial customers.

SASD owns and operates thousands of miles of sewer pipes and is responsible for the operations and maintenance of these sewer pipes. Sewage collected in the SASD system flows into the Regional San interceptor system, where it is conveyed to the SRWTP.

SASD's mission statement is as follows:

"To protect public health and the environment by efficiently and effectively collecting sewage for our community."

2. BACKGROUND

The Internal Services Department (ISD) provides support services to the Districts. The Information Technology (IT) Section is part of ISD and is responsible for ensuring technology is well aligned with business requirements.

IT's responsibilities include managing application servers, the installation and support of computer hardware and software on the network, desktop application support, purchasing hardware (i.e. computers, telephones, A/V equipment, etc.), and acquiring licenses for various computer programs. IT staff also manage information technology projects as well as develop and support applications.

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The Districts currently use the County of Sacramento's ERP application (COMPASS). The current system does not meet all business needs of the Districts resulting in the additional expense of purchasing software or developing in-house solutions to satisfy unmet application requirements. This has raised information technology costs for the Districts overall, meanwhile decreasing continuity of services for system users. In the current environment, there is an increased risk of multiple single points of failure in the larger applications environment.

3. OBJECTIVE

The Districts are currently planning for transition from Sacramento County's Enterprise Resource Planning (ERP) system. This requires in-depth needs assessment, identification and development of system requirements, and development of an effective solicitation for services via Request for Proposal (RFP). The RFP will facilitate a fair and competitive solicitation, resulting in procurement of a robust ERP system meeting the Districts business needs.

The Districts are seeking an independent and objective consultant with the experience and evidence of past performance providing similar consulting services to assist with the development of a concise and compelling business case, develop a complete and thorough RFP document, and to provide continued consulting services to support the solicitation process led by the Districts through vendor selection.

The provision of uninterrupted services throughout implementation of a new ERP system is crucial for the Districts. The new ERP will be configured to integrate many functions across the Districts, including but not limited to financial management, human resources, customer service, field engineering and maintenance etc. The System will provide increased, efficiency and improved services across the agency.

4. KEY ACTION DATES

Release of RFP	June 15, 2022
Optional Pre-Proposal Conference	June 30, 2022, at 10:00AM Sacramento Regional Water Treatment Plant 8521 Laguna Station Road Elk Grove, CA 95758
Posting of Addenda and Response to Questions to Regional San and SASD Business Opportunities webpages	July 07, 2022
Proposal Submittal Deadline	July 20, 2022 at 5:00PM
Consultant Interviews	TBD
Notice of Intent to Award	September 2, 2022

**Award of the Consultant Agreement is subject to Regional San and SASD Boards' approval.

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5. SCOPE OF SERVICES

Task 1

A. Perform a needs analysis across functional departments to develop and document organizational requirements for acquisition of a comprehensive ERP system.

B. Prepare a Request for Proposals (RFP) for the procurement of the appropriate ERP software and related implementation services.

Deliverables Task 1:

- Needs Assessment and System Requirements Documentation
- RFP for ERP system

Task 2

A. Facilitate the solicitation process, including development of scoring methods for submitted proposals, coordination of the Evaluation Committee evaluation process, and contract negotiations with the ERP vendor.

B. Develop evaluation criteria for proposal evaluation and scoring.. Participate in activities pertaining to scoring, vendor demonstrations and recommendation sessions.

Deliverables Task 2:

- Documented process for procurement and vendor evaluation criteria
- Participate and facilitate evaluation pertaining to vendor proposals and demonstrations
- Facilitate and participate in final recommendation

6. BASIS FOR COMPENSATION

Fixed Fee: Compensation for services rendered will be based a Fixed Fee basis upon completion of services, with a not to exceed dollar ceiling for the entire contract.

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7. **ORGANIZATION AND CONTENT OF PROPOSAL**

Consultants must provide complete and current information for all categories listed below. Proposals shall not exceed 30 pages total length, not including Transmittal Letter, Cover Page, Table of Contents, Section Dividers, Resumes, Insurance, Conflict of Interest Form, Employment Practices, and sealed Cost Proposal. In addition page sizes shall be 8 ½ X 11 with font size no smaller than 12 pt. Figures and tables may be on 11 X 17 sheets.

SECTION	CONTENTS
Cover Letter	Transmittal
a	Company Background
b	Consultant Team
c	Project Overview
d	Detailed Project Approach
e	Related Experience
f	Level of Effort
g	Cost Proposal (<i>must be submitted in sealed envelope</i>)
h	Project Schedule
i	Conflicts of Interest
j	Proprietary Information
k	Insurance
l	References
m	Employment Practices
n	Exceptions to Sample Agreement Terms and Conditions

a. Company Background

Provide a brief introduction of your firm. Include office locations, main areas of expertise, number of staff, and company background and history.

b. Consultant Team

The proposed project team shall be identified including specific staff responsible for project management, interfacing with Regional San and SASD, and direct supervision of the project's technical output. Key tasks and the associated personnel shall be identified, including their level of participation. A project team diagram shall be included. Resumes shall be attached at the end of the proposal and provide key areas of expertise for each team member. The geographic location of the firm and key personnel shall be identified. A local base for key interactive staff is preferred unless the consultant can demonstrate no project impact. All proposed subcontractors shall be identified. Key subcontractors, relevant experience, and supporting material shall be included in the proposal. Consultant staff must have the appropriate level of experience, and expertise to perform the requested work.

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Note

If the prime consultant intends to solicit subproposals and/or quotes for certain tasks from qualified subconsultants, subcontractors, other service providers and suppliers, Regional San and SASD expect the prime consultant to solicit qualified firms in the local business community for such services and supplies.

The solicitation conducted should be as broad as possible to reasonably provide opportunities for and encourage relationship building with qualified minority and women-owned firms, and small and local businesses in the Sacramento community. The prime consultant shall not illegally discriminate in the solicitation process.

Substitution of any subconsultants, subcontractors, other service providers and suppliers identified in the proposal upon which the Agreement is based shall not be made without written consent of Regional San and SASD.

c. Project Overview

Provide a narrative description of the proposed project based on the Scope of Services. Regional San and SASD will assess your understanding of all aspects of the project based on the overview.

d. Detailed Project Approach

Provide a detailed description of the proposed approach to the project as described above. The description must include details to implement the tasks described in the Scope of Services and any recommended revisions to the list of tasks. The approach should recognize, address, and provide for resolution of all aspects of the project.

e. Related Experience

Provide a summary of experience with similar projects that the firm and the proposed team have completed. The description of each project should include the year(s) during which the work was performed and the firm's role in the project, responsibilities of key team members, and a contact person, including telephone number of the project owner.

f. Level of Effort

Provide a table showing the proposed total level of effort (LOE), in hours, required to complete each task identified in the scope of services. The table shall show, by task, the individual estimated involvement of each key staff member presented in the team organization chart. Regional San and SASD will monitor involvement of these key staff over the course of the project to confirm their involvement. Supporting staff can be shown by various classes of employees to be used for the services. Services provided by subcontractors shall be shown separately within the table.

g. Cost Proposal

Provide your firm's cost proposal in a separately sealed envelope. The submitted cost information must represent the full estimated LOE and project schedule included in the consultant's proposal. The envelope for the selected firm will be opened for the purpose of negotiating an agreement. The envelopes for the firms not selected will be returned unopened after negotiations are complete and the contract has been executed.

Compensation will be on a time-and-materials basis, with an authorized not-to-exceed amount. Include the following information:

1. Direct hourly labor rates for those staff to be billed to the project.
2. Estimated labor hours (LOE) and fee by task.
3. Types and estimated amount of non-labor costs to be billed to the project.
4. Adjustments in rates predicted to occur during the project. For budgeting purposes, a maximum escalation rate of 3 percent per year should be assumed and will be discussed during fee negotiations.
5. Sub-consultant costs. A maximum markup of 5 percent is permitted.
6. Other direct costs (ODCs). A maximum markup of 5 percent is permitted.
7. Lodging, meals, and travel shall be reimbursed as follows:
 - a. Per diem for lodging (equal to the current federal standard CONUS per diem rate for Sacramento County) will be reimbursed for each work night, up to five (5) nights per week.
 - b. Per diem for meals and incidentals (equal to the current federal standard CONUS per diem rate for Sacramento County) will be reimbursed for each work day, up to five (5) days per week.
 - c. Airfare and local and home transportation costs will be reimbursed at cost.
 - d. Mileage will be reimbursed at the current IRS rate which can be accessed by clicking the following link:

<https://www.irs.gov/newsroom/irs-issues-standard-mileage-rates-for-2022>

h. Project Schedule

A schedule for completion of the project shall be submitted with the proposal. All major outputs and meetings shall be included on the schedule, and time shall be allocated for staff review.

i. Conflicts of Interest

Firms submitting proposals in response to this RFP must disclose to Regional San and SASD 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 to be awarded pursuant to this RFP. If a firm has no conflicts of interest, a statement to that effect must be included in the proposal. Consultants must submit with their proposal a completed "Conflict of Interest and Non-Collusion Affidavit" Form attached here to as Attachment A.

j. Proprietary Information

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

k. Insurance

Provide a summary of the consultant's present and proposed insurance coverage, including commercial general liability, automobile liability, workers' compensation, property damage, employer's liability, and professional liability or errors and omissions liability for the duration of the contract. Please see Attachment C - Sample Agreement, and refer to Exhibit B for Regional San and SASD's insurance requirements.

l. References

Provide a minimum of three public agency contacts for which your project manager and key team members (as members of your firm) have provided similar services. Provide the name, address, telephone number, and e-mail address of the public agency representative.

m. Employment Practices

Please 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.

n. Exceptions to Sample Agreement Terms and Conditions

Provide a list of specific exceptions to contract terms and conditions which the consultant will seek from Regional San and SASD's Sample Agreement. Said Sample Agreement has been incorporated into this RFP package as Attachment B.

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8. SUBMITTAL INSTRUCTIONS

Please submit five (5) original hard copies, and one (1) electronic digital media copy as follows:

Due Date: July 20, 2022, by 5:00 p.m.

Deliver To:

**Sacramento Regional County Sanitation District
Sacramento Area Sewer District
Attn: Arshad Waheed
10060 Goethe Road
Sacramento, CA 95827**

All questions regarding this RFP should be directed to Arshad Waheed via e-mail at waheeda@sacsewer.com no later than 5:00 p.m. on July 05, 2022. Inquiries and responses will be posted at <https://www.regionalsan.com/general-opportunities> and <https://www.sacsewer.com/business-opportunities> by July 07, 2022. Please note the Regional San and SASD will respond only to technical questions. Under no circumstances will the interpretive guidance be provided. No oral interpretations shall be made to any respondent as to the meaning of any of the documents.

It is the responsibility of interested firms to periodically check the Regional San and SASD websites for amendments to this RFP and responses to inquiries.

9. PROPOSAL RATING CRITERIA

The criteria for evaluating the written proposals are described below:

Criteria	Point Value
Overall Responsiveness to RFP Requirements	5
Company Background	5
Project Overview	10
Detailed Project Approach	30
Related Experience	20
Consultant Team	15
Level of Effort	5
Schedule	10
Total	100

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10. SELECTION PROCESS

In order to be considered, interested consultants must submit a complete proposal document, with organization and content consistent with Section 7 of this RFP, by the closing date and time required in Section 8 of this RFP.

Ranking of the proposals will be based on capability/qualifications 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 agreement terms and conditions
- 3) Related experience requirement met or exceeded

Phase 2: Proposals that meet the requirements in Phase 1 will be evaluated and scored using the table in Section 9 of this RFP. The table identifies criteria used in the determination of the final proposal ranking. If any single criterion score fails to be above zero, the proposal will be automatically rejected. Those proposals with a weighted score of less than 60 will be disqualified. Based upon the evaluation of the proposals and reference checks, the most responsive proposals may be invited to an interview to further aid the selection process. Regional San and SASD may also elect to complete the consultant evaluation and selection without going through the interview process.

Phase 3: Cost information for the highest ranked proposal (and interview, if conducted) will be opened and Regional San and SASD staff will enter into negotiations with the consultant. If a mutually agreeable contract is unable to be negotiated, Regional San and SASD will conclude negotiations with said consultant, and commence negotiations with the consultant with the next highest ranked proposal. This process will continue until an agreement is successfully negotiated or the entire list of eligible consultants is exhausted. Once a mutually agreeable contract is executed, the remaining sealed cost proposals will be returned to remaining consultants.

Regional San and SASD reserve the right:

- **To reject any or all Proposals, or any part thereof; and**
- **To select more than one consultant; and**
- **To waive any informality in the Proposal; and**
- **To accept the Proposal that is in the best interest of the Regional San and SASD.**

Regional San and SASD's decision will be final.

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11. AWARD OF CONTRACT

Award of contract shall be made to the consultant who provides the best value and overall response to the requirements of this RFP. Regional San and SASD may select whichever proposal it determines will best serve its interests. The successful consultant will be selected in accordance with the proposal evaluation criteria identified in Section 9 above, and any addenda thereto, except for such immaterial deviation as may be waived by Regional San and SASD. Selection is expected to be made on or about September 2, 2022, subject to final approval by the Regional San and SASD Boards). Consultants who submitted proposals will be notified of the outcome of the selection process.

Regional San and SASD are prohibited from awarding this contract to any person, entity or business that is on the Federal Exclusion List (<https://www.sam.gov/>). If you or your firm is on this list, the Regional San and SASD cannot award this agreement to you and you should not provide a response to this RFP. In addition, consultant certifies that it shall not contract with a subcontractor that is debarred or suspended.

12. ADDITIONAL TERMS AND CONDITIONS

a. Revision of Proposal

Consultants may withdraw or revise a proposal on the consultant's own initiative at any time before the deadline for submission of proposals. The consultant must submit the revised proposal in the same manner as the original proposal on or before the listed proposal due date and time. In no case will a statement of intent to submit a revised proposal extend the proposal due date for any consultant. At any time during the proposal evaluation process, Regional San and SASD may request consultant to provide oral or written clarification of its proposal.

b. Errors and Omissions in Proposal

Failure by Regional San and SASD to object to an error, omission, or deviation in the proposal will in no way modify the RFP or excuse the consultant from full compliance with the specifications of the RFP or any Agreement awarded pursuant to the RFP.

END OF DOCUMENT

ATTACHMENT A – RFP NO. 9097

**Sacramento County Regional Sanitation District
Sacramento Area Sewer District**

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, which 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
and SACRAMENTO AREA SEWER DISTRICT**

**AGREEMENT FOR
CONSULTANT SERVICES FOR
PROCUREMENT OF AN
ENTERPRISE RESOURCE PLANNING SYSTEM**

THIS AGREEMENT is made and entered into on _____ by and between the SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT and the SACRAMENTO AREA SEWER 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 SASD," and **TBD**, hereinafter referred to as "CONSULTANT".

RECITALS

WHEREAS, REGIONAL SAN and SASD have determined that it is desirable to retain a consultant to provide for an independent and objective consultant with the experience and evidence of past performance planning for the transition from Sacramento County's Enterprise Resource Planning (ERP) system; and

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

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

WHEREAS, REGIONAL SAN and SASD solicited qualifications from TBD firms and established a list of qualified firms approved by the REGIONAL SAN and SASD Board of Directors on _____ from which to solicit proposals for a period of approximately _____ years, and CONSULTANT was selected for this project from said list; and

WHEREAS, REGIONAL SAN, SASD 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, SASD 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 **DATE**.

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 and SASD:

TO CONSULTANT:

Sacramento Regional Wastewater
Treatment Plant
8521 Laguna Station Road
Elk Grove, CA 95758
Attn: Contracts Payment Desk

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 and SASD 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. **ECONOMIC SANCTIONS**

Pursuant to California State Executive Order N-6-22 (Order) imposing economic sanctions against Russia and declaring support of Ukraine, REGIONAL SAN shall terminate any contract with any individual or entity that is in violation of the Order or that is subject to economic sanctions therein, and shall not enter a contract with any such individual or entity while the Order is in effect.

7. **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 and SASD. 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 and SASD.

- B. CONSULTANT further certifies to REGIONAL SAN and SASD 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.

8. PERFORMANCE STANDARDS

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

9. 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 SASD and shall be delivered to REGIONAL SAN and SASD 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 and SASD. REGIONAL SAN and SASD 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.

10. STATUS OF CONSULTANT

(FOR SERVICE PROVIDERS WITH FIVE OR MORE EMPLOYEES OR WHEN A TAX WAIVER HAS BEEN OBTAINED FROM DISTRICT (COUNTY) COUNSEL)

- 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 and SASD. REGIONAL SAN and SASD are 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 agrees to indemnify, defend, and hold REGIONAL SAN and SASD harmless from any and all claims, including reasonable attorneys' fees, that may be made against REGIONAL SAN and SASD 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 and SASD 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 and SASD 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 and SASD, neither the CONSULTANT nor CONSULTANT'S assigned personnel shall have any entitlement as an REGIONAL SAN and SASD employee, right to act on behalf of REGIONAL SAN and SASD in any capacity whatsoever as agent, nor to bind REGIONAL SAN and SASD 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 and SASD to employees of REGIONAL SAN and SASD.
- 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.

[USE (B) 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 and SASD as an independent contractor, CONSULTANT hereby agrees to indemnify, defend, and hold REGIONAL SAN and SASD harmless from any and all claims, including reasonable attorneys' fees, that may be made against REGIONAL SAN and SASD 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 and SASD 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 and SASD 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 and SASD, neither the CONSULTANT nor CONSULTANT'S assigned personnel shall have:
- (1) Any entitlement as a REGIONAL SAN and SASD employee.
 - (2) Except as otherwise provided by this Agreement, the right to act on behalf of REGIONAL SAN and SASD 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 and SASD to employees of REGIONAL SAN and SASD.
- E. Notwithstanding CONSULTANT'S status as an independent contractor, REGIONAL SAN and SASD 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 and SASD '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 and SASD'S present agreement with the federal Social Security Administration.

[USE PARAGRAPH "F" IN ADDITION TO (A) FOR OUT-OF-STATE SERVICE PROVIDERS. NEVER USE IN ADDITION TO (B)]

- F. Notwithstanding subparagraphs (A) and (E), it is further understood and agreed that REGIONAL SAN and SASD 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.

11. CONSULTANT IDENTIFICATION

CONSULTANT shall provide REGIONAL SAN and SASD 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.

12. 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 and SASD: 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 SASD and its employee organizations. Should CONSULTANT or any employee or agent of CONSULTANT seek to obtain such benefits from REGIONAL SAN and SASD, CONSULTANT hereby agrees to indemnify, defend, and hold REGIONAL SAN and SASD harmless from any and all claims, including reasonable attorneys' fees, that may be made against REGIONAL SAN and SASD for such benefits.

13. RETIREMENT BENEFITS/STATUS [Required of retired County employees, delete if N/A.]

CONSULTANT acknowledges and agrees that REGIONAL SAN and SASD has not made any representations regarding entitlement, eligibility for and/or right to receive ongoing Sacramento County Employee Retirement System (SCERS) retirement benefits during the term of this Agreement. By entering into this Agreement, CONSULTANT assumes sole and exclusive responsibility for any consequences, impacts or action relating to such retirement benefits that is or will be occasioned as a result of the services provided by CONSULTANT under this Agreement. CONSULTANT waives any rights to proceed against REGIONAL SAN and SASD should SCERS modify or terminate retirement benefits based on CONSULTANT'S provision of services under this Agreement.

14. SCERS POST RETIREMENT EMPLOYMENT POLICY

- A. Any employee of, or contractor retained by, CONSULTANT who is retired from Sacramento County service is subject to SCERS Post Retirement Employment Policy and must adhere to limitations on post-retirement service, including a 180-day waiting period before working for the County, REGIONAL SAN, or SASD, and a 960-hour per calendar year cap when working for the County, REGIONAL SAN, or SASD.
- B. CONSULTANT shall report to REGIONAL SAN and SASD in writing, the names of current and future employees who will provide services under this Agreement, that are retired from Sacramento County employment.
- C. CONSULTANT must report to REGIONAL SAN and SASD in writing on a semi-annual basis (January 5th and July 5th of each calendar year), the names of employees retired from Sacramento County employment providing services under this Agreement, and hours those employees have worked during the applicable reporting period. CONSULTANT shall submit reports to SDASCERSReporting@sacsewer.com.
- D. CONSULTANT shall not assign employees to provide services under this Agreement in violation of SCERS Post Retirement Employment Policy.

15. 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.

16. 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 and SASD, 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.

17. NONDISCRIMINATION IN EMPLOYMENT, SERVICES, BENEFITS AND FACILITIES

- A. CONSULTANT agrees and assures REGIONAL SAN and SASD 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 and SASD, 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 and SASD 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.

18. INDEMNIFICATION

To the fullest extent permitted by law, for work or services provided under this Agreement, CONSULTANT shall indemnify, defend, including with counsel reasonably acceptable to REGIONAL SAN and SASD, and hold harmless REGIONAL SAN, SASD, and the County of Sacramento, their governing Boards, officers, directors, officials, employees, and authorized volunteers and agents (individually an “Indemnified Party” and collectively “Indemnified Parties”), from and against any and all claims, demands, actions, losses, liabilities, damages, and all expenses and costs incidental

thereto (collectively "Claims"), 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 or reduction in value thereof, including but not limited to the property of either party hereto, and recovery of monetary losses incurred by the Indemnified Parties directly attributable to the performance of the CONSULTANT, arising out of, pertaining to, or relating to the alleged or actual error or omission, negligence, recklessness, willful misconduct, infringement of intellectual property rights, breach of trust, breach of confidentiality, unauthorized use or disclosure of data, breach of statutory or regulatory law, or other breach of its duties under this Agreement by CONSULTANT, its employees, CONSULTANT's subconsultants or subcontractors at any tier, or any other party for which CONSULTANT is legally liable under law, excepting only such injury, death, or damage, to the extent it is caused by the negligence of an Indemnified Party. CONSULTANT shall not be liable for Claims caused by the sole negligence or willful misconduct of an Indemnified Party.

The right to defense and indemnity under this indemnity obligation arises upon occurrence of an event giving rise to a Claim and, thereafter, upon tender in writing to CONSULTANT. Upon receipt of tender, CONSULTANT shall provide prompt written response that it accepts tender. Failure to accept tender may be grounds for termination of the Agreement. CONSULTANT shall control the defense of Indemnified Parties; subject to using counsel reasonably acceptable to County. Both parties agree to cooperate in the defense of a Claim.

This indemnity obligation shall not be limited by the types and amounts of insurance or self-insurance maintained by CONSULTANT or CONSULTANT's subconsultants or subcontractors at any tier.

Nothing in this indemnity obligation 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 obligation shall survive the expiration or termination of the Agreement.

19. 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 and SASD shall not pay any sum to CONSULTANT under this Agreement unless and until REGIONAL SAN and SASD 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.

20. 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 and SASD, shall be free from viruses. Nothing in this provision shall be construed to limit any rights or remedies otherwise available to REGIONAL SAN and SASD under this Agreement.

21. 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 and SASD in accordance with express provisions in this Agreement.
- B. CONSULTANT shall submit an invoice in accordance with the procedures prescribed by REGIONAL SAN and SASD Compensation for services rendered will be based a Fixed Fee basis upon completion of services, with a not to exceed dollar ceiling for the entire contract. Invoices shall be submitted to REGIONAL SAN and SASD no later than the fifteenth (15th) day following the invoice period, and REGIONAL SAN and SASD shall pay CONSULTANT within thirty (30) days after receipt of an appropriate and correct invoice.
- C. REGIONAL SAN and SASD 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 and SASD unless CONSULTANT has obtained prior written REGIONAL SAN and SASD 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 and SASD may withhold payment until such non-compliance has been corrected.

22. SUBCONTRACTS, ASSIGNMENT

- A. CONSULTANT shall obtain prior written approval from REGIONAL SAN and SASD 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 and SASD for the performance of any subconsultant whether approved by REGIONAL SAN and SASD or not.

- B. This Agreement is not assignable by CONSULTANT in whole or in part, without the prior written consent of REGIONAL SAN and SASD.

23. 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 and SASD unless agreed in writing by the District Engineer and counsel for REGIONAL SAN and SASD.

24. SUCCESSORS

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

25. TIME

Time is of the essence of this Agreement.

26. 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.

27. 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.

28. 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 and SASD 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.

29. TERMINATION

- A. REGIONAL SAN and SASD 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 and SASD 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 and SASD 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 and SASD may proceed with the work in any manner deemed proper by REGIONAL SAN and SASD. If notice of termination for cause is given by REGIONAL SAN and SASD 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 and SASD 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 and SASD 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 and SASD 'S yearly proposed and/or final budget are not appropriated by REGIONAL SAN and SASD 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 and SASD as a result of mid-year budget reductions.
- D. If this Agreement is terminated by REGIONAL SAN and SASD 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 and SASD 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, photostatting, 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.
- F. The District Engineer has authority to terminate this Agreement under paragraphs (A), (B), or (C), above.

30. 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 and SASD shall explain procedures for reporting the required information.

31. AUDITS AND RECORDS

Upon REGIONAL SAN and SASD'S request, REGIONAL SAN and SASD 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 and SASD 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 and SASD'S request at REGIONAL SAN and SASD'S expense. REGIONAL SAN and SASD 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.

[Optional – The following two paragraphs are to only be used when REGIONAL SAN and SASD wants the Consultant to maintain REGIONAL SAN and SASD'S records. Remove these two paragraphs unless specifically requested:

REGIONAL SAN and SASD'S Original Records are the records which are intended to be preserved in accordance with REGIONAL SAN and SASD'S Records Retention Policy. If the CONSULTANT is providing retention of REGIONAL SAN and SASD'S Original Records as part of its services, the CONSULTANT shall retain those Original Records in accordance with a reasonable standard of care, and shall retain them for the period of time as determined in REGIONAL SAN and SASD'S Records Retention Policies (see attached

as Attachment ____.) [Insert applicable Attachment number.] Prior to destroying any REGIONAL SAN and SASD Original Record, CONSULTANT shall contact REGIONAL SAN and SASD for permission to do so, and shall follow REGIONAL SAN and SASD'S policies in destroying such records.

CONSULTANT recognizes that REGIONAL SAN and SASD records are accessible to the public, and must be made promptly available to a requestor, and CONSULTANT agrees to provide the appropriate facilities and services in full compliance with the California Public Records Act when directed by REGIONAL SAN and SASD to do so. CONSULTANT will follow REGIONAL SAN and SASD guidance and instruction in the

case of any Public Records Act requests. If the CONSULTANT terminates or sells its business, it shall promptly notify REGIONAL SAN and SASD, and provide options to REGIONAL SAN and SASD for the disposition of its records. This provision shall survive in the event of termination of this Agreement.

32. **PRIOR AGREEMENTS**

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

33. **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.

34. **FORCE MAJEURE**

Neither CONSULTANT nor REGIONAL SAN and SASD 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).

35. **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.

36. **DUPLICATE COUNTERPARTS**

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

37. **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)

SAMPLE

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 and
SACRAMENTO AREA SEWER**

TBD

DISTRICT, county sanitation districts pursuant to and operating under the authority of the County Sanitation District Act, commencing at Health and Safety Code section 4700

By: _____
Christoph Dobson, District Engineer

By: _____

Name: _____

Title: _____

Date: _____

Date: _____

Agreement Approved by the Board of Directors
with Authority Delegated to the District
Engineer to execute the Agreement on behalf of
REGIONAL SAN and SASD.

Agenda Date: _____

Item Number: _____

Resolution No.: _____

THIS AGREEMENT FORMAT HAS BEEN APPROVED BY DISTRICT COUNSEL

OR

Contract and Consultant Tax Status Reviewed and Approved by District Counsel

By: _____
Krista C. Whitman
Assistant County Counsel

Date: _____

Prepared by: _____
Diane Lawson, Administrative Services Officer I
Internal Services Department
Sanitation Districts Agency
Phone: (916) 876-8471

**EXHIBIT A to Agreement
Between SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT
And Sacramento Area Sewer District and **TBD****

SCOPE OF SERVICES

1. REQUEST FOR PROPOSAL AND CONSULTANT'S PROPOSAL

[use appropriate option and revise accordingly]

- A. The scope of services to be provided by this Agreement consists of those services set forth in CONSULTANT'S Proposal dated **TBD** attached hereto as Attachment 1 and incorporated herein by this reference. In the event of any conflict, inconsistency, or ambiguity between this Agreement and the Proposal, this Agreement shall govern. 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 and SASD.

2. SCHEDULE

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

3. RESPONSIBILITIES OF REGIONAL SAN and SASD AND CONSULTANT FOR SCOPE

- A. REGIONAL SAN and SASD, 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 and SASD 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 and SASD shall not be deemed to constitute acceptance or waiver by REGIONAL SAN and SASD 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 and SASD or REGIONAL SAN and SASD staff at any meetings of public or private agencies unless an appropriate REGIONAL SAN and SASD 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 and SASD in any capacity whatsoever as agent, nor to bind REGIONAL SAN and SASD to any obligations whatsoever. REGIONAL SAN and SASD 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 and SASD without the prior written consent of REGIONAL SAN and SASD, 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 and SASD 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 and SASD:

Arshad Waheed
(916) 875-2343
waheeda@sacsewer.com

CONSULTANT:

TBD

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

REGIONAL SAN and SASD 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 and SASD 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 and SASD Risk Manager, insurance provisions in these requirements do not provide adequate protection for REGIONAL SAN, SASD and for members of the public, REGIONAL SAN and SASD may require CONSULTANT to obtain insurance sufficient in coverage, form and amount to provide adequate protection. REGIONAL SAN and SASD'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 and SASD with certificates evidencing coverage required below. Copies of required endorsements must be attached to certificates provided. REGIONAL SAN and SASD 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, SASD, 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 and SASD before performance commences. REGIONAL SAN and SASD reserve the right to require that CONSULTANT provide complete 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 and SASD 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.

TECHNOLOGY PROFESSIONAL LIABILITY ERRORS AND OMISSIONS:

Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the CONSULTANT in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.

CYBER LIABILITY, INCLUDING IDENTITY THEFT, INFORMATION AND NETWORK SECURITY and PRIVACY INJURY

Coverage shall include but is not limited to:

1. Third party injury or damage (including loss or corruption of data) arising from a negligent act, error or omission or a data breach.
2. Defense, indemnity and legal costs associated with regulatory breach (including HIPAA), negligence or breach of contract.
3. Administrative expenses for forensic expenses and legal services.
4. Crisis management expenses for printing, advertising, mailing of materials and travel costs of crisis management firm, including notification expenses.
5. Identity event service expenses for identity theft education, assistance, credit file monitoring to mitigate effects of personal identity event, post event services.

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:	\$2,000,000
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.

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

Cyber 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 accepted 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. 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 the Additional Insured Parties 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 the Additional Insured Parties with evidence of each policy's renewal within ten (10) days after its anniversary date. CONSULTANT is required by this Agreement to immediately notify the Additional Insured Parties 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 (except for reduction due to claims), 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 governing Boards, officers, directors, officials, employees, and authorized volunteers and agents (each an "Additional Insured Party," and collectively "Additional Insured Parties"), are to be included 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 in the performance of the work; or automobiles owned, leased, hired or borrowed by CONSULTANT. The coverage shall contain no endorsed limitations on the scope of protection afforded the Additional Insured Parties.

b. **PRIMARY INSURANCE:** For any claims related to this agreement, CONSULTANT'S insurance coverage shall be endorsed to be primary insurance as respects the Additional Insured Parties. Any insurance or self-insurance maintained by the Additional Insured Parties 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 (via a specific endorsement or as required by written contract) to state that the workers' compensation carrier waives its right of subrogation against the SACRAMENTO REGIONAL COUNTY SANITATION

DISTRICT, Sacramento Area Sewer District, and the County of Sacramento their governing Boards, officers, directors, officials, employees, and authorized volunteers and agents, 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 the -SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT, SACRAMENTO AREA SEWER DISTRICT, and the County of Sacramento their governing Boards, officers, directors, officials, employees, and authorized volunteers and agents.

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 or ANY Additional Insured Party, CONSULTANT shall give prompt and timely notice thereof to SACRAMENTO REGIONAL COUNTY SANITATION 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.

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

COMPENSATION

1. MAXIMUM PAYMENT TO CONSULTANT

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

2. COMPENSATION COMPONENTS

- A. Time and Expenses: Compensation for services rendered shall be paid on a time and expenses basis at the usual and customary rates for the services actually rendered, as stated in CONSULTANT'S Proposal, attached hereto as **Attachment _____** and by this reference incorporated herein, and shall not exceed \$ **_____**. The rates stated in **Attachment _____** 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.
- B. Special or Optional Services: Compensation in the amount of \$ **_____** for services identified in Exhibit A as special or optional services may only be released upon written authorization by the District Engineer, or duly authorized designee.
- C. Contingency: An additional contingency in the amount of \$ **_____** is hereby established for possible additional services that may be identified during performance of the work covered by this Agreement and which are within the general work parameters of this Agreement. Such contingency may only be released upon written authorization by the District Engineer.
- D. Rate Increases: REGIONAL SAN and SASD's Project Manager and CONSULTANT may negotiate an adjustment to rates effective January 1st of each year throughout the term of this Agreement, effective January 1, 20**____**, provided that annual adjustments shall not exceed a three percent (3%) increase over the prior year's rates. CONSULTANT shall submit new negotiated rates to REGIONAL SAN and SASD's Project Manager not less than 30 days prior to said effective date. For employees subject to State Prevailing Wages, annual escalations, if any, shall be effective the date(s) stipulated by the Director of Industrial Relations (DIR). **[Keep if applicable]**

Rate increases may only be initiated upon written authorization by the REGIONAL SAN and SASD's Project Manager. 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.

E. Consultant Expenses:

1. Non-Reimbursable Expenses Are As Follows: Non-reimbursable expenses include alcoholic beverages, expenses associated with a non-employee who accompanies the employee on official business, personal expenses, and traffic fines or parking tickets.
2. Invoices: CONSULTANT must submit itemized invoices that detail labor hours and expenses. In order to be reimbursed for travel related expenses, CONSULTANT must submit itemized invoices for airfare, hotel stays, cab or shuttle fees, restaurant fees, and related expenses. CONSULTANT must separate out line items for non-taxable expenses.
3. Lodging, Meals, and Travel: Lodging, meals, and travel during this contract period shall be reimbursed as follows:
 - a. Per diem for lodging (equal to the federal standard CONUS per diem rate for Sacramento County at the time of contract negotiation) will be reimbursed for each work night, up to five nights per week.
 - b. Per diem for meals and incidentals (equal to the federal standard CONUS per diem rate for Sacramento County at the time of contract negotiation) will be reimbursed for each work day, up to five days per week.
 - c. Airfare and local and home transportation costs will be reimbursed at cost with no markup.
 - d. Mileage will be reimbursed at the current IRS rate which can be accessed by clicking the following link:

<https://www.irs.gov/newsroom/irs-issues-standard-mileage-rates-for-2022>

- F. Maximum Allowable Markups: Maximum allowable markups will be five percent (5%) on subconsultants and other direct costs (ODCs).

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 and SASD'S Project Manager. CONSULTANT shall promptly notify REGIONAL SAN and SASD'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 and SASD'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 and SASD'S Project Manager in writing of any work that REGIONAL SAN and SASD 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. 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: Consultant Services for Procurement of an Enterprise Resource Planning System
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 and SASD

REGIONAL SAN and SASD 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.

6. PAYMENTS

In accordance with the Compensation and Payment of Invoices Limitations provision of this Agreement, REGIONAL SAN and SASD 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 and SASD, which shall be effective upon receipt.