



Santa Cruz Mid-County Groundwater Agency

Request for Statement of Qualifications

Sustainable Groundwater Management Act
Groundwater Sustainability Plan Implementation
Legal Support Services

Statement of Qualifications Due: October 25, 2023 by 5 pm

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Deadline for Submission: October 25, 2023 by 5 pm

1 General Information

The Santa Cruz Mid-County Groundwater Agency (MGA) is seeking a highly qualified legal firm (Firm) to provide on-call legal support services as it develops a well metering program and explores applying other authorities associated with Sustainable Groundwater Management Act (SGMA) compliance, such as fees assessment.

1.1 Agency Background

The Santa Cruz Mid-County Groundwater Agency (MGA or Agency) is a Groundwater Sustainability Agency (GSA) formed through a Joint Exercise of Powers Agreement (JPA) executed on March 17, 2016, by and among the Central Water District, the City of Santa Cruz, the County of Santa Cruz, and the Soquel Creek Water District. The First Amended JPA was executed on August 10, 2021. The MGA is governed by an 11-person Board of Directors consisting of two representatives each from the four JPA signatories and three private well owner representatives. The MGA relies on Santa Cruz County legal staff to provide General Counsel services for the agency.

1.2 Groundwater Sustainability Plan Background

The MGA is the exclusive GSA covering the Santa Cruz Mid-County Groundwater Basin (Basin), which is designated as a critically-overdrafted groundwater basin by the California Department of Water Resources (DWR). In January 2020, the MGA submitted its Groundwater Sustainability Plan (GSP) to DWR. DWR approved the MGA GSP in June 2021.

The MGA GSP identified unknown groundwater extraction from non-de minimis users as a monitoring data gap and proposed to initiate a well metering program to collect groundwater usage data to fill that gap. Based on established criteria, the metering program would apply to about 40 non-de minimis users in the Basin. The metering program is anticipated to include both well registration and meter installation by non-de minimis users. MGA has Sustainable Groundwater Management Implementation grant funding to potentially fund development of the metering program and the installation of meters on non-de minimis user wells.

The MGA GSP also identifies establishing long-term funding sources as a priority. To date, and expected through 2025, the Agency has been funded by contributions from the four JPA signatories and DWR grants. The MGA intends to explore collecting fees from a variety of sources including from private parcels and from extraction fees for non-de minimis users.

1.3 Anticipated Nature of Engagement

The selected Firm(s) may enter into a multi-year Professional Services Agreement (PSA) with the MGA to provide on-call legal advice and support services as it develops a metering program and a long-term funding mechanism through fees. Of particular need will be the review of specific authorities granted through SGMA as they related to developing components of the metering program and establishing fees. MGA is also seeking advice on how to properly employ enforcement options in the case of non-compliance with MGA programs.

The MGA retains the right to add, remove, or regroup work tasks, or to select a Firm(s) to support a single or multiple specific tasks based on review of statements of qualifications and MGA needs. The preferred approach is to work with a single Firm via a multi-year agreement for consistency and efficiency in accomplishing the proposed work. Specific work authorizations would be subject to annual fiscal year budget approval and would be identified through amendments to the PSA.

1.4 Contact

The point-of-contact for this RFQ is Rob Swartz. Mr. Swartz can be reached by email at admin@midcountygroundwater.org.

1.5 Submittal Deadline

Firms interested in being considered to provide these services are requested to submit their SOQ(s) on or before **Wednesday, October 25, 2023 by 5 pm**. Late SOQs may not be considered. Submittals of SOQ(s) shall be in electronic format (pdf) to admin@midcountygroundwater.org.

1.6 Submittal of Questions

Firms may submit questions concerning this RFQ in writing via email: admin@midcountygroundwater.org. Requests for information or questions shall be submitted in writing no later than **October 19, 2023 by 5 pm**. Written clarification, or addenda, will be posted to the MGA website at www.midcountygroundwater.org and distributed directly via email, no later than **October 20, 2023 by 5 pm**.

1.7 Addenda

The MGA may determine it is necessary to revise any part of this solicitation. Revisions will be made by written addenda, and it is the respondent's responsibility to comply with any addenda to this solicitation. Written clarification, provided as addenda, will be posted to the MGA website at www.midcountygroundwater.org and distributed directly via email, no later than **October 20, 2023 by 5 pm**.

2 Preliminary Scope of Services

The Preliminary Scope of Services is to provide on-call legal advice and support services to the MGA as it develops a metering program and a fee program. Additional services may be required as MGA has recently begun its 5-year GSP evaluation process. MGA will continue to use Santa Cruz County legal staff for General Counsel needs of the agency.

3 Desired Qualifications

3.1 Qualifications

The MGA desires a Firm with a strong understanding of SGMA and GSP requirements and demonstrated experience in assisting GSAs in navigating similar issues that MGA is seeking to address through this RFQ. These qualifications can be demonstrated by a Firm through addressing the requested information in Section 4.2 below. Depending on the qualifications of

the candidate Firm, the MGA could contract with more than one Firm and include coordination of services among Firms in the scope of work.

4 Schedule and Process

4.1 RFQ Schedule

Firms interested in being considered to provide these services are requested to submit their SOQ on or before **Wednesday, October 25, 2023 by 5 pm**. Late SOQs may not be considered. The schedule for the selection process is as follows.

Action	Date
1. Issue RFQ	October 5, 2023
2. Deadline for submitting any questions	October 19, 2023
3. SOQ due date	Wednesday, October 25, 2023 by 5 pm
4. Interviews of Firms of exceptional rating via virtual meeting platform, if needed	Wednesday, November 1 between 10 am – 4 pm
5. MGA Executive Team approves recommended Firm	November 6, 2023
6. Initiate contract development	November 6, 2023

4.2 SOQ Format and Requested Information

The Statement of Qualifications (SOQ) submittal should be limited to 15 numbered pages excluding cover letter, resumes, standard rate sheet, and any dividers. Submittals should be organized as follows:

Cover Letter:

Include a cover letter with the name, address, email, and telephone number(s) of the primary contact for the Firm for the proposed engagement. The cover letter must identify any exceptions to the Standard Agreement for Professional Services that is included as Exhibit A to this RFQ.

Section 1: Qualifications of Firm

Describe qualifications of Firm and proposed key personnel:

- Provide a description of the individual or firm, qualifications, and current number of active SGMA clients.
- Identify the key personnel assigned to this contract (including sub-consultants when applicable) and describe their title, background, qualifications, legal area of expertise, recent similar experience, and responsibility on this project.
- Append key personnel resumes to the SOQ as appropriate.

Section 2: Understanding of SGMA Challenges

- Based upon the Firm's understanding of SGMA or direct experience, describe significant challenges for GSAs that are considering or are currently using their authority to develop metering and fee programs.
- Based upon the Firm's understanding of SGMA or direct experience, describe significant challenges for GSAs that are considering or are currently using enforcement powers under SGMA.

Section 3: Experience with Similar Services

Present the Firm's experience with similar SGMA-related services:

- Describe the Firm's experience with supporting clients in developing GSPs that were submitted to DWR.
- Describe the Firm's experience with advising clients on metering or fee programs.
- Describe the Firm's experience with advising clients on employing enforcement powers for non-compliance on metering or fee programs.

Section 4: Client References

Provide a minimum of three unique client references, including contact person, email address, and current telephone number. References should focus on areas in which the key personnel listed under Section 1 had responsibilities and services were similar in nature to those sought by MGA through this RFQ.

Section 5: Standard Rate Sheet

Please provide a standard rate sheet for Fiscal Year (FY) 2024 by job classification title to be utilized. Also provide an estimate rate increases for FY2025 and FY2026.**Section 6: Potential Conflicts of Interest**

Provide a list of current clients that may directly or indirectly affect the performance of work or create the appearance of a conflict of interest with the anticipated assignment with MGA. Describe the nature of the conflict/potential conflict. Relationships with any of the JPA signatories, Basin small water systems or other private well owners must be identified. A basin map can be found at: <https://www.midcountygroundwater.org/groundwater-plan/soquel-aptos-basin-area/maps>.

4.3 SOQ Ranking and Award

The MGA will open and review the proposals in confidence and may request additional information from the respondents. Firms will be evaluated on all information collected by the MGA. Evaluation criteria used to select the Firm will include the following:

1. Qualifications of Firm
2. Understanding of SGMA Challenges
3. Experience with Similar Services
4. Client References

If a clear choice is not initially evident, interviews may be scheduled with those Firms of exceptional rating. Interviews, if needed, will be scheduled and conducted by virtual meeting. Key project personnel listed in the SOQ will be expected to attend.

Contract development will begin immediately upon selection. A sample PSA is attached as Exhibit A. If an agreement is not reached within ten working days, the next highest candidate may be contacted and negotiations with that candidate would begin. This process would continue until an agreement is reached or it is decided to re-advertise. Responses to this RFQ would be made available to the public only after contract award or decision to re-advertise.

The MGA reserves the right to determine the extent, duration, and limit of the services provided. Any deviation from the scope of work and general work-hour duration under contract must be approved beforehand in writing by the MGA.

4.4 Exceptions to the Professional Services Agreement (PSA)

As noted, a sample PSA is provided in Exhibit A. Firm is advised to review the insurance requirements. Firm should indicate in its cover letter if it takes exception to any terms or conditions of this sample agreement.

4.5 Grant Funding Requirements

Work performed by the Firm may be funded in part by the MGA with funds from the Budget Act of 2021 and through an agreement with the State Department of Water Resources for an implementation grant award from the Sustainable Groundwater Management Program. A copy of the applicable Standard Conditions pursuant to the grant funding are included as an exhibit in the Professional Services Agreement.

4.6 Public Record (SOQs received)

SOQs received will become the property of the MGA. All SOQs, evaluation documents, and any subsequent contracts will be subject to public disclosure per the "California Public Records Act," California Government Code, sections 6250 – 6270. All documents related to this solicitation will become public records once discussions and negotiations with proposers have been fully completed and an award has been announced.

Appropriately identified trade secrets will be kept confidential to the extent permitted by law. Any SOQ section alleged to contain proprietary information must be identified by the respondent in boldface text at the top and bottom as "PROPRIETARY." Designating the entire SOQ as proprietary is not acceptable and will not be honored.

Submission of a SOQ will constitute an agreement to this provision for public records.

4.7 MGA Rights and Options

The MGA, at its sole discretion, reserves the following rights:

1. To reject any or all SOQs or information received pursuant to this RFQ;
2. To supplement, amend, substitute, or otherwise modify this RFQ at any time by means of written addendum;
3. To cancel this RFQ with or without the substitution of another RFQ or prequalification process;
4. To cancel the scope of services awarded through this RFQ process with or without the substitution of another RFQ or prequalification process;
5. To request additional information;
6. To verify the qualifications and experience of each respondent;
7. To require one or more respondents to supplement, clarify, or provide additional information in order for the MGA to evaluate SOQs submitted;
8. To hire multiple contractors to perform the necessary duties and range of services if it is determined to be in the best interests of the MGA;
9. To waive any minor defect or technicality in any SOQ received; and
10. To add, omit, merge, or split out tasks during the course of the contract.

5 EXHIBIT A – Standard Agreement for Professional Services

AGREEMENT FOR PROFESSIONAL SERVICES

This AGREEMENT for Professional Services ("Agreement") is made and entered into this ___ day of _____, 2023 (the "effective date"), by and between the SANTA CRUZ MID-COUNTY GROUNDWATER AGENCY, a joint powers authority ("MGA"), and (name), a (entity description) authorized to do business in California ("Consultant") (collectively, the "Parties").

RECITALS

A. MGA requires the professional services of a qualified consultant to [MGA to complete description here].

B. Consultant has the necessary experience in providing professional services and advice, and selection of Consultant is expected to achieve the desired results in an expedited fashion.

C. Consultant has submitted a proposal to MGA and has affirmed its willingness and ability to perform such work.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained herein, the Parties agree as follows:

AGREEMENT

1. Scope of Services. MGA retains Consultant to perform, and Consultant agrees to render, those services (the "Services") that are defined in attached Exhibit A ("Scope of Services"). In the event of a conflict between the provisions of Exhibit A and the terms of this Agreement, the terms of this Agreement shall prevail. MGA shall have the right to modify the Scope of Services to delete tasks in whole or in part.

2. Standard of Performance. While performing the Services, Consultant will exercise the reasonable professional care and skill customarily exercised by reputable members of Consultant's profession practicing in the Northern California Area and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

3. Term. Unless earlier terminated, the term of this Agreement will commence upon the effective date and shall expire upon completion of performance of the Services hereunder by Consultant. Extensions will be based upon a satisfactory review of Consultant's performance, MGA needs, and appropriation of funds by MGA. The Parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

4. Compensation. MGA shall pay to Consultant on a time and expenses basis for the completion of the work and services described herein, which sum shall include all costs or expenses incurred by Consultant, payable as set forth in Exhibit B ("Budget"), attached hereto and made a part hereof by reference.

4.1 Consultant shall provide MGA with a monthly statement, as services warrant, of fees earned and costs incurred for services provided. The statement shall generally describe the services performed, hours worked, applicable rate or rates, the basis for the calculation of fees, and a reasonable itemization of costs.

4.2 Consultant is entitled to expenses as set forth in Exhibit B.

4.3 Payment by MGA shall be conditioned upon and subject to upon Consultant's satisfactory

completion of work or appropriate phases or tasks as described in the attached Scope of Services.

- 4.4 Except as expressly provided in this Agreement, Consultant shall not be entitled to nor receive from MGA any additional consideration, compensation, salary, wages or other type of remuneration for services rendered under this Agreement.
- 4.5 Consultant agrees to provide MGA with a W-9 form. MGA shall not withhold any Federal or State income taxes or Social Security tax from any payments made by MGA to Consultant under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Consultant.
- 4.6 MGA will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Consultant or its employees or subcontractors. Consultant agrees to reimburse MGA within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which MGA makes on behalf of Consultant or any agent, employee, or subcontractor of Consultant for work done under this Agreement. At the MGA's election, MGA may deduct the reimbursable amount from any balance owing to Consultant.

5. Schedule. Consultant will adhere to the schedule set forth in Exhibit C ("Schedule"), provided: that MGA in its discretion may grant reasonable extensions of time for the performance of such services occasioned by unusually lengthy reviews of Consultant's work product or other unavoidable delays occasioned by circumstances; provided, further, that such unavoidable delay will not include strikes, lockouts, work stoppages, or other labor disturbances conducted by, or on behalf of, Consultant's officers or employees. Consultant acknowledges the importance to MGA of MGA's project schedule and agrees to use its best professional efforts to meet the schedule. MGA understands that Consultant's performance must be governed by sound practices.

6. Insurance. Consultant, at its sole cost and expense, for the full term of this Agreement (and any extensions thereof), shall obtain and maintain, at minimum, compliance with all of the following insurance coverage(s) and requirements. Such insurance coverage shall be primary coverage as respects MGA and any insurance or self-insurance maintained by MGA shall be considered in excess of Consultant's insurance coverage and shall not contribute to it. If Consultant normally carries insurance in an amount greater than the minimum amount required by MGA for this Agreement, that greater amount shall become the minimum required amount of insurance for purposes of this Agreement. Therefore, Consultant hereby acknowledges and agrees that any and all insurances carried by it shall be deemed liability coverage for any and all actions it performs in connection with this Agreement. The insurance carrier is required to maintain an A.M. Best rating of not less than "A:-VII."

If Consultant utilizes one or more subcontractors in the performance of this Agreement, Consultant shall obtain and maintain Independent Contractor's Insurance as to each subcontractor or otherwise provide evidence of insurance coverage from each subcontractor equivalent to that required of Consultant in this agreement, unless Consultant and MGA both initial here ____ / ____.

A. Types of Insurance and Minimum Limits

(1) Worker's Compensation in the minimum statutorily required coverage amounts. This insurance coverage shall be required unless the Consultant has no employees and certifies to this fact by initialing here _____.

(2) Automobile Liability Insurance for each of Consultant's vehicles used in the performance of this Agreement, including owned, non-owned (e.g. owned by Consultant's employees), leased or hired vehicles, in the minimum amount of \$500,000 combined single limit per occurrence for bodily injury and property damage. This insurance coverage is required unless the Consultant does not

drive a vehicle in conjunction with any part of the performance of this Agreement and Consultant and MGA both certify to this fact by initialing here ____ / ____.

(3) Comprehensive or Commercial General Liability Insurance coverage in the minimum amount of \$1,000,000 combined single limit, including coverage for: (a) bodily injury, (b) personal injury, (c) broad form property damage, (d) contractual liability, and (e) cross-liability.

(4) Professional Liability Insurance in the minimum amount of \$_____

combined single limit, if, and only if, this Subparagraph is initialed by Consultant and MGA

____ / ____.

B. Other Insurance Provisions

(1) If any insurance coverage required in this Agreement is provided on a "Claims Made" rather than "Occurrence" form, Consultant agrees to maintain the required coverage for a period of three (3) years after the expiration of this Agreement (hereinafter "post Agreement coverage") and any extensions thereof. Consultant may maintain the required post Agreement coverage by renewal or purchase of prior acts or tail coverage. This provision is contingent upon post Agreement coverage being both available and reasonably affordable in relation to the coverage provided during the term of this Agreement. For purposes of interpreting this requirement, a cost not exceeding 100% of the last annual policy premium during the term of this Agreement in order to purchase prior acts or tail coverage for post Agreement coverage shall be deemed to be reasonable.

(2) All required Automobile and Comprehensive or Commercial General Liability Insurance shall be endorsed to contain the following clause:

"The Santa Cruz Mid-County Groundwater Agency, its officials, employees, agents and volunteers are added as an additional insured as respects the operations and activities of, and on behalf of, the named insured's performance under its/his/her/their agreement with the Santa Cruz Mid-County Groundwater Agency."

(3) All required insurance policies shall be endorsed to contain the following clause:

"This insurance shall not be canceled until after thirty (30) days prior written notice has been given to:

(4) Consultant agrees to provide its insurance broker(s) with a full copy of these insurance provisions and provide MGA on or before the effective date of this Agreement with Certificates of Insurance for all required coverages, as shown in Exhibit D attached hereto. All Certificates of Insurance shall be delivered or sent to:

7. Grant Requirements. As MGA may seek to obtain grant funding for the Services, Consultant agrees to comply with the Grant Requirements listed in Exhibit E attached hereto.

8. Prevailing Wages. Consultant shall abide by all applicable prevailing wage laws as set forth in the California Labor Code. If the Services under this Agreement, or any portion thereof, are being performed as part of an applicable public works or maintenance project, Consultant agrees to fully comply and to require its sub consultants to comply with such laws. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements.

9. Required Licenses, Certificates, and Permits. Any licenses, certificates, or permits required by the federal, state, county, or municipal governments for Consultant to provide the Services described in Exhibit A must be procured by Consultant and be valid at the time Consultant enters into this Agreement. Further, during the term of this Agreement, Consultant must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include but are not limited to driver's licenses, professional licenses, or certificates and business licenses. Such licenses, certificates, and permits shall be procured and maintained in force by Consultant at no expense to MGA.

10. Office Space, Supplies, Equipment, etc. Unless otherwise provided in this Agreement, Consultant shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as necessary for Consultant to provide the services under this Agreement.

11. Defense and Indemnification. To the fullest extent permitted by law, Consultant shall defend (with counsel reasonably approved by MGA), indemnify and hold MGA, its officials, officers, employees, agents, and volunteers free and harmless from any and all claims, demands, causes of action, suits, actions, proceedings, costs, expenses, liability, judgments, awards, decrees, settlements, loss, damage, or injury of any kind, in law or equity, to property or persons, including wrongful death, (collectively, "Claims") in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants, or agents in connection with the performance of the Services, including without limitation the payment of all consequential damages, expert witness fees, attorneys' fees, and other related costs and expenses. Consultant's obligations to indemnify, defend, hold MGA harmless shall not apply where Claims were caused by the sole negligence or willful misconduct of MGA. Notwithstanding the foregoing, to the extent the Services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to Claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by MGA, its officials, officers, employees, agents, or volunteers.

The Parties expressly agree that this section shall survive the expiration or early termination of the

Agreement.

12. Status of Consultant. All acts of the Consultant and its officers, employees, agents, representatives, subcontractors, and all others acting on behalf of Consultant relating to the performance of this Agreement shall be performed as independent contractors and not as agents, officers, or employees of MGA. Consultant, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of MGA.

13. Subcontracting. Consultant will not subcontract any portion of the Services without prior written approval of an authorized representative of MGA. If Consultant subcontracts any of the Services, Consultant agrees to be fully responsible to MGA for the acts and omissions of Consultant's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Consultant is for the acts and omissions of persons directly employed by Consultant. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Consultant and MGA. Consultant will be responsible for payment of subcontractors. Consultant will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Consultant's work unless specifically noted to the contrary in the subcontract and approved in writing MGA.

14. Other Consultants. MGA reserves the right to employ other consultants in connection with the Services.

15. Records and Audit. Consultant shall prepare and maintain all writings, documents, and records prepared or compiled in connection with the performance of this Agreement (collectively, "records") for at least four (4) years, unless a longer period of time is required by state or federal law, in which event Consultant shall retain its records for the time required by such laws. Any authorized representative of MGA shall have access to any records for the purposes of an audit, evaluation, examination, or compiling excerpts and transcripts during the period such records are to be maintained by Consultant.

16. Ownership of Work Product. All documents, drawings, and work product ("Work") prepared or produced by Consultant under this Agreement shall become and remain the property of MGA, except as otherwise approved in writing by MGA. Consultant shall retain intellectual property rights in the Work, except Consultant shall grant MGA a nonexclusive, perpetual, and transferable license in all Work protected by intellectual property rights, and MGA may reproduce the Work, prepare derivative works based on the Work, and build improvements depicted in or relating to the Work.

17. Copyrights. Consultant agrees that all copyrights that arise from the Services will be vested in MGA and Consultant relinquishes all claims to the copyrights in favor of MGA.

18. Notices. The name of the persons who are authorized to give written notices or to receive written notice on behalf of MGA and on behalf of Consultant under this Agreement.

For MGA:	For Consultant:
Santa Cruz Mid-County Groundwater Agency	Name
Attention: Board Clerk	Attention: Contact
5180 Soquel Drive	Address line 1
Soquel, CA 95073	Address line 2
admin@midcountygroundwater.org	Email address
Phone: (831) 662-2053	Phone:

19. Conflict of Interest. Consultant, for Consultant and on behalf of Consultant's agents, employees, and subcontractors warrants that by execution of this Agreement that they have no interest, present or contemplated, in the projects affected by this Agreement. Consultant further warrants that neither Consultant, nor Consultant's agents, employees, and subcontractors have any ancillary real property, business interests, or income that shall be affected by this Agreement or, alternatively, that Consultant shall file with MGA an affidavit disclosing this interest.

20. General Compliance with Laws. Consultant will keep fully informed of federal, state, and local laws, ordinances and regulations which in any manner affect those employed by Consultant, or in any way affect the performance of the Services by Consultant. Consultant will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Consultant's Services with all applicable laws, ordinances, and regulations.

21. Discrimination and Harassment Prohibited. Consultant will comply with all applicable federal, state, and local laws and regulations prohibiting discrimination and harassment.

22. Termination. MGA may, by written notice to Consultant, terminate the whole or any part of this Agreement, if, in the judgment of MGA, that Consultant has materially breached this Agreement, failed to timely provide and/or satisfactorily perform any task, deliverable, service, or other work required either under this Agreement or failed to demonstrate a high probability of timely fulfillment of performance requirements under this Agreement, or of any obligations of this Agreement, and in either case, fails to demonstrate convincing progress toward a cure within five (5) working days (or such longer period as MGA may authorize in writing) after receipt of written notice from MGA specifying such failure. If MGA decides to abandon or postpone the work or Services contemplated by this Agreement, MGA may terminate this Agreement upon written notice to Consultant pursuant to the notice provisions of this Agreement. Termination will be effective immediately upon notification.

Either Party upon tendering thirty (30) days written notice to the other party may terminate this Agreement.

Within ten (10) days of termination Consultant will assemble the work product without charge and

put it in order for proper filing and closing and deliver it to MGA. Consultant will be paid for work performed up to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. MGA will make a determination of final payment based upon the value of the work product delivered to MGA and the percentage of the Services performed.

23. Waiver of Default. Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.

24. Severability. If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal, state, or local statute, ordinance or regulation the remaining provisions of this Agreement or the application thereof shall not be invalidated thereby and shall remain in full force and effect.

25. Claims and Lawsuits. Consultant acknowledges that if a false claim is submitted to MGA by Consultant, it may be considered fraud and Consultant may be subject to criminal prosecution. Consultant acknowledges that California Government Code section 12650 et seq., the False Claims Act applies to this Agreement and provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If MGA seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorneys' fees. Consultant acknowledges that the filing of a false claim may subject Consultant to an administrative debarment proceeding as the result of which Consultant may be prevented to act as a Consultant on any public work or improvement for a period of up to five (5) years. Consultant acknowledges disbarment by another jurisdiction is grounds for MGA to terminate this Agreement.

26. Jurisdiction and Venue. Any action at law or in equity brought by either of the Parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of Santa Cruz, State of California, and the Parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

27. Successors and Assigns. It is mutually understood and agreed that this Agreement will be binding upon the Parties and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Consultant without the prior consent of MGA, which will not be unreasonably withheld.

28. Construction. Headings or captions to the provisions of this Agreement are solely for the convenience of the Parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both Parties had in fact drafted this Agreement.

29. Entire Agreement. This Agreement supersedes any and all other agreements, either oral or in writing, between any of the Parties herein with respect to the subject matter hereof and contains all the agreements between the Parties with respect to such matter.

30. Authority. The individuals executing this Agreement and the instruments referenced in it on behalf of Consultant each represent and warrant that they have the legal power, right, and actual authority to bind Consultant to the terms and conditions of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year first written above. This Agreement may be executed in one or more counterparts by the Parties hereto. All counterparts shall be construed together and shall constitute one agreement. A signature reproduced electronically, by facsimile or .pdf shall be treated as an original signature.

<p>SANTA CRUZ MID-COUNTY GROUNDWATER AGENCY:</p> <p>By: _____ (Name, Title)</p> <p>Date: _____</p> <p>Santa Cruz Mid-County Groundwater Agency 5180 Soquel Drive Soquel, CA 95073</p>	<p>(CONSULTANT):</p> <p>By: _____ (Name, Title)</p> <p>Date: _____</p> <p>Contractor Address</p> <p>_____</p> <p>Federal Tax I.D. Number</p>
	<p>APPROVED AS TO FORM:</p> <p>_____</p> <p>MGA Counsel</p>

EXHIBIT A
SCOPE OF SERVICES

Placeholder to be inserted into final negotiated contract.

EXHIBIT B
BUDGET

Placeholder to be inserted into final negotiated contract.

EXHIBIT C
SCHEDULE

Placeholder to be inserted into final negotiated contract.

EXHIBIT D

GRANT CONDITIONS

Funding for this project is supported in part by a grant award from California Department of Water Resources' Sustainable Groundwater Management Program to the Santa Cruz Mid-County Groundwater Agency (MGA). The MGA received and entered into an agreement with the State of California (Agreement #4600014636). The grant is funded by the Budget Act of 2021 (Stats. 2021, ch. 240, § 80). The MGA and/or MGA Member Agencies, including Soquel Creek Water District, City of Santa Cruz, County of Santa Cruz may receive grant funding for services to be performed by the Consultant and its contractors or subcontractors (collectively, "Consultant"). To comply with the standard conditions of the Agreement, the Consultant agrees to the following requirements.

ACCOUNTING AND DEPOSIT OF FUNDING DISBURSEMENT: The Consultant shall maintain books, records, and other documents pertinent to their work in accordance with generally accepted accounting principles and practices. This is consistent with Grant Agreement Standard Condition D1a.

AUDITS: Pursuant to Government Code §8546.7, the Consultant shall be subject to the examination and audit by the State for a period of three (3) years after final payment under this Grant Agreement with respect to all matters connected with this Grant Agreement, including but not limited to, the cost of administering this Grant Agreement. All records of the Consultant and its contractors or subcontractors shall be preserved for this purpose for at least three (3) years after receipt of the final disbursement under this Agreement. This is consistent with Grant Agreement Standard Condition D5.

CONFLICT OF INTEREST: The Consultant is subject to State and Federal conflict of interest laws. Failure to comply with these laws, including business and financial disclosure provisions, will result in the application being rejected and any subsequent contract being declared void. Other legal action may also be taken. Applicable statutes include, but are not limited to, Government Code, §1090 and Public Contract Code, §10410 and §10411, for State conflict of interest requirements. This is consistent with Grant Agreement Standard Condition D13.

DRUG-FREE WORKPLACE CERTIFICATION: The Consultant hereby certify, under penalty of perjury under the laws of State of California, compliance with the requirements of the Drug-Free Workplace Act of 1990 (Government Code §8350 et seq.) and have or will provide a drug-free workplace. This is consistent with Grant Agreement Standard Condition D16.

ADDITIONAL INSURED: The Consultant and its contractors or subcontractors shall name the State, its officers, agents, and employees as additional insured on their liability insurance for activities undertaken pursuant to this Agreement. This is consistent with Grant Agreement Standard Condition D22.

INSPECTION OF PROJECT BY STATE: The State shall have the right to inspect the work being performed at any and all reasonable times during the term of the Grant Agreement. This right shall extend to any subcontracts. This is consistent with Grant Agreement Standard Condition D25.

LABOR CODE COMPLIANCE: The Consultant and its contractors or subcontractors agrees to be bound by all the provisions of the Labor Code regarding prevailing wages and shall monitor all contracts subject to reimbursement from this Agreement to assure that the prevailing wage provisions of the Labor Code are being met. Current Department of Industrial Relations (DIR) requirements may be found at: <http://www.dir.ca.gov/lcp.asp>. For more information, please refer to DIR's Public Works Manual at: <http://www.dir.ca.gov/dlse/PWManualCombined.pdf>. The Consultant affirms that it is aware of the provisions of section 3700 of the Labor Code, which requires every employer to be insured against liability

for workers' compensation or to undertake self-insurance, and the Consultant affirms that it will comply with such provisions before commencing the performance of the work under this Agreement and will make its contractors and subcontractors aware of this provision. This is consistent with Grant Agreement Standard Condition D26.

NONDISCRIMINATION: During the performance of this Agreement, the Consultant and its contractors or subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex (gender), sexual orientation, race, color, ancestry, religion, creed, national origin (including language use restriction), pregnancy, physical disability (including HIV and AIDS), mental disability, medical condition (cancer/genetic characteristics), age (over 40), marital status, and denial of medial and family care leave or pregnancy disability leave. The Consultant and its contractors or subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. The Consultant and its contractors or subcontractors shall comply with the provisions of the California Fair Employment and Housing Act (Government Code §12990) and the applicable regulations promulgated there under (Cal.Code of Regs, Title 2, §11000 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing the California Fair Employment and Housing Act are incorporated into this Agreement by reference. The Consultant and its contractors or subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. The Consultant shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Grant Agreement. This is consistent with Grant Agreement Standard Condition D27.

INELIGIBLE PROJECT COST: Costs that are not eligible for reimbursement include, but are not limited to the following items:

- A. Purchase of equipment not an integral part of a project.
- B. Travel and per diem costs, except for mileage. Mileage reimbursement will be at the State travel amounts that are current as of the date costs are incurred. Note, mileage will be calculated from local destination start and end point.
- C. Meals, food items, or refreshments.
- D. Generic overhead or markup (e.g., 10% mark-up on sub-contractor labor, materials, supplies).

This prohibition applies to the Consultant and any subcontract or sub-agreement for work on the Project that will be reimbursed pursuant to this Agreement. This is consistent with Grant Agreement Condition 7.