



SANTA CLARITA VALLEY WATER AGENCY (SCV WATER)

STANDARD CONTRACT RISK TRANSFER PROVISIONS,
GENERAL CONDITIONS, REQUIRED INSURANCE
and CALIFORNIA LABOR CODE REQUIREMENTS
for

PROFESSIONAL SERVICES and NON-CONSTRUCTION CONTRACTS

Typical SCV Water services that would use Professional Services Contracts: engineers, attorneys, accountants, planners, design professionals and other consultants.

1. RISK TRANSFER PROVISIONS

- 1.1. **Workers' Compensation Insurance** - By his/her signature hereunder, Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing the performance of the work of this Agreement.
- 1.2. **Indemnification** - To the fullest extent permitted by law, Consultant will immediately defend, indemnify and hold harmless SCV Water, its directors, officers, employees, or authorized volunteers, and each of them (collectively "the Agency") from and against:
 - 1.2.1. All claims, demands, liabilities and losses arising out of the performance (or actual or alleged non-performance) of the services by Consultant, including its agents and employees, under this Agreement, for damages to persons or property arising, pertaining to or relating to the Consultant's negligent acts or omissions or willful misconduct or the failure of Consultant to comply with any professional standard of care applicable to Consultant's services.
 - 1.2.2. Any and all actions, proceedings, damages, costs, expenses, penalties or liabilities, in law or equity, of every kind or nature whatsoever, arising out of, resulting from, or on account of the intentional or negligent violation of any governmental law or regulation, compliance with which is the responsibility of Consultant.
 - 1.2.3. Any and all losses, expenses, damages (including damages to the work itself), attorneys' fees, and other costs, including all costs of defense, including but not only costs of counsel acceptable to the SCV Water, which any of them may incur with respect to the failure, neglect, or refusal of Consultant to perform the work and all of the Consultant's obligations under the Agreement. Such costs, expenses, and damages shall include all costs, including attorneys' fees, incurred by the indemnified parties in any lawsuit to which they are a party.

- 1.2.4. Consultant shall immediately defend upon the SCV Water's tender, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against SCV Water or its directors, officers, employees, authorized volunteers, and/or representatives, notwithstanding whether Consultant's liability can be established or not. Consultant shall further defend itself against any and all liabilities, claims, losses, damages, and costs arising out of or alleged to arise out of performance or non-performance of the work hereunder, and shall not tender such claims to SCV Water nor to its directors, officers, employees, or authorized volunteers, for defense or indemnity.
- 1.2.5. Consultant's obligation to defend and indemnify shall survive the termination or completion of this Agreement for the full period of time allowed by law and shall not be restricted by the insurance requirements of this Agreement or to insurance proceeds, if any received by SCV Water, or its directors, officers, employees, or authorized volunteers.
- 1.2.6. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against SCV Water or its directors, officers, employees, or authorized volunteers, in any and all such aforesaid suits, actions, or other legal proceedings if arising as provided in the previous subsections of this Section.
- 1.2.7. Consultant shall reimburse SCV Water or its directors, officers, employees, or authorized volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith.
- 1.2.8. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the SCV Water or its directors, officers, employees, or authorized volunteers.

Notwithstanding the foregoing obligations, Consultant shall not at any time be responsible for any claims, liabilities or demands to the extent that they arise from the negligence or willful misconduct of SCV Water, provided, however, that contributory negligence will not relieve Consultant of its obligation to defend unless the claims, liabilities or demand are the result of the sole negligence or willful misconduct of SCV Water.

2. GENERAL CONDITIONS

- 2.1. **Laws, Regulations and Permits** - The Consultant shall give all notices required by law and comply with all laws, ordinances, rules, and regulations pertaining to the conduct of the work. The Consultant shall be liable for all violations of the law in connection with work furnished by the Consultant. If the Consultant performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, the Consultant shall bear all costs arising therefrom.
- 2.2. **Safety** - The Consultant shall execute and maintain his/her work so as to avoid injury or damage to any person or property.

In carrying out his/her work, the Consultant shall at all times exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the

conditions under which the work is to be performed, and be in compliance with all applicable federal, state and local statutory and regulatory requirements including State of California, Department of Industrial Relations (Cal/OSHA) regulations, and the U.S. Department of Transportation Omnibus Transportation Employee Testing Act. Safety precautions, as applicable, shall include but shall not be limited to: adequate life protection and life-saving equipment; adequate illumination; instructions in accident prevention for all employees, such as the use of machinery guards, safe walkways, scaffolds, ladders, bridges, gang planks, confined space procedures, trenching and shoring, fall protection, and other safety devices; equipment and wearing apparel as are necessary or lawfully required to prevent accidents, injuries, or illnesses; and adequate facilities for the proper inspection and maintenance of all safety measures.

- 2.3. **Labor Compliance Requirements** - Labor Compliance requirements (Prevailing Wage, SB 854): Contractor/Vendor must comply with all labor compliance requirements including but not limited to prevailing wage requirements, SB 854, Labor Code sections 1771.1(a) & 1725.5, Public Works Contractor Registration Program, and Electronic Certified Payroll Records to Labor Commissioner. Additional information about these requirements and the new public works program regarding compliance monitoring, administration and enforcement are available at the Department of Industrial Relations.

3. REQUIRED INSURANCE

- 3.1. **Liability Insurance** - The Consultant shall provide and maintain at all times during the performance of the work under this Agreement, the following commercial general liability, professional liability and automobile liability insurance:
- 3.2. **Coverage** - Coverage shall be at least as broad as the following:
- 3.2.1. Coverage for Professional Liability appropriate to the Consultant's profession covering Consultant's wrongful acts, negligent actions, errors or omissions. The retroactive date (if any) is to be no later than the effective date of this Agreement.
 - 3.2.2. Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG 0001).
 - 3.2.3. Insurance Services Office (ISO) Business Auto Coverage (Form CA 0001), covering Symbol 1 (non-owned and hired automobiles).
- 3.3. **Limits** - The Consultant shall maintain limits no less than the following:
- 3.3.1. Professional Liability – Two million dollars (\$2,000,000) per claim and annual aggregate.
 - 3.3.2. General Liability – Two million dollars (\$2,000,000) per occurrence or the full per occurrence limits of the policies available, whichever is greater for bodily injury, personal injury and property damage and products & completed operations liability. If Commercial General Liability Insurance or other form with a general aggregate limit or products-completed operations aggregate limit is used, either the general aggregate limit shall apply separately to the project/location (with the

ISO CG 2503, or ISO CG 2504, or insurer's equivalent endorsement provided to the SCV Water) or the general aggregate limit and products-completed operations aggregate limit shall be twice the required occurrence limit.

- 3.3.3. Automobile Liability – One million dollars (\$1,000,000) for bodily injury and property damage each accident limit.
- 3.3.4. Excess Liability – The limits of Insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the Agency (if agreed to in a written contract or agreement) before the Agency's own primary or self-Insurance shall be called upon to protect it as a named insured.

3.4. **Required Provisions** - The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- 3.4.1. The SCV Water, its directors, officers, employees, and authorized volunteers are to be given insured status at least as broad as ISO endorsement CG 20 10 11 85; or both CG 20 10 and CG 20 37 04 13 (or the 20 10 04 13 (or earlier edition date) specifically naming all of the Agency parties required in this agreement, or using language that states "as required by contract"). All Sub-consultants hired by Consultant must also have the same forms or coverage at least as broad; as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; and automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the SCV Water, its directors, officers, employees, or authorized volunteers.
- 3.4.2. For any claims related to this project, the Consultant's insurance shall be primary insurance as respects the SCV Water, its directors, officers, employees, or authorized volunteers using the ISO CG 20 01 04 13 or coverage at least as broad. Any insurance, self-insurance, or other coverage maintained by the SCV Water, its directors, officers, employees, or authorized volunteers shall not contribute to it.
- 3.4.3. Any failure to comply with the reporting or other provisions of the policies including breaches and warranties shall not affect coverage provided to the SCV Water, its directors, officers, employees, or authorized volunteers.
- 3.4.4. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- 3.4.5. Such liability insurance shall indemnify the Consultant and his/her Sub-consultants against loss from liability imposed by law upon, or assumed under contract by, the Consultant or his/her Sub-consultants for damages on account of such bodily injury (including death), property damage, personal injury, completed operations, and products liability.

- 3.4.6. The general liability policy shall cover bodily injury and property damage liability, owned and non-owned equipment, blanket contractual liability, completed operations liability, explosion, collapse, underground excavation and removal of lateral support.
- 3.4.7. The automobile liability policy shall cover all owned, non-owned, and hired automobiles.
- 3.4.8. Each insurance policy required by this Agreement shall state, or be endorsed to state, that coverage shall not be canceled by the insurance carrier or the Consultant, except after thirty (30) days (10 days for non-payment of premium) prior written notice by U.S. mail has been given to the SCV Water.
- 3.4.9. All of the insurance shall be provided on policy forms and through companies satisfactory to the SCV Water.
- 3.5. **Workers' Compensation and Employer's Liability Insurance** - The Consultant and all Sub-consultants shall cover or insure under the applicable laws relating to workers' compensation insurance, all of their employees employed directly by them or through Sub-consultants in carrying out the work contemplated under this Agreement, all in accordance with the "Workers' Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any Acts amendatory thereof. The Consultant shall provide employer's liability insurance with limits of no less than \$1,000,000 each accident, \$1,000,000 disease policy limit, and \$1,000,000 disease each employee.
- 3.6. **Deductibles and Self-Insured Retentions** - Any deductible or self-insured retention must be declared to and approved by the SCV Water. At the option of the SCV Water, the insurer shall either reduce or eliminate such deductibles or self-insured retentions. Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named or additional insureds, co-insurers, and/or insureds other than the First Named Insured.
- 3.7. **Acceptability of Insurers** - Insurance is to be placed with insurers having a current A.M. Best rating of no less than A-:VII or equivalent or as otherwise approved by the SCV Water.
- 3.8. **Evidences of Insurance** - Prior to execution of the Agreement, the Consultant shall file with the SCV Water a certificate of insurance (Acord Form 25 or equivalent) signed by the insurer's representative evidencing the coverage required by this Agreement. Such evidence shall include (1) attached additional insured endorsements with primary & non-contributory wording, (2) Workers' Compensation waiver of subrogation, and (3) a copy of the CGL declarations or endorsement page listing all policy endorsements, and confirmation that coverage includes or has been modified to include Required Provisions 6.4.1 through 6.4.9. The Agency reserves the right to obtain complete, certified copies of all required insurance policies, at any time. Consultant shall maintain the Insurance required by this Agreement for a period of not less than 10 years following the termination of completion of this agreement. Consultant further waives all rights of subrogation under this Agreement.

Failure to continually satisfy the Insurance requirements is a material breach of contract.

The Consultant shall, upon demand of the SCV Water, deliver to the SCV Water such policy or policies of insurance and the receipts for payment of premiums thereon.

- 3.9. **Continuation of Coverage** - If any of the required coverages expire during the term of this Agreement, the Consultant shall deliver the renewal certificate(s) including the general liability additional insured endorsement to the SCV Water at least ten (10) days prior to the expiration date. Failure to comply with any of the Insurance requirements shall constitute material breach of contract. The insurance requirements in this Agreement do not in any way represent or imply that such coverage is sufficient to adequately cover the Consultant's obligations under this agreement. All Insurance or self-insurance coverage and limits applicable to a given loss or available to the named insured shall be available and applicable to the additional insured. The insurance obligations under this Agreement are independent of and in addition to the defense and indemnity obligations contained elsewhere in this Agreement and shall not in any way act to limit or restrict the defense or indemnity or additional insure obligations of the Consultant or the Consultant's insurance carrier, and shall be for (1) the full extent of the insurance or self-insurance coverages and limits carried by or available to the Consultant, or (2) the minimum insurance coverage and amounts shown in this Agreement; whichever is greater. Agency reserves the right to add such other parties as may be required in the future to the indemnity and additional insured requirements of this Agreement.
- 3.10. **Sub-Consultants** - In the event that the Consultant employs other consultants ("Sub-Consultants") as part of the services covered by this Agreement, it shall be the Consultant's responsibility to require and confirm that each Sub-consultant meets the minimum insurance requirements specified above.

4. CALIFORNIA LABOR CODE REQUIREMENTS

- 4.1. Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. If the services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws, if applicable. Consultant shall defend, indemnify and hold the Agency, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all Sub-Consultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages, employment of apprentices, hours of labor and debarment of contractors and subcontractors.
- 4.2. Effective March 1, 2015, if the services are being performed as part of an applicable "public works" or "maintenance" project, in addition to the foregoing, then pursuant to Labor Code sections 1725.5 and 1771.1, the Consultant and all sub-consultants must be registered with the Department of Industrial Relations ("DIR"). Consultant shall maintain registration for the duration of the project and require the same of any

sub-consultants. This project may also be subject to compliance monitoring and enforcement by the DIR. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements, including the submission of payroll records directly to the DIR.