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MANAGEMENT TEAM

Interim General Manager, Chris DeGabriele
Plant Operations, Mel Liebmann
Collections/Safety/Maintenance, Greg Pease
Engineering, Michael P. Cortez
Administrative Services, Dale McDonald

DISTRICT BOARD

Megan Clark
Ronald Ford
Craig K. Murray
Judy Schriebman
Crystal J. Yezman

REQUEST for PROPOSALS for Professional Auditing Services

April 29, 2022

***Proposals due at 2:00 p.m. on Friday, May 27, 2022 ***

LAS GALLINAS VALLEY SANITARY DISTRICT
Request for Proposals for Auditing Services

I. INTRODUCTION

A. General Information

Las Gallinas Valley Sanitary District (LGVSD) is requesting proposals from qualified certified public accounting firms to audit its financial statements for the fiscal year ending June 30, 2022, 2023, and 2024, with the option to extend for an additional two years. These audits are to be performed in accordance with generally-accepted auditing standards, governmental auditing standards, Section 26909 of the California Government Code and related State Controller guidelines.

There is no expressed or implied obligation for LGVSD to reimburse responding firms for any expenses incurred in preparing proposals in response to this request.

During the evaluation process, LGVSD reserves the right to request additional information or clarification. At the discretion of LGVSD, firms submitting proposals may be requested to make oral presentations as part of the evaluation process.

LGVSD reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether the proposal is selected. Submission of a proposal indicates acceptance by the firm of the conditions contained in this request for proposals, unless clearly and specifically noted in the proposal submitted and confirmed in the contract between LGVSD and the firm selected.

It is anticipated the selection of a firm will be completed by June 20, 2022. Following the notification of the selected firm it is expected a contract will be executed between both parties in June 2022. LGVSD reserves the right to reject any or all proposals, to waive any non-material irregularities or information in any proposal, and to accept or reject any items or combination of items.

B. Term of Contract

A base three-year contract, with two additional one-year option terms, exercisable at the sole discretion of LGVSD at the annual review and by recommendation by District staff the satisfactory negotiation of terms (including a price acceptable to both the LGVSD and the selected firm), and the concurrence of the Board of Directors.

C. Subcontracting

No subcontracting will be allowed without the prior written consent of LGVSD.

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II. NATURE OF SERVICES REQUIRED

A. Scope of Work to be Performed

LGVSD's goal is to provide our customers with a financial statement that gives accurate and understandable information about LGVSD's financial condition. The following specifications cover the key areas of interest of the Board of LGVSD.

1. The auditor shall express an opinion on the fair presentation of LGVSD's financial statements in conformity with generally accepted accounting principles. The auditor will provide a final electronic copy of the auditor's report for use in LGVSD's Annual Comprehensive Financial Report (ACFR).
2. LGVSD submits its Annual Comprehensive Financial Report (ACFR) to the Government Finance Officers Association (GFOA) for review in the Certificate of Achievement for Excellence in Financial Reporting Program. The auditor shall assist LGVSD in implementing GFOA's prior year's suggestions in LGVSD's ACFR, specifically those related to the format of the audited financial statements and their conformity to current accounting standards. The auditor will provide guidance and technical assistance in completing the Management's Discussion and Analysis (MD&A), financial statements, and required note disclosures.
3. The auditor shall provide professional advice and guidance on implementation of applicable GASB regulations in effect at the time of issuing the statements, including but not limited to implementation of GASB 74 and 75. The auditor will assist LGVSD staff in applying generally-accepted accounting principles and provide the support necessary to maintain sound financial management procedures.
4. The auditor shall submit a written management letter to the Board of Directors that communicates any recommendations for improvement in LGVSD's financial operations, and any deficiencies in internal controls that need to be addressed by LGVSD.
5. The auditor shall also perform a single audit in accordance with the new Uniform Guidance for federal grants if required. No federal grant funds over the single audit threshold are currently being utilized by LGVSD.
6. LGVSD is a member of the Marin Public Financing Authority (JPA) which was formed in 2017 to issue debt for its member agencies, LGVSD and Sausalito-Marín City Sanitary District. The JPA requires an annual audit however; the member agencies are responsible for their proportionate share of the debt issuances and will report them on their financial statements. As part of the audit of LGVSD, an audit will be required of the JPA.

B. Auditing Standards to be Followed

To meet the requirements of this request for proposal, the audit shall be performed in accordance with generally accepted auditing standards as set forth by the American Institute of Certified Public Accountants and any other current standards applicable to a California Special District.

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C. Working Paper Retention and Access to Working Papers

All work papers and reports must be retained, at the auditor's expense, for a minimum of five (5) years, unless the firm is notified in writing by LGVSD of the need to extend the retention period. The work papers are subject to review by federal and state agencies and other individuals designated by the LGVSD. Accordingly, the work papers shall be made available upon request. In addition, the firm shall respond to reasonable inquiries of successor auditors and allow successor auditors to review work papers.

III. DESCRIPTION OF THE DISTRICT

A. Name and Telephone Number of Contact Person

Any questions regarding this proposal or additional information required by the respondents should be directed to Dale McDonald at (415) 472-1734 ext. 19 or in writing to dmcdonald@lqvsd.org.

Mailing address is Las Gallinas Valley Sanitary District, Attn: Dale McDonald, 101 Lucas Valley Road, Suite 300 Road, San Rafael, CA 94903.

B. Background Information

LGVSD was established on April 6, 1954 pursuant to the California Health and Safety Code, Division 6 – Sanitary District Act of 1923. It is located approximately two miles northeast of the City of San Rafael and 20 miles north of San Francisco. It covers an area of about sixteen square miles in the northern part of the City of San Rafael and surrounding unincorporated areas in Marin County, California, including the communities of Lucas Valley, Marinwood, Santa Venetia and Terra Linda. The District's boundaries are Hamilton Field (a former air force base) to the north, San Pablo Bay to the east, and central San Rafael to the south. The District serves a population of approximately 30,000 people. The District is primarily residential and built out, resulting in a fairly stable customer base, but recent legislation promoting Accessory Dwelling Units and affordable housing has resulted in additional development within the District. As of July 1, 2020, the connections are 97.4% residential (12,948 units) and 2.6% commercial/industrial (348 units); however, the revenue from these connections is 77.45% residential and 22.55% commercial.

The wastewater collection system in LGVSD is comprised of approximately one hundred five (105) miles of gravity sewer lines, 6.72 miles of force mains and 28 pump stations. The sewage treatment plant has a permitted capacity of 2.92 million gallons per day. LGVSD also produces recycled water for North Marin Water District and Marin Municipal Water District to distribute to their respective customers.

LGVSD has a five-member Board of Directors and a General Manager. The members of the Board are elected at-large and serve staggered four-year terms.

LGVSD's fiscal year begins on July 1st and ends on June 30th. LGVSD's total operating and maintenance budget for fiscal year 2020/2021 is approximately \$10 million. More detailed information on LGVSD and its finances can be found in the Adopted Budgets and LGVSD's Audited Financial Statements on our website, www.LGVSD.org

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C. Fund Structure

LGVSD's financial activities are reported as a single proprietary fund and utilize the full accrual accounting method. LGVSD uses various funds as needed for accounting of all its transactions.

D. Accounting and Payroll System

LGVSD's accounting and payroll software is the Intuit QuickBooks. It includes the following modules: General Ledger, Accounts Payable, Accounts Receivable, Cash Receipts, etc. The District is migrating to a new accounting system from Caselle in the late summer of 2022. Payroll is processed through ADP Workforce Now.

E. Budgetary Basis of Accounting

LGVSD's Board of Directors adopts an annual budget on a basis consistent with generally accepted accounting principles.

F. Post Employment Benefit Plans

LGVSD participates in the California Public Employee Retirement System (CalPERS), with two retirement tiers: 2.7% at 55 for Classic members and 2.0% at 62 for PEPRA members.

LGVSD has a retirement medical insurance benefit plan with four tiers of benefits. It is pre-funded through investment with the California Employers' Retirement Benefit Trust. LGVSD has engaged an outside actuary to perform the required valuations.

G. Availability of Prior Reports and Work Papers

Cropper Accountancy Corporation, in Walnut Creek, California conducted LGVSD's most recent audit. LGVSD's most recent audit reports can be viewed on its website at www.LGVSD.org. Prior reports and supporting working papers will be made available to proposers upon request.

IV. TIME REQUIREMENTS

A. Proposal Calendar

The following is a list of key dates:

<u>Date</u>	<u>Activity</u>
April 29, 2022	Request for Proposal issued
May 27, 2022	Due date for technical and cost proposals (due by 2:00 p.m.)
May 2022	Review of proposals
June 2022	Oral Interviews (<i>conducted at LGVSD's discretion</i>)
June 16, 2022	Recommendation to Board of Directors
June 20, 2022	Selected firm notified
July 5, 2022	Contract start date

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B. Date Audit May Commence

LGVSD anticipated to have all prior records ready for review and management personnel available to meet with the firm's personnel by July 15, 2022. Accounting records will be available to the auditor by mid October 2022, to coincide with the field work schedule. Any changes in time requirements to the commencement of work to the completion of final reports must be approved by LGVSD in advance.

C. Proposed Schedule for FY 2021-22 Audit (A similar time schedule will be developed for audits of future fiscal years and approved by LGVSD by June 30)

1. Preliminary Conference

The purpose of this meeting is to establish the contact persons for the audit, finalize dates of the audit time schedule, and communicate any other details. This meeting will take place in July, 2022.

2. Audit Plan

The auditor shall provide to LGVSD by August 8, 2022, both a detailed Audit Plan (including dates), and a list of all documents to be prepared by LGVSD.

3. Interim Work

The auditor shall complete interim work by August 31, 2022. A list of documents needed for interim work shall be provided by the auditor. Interim work may be performed remotely and intermittently during the 2 months leading up to the field audit. The auditor shall inform LGVSD in advance of the need to perform all or part of the interim work at the LGVSD office.

4. Fieldwork

The auditor shall complete all fieldwork during the period of October 10-21, 2022. Fieldwork will include review of internal controls, audit tests and account verifications

5. Draft Report

The auditor shall assist LGVSD staff to draft the components of the audit report – management's discussion and analysis, financial schedules, notes to financial statements, and other supplementary information, and provide a draft report on or about October 31, 2022.

The auditor shall complete their review of the audit report and provide any changes to LGVSD by November 14, 2022.

The auditor shall draft the Single Audit report and schedules, if required.

6. Presentations to Governing Body

A representative of the audit team who has a clear understanding of the audit and experience in presenting audit reports to public officials shall make brief presentations summarizing the results and findings at the Board meeting on December 1 or December 15, 2022.

7. Final Audit Report

A PDF file with Independent Auditor's Report thereon, should be delivered by December 30, 2022 (after approval by the Board of Directors).

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V. ASSISTANCE TO BE PROVIDED TO THE AUDITOR AND REPORT PREPARATION

A. Finance and Management Personnel

Finance and responsible management personnel will be available during the audit to assist the firm by providing information, documentation, and explanations. Preparation of confirmation letters will be the responsibility of LGVSD. Dale McDonald, Administrative Services Manager, will be responsible for acting as the liaison between the audit firm and LGVSD. Consideration must be given to the on-going tasks of the LGVSD finance personnel.

B. Work Area, Telephone, Photocopying, and Fax Machine

LGVSD will provide the auditor with a reasonable workspace, access to telephone lines, Wi-Fi, printer and photocopying/scanning/fax machine.

C. Report Preparation

LGVSD finance personnel along with consultants from Regional Government Service will prepare audit schedules and the financial statements to be verified and audited by the auditor.

VI. PROPOSAL REQUIREMENTS

A. General Requirements

1. Inquiries concerning this request for proposals and the subject of the request for proposals should be made to Dale McDonald, at the e-mail address or telephone number listed above in section III (A).
2. Submission of Technical Proposal. A PDF copy of the Technical Proposal must be received **by 2:00 p.m. on Friday, May 27, 2022** for a proposal to be considered. The requirements of the technical proposal are described below.
3. Submission of Cost Proposal. A PDF copy of the Cost Proposal must be received **by 2:00 p.m. on Friday, May 27, 2022 as a separate file** to be considered. The requirements of the cost proposal are described below.

Both the Technical Proposal and the Cost Proposal should be e-mailed to Dale McDonald at dmcDonald@lqvsd.org.

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B. Format for Technical Proposal

The format of the Technical Proposal shall be as follows:

1. *Title Page*
Show the RFP subject, name of the audit firm, local address, telephone number, name and title of contact person, and date of submission.
2. *Table of Contents*
Include a clear and complete identification of the materials submitted by section and page number. Cross-referencing to section and page number in the RFP is recommended.
3. *Transmittal Letter*
Include a general introduction and briefly state the proposer's understanding of the audit services to be performed; a positive commitment to perform the service within the time period specified; the name(s) of the person(s) authorized to represent the proposer, title, address, and telephone number.
4. *Detailed Proposal*
The detailed proposal should include all the required content set out in Section C and D below.

C. Contents of Technical Proposal

The purpose of the Technical Proposal is to demonstrate the qualifications, competence and capacity of the firms seeking to undertake an independent audit of LGVSD in conformity with the requirements of this Request for Proposal. As such, the substance of proposals will carry more weight than their form or manner of presentation. The Technical Proposal should demonstrate the qualifications of the firm and of the particular staff to be assigned to this audit. It should also specify an audit approach that will meet the Request for Proposal requirements.

THERE SHOULD BE NO DOLLAR UNITS OR TOTAL COSTS INCLUDED IN THE TECHNICAL PROPOSAL DOCUMENT (*Except when stating the cost of contracts for listed references*).

The Technical Proposal should address all the points outlined in the RFP (excluding any cost information which should only be included in the sealed cost proposal). The proposal should be prepared simply and economically, providing a straightforward, concise description of the proposer's capabilities to satisfy the requirements of the request for proposal. While additional data may be presented, the areas detailed below must be included. They represent the criteria against which the proposal will be evaluated.

1. *License to Practice in California.*

An affirmative statement should be included that the firm and all assigned key professional staff are properly licensed to practice in California.

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2. *Independence*

The firm should provide an affirmative statement that it is independent of LGVSD as defined by generally accepted auditing standards set forth by the U.S. General Accounting Office's *Government Auditing Standards*.

3. *Insurance*

The audit firm shall procure and maintain, for the duration of the agreement, workers' compensation, employer's liability, commercial general liability, and automobile liability insurance against claims for injuries to persons or damages to property which may arise out of or in connection with the performance of the work by the firm, its employees, and its representatives.

Refer to Appendix B, Insurance Requirements for Consultants for the scope and limits of coverage.

4. *Firm Qualifications and Experience*

The proposer should state the size of the firm, the size of the firm's governmental audit staff, the location of the office from which the work on this audit is to be performed, the number and job title of the professional staff that will participate in the audit on a full-time basis as well as the number and job title of the staff that will participate on a part-time basis.

If the proposer is a joint venture or consortium, the qualifications of each firm comprising the joint venture or consortium should be separately identified and the firm that is to serve as the principal auditor should be noted, if applicable.

If the proposer will be subcontracting any portion of the audit to another individual or firm, the proposal must include a list of all subcontractors to be used. No substitutions of subcontractors may be made without prior written consent of LGVSD.

- a. The proposer is also required to submit a copy of the report on its most recent external quality control (peer) review, with a statement whether that quality control review included a review of specific government audits (required by *Government Audit Standards (1994)*).
- b. The proposer shall also provide information on the results of any federal or state desk reviews or field reviews of its audits during the past three (3) years. In addition, the proposer shall provide information on the circumstances and status of any negative actions taken or pending against the firm during the past three (3) years with state regulatory bodies or professional organizations.

5. *Partner, Supervisory and Staff Qualifications and Experience*

- a. Identify the principal supervisory and management staff, including audit partners, managers, and other supervisors and specialists, who would be assigned to the audit and indicate whether each person is licensed to practice as a certified public accountant in California. Also, provide information on the government auditing experience of each person, including information on relevant continuing

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professional education for the past three (3) years and membership in professional organizations relevant to the performance of this audit.

- b. Provide as much information as possible regarding the number, qualifications, experience and training, including relevant continuing professional education, of the specific staff to be assigned to this audit. **Indicate how the quality of staff will be assured over the term of the agreement.**
- c. Principal supervisory and management staff, including audit partners, managers, other supervisors and specialists may be changed during the course of the agreement, however, LGVSD reserves the right to approve or reject replacements. Other audit personnel may be changed at the discretion of the proposer provided that replacements have substantially the same or better qualifications or experience.

6. *Similar Scope of Work with Other Government Entities*

For the firm's office that will be assigned responsibility for the audit, list the most significant work (maximum 3) performed in the last three years that are similar to the scope of work described in this request for proposal. These should be ranked on the basis of total staff hours. Indicate the scope of work, date, audit partners, total hours, and the name and telephone number of the principal client contact. Also please indicate whether the audit was part of a Annual Comprehensive Financial Report.

Please provide a list of not less than three client references for which services similar to those outlined in this RFP are currently being provided. For each reference listed, provide the name of the organization, approximate gross cost of the contract, dates for which the service(s) are being provided, type of service(s) being provided and the name, address and telephone number of the responsible person within the reference's organization. LGVSD reserves the right to contact any or all of the listed references regarding the audit services performed by the proposer.

7. *Specific Audit Approach*

The proposal should set forth a work plan, including an explanation of the audit methodology to be followed to perform the services required in Section II of this request for proposal. In developing the work plan, reference should be made to such sources of information as the LGVSD's budget and related materials, organizational charts, manuals and programs, and financial and other management information systems.

Proposers will be required to provide the following information on their audit approach:

- a. Proposed segmentation of the audit;
- b. Level of staff and number of hours to be assigned to each proposed segment of the audit;
- c. Sample size and the extent to which statistical sampling is to be used in the audit;
- d. Extent of use of Electronic Data Processing (EDP) software in the audit;
- e. Type and extent of analytical procedures to be used in the audit;
- f. Approach to be taken in determining laws and regulations that will be subject to audit test work;

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- g. Approach to be taken to gain and document an understanding of LGVSD's internal control structure;
- h. Approach to be taken in drawing audit samples for purposes of tests of compliance;
- i. Method of determining if a conflict of interest exists in work performed on behalf of LGVSD.

8. *Identification of Anticipated Potential Audit Problems*

The proposer should identify and describe any anticipated potential audit problems, the firm's approach to resolving these problems, and any special assistance that will be requested from LGVSD.

D. Contents of Cost Proposal

1. *Total All-Inclusive Maximum Price*

The sealed dollar cost bid should contain all pricing information relative to performing the audit as described in the request for proposal. The total all-inclusive maximum price to be bid should include all direct and indirect costs, including all out-of-pocket expenses.

LGVSD will not be responsible for expenses incurred in preparing and submitting the technical proposal or the sealed dollar cost bid. Such costs should not be included in the proposal.

The first page of the sealed dollar cost bid should include the following information: (a) name of firm; (b) certification that the person signing the proposal is authorized to represent the firm, empowered to submit the bid, and authorized to sign a contract with LGVSD; and (c) a total all-inclusive maximum price for the first year of the audit plus the optional four (4) additional years (5-year total proposal).

2. *Rates by Partner, Supervisory and Staff*

The cost proposal should include detailed information regarding the estimated number of hours to be dedicated to LGVSD's audit, delineated by staffing level and billing rate, and including all additional expenses to support the total all-inclusive maximum price. Billing rates listed in these schedules will be used if any additional work is requested outside the scope of this proposal. A cost proposal should be presented for each of the years (FY21/22, FY22/23 and FY 23/24).

3. *Manner of Payment*

Progress payments will be made on the basis of actual audit work completed during the course of the audit and out-of-pocket expenses incurred in accordance with the firm's proposal. Interim billing shall cover a period of not less than a calendar month. Detail of staff hours with billing rates will be required to be included on each invoice. Payment will be made based upon actual costs not to exceed the maximum outlined in the proposal. Ten percent (10%) will be withheld from pending delivery of the firm's final reports.

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VII. EVALUATION PROCEDURES

A. Review Committee

Proposals submitted will be reviewed by:

Chris DeGabriele, Interim General Manager
Dale McDonald, Administrative Services Manager
Roberto Moreno, Regional Government Services consultant

B. Evaluation Criteria

Proposals will be evaluated on the following:

1. Mandatory Elements
 - a. The audit firm is independent and licensed to practice in California
 - b. The firm has no conflict of interest with LGVSD
 - c. The firm follows the instructions set forth in the RFP
 - d. The firm submits a copy of its last external quality (peer) review report and the firm has a record of quality audit work.

2. Technical Quality
 - a. Experience with comparable government audits
 - b. Qualifications of staff assigned to the audit
 - c. Audit approach and work plan
 - d. Client reviews of the firm's competency and professionalism
 - e. Telephone Interview or Oral Presentation
 - f. Proposed Fees

C. Selection of Firm

LGVSD will select a firm based upon the recommendation of the Review Committee. It is anticipated that a firm will be selected by June 20, 2022. Following notification of the firm selected, it is expected a contract will be executed between both parties no later than July 5, 2022.

D. Right to Reject Proposals

Submission of a proposal indicates acceptance by the firm of the conditions contained in this request for proposal unless clearly and specifically noted in the proposal submitted, and confirmed in the contract between LGVSD and the firm selected.

LGVSD reserves the right without prejudice to reject any or all proposals.

VIII. APPENDICES

- A. District Organizational Chart
- B. Insurance Requirement for Consultants
- C. LGVSD Standard Contract for Consultation and Professional Services

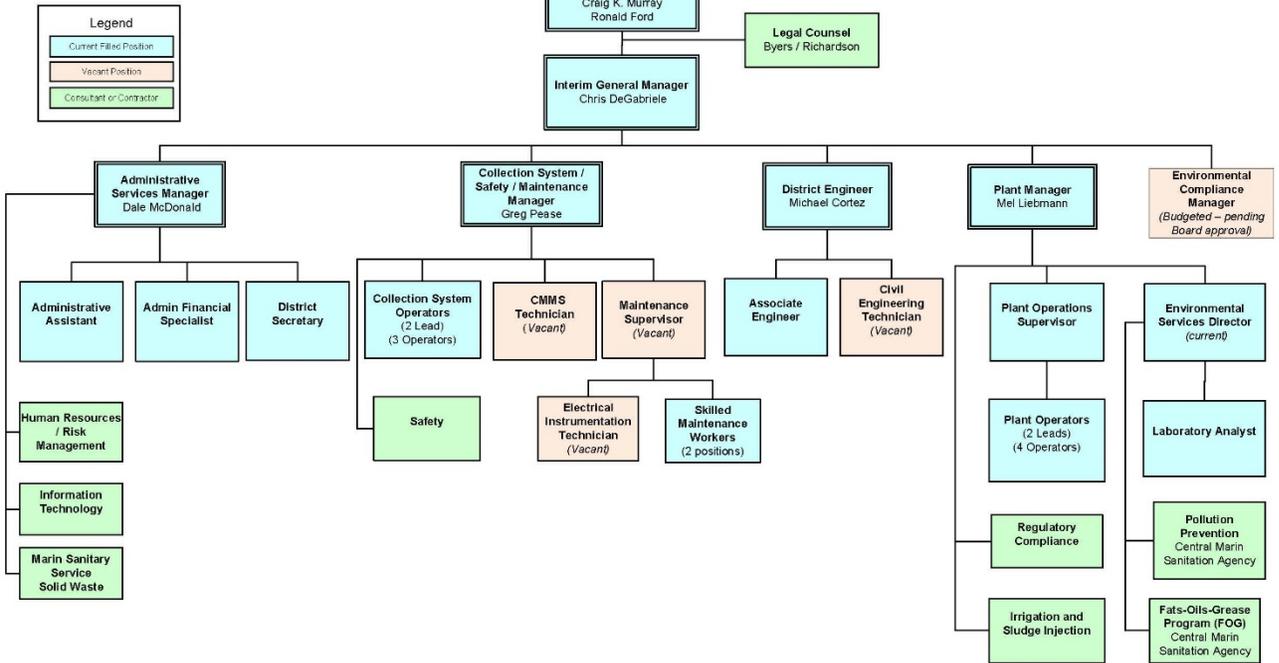
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Appendix A



2022 Organizational Chart



1/31/2022

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Appendix B

Insurance Requirements for Professional Services

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Consultant, his agents, representatives, employees or subcontractors.

MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Consultant has no owned autos, covering hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease. (Not required if consultant provides written verification it has no employees)
4. **Professional Liability (Errors and Omissions):** Insurance appropriate to the Consultant's profession, with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate. *(If applicable – see footnote next page)*

If the consultant maintains broader coverage and/or higher limits than the minimums shown above, the Entity requires and shall be entitled to the broader coverage and/or higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Consultant including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Consultant's insurance (at least as broad as ISO Form CG 20 10 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 forms if later revisions used).

Primary Coverage

For any claims related to this contract, the **Consultant's insurance coverage shall be primary** insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

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Notice of Cancellation

Each insurance policy required above shall provide that **coverage shall not be canceled, except with notice to the Entity.**

Waiver of Subrogation

Consultant hereby grants to Entity a waiver of any right to subrogation which any insurer of said Consultant may acquire against the Entity by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

Self-Insured Retentions

Self-insured retentions must be declared to and approved by the Entity. The Entity may require the Consultant to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorse to provide, that the self-insured retention may be satisfied by either the name insured or Entity.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Entity.

Claims Made Policies (note – should be applicable only to professional liability, see below)

If any of the required policies provide claims-made coverage:

1. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided **for at least five (5) years after completion of the contract of work.**
3. If coverage is canceled or non-renewed, and not replaced **with another claims-made policy form with a Retroactive Date prior to** the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of **five (5)** years after completion of work.

Verification of Coverage

Consultant shall furnish the Entity with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Entity before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The Entity reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Special Risks or Circumstances

Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

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Sub Contractors

Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that Entity is an additional insured on insurance required from subcontractors.

Note: *Professional liability insurance coverage is normally required if the Consultant is providing a professional service regulated by the state. (Examples of service providers regulated by the state are insurance agents, professional architects and engineers, doctors, certified public accountants, lawyers, etc.). However, other professional Consultants, such as computer or software designers, technology services, and services providers such as claims administrators, should also have professional liability. If in doubt, consult with your risk management or insurance advisor.*

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Appendix C

AGREEMENT FOR CONSULTATION AND PROFESSIONAL SERVICES

_____ **SERVICES for**
_____ **PROJECT**

(JOB NO. _____)

THIS AGREEMENT made this _____ day of _____, _____ by and between the **LAS GALLINAS VALLEY SANITARY DISTRICT** (hereinafter referred to as "District"), and _____, whose address is,

_____ hereinafter referred to as "Consultant");

WITNESSETH:

IN CONSIDERATION of the mutual covenants and conditions herein contained, the parties do hereby agree as follows:

1. General

DISTRICT engages CONSULTANT to furnish the services hereinafter mentioned upon the covenants and conditions of this Agreement, at the compensation herein stipulated, and CONSULTANT accepts said engagement upon said terms.

- 2. The Initial term of this agreement** shall be from the date approved by the Board of Directors of the District or by an authorized person representing the District, the General Manager, until _____, subject to early termination by either party as outlined in Section 20 of this agreement.

3. Duties of Consultant; Services to be Performed by Consultant

CONSULTANT shall perform such duties and services as are listed on **Exhibit A** attached hereto, and is hereby referred to and made a part hereof by reference. Said services shall be completed according to the time schedule contained in **Exhibit A**.

4. Services or Materials to be Performed or Furnished by District

DISTRICT shall perform such services or furnish such materials to CONSULTANT in connection with this Agreement as are set forth on **Exhibit B**. If there are no entries on said **Exhibit B**, DISTRICT, shall not be required to provide any services or furnish any materials to CONSULTANT. Unless otherwise provided on **Exhibit B**, all said services and materials to be furnished by DISTRICT will be without cost to CONSULTANT.

5. Payment by District: Time and Manner of Payment

DISTRICT shall pay CONSULTANT, for all services to be rendered and all materials to be furnished under this Agreement, the amount specifically set forth and in the manner specifically set forth on **Exhibit C**. CONSULTANT agrees to accept said sum as full compensation for all services due under this Agreement. Notwithstanding any other language in the Agreement or any exhibits, CONSULTANT agrees that it will perform all tasks for a sum not to exceed _____ (\$___ U.S.

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Dollars). This is an Agreement for a specific task as defined in Exhibit A, Consultant Services (Scope of Work), for _____ **Project,** and CONSULTANT has accurately determined the price of those tasks.

6. Authorization To Perform Services

The CONSULTANT is not authorized to perform any services, or incur any costs whatsoever under the terms of this Agreement until receipt of written authorization from the DISTRICT.

7. Additional Work

CONSULTANT shall be entitled to extra compensation for services or materials not otherwise required under this Agreement or described in **Exhibit A**, provided that DISTRICT shall first have identified the services or materials as extra, and requested such extra services or materials in writing, but in no event shall DISTRICT be liable for payment unless the amount of such extra compensation shall first have been agreed to in writing by DISTRICT.

8. Professional Skill

CONSULTANT represents that it is skilled in the professional calling necessary to perform the work agreed to be done by it under this Agreement. CONSULTANT represents and warrants to DISTRICT that it has all licenses, permits, qualifications that are legally required for CONSULTANT to practice its profession and that CONSULTANT shall, at its sole cost and expense, keep all such licenses, permits, and approvals which are legally required for CONSULTANT to practice its profession in effect. DISTRICT relies upon the skill of CONSULTANT to do and perform its work in a skillful manner, and CONSULTANT agrees to thus perform its work, and the acceptance of its work by DISTRICT shall not operate as a release of CONSULTANT from said Agreement. For purposes of this Agreement, “skillful manner” shall mean the standard of care prevailing in the industry in the San Francisco Bay Area during the term of this Agreement.

9. Equal Employment Opportunity

CONSULTANT shall not discriminate against any employee or applicant for employment and shall comply with the provisions of Section 12940 of the Government Code.

10. Compliance with Laws

CONSULTANT shall comply with all federal, state and District laws, statutes, ordinances, rules and regulations and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of the Agreement. Any suit or action by either party shall be brought in the Superior Court for the County of Marin, California. The laws of the State of California shall govern this Agreement.

11. Labor Compliance

This project is subject to the requirements of Section 1720 et seq. of the California Labor Code requiring the payment of prevailing wages, the training of apprentices and compliance with other applicable requirements. Contractors and all subcontractors who perform work on the project are required to comply with these requirements. Prevailing wages apply to all projects over \$1,000 which are defined as a “public work” by the State of California.

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The applicable California prevailing wage rate can be found at www.dir.ca.gov and are on file with the Agency's principal office, which shall be available to any interested party upon request.

Specifically, contractors are reminded of the need for compliance with Labor Code Section 1774-1775 (the payment of prevailing wages and documentation of such), Section 1776 (the keeping and submission of accurate certified payrolls) and 1777.5 in the employment of apprentices on public works projects. Further, overtime must be paid for work in excess of 8 hours per day or 40 hours per week pursuant to Labor Code Section 1811-1813.

No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].

No contractor or subcontractor may be awarded a contract for public work on a public works project, unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

All contractors/subcontractors and related construction services subject to prevailing wage, including but not limited to: trucking, surveying and inspection work must be registered with the Department of Industrial Relations as a "public works contractor". Those you fail to register and maintain their status as a public works contractor shall not be permitted to perform work on the project.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

The Agency shall withhold any portion of a payment; including the entire payment amount, until certified payroll forms and related documentation are properly submitted, reviewed and found to be in full compliance. In the event that certified payroll forms do not comply with the requirements of Labor Code Section 1720 et seq., the Agency may continue to hold sufficient funds to cover estimated wages and penalties under the contract.

12. Independent Contractor; Not An Agent

CONSULTANT, at all times during the term of this Agreement is acting as an independent contractor in furnishing the services or materials and performing the work required by this Agreement and is not an agent, servant or employee of DISTRICT. Notwithstanding any other DISTRICT, state or federal policy, rule, regulation, law, or ordinance to the contrary, CONSULTANT and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by DISTRICT, including but not limited to eligibility to enroll in the California Public Employees Retirement System

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(PERS) as an employee of DISTRICT and entitlement to any contribution to be paid by DISTRICT for employer contributions and/or employee contributions for PERS benefits.

Except as DISTRICT may specify in writing, CONSULTANT shall have no authority, express or implied, to act on behalf of DISTRICT in any capacity whatsoever as an agent or pursuant to this Agreement to bind DISTRICT to any obligation whatsoever.

13. Time

CONSULTANT shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for satisfactory performance of CONSULTANT'S obligations pursuant to this Agreement.

14. Indemnity

CONSULTANT agrees to indemnify and save harmless and defend with counsel acceptable to DISTRICT, the DISTRICT, its officials, officers, employees, agents, and volunteers from and against any and all losses, liability, suits, actions, costs, expenses, claims, causes of action and damages (including costs of defense) arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance to the extent caused, in whole or in part, by recklessness, the willful misconduct or negligent acts or omissions of CONSULTANT, its officers, employees, agents, consultants, subcontractors or any officer, agent or employee thereof but excluding liabilities due to the active negligence of the DISTRICT. By execution of this Agreement, CONSULTANT acknowledges and agrees that CONSULTANT has read and understands the provisions hereof and that this paragraph is a material element of consideration. DISTRICT and CONSULTANT agree that this Agreement is consistent with Section 2782.8 of the Civil Code.

15. Insurance: Public Liability, Workers' Compensation, Errors and Omissions

CONSULTANT shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the CONSULTANT, its officers, subcontractors, agents, representatives, or employees.

CONSULTANT shall be required to meet all District Insurance Requirements. See **Exhibit D** for District Insurance Requirements.

16. Consultant Professional Team

CONSULTANT shall provide and maintain the professional team to perform and furnish the materials in connection with this Agreement whose names and capacities are set forth on **Exhibit E**. In the event that any member of said team shall leave the employ of CONSULTANT or be transferred to another office of CONSULTANT, CONSULTANT shall so advise DISTRICT and replace that member with a new member who is competent to perform the required work and who shall be satisfactory to DISTRICT. Such other agents or employee contractors or subcontractors not listed on **Exhibit E** as may be required to perform any portion of this Agreement shall be competent and shall be suitably experienced in the function which they perform.

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17. Notices

Unless otherwise provided herein, all notices required hereunder shall be given by certified mail, postage prepaid and addressed to the party at the address indicated in the opening paragraph of this Agreement provided, however, that in lieu thereof, notice may be given by personal delivery to the party at said address.

18. Title to Documents

All original calculations, photographs, maps, drawings, plans, design notes and other material or documents developed or used in connection with the performance of this Agreement shall be the property of DISTRICT provided, however, that CONSULTANT may provide DISTRICT with legible photostatic copies thereof in lieu of the originals upon approval by DISTRICT representative. All such material and documents shall remain confidential and may not be divulged, published or shared by CONSULTANT without the prior written consent of DISTRICT. Any plans and specifications shall bear the name of the CONSULTANT together with his certificate number, if any. If CONSULTANT'S working papers or product includes computer generated statistical material, CONSULTANT shall provide the material including the data base upon which it is based to DISTRICT in a mutually agreed upon computer machine- readable format and media.

19. Assignment

Neither party shall assign or sublet any portion of this Agreement without the written consent of the other party in writing.

20. Termination

Without limitation to such rights or remedies as DISTRICT shall otherwise have by law, DISTRICT shall also have the right to terminate this Agreement for any reason upon seven (7) days' written notice to CONSULTANT. This Agreement may also be terminated by either party upon seven (7) days' written notice should the other party fail substantially to perform in accordance with this agreement through no fault of the other or if the project is stopped by conditions beyond the control of the DISTRICT.

In addition to terminating this Agreement if CONSULTANT materially breaches any of the terms of this Agreement, DISTRICT'S remedies shall include, but not be limited to:

- Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by CONSULTANT pursuant to this Agreement;
- Retain a different consultant to complete the work described in **Exhibit A** not finished by CONSULTANT; and/or

This description of DISTRICT's remedies does not otherwise limit DISTRICT's remedies at law or equity.

21. Consultant Nondisclosure

CONSULTANT will not directly or indirectly use (other than for the DISTRICT), publish, or otherwise disclose at any time (except as CONSULTANT'S duties may require), either during or subsequent to the performance of consulting services, any of DISTRICT'S confidential information (whether or not conceived, originated, discovered, or developed in whole or in part by CONSULTANT) as defined below.

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“Confidential information” means information or material that is not generally available to or used by others, or the utility or value of which is not generally known or recognized as standard practice whether or not the underlying details are in the public domain, including without limitation:

- a. Information or material that relates to DISTRICT’S inventions, technological developments, “know how”, purchasing, accounting, merchandising or licensing;
- b. Trade secrets;
- c. Software in various stages of development (source code, object code, documentation, diagrams, flow charts), designs, drawings, specifications, models, data and customer information; and
- d. Any information of the type described above that DISTRICT obtained from another party and that the DISTRICT treats as proprietary or designates as confidential, or is obligated to do so by virtue of a third-party agreement, whether or not owned or developed by the DISTRICT.

The obligations of confidentiality imposed herein will not apply to confidential information that:

- a. Is or has been generally available to the public by any means, through no fault of CONSULTANT and without breach of these provisions.
- b. Is or has been lawfully disclosed to CONSULTANT by a third party without an obligation of confidentiality being imposed upon CONSULTANT.
- c. Has been disclosed without restriction by the DISTRICT or by a third party owner of confidential information.
- d. Was required to be disclosed pursuant to law.

CONSULTANT agree to deliver to DISTRICT promptly on request, or on the date of termination of CONSULTANT’S services, all documents, software, including any copies, and other materials in CONSULTANT’S possession pertaining to the business of DISTRICT and originating with the DISTRICT that came into CONSULTANT’S possession.

The disclosure of confidential information shall not be construed as granting either a license under any patent, patent application or any right of ownership in said confidential information.

CONSULTANT acknowledges and agrees that in the event of a breach or threatened breach of any provisions of this Agreement, the DISTRICT shall have no adequate remedy at law and shall therefore be entitled to enforce any such provision by temporary or permanent injunctive or mandatory relief obtained in any court without the necessity of proving damages, posting any bond or other security, and without prejudice or diminution of any other rights or remedies which may be available at law or in equity.

22. No-Waiver; Construction

Failure on the part of either party to enforce any provisions of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provisions or any other

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provision. The singular number shall include the plural, and the masculine gender shall include the feminine gender and neuter gender whenever the context of this Agreement permits.

23. Mediation

Should any dispute arise out of this Agreement, the parties shall meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable mediator. Neither party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated resolution. The costs of the mediator, if any, shall be shared equally by the parties. If a mediated settlement is reached, neither party shall be deemed the prevailing party for purposes of the settlement and each party shall bear its own legal costs.

24. Attorney's Fees

If a party brings any action, including an action for declaratory relief, to enforce or interpret the provisions of this Agreement, the prevailing party is entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. Such fees may be set by the court in the same action or in a separate action brought for that purpose.

25. Survival

All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between DISTRICT and CONSULTANT survive the termination of this Agreement.

26. Conflict of Interest

CONSULTANT may serve other clients, providing that activities in the service of other clients do not place CONSULTANT in a "conflict of interest" as that term is defined in the Political Reform Act codified at California Government Code § 81000 *et seq.* or Section 1090 *et seq.* of the Government Code.

27. Severability

If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

28. Additional Provisions, Exhibits

Additional provisions of this Agreement are set forth on **Exhibits A through Exhibit F**. All Exhibits shall be attached to, and are hereby referred to and made a part hereof by reference.

29. Entire Agreement: Amendment

This contract supersedes any and all other agreements, whether oral or in writing, between the parties with respect to the subject of this contract. Except as to those documents specifically incorporated by reference into this contract, this contract contains all of the covenants and agreements between the parties with respect to the subject of this contract, and each party acknowledges that no representations, inducements, promises, or agreements have been made by or on behalf of any party except the covenants and agreements embodied in this contract. No agreement, statement, or promise not contained in this contract shall be valid or

