

REQUEST FOR PROPOSALS  
for  
SUSTAINABLE GROUNDWATER MANAGEMENT ACT (SGMA)  
GROUNDWATER SUSTAINABILITY PLAN IMPLEMENTATION FOR THE  
NORTHERN AND CENTRAL REGIONS OF THE DELTA-MENDOTA  
SUBBASIN



SAN LUIS & DELTA-MENDOTA WATER AUTHORITY  
842 6<sup>th</sup> Street  
Los Banos, CA 93635

**SAN LUIS & DELTA-MENDOTA WATER AUTHORITY**  
**REQUEST FOR PROPOSALS**

**INTRODUCTION**

The Delta-Mendota Subbasin (Subbasin) is located within the San Joaquin Valley Groundwater Basin, and has been categorized by the California Department of Water Resources (DWR) as a high-priority subbasin basin in condition of critical overdraft. The Sustainable Groundwater Management Act (SGMA) requires such subbasins to develop and submit groundwater sustainability plans (GSP or GSPs) to DWR by January 31, 2020. Once these GSPs are submitted, implementation of these plans will commence.

The Delta-Mendota Subbasin consists of 23 groundwater sustainability agencies (GSAs) that are coordinating to submit six GSPs. One of the six GSP groups is the Northern & Central Delta-Mendota Region GSP Group (Northern & Central Region). The San Luis & Delta-Mendota Water Authority (SLDMWA) is the plan manager within the Delta-Mendota Subbasin. In this role, SLDMWA leads the coordination efforts within the Subbasin and also directly supports GSP development for the Northern & Central Region. SLDMWA provides direction to the GSAs within the Northern & Central Region to ensure tasks and activities are completed in a timely manner that support the Region's SGMA efforts. SLDMWA also ensures cooperative and effective SGMA-required coordination within the Northern & Central Region. SLDMWA will continue to serve in this capacity within the Northern & Central Region through GSP implementation.

SLDMWA seeks consultant services to support the first year of GSP implementation for the Northern & Central Region. Background materials and resources including the submitted Northern & Central Delta-Mendota Region GSP and information on the agencies within the Region will be available to assist the selected consultant in implementing the GSP.

The Northern & Central Region is comprised of two management committees: the Northern Delta-Mendota Region Management Committee and the Central Delta-Mendota Region Management Committee. Each Management Committee is governed by representatives from its participating GSAs. SLDMWA provides services for these committees through the Northern Delta-Mendota Region SGMA Services Activity Agreement and the Central Delta-Mendota Region SGMA Services Activity Agreement. The GSAs within the Northern & Central Region, as well as the entities that have formed each GSA, are:

- Northern Delta-Mendota Region Management Committee
  - Patterson Irrigation District GSA
    - Patterson Irrigation District
    - Twin Oaks Irrigation District
  - West Stanislaus Irrigation District GSAs 1 and 2
    - West Stanislaus Irrigation District
  - DM-II GSA

- Del Puerto Water District
  - Oak Flat Water District
- City of Patterson GSA
  - City of Patterson
- Northwestern GSA
  - Merced County
  - Stanislaus County
- Central Delta-Mendota Region Management Committee
  - Central Delta-Mendota GSA
    - San Luis Water District
    - Santa Nella County Water District
    - Panoche Water District
    - Mercy Springs Water District
    - Tranquillity Irrigation District
    - Merced County
    - Fresno Slough Water District
    - Fresno County
    - Eagle Field Water District
    - Pacheco Water District
  - Widren GSA
    - Widren Water District
  - Oro Loma GSA
    - Oro Loma Water District

The Delta-Mendota Subbasin covers an area of approximately 765,000 acres. Within this area, approximately 316,000 acres lie within the Northern & Central Region. The Northern & Central Region covers an area within five counties: San Joaquin, Stanislaus, Merced, Fresno and San Benito. This area is defined as the span of the Delta-Mendota Subbasin in San Joaquin and Stanislaus Counties, excluding City of Newman area and east of Crows Landing; the western boundary of the Delta-Mendota Subbasin to the west and south of the Delta-Mendota Canal, and bounded by the Coast Range to the west; and the Tranquillity Irrigation District area at the southeastern end of the Subbasin in Fresno County.

The GSAs that comprise the Northern & Central Region supply water for municipal, industrial, agricultural, and wildlife refuge uses. The Delta-Mendota Subbasin's economy relies primarily on agriculture. Reliable water resources, from both surface and groundwater sources, are essential to the region. Additional information on the context and structure of the Northern & Central Region is detailed in the Northern & Central Region's GSP.

## **PROJECT DESCRIPTION**

SLDMWA, on behalf of the Northern & Central Region GSAs, seeks to contract with interested consultant(s) or firm(s) knowledgeable about SGMA, GSP development, water planning programs, policy implementation compliance, and background in other similar programs.

SLDMWA reserves the right to contract with one or multiple consultants or firms through separate contracts to complete individual identified projects. These may be short-term assignments or larger evaluations that support the Northern & Central Region's first year of GSP implementation. An individual consultant services agreement and task order will be issued and the amount of compensation will be established to each selected consultant or firm as work is assigned.

An objective of this RFP is to obtain Statements of Qualification (SOQs) from qualified applicants to provide Northern & Central Delta-Mendota Region GSP implementation and program management services for the first year following GSP submission in compliance with SGMA legislation and GSP Regulations (Project). The purpose of this RFP is to evaluate and select the appropriate consultant(s) or firm(s) for the Project assignment.

The precise scope of work will be approved by the Northern and Central Delta-Mendota Region Management Committees in consultation with SLDMWA. The consultant(s) or firm(s) deemed successful from this RFP will contract for services with SLDMWA.

## **PROJECT APPROACH AND METHODOLOGY**

The RFP submittal must include a discussion of your organization's ideas with respect to completing the tasks identified below in a cost-effective and timely manner. Present your perspective on key priorities, potential risk factors, and their mitigation based on the following initial tasks SLDMWA has identified. Additional detail on tasks is included in Attachment 1.

- **Task 1: Monitoring Program**
  - **Task 1.A: Coordination with Monitoring Entities**
  - **Task 1.B: Monitoring Data QC and Analysis**
  - **Task 1.C: Training**
  - **Optional Task 1.D: Monitoring**
- **Task 2: Annual Reporting and Analysis**
- **Task 3: Coordination**
  - **Task 3.A: Coordination with Monitoring Entities**
  - **Task 3.B: Coordination Regarding the Second Annual Report**
  - **Optional Task 3.C: Coordination Regarding the Groundwater Sustainability Plan**
- **Task 4: DMS Maintenance**
- **Task 5: Budget and Schedule Maintenance**
- **Task 6: GSP Implementation and Tool Development**

## **ORGANIZATION AND CONTENTS OF PROPOSAL REQUIREMENTS**

The complete submittal shall not exceed twenty (20) pages in length, excluding resumes of key personnel. The consultant(s) or firm(s) will coordinate and conduct all tasks under the direction of SLDMWA staff and representatives from the Northern & Central Delta-Mendota Region Management Committees.

Responses to this RFP should include:

1. General firm or team information
2. Firm or team experience related to SGMA and GSP development
  - a. As an appendix, provide two (2) references. Appended references are separate from maximum proposal page limit.
3. Resume of the Project Manager and qualifications
4. Project Team information and list of proposed sub-consultants
5. Project approach
6. A proposed cost estimate associated with each of the tasks outlined in the RFP and compensation rate information for the proposed team members;

**General Information:** Introduce the firm or team and provide information on the location, number of employees, years in business, etc. The team identified in the RFP must, as reasonably possible, be the team dedicated to the contract work.

**Experience:** Provide a description of the firm or team's specific experience with SGMA or related efforts, including successful resolution of complicated regulatory, technical, groundwater sustainability, funding, or stakeholder-related matters. The work must have been performed in the last five (5) years and the description of each project should include:

- When the work was performed, including the duration of the project;
- The client for whom the work was performed (unless confidential);
- A general description of the scope of work;
- Outcome of the project; and
- A contact person, including contact information for the client project manager and key team members associated with the project.

**Project Manager:** The firm's Project Manager (PM) is defined as the individual who is directly responsible for and engaged in leading delivery of the required services. The information of the PM must include the following:

- Name, title, years of experience;
- Education, degrees, and professional registrations or certifications;
- Listing of a maximum of three (3) hydrogeological related studies, management activities, modeling efforts, or projects similar to that listed above.

**Project Team Information:** Identify the personnel that will be directly involved in the project. Provide resumes with relevant experience. The consultant may be a team of different firms; if so, identify the firms in the team and principal point of contact. Consultants may also utilize sub-

consultants; if so, identify the sub-consultants. If the proposal is a team approach and/or includes sub-consultants, provide the estimated percentage of the overall effort in terms of projected costs for each team member or sub-consultant.

**Project Approach:** Provide a discussion of the firm's plan with respect to implementing the project scope in a cost-effective and timely manner. Present the perspective on key priorities, and potential risk factors and their mitigation.

### **GENERAL ADMINISTRATIVE INFORMATION**

The RFP must also provide:

**Insurance:** In a table, confirm the consultant's and sub-consultant's (if applicable) ability to secure insurance coverage (including comprehensive general liability, automotive liability, workers' compensation, and errors and omissions).

### **EVALUATION AND SELECTION PROCESS**

All packages will be reviewed for completeness and will then be forwarded to a subgroup of Northern & Central Region Management Committee representatives for review (Review Subgroup). Prior to award of a contract, SLDMWA may schedule a meeting with selected consultants to provide the consultant(s) an opportunity to present their submittal and answer questions in person to the Review Subgroup.

SLDMWA and the Review Subgroup will evaluate the RFP's based on the following factors:

1. Completeness of the submittal package
2. Understanding of work to be completed
3. Relevant recent project experience, particularly with SGMA, GSP development, policy implementation compliance, and other relevant water management programs
4. Professional qualifications of the project team
5. Cost of the proposal
6. Ability to proactively manage proposed activities and ensure successful completion within required timelines
7. Demonstrated technical ability and competence
8. Quality of references

Upon completion of the evaluation process, additional discussions may be conducted between SLDMWA, the Review Subgroup, and consultants to clarify the scope of services, staffing schedules, level of effort, and contract costs. SLDMWA will then enter final negotiations with the selected consultant(s) with the intent of agreeing on a mutually acceptable contract.

The submitter understands and agrees to the following:

- A. SLDMWA reserves the right to reject any and all submittals;
- B. SLDMWA reserves the right to issue a new RFP;

- C. SLDMWA reserves the right to amend this RFP;
- D. SLDMWA reserves the right to cancel or withdraw the entire RFP, or any part hereof;
- E. SLDMWA reserves the right to seek or obtain data from any source that has the potential to improve the understanding and evaluation of the responses to this RFP to assure a successful project.
- F. That a submittal constitutes acknowledgement and acceptance of, and a willingness to comply with, all the terms, conditions, and criteria contained in this RFP.
- G. All submittals in response to this RFP will become the exclusive property of the GSAs.

The RFP does not commit SLDMWA to enter into a contract. SLDMWA assumes no obligations, responsibilities, and/or liabilities, financial or otherwise, to reimburse all or part of the costs incurred or alleged to have been incurred by parties considering a response to and/or responding to the RFP.

<u>Task</u>	<u>Date Expected</u>
Issue Request for Proposals	October 31, 2019
Proposal Package Due	November 22, 2019
Begin Final Ranking of Consultants	November 25, 2019
Notify Consultants of Ranking Results	December 2, 2019
Negotiate Contract with Consultant	December 2, 2019
Consultant Agreement Signed (following SLDMWA Board of Directors approval)	February 2020 – following SLDMWA Board of Directors approval
Attend March Joint Northern & Central Management Committees Meeting	TBD - February or March 2020
Conclude first year implementation	April 30, 2021

## **SUBMISSIONS**

Respondents shall submit their completed response by email to [andrew.garcia@sldmwa.org](mailto:andrew.garcia@sldmwa.org) on or before 5:00 PM, Friday, November 22, 2019. Hardcopies will not be accepted. Applicants should feel free to send questions prior to the submittal deadline. Responses should be emailed in PDF document format. Costs to respond to this RFP shall be borne solely by the applicants.

Please limit the size of the proposal to 20 pages and attach any supplemental information, such as SOQs and references, as appendices. Proposals shall be prepared with 8.5" x 11" paper, Times New Roman, 12 pt. font, single or 1.15-spaced, justified with 1" margins. Pages should be numbered in the page footer including the first page. Tables and figures must be included in the text.

Consultants are encouraged to notify SLDMWA of their interest to respond to this request.

Sincerely,

Andrew Garcia  
Senior Civil Engineer  
San Luis & Delta-Mendota Water Authority



## Attachment 1: GSP Implementation and Program Management Task and Scope Detail

### **Task 1: Monitoring Program**

SLDMWA staff will support the Northern & Central Delta-Mendota Region GSAs in data collection efforts at various representative monitoring sites. However, additional consultant services may be required to support coordinated intrabasin monitoring activities, quality control on reported data compiled for input into the data management system (DMS), as well as training to individual agency staff for field collection of data.

#### ***Task 1.A: Coordination with Monitoring Entities***

Working with the SLDMWA staff and five other GSP groups in the Delta-Mendota Subbasin, compile water surface elevation data for representative monitoring sites and individual agency well locations to participate in Subbasin-wide groundwater contouring map development for each principal aquifer. This task could include minor coordination with other GSP Groups and GSAs to ensure protocols and timing is sufficient and adequate for development of individual annual reporting requirements and for requisite GSP implementation tracking.

#### ***Task 1.B: Monitoring Data QC and Analysis***

Provide QC and analysis support to Northern & Central Region GSAs, as needed, for data that is compiled and submitted into the DMS. Ensure all provided data necessary for implementation of the GSP and for preparation of the Annual Report is provided in the correct format and level of detail.

#### ***Task 1.C: Training***

Field training from selected consultant for SLDMWA and GSA staff to ensure best practices for field data collection. Field collection may include, but is not limited to, specific required water quality parameters, stream gage and stream flow measurements, and groundwater levels. Please refer to the GSP, Attachment 4, for further detail related to representative monitoring location monitoring requirements and protocols.

#### **Optional Task 1.D: Monitoring**

The consultant may be requested to support Northern & Central Delta-Mendota Region GSAs and SLDMWA in data collection of various types at representative monitoring sites. At this time, it is planned for SLDMWA and GSA staff to collect the requisite data, however, it may be necessary to request consultant support for data collection and compilation to upload into the DMS.

## **Task 2: Annual Reporting and Analysis**

This task will support development of an Annual Report, consistent with compliance of SGMA requirements, for the Northern & Central Region, and any necessary electronic files required for submission to DWR, for submission by April 1, 2021. For this second Annual Report, the selected consultant will have the format from the first submitted Annual Report and data collection templates made available as reference material. This task will involve compiling and analyzing data collected by GSAs, SLDMWA, or consultants under an option tasks from monitoring sites within the Northern & Central Region and evaluating the status of the Region's GSP implementation efforts. Developing the Annual Report will involve coordinating with Houston Engineering, Inc and SLDMWA staff to gather data from the Northern & Central Region's DMS for inclusion in the Annual Report. This task will require status updates for the GSAs and SLDMWA staff to share the progress of data collection, evaluation, analysis, and report writing. A draft Annual Report will be shared with the Northern & Central Region Management Committees for their review and input prior to submission.

## **Task 3: Coordination**

### ***Task 3.A: Coordination with Monitoring Entities***

This task will support ongoing coordination for the Northern & Central Region GSAs and Technical Working Group. The Northern & Central Region Management Committees will continue ongoing monthly meetings. A total of 14 regular Joint Northern & Central Region Management Committee meetings are expected to be held. A total of 12 monthly Northern & Central Technical Working Group conference calls are expected to be held, with a small number possibly in-person due to a regional project discussion that may require meeting for a longer period of time. Additional special meetings of these Committees and Working Groups may be scheduled as needed. Additional coordination support will involve representing the Northern & Central Region GSAs in intrabasin meetings with other Subbasin GSAs and GSP groups as well as representation in interbasin meetings with neighboring GSAs and GSPs.

Ongoing monthly Joint Northern & Central Management Committee meetings (anticipating a total of 14 total through the term of the contract), interbasin meetings with neighboring subbasins (approximately 12 meetings through the term of the contract, when SLDMWA requires technical support or personnel coverage), continuous support for Northern & Central Region GSAs, and coordination with other Subbasin GSAs and GSP Groups.

### ***Task 3.B: Coordination Regarding the Second Annual Report***

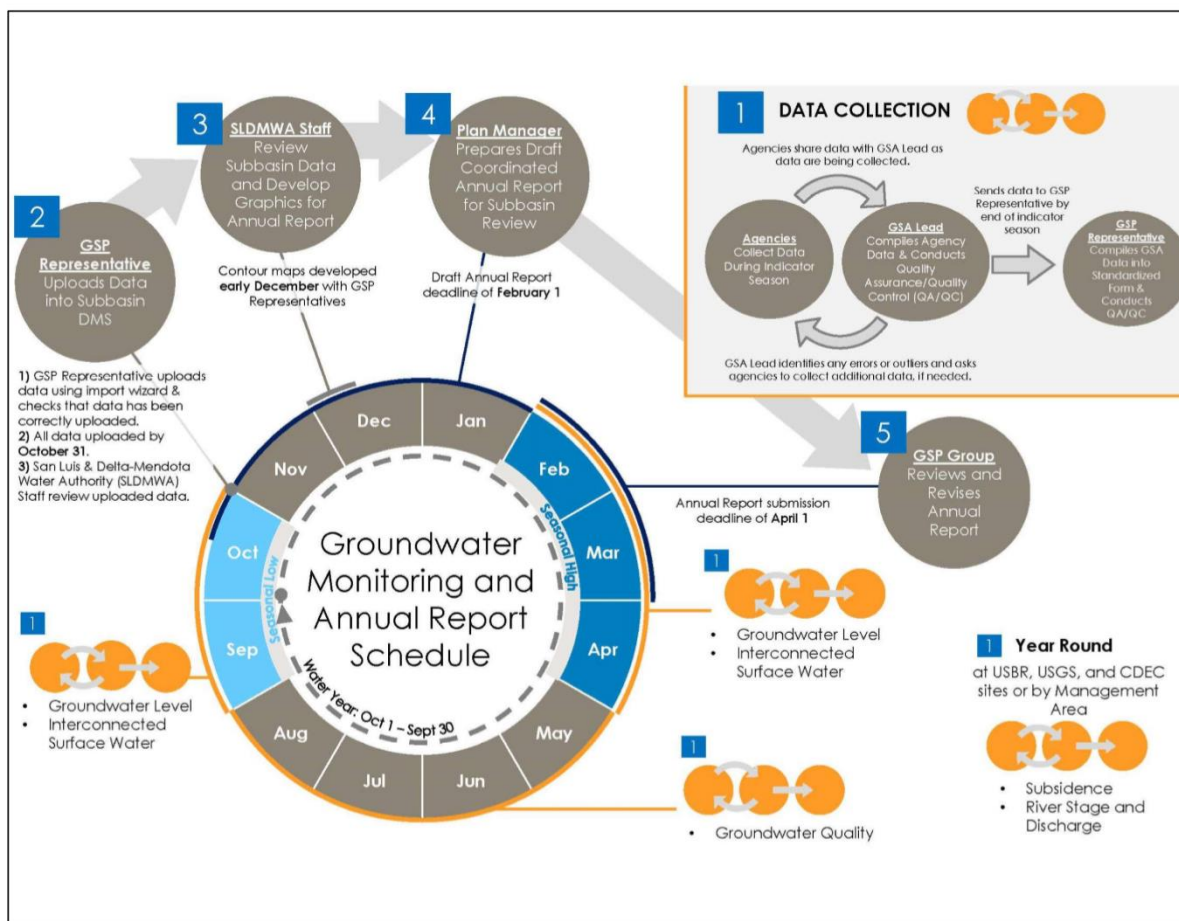
SLDMWA staff is designated the Plan Administrator or Plan Manager required to be the main point of contact and line of communication with DWR. Consultants or firms should anticipate additional support regarding communications or responses to questions necessary to ensure the Annual Report submitted before April 1, 2021 is approved by DWR.

### **Optional Task 3.C: Coordination Regarding the Groundwater Sustainability Plan**

SLDMWA staff is designated the Plan Administrator or Plan Manager required to be the main point of contact and line of communication with DWR. Consultants or firms should anticipate additional support regarding communications or responses to questions necessary to ensure the GSP submitted before January 31, 2020 is ultimately approved by DWR.

### **Task 4: DMS Maintenance**

Individual GSAs and SLDMWA staff will support ongoing data collection efforts for monitoring network data that will be included in the Northern & Central Region's data management system (DMS), which is overseen by Houston Engineering, Inc. The selected consultant(s) or firm(s) will support compilation of these data from GSAs and representative monitoring sites, and will be responsible for quality control and assurance of these reported data. This task will also provide support for monitoring data uploading from representative monitoring sites as scheduled based on the Annual Report development. This schedule is depicted in Figure 1 below. Data compiled during this water year will be evaluated and analyzed for inclusion in the 2021 Annual Report submission.



**Figure 1: Timeline of data collection in the Delta-Mendota Subbasin for Annual Report development**

## **Task 5: Budget and Schedule Maintenance**

Support general budget and schedule tracking to ensure the project(s) are on time and on budget. Consultants or firms should anticipate regular monthly updates and team meetings with SLDMWA staff. Regular monthly progress reports should be provided with contract invoices to allow SLDMWA to prepare expenditure to date reports to share during monthly Joint Northern & Central Management Committee meetings and for tracking internal budgets.

## **Task 6: GSP Implementation and Tool Development**

This task will involve evaluating the progress of the Northern & Central Region's sustainability indicators, necessary implementation strategies, and support efforts to develop an updated numerical model with BOR or USGS staff for future use.

First, GSP Implementation support will involve implementation and adaptive management efforts that may require: analysis of the first Northern & Central Region Annual Report, recent data, sustainability indicators, minimum threshold and measurable objective criteria, review of status of projects and management actions, and evaluation of the monitoring program (representative monitoring network and data gap analysis). This task will also include providing quarterly updates and end of the year recommendations to the Northern & Central Region Management Committees. These recommendations may include projects, management actions, studies, or other activities for the second year or other future GSP implementation in order for the Northern and Central Regions' GSAs to continue to pursue sustainable groundwater management. This task must consider other Subbasin projects, results, newly developed monitoring networks, and input from stakeholders and beneficial users.

Second, the Bureau of Reclamation (BOR), in conjunction with the United States Geological Survey (USGS), is currently updating the HydroGeoSphere San Joaquin Valley Model (HGSSJVM). The HGSSJVM which is a simple groundwater model that can simulate subsidence rate predictions for BOR's Delta-Mendota Canal (DMC) repair project. The selected consultant(s) or firm(s) will support SLDMWA staff as a technical expert for collaborating with BOR, USGS, and SLDMWA engineering staff to communicate the status of the GSP relative to subsidence rates, policies, management actions, or projects that may impact those rates and therefore the DMC. BOR will be performing the modeling and modeling updates, but the selected consultant(s) or firm(s) may need to provide data, attend meetings, and update outside agencies frequently to allow for model updates that accurately capture the impacts of SGMA and GSP implementation on subsidence and future DMC project planning.

## Attachment 2: Criteria for Evaluation of Proposal

Item Number	Proposal Evaluation	Maximum Points	Score
1	Completeness of the submittal package	10	
2	Understanding of work to be completed	10	
3	Knowledge of and experience with SGMA, GSP development, policy implementation compliance, other relevant water management programs	10	
4	Professional qualifications of staff for work to be completed	10	
5	Cost of the proposal	20	
6	Ability to proactively manage proposed activities and ensure successful completion of project within schedule and budget	20	
7	Demonstrated technical ability and competence	10	
8	References	10	
<b>Total</b>	<b>Total</b>	<b>100</b>	

## Attachment 3: Template Consultant Services Agreement

### *SAN LUIS & DELTA-MENDOTA WATER AUTHORITY*

## **AGREEMENT FOR PROFESSIONAL SERVICES**

THIS AGREEMENT is made and entered into effective \_\_\_\_\_, between the San Luis & Delta-Mendota Water Authority, hereinafter referred to as "SLDMWA" and \_\_\_\_\_, hereinafter referred to as "Consultant" for professional services as set forth herein.

Task Order Contract: ☐ Yes ☐ No

The following designated Exhibits are incorporated fully into and made a part of this Agreement:

Exhibit A – Scope of Services

Exhibit B – General Terms and Conditions for Professional Services

Exhibit C – Fees, Hourly Rates and Reimbursable Costs/Expenses

Exhibit D – Task Order Format, applicable to Task Order Contracts

IT IS MUTUALLY AGREED, as follows:

### **1. SCOPE OF SERVICES**

Consultant shall provide the professional services described in the Scope of Services set forth in Exhibit A as may be amended or augmented from time to time, and in accordance with this Agreement, any Task Orders applicable to the Agreement, and the General Terms and Conditions for Professional Services set forth in Exhibit B, and for the compensation set forth in Exhibit C, Fees, Hourly Rates, and Reimbursable Costs/Expenses.

Any change in the Scope of the Services, budget or schedule set forth therein, or to any other matter materially affecting the performance of or nature of the professional services will not be paid for or accepted unless such change, addition or deletion be approved in advance, in writing, by SLDMWA.

### **2. TERM OF AGREEMENT AND PERFORMANCE SCHEDULE**

This Agreement shall become effective as of the date indicated and shall continue until the earlier of the completion of all required services or five (5) years from the effective date of the Agreement.

### **3. PARTY REPRESENTATIVES AND NOTICES**

Each party's designated representative for administration of this Agreement and receipt of notices is designated below. All notices or other communications provided for by the Agreement shall be in writing and shall be sent by 1) personal delivery, 2) nationally-recognized overnight

delivery service (such as Federal Express) which provides evidence of delivery, 3) first class United States mail (postage prepaid), registered or certified, return receipt requested, or 4) e-mail with a copy by first class U.S. mail. Notice shall be deemed received on the date actually delivered if delivered by personal delivery, overnight delivery, or U.S. Mail with return receipt requested and delivered during normal business hours on a business day. Notice by e-mail shall be deemed delivered on the date of transmission, unless the same is after 5:00 p.m. or on a weekend or holiday, in which event delivery shall be on the next business day. A party may change its address for notices under the Agreement by giving notice as provided herein. Notices shall be sent to the following party representatives at the following addresses:

<u>SLDMWA</u>	<u>Consultant</u>
Federico Barajas San Luis & Delta-Mendota Water Authority 400 Capitol Mall, 28th Floor Sacramento, CA 95814 <a href="mailto:federico.barajas@sldmwa.org">federico.barajas@sldmwa.org</a> 916-321-4519	

**IN WITNESS WHEREOF**, this Agreement has been executed by and on behalf of the parties hereto, the day, month and year so indicated above. If Consultant is a corporation, partnership or limited liability company, documentation must be provided that the person signing below for Consultant has the authority to do so and to so bind Consultant to the terms of this Agreement.

<u>San Luis &amp; Delta-Mendota Water Authority</u>	<u>Consultant</u>
By: _____ Federico Barajas Executive Director San Luis & Delta-Mendota Water Authority	By: _____ [Signature and Title] _____ Print Name

## **EXHIBIT A SCOPE OF SERVICES**

Consultant will provide technical support to SLDMWA, as directed. Individual work efforts, specific tasks, assignments, deliverables, and associated cost estimates will be described in acceptable detail in sequential Task Orders. Consultant cost accounting, work description detail, and invoicing will track specific work efforts according to Task Order.



## **EXHIBIT B GENERAL CONDITIONS**

### **ARTICLE 1. SCOPE OF SERVICES OF CONSULTANT**

A. Services: Consultant's Services consist of the Scope of Services described in **Exhibit A** to the Agreement, all in accordance with all terms of the Agreement and applicable laws and regulations.

B. Changes/Amendments: Consultant's Services may be changed or amended only by written amendment executed by SLDMWA and Consultant. No claim for any additional compensation or time shall be valid unless authorized by a written amendment.

C. Trust and Confidence: Consultant accepts the relationship of trust and confidence established between SLDMWA and Consultant by the Agreement.

D. Consultant's Skills and Compliance with Professional Standards: Consultant represents and warrants that it is skilled in the professional calling necessary to perform all services, duties and obligations required by the Agreement; that it will perform its Services under this Agreement with the degree of skill and diligence normally practiced in the same industry by consultants performing the same or similar services. Consultant shall comply with all Federal, State, County, local and other governing laws, rules and regulations applicable to the performance of the Services.

E. Independent Contractor: Consultant shall be an independent contractor, and neither Consultant nor any employee of Consultant or its sub-consultants shall be deemed to be an employee of SLDMWA.

F. No Relation with Sub-consultants: Nothing in the Agreement shall create any contractual relation between SLDMWA and any sub-consultants, or their agents and employees, employed by Consultant. No sub-consultants, agents, employees or other parties are third party beneficiaries of the Agreement. Consultant shall be responsible to SLDMWA for the acts and omissions of its employees, sub-consultants, and their agents and employees, and other persons performing any of the work under the Agreement.

Note: See Article 18 for additional terms applicable to Task Order Contracts.

### **ARTICLE 2. SCHEDULE**

A. Consultant shall perform in accordance with the time specified in the Agreement.

B. Any delays in or failure of performance by either party under this Agreement (except payment of compensation under Article 6) shall not constitute default hereunder and neither party shall be liable to the other for failure to perform its obligations hereunder if and to the extent that such failure to perform is caused by or results from force majeure which shall be defined to be causes or occurrences beyond the control of the party affected, including, but not limited to, acts of governmental authority, acts of God, strikes or other concerted acts of workmen, unavailability of labor or materials and operating equipment, fires, floods, explosions, riots, war, rebellion, insurrection and sabotage; provided, however, that the party whose performance is

delayed shall have given notice and full description of the cause of the delay in writing to the other party as soon as possible after the occurrence of the cause relied on by it.

### **ARTICLE 3. CONFLICTS OF INTEREST**

Consultant shall not have a familial, financial, or investment interest in any of the persons, contractors or companies with responsibilities related to the work described in Exhibit A or any Task Orders. A familial interest exists if any of Consultant's officers, directors, employee(s) providing professional services to SLDMWA, or owners of 10% or more of the business is the spouse, sibling, parent, child, grandparent, grandchild, aunt/uncle or niece/nephew of any of the officers, directors, project managers, or owners of 10% or more of the business of any of the persons, contractors or companies with responsibilities related to the work described in Exhibit A or any Task Orders. Consultant affirms that, to the best of its knowledge, there exists no actual or potential conflict between family, business, or financial interests of Consultant and SLDMWA. Consultant agrees to advise SLDMWA of any actual or potential conflicts of interest that may develop subsequent to the date of execution of the Agreement.

### **ARTICLE 4. ASSIGNMENT AND SUBCONTRACTING**

Except as expressly authorized herein, Consultant shall neither assign its rights nor delegate its duties under the Agreement without prior written consent of SLDMWA. This prohibition of assignment and delegation extends to all assignments and delegations that lawfully may be prohibited by agreement. Except as expressly allowed in the Agreement, Consultant shall not subcontract any of the work to be performed or services to be rendered without the prior consent of SLDMWA.

### **ARTICLE 5. NON-DISCRIMINATION**

Consultant shall not discriminate against any employee or potential employee on the basis of prohibited criteria, as defined in Government Code section 12940. Without limiting the foregoing in any way, during the performance of this Agreement, Consultant and its sub-Consultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Consultant and sub-Consultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and sub-Consultants shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Consultant and its sub-Consultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement. Consultant shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

## **ARTICLE 6.     COMPENSATION; TAXES**

A.     Professional Services: Consultant agrees to perform the Basic Services and any authorized Extra Services, and SLDMWA agrees to pay Consultant for such services in accordance with **Exhibit C** to the Agreement, or such other rates for Extra Services as may be expressly agreed upon in writing between SLDMWA and Consultant.

B.     Reimbursable Consultant Costs/Expenses: SLDMWA recognizes that certain costs and expenses associated with the services performed may be reimbursable to Consultant. Categories of costs/expenses that may be considered for reimbursement are included in **Exhibit C**. Payments to Consultant for reimbursable costs/expenses will be made only after the specific costs/expenses have been incurred and invoicing has been verified by submission of substantiating documentation, such as copies of paid invoices or other documentation confirming that such costs/expenses have been incurred by Consultant.

C.     Invoicing: Consultant shall submit one (1) invoice monthly to SLDMWA, including applicable time records and identification of any deliverables submitted during the billing period, for the work performed the prior month at rates not to exceed those stated in **Exhibit C**, with email copy to Sandi Ginda, A/P Technician, San Luis & Delta-Mendota Water Authority, at [sandi.ginda@sldmwa.org](mailto:sandi.ginda@sldmwa.org) or via U.S. Mail at P.O. Box 2157, Los Banos, CA 93635. If applicable, Consultant's invoice also shall include reimbursable costs/expenses incurred for the billing period. Invoices requesting reimbursement for costs/expenses incurred during the billing period must clearly list items for which reimbursement is being requested and be accompanied by proper documentation (*e.g.* receipts, invoices).

D.     Payment: Invoices received by SLDMWA on or before the 15<sup>th</sup> day of a given month and subsequently approved by SLDMWA will be paid by SLDMWA before the end of the following month. All other properly invoice amounts shall be paid not more than forty-five (45) days after delivery of an invoice. Disputed invoices shall be returned to Consultant within ten (10) working days of receipt.

E.     Payment Disputes: SLDMWA may dispute any invoice or portion thereof which is not properly documented and in accordance with the Agreement. For any disputed payment, SLDMWA shall provide written notice describing its dispute to Consultant.

F.     Taxes: Any and all taxes imposed or assessed on Consultant's income by reason of this agreement or its performance, including but not limited to sales or use taxes, shall be paid by Consultant. Consultant shall be responsible for any taxes or penalties assessed by reason of any claims that Consultant is an employee of SLDMWA.

## **ARTICLE 7.     SLDMWA'S OBLIGATIONS**

SLDMWA shall cooperate with Consultant to facilitate the conduct of Consultant's performance of its services under this Agreement, including for purposes of the exchange of information and consultation, as well as to provide access as required to any SLDMWA facilities that are the subject of the services. Consultant's primary source of contact with the SLDMWA shall be the contact designated in the Agreement.

## **ARTICLE 8. CONFIDENTIAL INFORMATION**

A. Confidential Information shall be (a) any and all information provided by SLDMWA (the "Disclosing Party") to Consultant (the "Receiving Party") that is labeled and/or marked confidential, and if disclosed orally, summarized in written format within (30) calendar days of disclosure and identified as "confidential", "trade secret", or "proprietary", and (b) information that is not labeled as "confidential", "trade secret", or "proprietary" but after which SLDMWA notifies Consultant as being "confidential", "trade secret", or "proprietary", SLDMWA shall retain all ownership rights over its Confidential Information.

B. The Confidential Information will be kept confidential, and will not, without SLDMWA's prior written consent, be disclosed by Consultant, in any manner whatsoever, in whole or in part, and shall not be used in any manner directly or indirectly by Consultant, other than in connection with providing services under this Agreement.

C. Confidential Information does not include information which (i) at the time of disclosure is within the public domain through no breach of this Agreement by Consultant; (ii) has been known or independently developed by and is currently in the possession of Consultant prior to disclosure or receipt hereunder; (iii) was or is acquired by Consultant from a third party (other than a Member customer contacted by Consultant through the operation of this Agreement) who did not to Consultant's knowledge breach an obligation of confidentiality by disclosing it to Consultant.

D. Consultant will retain the Confidential Information only so long as it is necessary to perform Consultant's tasks under this Agreement, and after such time, the Confidential Information will be returned to SLDMWA (or at SLDMWA's written option, destroyed), and Consultant will retain no copies of the Confidential Information.

## **ARTICLE 9. INSURANCE**

A. Required Policies: Consultant and any sub-consultants shall procure and maintain insurance on all of its operations during the progress of its work described in Exhibit A or any Task Orders, with reliable insurance companies approved by the State of California Department of Insurance and with a Bests' rating of no less than (B+) Level VII, on forms acceptable to SLDMWA, for the following minimum insurance coverages, which may be increased or expanded by the Agreement:

1. Workers' Compensation insurance and occupational disease insurance, as required by law, with limit of no less than \$1,000,000 per accident for bodily injury or disease;
2. Employer's liability insurance, with minimum limits of \$1,000,000, covering all workplaces involved in the Agreement.
3. Commercial General Liability Insurance in an amount not less than \$2,000,000 combined single limit per occurrence for bodily injury, property damage, personal injury, advertising liability, blanket contractual liability,

Consultant's obligations under this Agreement, products and completed operations, and coverage for independent contractors with limits of not less than two million dollars (\$2,000,000) for each occurrence or the full per occurrence limits of the policies available, whichever is greater. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

4. Commercial Automobile Insurance for all owned, non-owned and hired vehicles used by Consultant in the performance of its services under this Agreement with a limit of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.
5. Professional Liability Insurance, written on a "Claims Made Basis," with limits of liability in amounts not less than \$1,000,000 per claim and \$2,000,000 aggregate, insuring Consultant, for its own acts and for the acts of all persons for whose acts Consultant may be liable, against liabilities arising out of or in connection with negligent acts, errors, or omissions in connection with the carrying out of their professional responsibilities under the Agreement. Consultant shall provide SLDMWA proof of professional liability insurance coverage for two years following final completion of the Agreement.

B. Additional Terms:

1. All general liability policies shall name SLDMWA, its elected or appointed officers, officials, agents, authorized volunteers and employees as additional insureds ("Additional Insureds"), include a severability of interest provision, and shall provide that such policy is primary and not contributory with any insurance carried by SLDMWA or its Members.
2. The insurance to be provided by Consultant under this Agreement shall not include any of the following: except for Professional Liability Insurance, any claims-made insurance policies; any self-insured retention or deductible amount greater than two hundred fifty thousand dollars (\$250,000) unless approved in writing by SLDMWA; any endorsement limiting coverage available to SLDMWA that is otherwise required by this Article 9; and any policy or endorsement language that (i) negates coverage to SLDMWA for SLDMWA's own negligence; (ii) limits the duty to defend SLDMWA under the policy; (iii) provides coverage to SLDMWA only if Consultant is negligent, or (iv) permits the recovery of defense costs from any additional insured. The insurance provided under this Agreement shall not contain any restrictions or limitations which are inconsistent with SLDMWA's rights under this Agreement.
3. Consultant shall provide Certificates of Insurance, or other evidence of insurance as requested by SLDMWA, to SLDMWA within ten (10) days

after receipt by Consultant of the executed Agreement. The certificates shall provide that there will be no cancellation, suspension, voiding or change of coverage without thirty (30) days' prior written notice to SLDMWA. There shall be no reduction or modification of coverage of insurance required by the Agreement without the written consent of SLDMWA. Consultant shall provide SLDMWA with a new or renewed certificate of insurance upon any changes or modifications to coverage, including any extension or renewal of required insurance coverage; provided that any changes or modifications to coverage shall be consistent with this Agreement.

4. The insurer(s) issuing the required policies shall, by separate endorsement, agree to waive all rights of subrogation against the "Additional Insureds" for losses arising in any manner from the products or work provided or performed by or on behalf of Consultant for SLDMWA, but this provision applies regardless of whether or not SLDMWA has received the waiver of subrogation.

#### **ARTICLE 10. INDEMNITY; NO LIABILITY FOR CONSEQUENTIAL DAMAGES**

A. Consultant shall, with respect to all work which is covered by or incidental to the Agreement, defend, indemnify, and hold harmless SLDMWA, its officers, directors, agents, representatives and employees (collectively "SLDMWA"), from and against any and all liens and claims asserted by firms or individuals claiming through Consultant, and claims, liability, loss, damage, civil fines, penalties, costs, or expenses, including reasonable attorneys' fees, expert's fees, awards, fines, or judgments, relating to the death or bodily injury to persons, injury to property, other loss, damage, or expense to the extent that any of the above arise out of, pertain to, or relate to the negligence, recklessness, willful misconduct or breach of this Agreement by Consultant or anyone acting under its direction or control or on its behalf in the course of its performance under this Agreement. Consultant's duty shall include the duty to defend the indemnitees as required by Civil Code section 2778, which duty shall arise from the need for defense and is not contingent upon a finding of liability for indemnification, and Consultant shall employ counsel reasonably acceptable to SLDMWA for this defense obligation. Consultant shall not be obligated under the Agreement to indemnify SLDMWA to the extent that the damage is caused by the active or sole negligence or willful misconduct of SLDMWA or its agent or servants other than Consultant.

B. SLDMWA shall defend, indemnify, and hold harmless Consultant, its officers, directors, agents, representatives and employees (collectively "Consultant") from and against any and all claims, liability, loss, damage, civil fines, penalties, costs, or expenses, including reasonable attorneys' fees, expert's fees, awards, fines, or judgments, relating to the death or bodily injury to persons, injury to property, other loss, damage, or expense to the extent that any of the above arise out of, pertain to, or relate to the negligence, recklessness, willful misconduct or breach of this Agreement by SLDMWA or anyone acting under its direction or control or on its behalf in the course of its performance under this Agreement other than Consultant. SLDMWA's duty shall include the duty to defend the indemnitees as required by Civil Code section 2778, which duty shall arise from the need for defense and is not contingent upon a finding of liability for indemnification, and SLDMWA shall employ counsel reasonably acceptable to Consultant for this defense obligation. SLDMWA shall not be obligated under the Agreement to indemnify Consultant to the extent that the damage is caused by the active or sole negligence or willful misconduct of Consultant or its agent or servants.

C. Where any claim results from the joint negligence, gross negligence, willful misconduct or breach of any provision of this Agreement by SLDMWA and Consultant, the amount of such claim for

which SLDMWA or Consultant is liable as indemnitor under this Article shall equal (i) the proportionate part that the amount of such claim attributable to such indemnitor's negligence, gross negligence, willful misconduct or breach of any provision of this Agreement bears to, and (ii) the amount of the total claim attributable to the joint negligence, gross negligence, willful misconduct or breach of any provision of this Agreement at issue.

D. Consultant and SLDMWA each agree to promptly serve notice on the other party of any claims arising hereunder, and shall cooperate in the defense of any such claims.

E. The acceptance by SLDMWA or its representatives of any certificate of insurance providing for coverage of any kind shall in no event be deemed a waiver of any of the provisions of this Article. None of the foregoing provisions shall deprive SLDMWA of any action, right or remedy otherwise available by law.

F. Except to the extent of any insurance coverage, neither Consultant nor SLDMWA shall be responsible to the other for any form of consequential damages, including, but not limited to losses of use, sale, profits, financing, business and reputation, and attorney fees thereon. Nothing in these provisions or in this Agreement shall waive, release or compromise any insurance requirements or coverages required in Article 9.

#### **ARTICLE 11. INTELLECTUAL PROPERTY INFRINGEMENT**

Consultant shall defend, indemnify and hold SLDMWA free and harmless from and against, any loss, cost and expense that SLDMWA incurs because of a claim that any deliverables, materials or equipment (hereinafter "Product") provided pursuant to this Agreement infringes on the intellectual property right of others.

#### **ARTICLE 12. LIMITATION OF LIABILITY**

Except as otherwise set forth in Article 10 of this Agreement, in no event will Consultant be liable to SLDMWA for any incidental, indirect, special, consequential or punitive damages or lost profits of SLDMWA. The aggregate total liability of Consultant arising from or related to SLDMWA's engagement of Consultant shall not exceed the recoveries from insurance provided or, if none, an amount equivalent to the fee paid by SLDMWA to Consultant for its services under this Agreement.

#### **ARTICLE 13. USE AND OWNERSHIP OF WORK PRODUCT**

As used in this Agreement, the term "Work Product" means any and all deliverables or materials fixed in a tangible medium of expression, including software code, written procedure, written documents, abstracts and summaries thereof, or any portions or components of the foregoing created, written, developed, conceived, perfected or designed in connections with the services provided under this Agreement. SLDMWA shall retain all rights, title and interest in and to the Work Product, including all intellectual property rights therein and any and all enhancements, improvements and derivative works thereof, and Consultant obtains no rights therein.

#### **ARTICLE 14. TERMINATION OF AGREEMENT**

This Agreement may be terminated by either party upon 30 days' written notice, with or without cause, upon written notification to the other party. Following such termination, SLDMWA shall pay Consultant all unpaid sums due for services performed under this Agreement to the date of termination, plus reasonable expenses for winding down the services. Following such payment, SLDMWA shall have the right to immediate possession of all documents, files (including electronic files), and other Work Product. No termination of the Agreement shall excuse or otherwise relieve Consultant of its responsibilities under the Agreement, including, without limitation, the standard of care for its work and services and its indemnity obligations. All of such responsibilities under the Agreement with respect to work and/or services performed prior to the date of termination shall survive any termination.

#### **ARTICLE 15. RECORDS AND AUDIT**

SLDMWA or SLDMWA's authorized representative shall have access, upon reasonable notice and during normal business hours during the term of the Agreement and for a period of two (2) years thereafter, to Consultant's books and records and all other documentation pertaining to Consultant's services under this Agreement for the purpose of auditing and verifying the cost of such services or for any other reasonable purpose. Such access includes the right to make excerpts, transcriptions and photocopies at SLDMWA's expense.

#### **ARTICLE 16. DISPUTE RESOLUTION**

Consultant and SLDMWA shall attempt to resolve conflicts or disputes that arise under this Agreement or that relate in any way to this Agreement or the subject matter of this Agreement in a fair and reasonable manner. The parties agree to attempt to mediate through a professional mediator any conflicts or disputes not otherwise resolved by the parties, with the costs of mediation shared equally by the parties. If the mediation does not settle the conflict or dispute, the parties may agree in writing to binding arbitration, or the matter may proceed in litigation before a court of competent jurisdiction. Neither party shall commence or pursue arbitration or litigation prior to (1) the completion of mediation proceedings, and (2) prior to completion of Consultant's services under this Agreement.

#### **ARTICLE 17. ADDITIONAL PROVISIONS**

A. Successors and Assigns: SLDMWA and Consultant each binds itself, its partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in the Agreement. Consultant shall not assign the Agreement or sublet it in whole or part without the written consent of SLDMWA, nor shall Consultant assign any moneys due or to become due to it hereunder without the prior written consent of SLDMWA.

B. Unenforceability of any Clause: If any clause or provision of the Agreement is held to be unenforceable or invalid, then that provision of the Agreement shall be stricken and all other provisions of this Agreement shall remain in full force and effect and shall not be effected thereby.



C. Waiver of Breach: Failure by one party to notify the other of a breach of any provision of this Agreement shall not constitute a waiver of any continuing breach. Failure by one party to enforce any of its rights under this Agreement shall not constitute a waiver of those rights. The waiver by either Party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or any other provision hereof.

D. Entire Agreement: The Agreement, including all exhibits, represents the entire and integrated agreement between SLDMWA and Consultant and supersedes all prior negotiations, representations or agreements, either written or oral. No changes, amendments, alterations or modifications to this Agreement will be effective unless in writing and executed in the same manner as the Agreement.

E. Interpretation: The Agreement shall be construed and interpreted in accordance with the laws of the State of California.

F. Headings: The titles of sections of these General Conditions are for convenience only and no presumption or implication of the intent of the parties as to the construction of this Agreement shall be drawn therefrom.

## **ARTICLE 18. ADDITIONAL PROVISIONS FOR TASK ORDER CONTRACTS**

In addition to all of the foregoing provisions, the following apply when this Agreement is designated as a "Task Order Contract".

A. Where this Agreement is indicated to be a Task Order Contract, the Agreement will consist of the individual projects defined by Task Orders entered into by the Parties during the term of and pursuant to this Agreement. Each Task Order will be numbered sequentially and will be similar in format to **Exhibit D**, entitled "Task Order Format," attached hereto and incorporated herein by this reference. Each Task Order will specifically define the scope of work for each specific project on which SLDMWA desires to retain Consultant's services. Each Task Order will also specify (1) the date on which the work covered by the Task Order is to begin; (2) the date on which the work covered by the Task Order is to be completed; (3) the estimated charges that SLDMWA can expect to pay to Consultant for Consultant's services pursuant to such Task Order; and (4) the names of the persons who will be SLDMWA's and Consultant's respective principal representatives for the management and performance of the specific services covered by said Task Order.

B. The specific services covered by each separate Task Order will be undertaken by Consultant only upon receipt of a Task Order signed by an authorized representative of SLDMWA and accepted by an authorized representative of Consultant.

C. Consultant will commence performing the services specified by each Task Order on the commencement date specified in the Task Order, and will complete such services within the time and monetary limitations specified in the Task Order. If Consultant, in the course of performing its services under any given Task Order, determines it will be unable to complete the services within the time schedule or authorized limit of charges specified in the Task Order, it will promptly so notify SLDMWA of such determination. Within fourteen (14) days of said notification, SLDMWA will inform Consultant as to how SLDMWA chooses to proceed.

D. All invoices for services shall identify the Task Order number.

E. SLDMWA will have the right to terminate Consultant's services under any specific Task Order at any time by giving notice in writing to Consultant. Consultant will not be entitled to payment for any cost related to the terminated part of services covered by the Task Order and incurred after the effective date of termination except for costs directly related to work performed by Consultant in terminating; provided that such work is authorized in advance by SLDMWA's representatives under such Task Order. SLDMWA also will reimburse Consultant for all expenses incurred by Consultant in satisfying commitments for materials, equipment and services for use in the terminated work which were made by Consultant prior to such termination. Such expenses may include the cost of returning or disposing of unused materials and equipment and terminating agreements for services by third parties. Consultant, however, will use its best efforts to minimize such costs. This paragraph provides the full and exclusive compensation to Consultant in the event of a terminated Task Order or termination of a Task Order Contract.

F. The limitation of liability in Article 12 is modified such that, if the conduct by Consultant giving rise to the loss occurs under one or more Task Orders, the aggregate total liability of Consultant arising from or related to SLDMWA's engagement of Consultant shall not exceed the recoveries from insurance provided or, if none, an amount equivalent to the fee paid by SLDMWA to Consultant for its services under the applicable Task Orders.

## **EXHIBIT C**

### **FEES, HOURLY RATES AND REIMBURSABLE COSTS/EXPENSES**

Fees, hourly rates, and reimbursable costs/expenses will be described in acceptable detail in sequential Task Orders.

## EXHIBIT D TASK ORDER FORMAT

### [TITLE] Detailed Scope of Work

#### TASK 1 – [TITLE]

[Description]

#### TASK 2 – [TITLE]

[Description]

**Basis for Payment:**

**Budget Maximum:**

**Estimate of Time Schedule:**

**SLDMWA Project Lead:** [Name] [Email]

**Consultant Project Lead:** [Name] [Email]

**Special Instructions:**

**Accepted:**

<u>San Luis &amp; Delta-Mendota Water Authority</u>	<u>Consultant</u>
By: _____ Federico Barajas Executive Director San Luis & Delta-Mendota Water Authority  Date: _____	By: _____ [NAME] [TITLE] [ORGANIZATION]  Date: _____

## Attachment 4: Public Draft Groundwater Sustainability Plan for the Northern & Central Delta-Mendota Regions

The Public Draft GSP and its appendices can be found at:

**[www.deltamendota.org/NCDM-gsp-review/#ReviewDocs](http://www.deltamendota.org/NCDM-gsp-review/#ReviewDocs)**