

Standard Professional Services Agreement (“PSA”)
Revision G – October 2021

AGREEMENT FOR [CONSULTING/PROFESSIONAL] SERVICES

This agreement ("Agreement"), dated as of _____, 20__ (“Effective Date”) is by and between the Sonoma County Waste Management Agency, a California joint powers agency (hereinafter "ZWS"), and _____ (hereinafter "Consultant").

R E C I T A L S

WHEREAS, Consultant represents that it is a duly qualified _____, experienced in the preparation of _____ and related services; and

WHEREAS, in the judgment of the _____, it is necessary and desirable to employ the services of Consultant for

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

A G R E E M E N T

1. Scope of Services.

1.1 Consultant's Specified Services.

Consultant shall perform the services described in Exhibit “A,” attached hereto and incorporated herein by this reference (hereinafter "Scope of Work"), and within the times or by the dates provided for in Exhibit “A” and pursuant to Article 7, Prosecution of Work. In the event of a conflict between the body of this Agreement and Exhibit “A”, the provisions in the body of this Agreement shall control.

1.2 Cooperation With ZWS. Consultant shall cooperate with ZWS and ZWS staff in the performance of all work hereunder.

1.3 Performance Standard.

- a. Consultant shall perform all work hereunder in a manner consistent with the level of competency and standard of care normally observed by a person practicing in Consultant's profession. ZWS has relied upon the professional ability and training of Consultant as a material inducement to enter into this Agreement. Consultant hereby agrees to provide all services under this Agreement in accordance with generally accepted professional practices and

standards of care, as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Consultant's work by ZWS shall not operate as a waiver or release. If ZWS determines that any of Consultant's work is not in accordance with such level of competency and standard of care, ZWS, in its sole discretion, shall have the right to do any or all of the following: (a) require Consultant to meet with ZWS to review the quality of the work and resolve matters of concern; (b) require Consultant to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of Article 4; or (d) pursue any and all other remedies at law or in equity.

- b. Drawing and specification electronic file format. Consultant shall produce all plans, for all disciplines, using Autodesk's AutoCAD, latest release for Microsoft Windows or minimum AutoCAD 2011 release. All specification sections shall be produced using Microsoft Word, latest release for Microsoft Windows. Coordination of Consultant's and sub-consultants' drawings and specifications shall be performed by Consultant so that one complete set of drawings and specifications on disk is produced for use in bidding and construction of the project. At completion of the bidding phase, Consultant will complete a conforming set of construction documents integrating the addenda with plans and specifications prior to construction starting. Consultant shall submit to ZWS a copy of Conformed Construction Documents on disk in each of the following formats:

Drawings:

- 1) AutoDesk AutoCAD latest release version or minimum AutoCAD 2011, with all XRef's bound into each primary drawing file. Include copies of any non AutoCAD standard plot style files and text style files used; and
- 2) Adobe Acrobat PDF – one file containing the entire set of drawings is preferred; however, for large projects separate file for each discipline will be acceptable.

Specifications:

- 1) Microsoft Word DOC format; and
- 2) Adobe Acrobat PDF Format

- c. Record documents: Consultant shall prepare the Record Documents. Conformed Construction Documents may be used by Consultant to produce the Record Drawings, if requested by ZWS, as follows: Consultant will make the Record Document corrections based on Consultant's request for information responses, observable conditions during site visits, known changes to the Contract Documents, and information provided by Contractor and/or ZWS. Using the Contract Document set of AutoCAD drawings, Consultant will prepare the Record Drawings. Upon Consultant's completion of the Record Drawings the electronic files will be submitted to ZWS in

original form and Adobe Acrobat PDF form. Consultant will also submit complete corrected specifications in Microsoft Word format (latest Microsoft Windows release). Coordination of Consultant's and sub-consultants' drawings and specifications shall be performed by Consultant so that one complete and final set of drawings and specifications (Record Documents) on disk is produced for ZWS's use.

- d. Consultant shall provide a separate fee in its fee proposal to prepare final record documents. At the completion of project, ZWS may elect not to require consultant to prepare final record documents. In this case, a deductive amendment to Consultant's agreement will be prepared by ZWS in the amount Consultant stated in its fee proposal to prepare final records documents.

1.4 Assigned Personnel.

- a. Consultant shall assign only competent personnel to perform work hereunder. In the event that at any time ZWS, in its sole discretion, desires the removal of any person or persons assigned by Consultant to perform work hereunder, Consultant shall remove such person or persons immediately upon receiving written notice from ZWS or ZWS representative.
- b. Any and all persons identified in this Agreement or any exhibit hereto as the project manager, project team, or other professional performing work hereunder are deemed by ZWS to be key personnel whose services were a material inducement to ZWS to enter into this Agreement, and without whose services ZWS would not have entered into this Agreement. Consultant shall not remove, replace, substitute, or otherwise change any key personnel without the prior written consent of ZWS. With respect to performance under this Agreement, Consultant shall employ the following key personnel:
_____.
- c. In the event that any of Consultant's personnel assigned to perform services under this Agreement become unavailable due to resignation, sickness or other factors outside of Consultant's control, Consultant shall be responsible for timely provision of adequately qualified replacements.

2. Payment.

For all services and incidental costs required hereunder, Consultant shall be paid in accordance with the following terms:

Consultant shall be paid on a time and material/expense basis in accordance with the budget set forth below, provided, however, that total payments to Consultant shall not exceed \$xxxxxxxxxxx, without the prior written approval of ZWS. Consultant shall submit its bills in arrears on a monthly basis in a form approved by ZWS's Auditor and the Head of the ZWS Department receiving the services. The bills shall show or

include: (i) the task(s) performed; (ii) the time in quarter hours devoted to the task(s); (iii) the hourly rate or rates of the persons performing the task(s); and (iv) copies of receipts for reimbursable materials/expenses, if any. Expenses not expressly authorized by the Agreement shall not be reimbursed.

For all services and incidental costs required hereunder, Consultant shall be paid on a time and material/expense basis in accordance with the budget set forth in [Exhibit \[A/B/C\]](#), provided, however, that total payments to Consultant shall not exceed \$xxxxxxxxxx, without the prior written approval of ZWS. Consultant shall submit its bills in arrears on a monthly basis in a form approved by ZWS's Auditor and the Head of ZWS Department receiving the services. The bills shall show or include: (i) the task(s) performed; (ii) the time in quarter hours devoted to the task(s); (iii) the hourly rate or rates of the persons performing the task(s); and (iv) copies of receipts for reimbursable materials/expenses, if any. Expenses not expressly authorized by the Agreement shall not be reimbursed.

Invoices shall be sent to the Household Hazardous Waste (HHW) Manager via email at Courtney.scott@sonoma-county.org or mailed to:

Zero Waste Sonoma
Attn: Courtney Scott
2300 County Center Drive, B100
Santa Rosa, CA 95403

Unless otherwise noted in this Agreement, payments shall be made within the normal course of ZWS business after presentation of an invoice in a form approved by ZWS for services performed. Payments shall be made only upon the satisfactory completion of the services as determined by ZWS.

Pursuant to California Revenue and Taxation code (R&TC) Section 18662, ZWS shall withhold seven percent of the income paid to Consultant for services performed within the State of California under this agreement, for payment and reporting to the California Franchise Tax Board, if Consultant does not qualify as: (1) a corporation with its principal place of business in California, (2) an LLC or Partnership with a permanent place of business in California, (3) a corporation/LLC or Partnership qualified to do business in California by the Secretary of State, or (4) an individual with a permanent residence in the State of California.

If Consultant does not qualify, ZWS requires that a completed and signed Form 587 be provided by the Consultant in order for payments to be made. If Consultant is qualified, then ZWS requires a completed Form 590. Forms 587 and 590 remain valid for the duration of the Agreement provided there is no material change in facts. By signing either form, the Consultant agrees to promptly notify ZWS of any changes in the facts. Forms should be sent to ZWS pursuant to [Article 12](#). To reduce the amount withheld, Consultant has the option to provide ZWS with either a full or partial waiver from the State of California.

3. Term of Agreement. The term of this Agreement shall be from _____ to _____ unless terminated earlier in accordance with the provisions of Article 4 below.

4. Termination.

4.1 Termination Without Cause. Notwithstanding any other provision of this Agreement, at any time and without cause, ZWS shall have the right, in its sole discretion, to terminate this Agreement by giving 5 days written notice to Consultant.

4.2 Termination for Cause. Notwithstanding any other provision of this Agreement, should Consultant fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, ZWS may immediately terminate this Agreement by giving Consultant written notice of such termination, stating the reason for termination.

4.3 Delivery of Work Product and Final Payment Upon Termination.

In the event of termination, Consultant, within 14 days following the date of termination, shall deliver to ZWS all reports, original drawings, graphics, plans, studies, and other data or documents, in whatever form or format, assembled or prepared by Consultant or Consultant's subcontractors, consultants, and other agents in connection with this Agreement and shall submit to ZWS an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.

4.4 Payment Upon Termination. Upon termination of this Agreement by ZWS, Consultant shall be entitled to receive as full payment for all services satisfactorily rendered and reimbursable expenses properly incurred hereunder, an amount which bears the same ratio to the total payment specified in the Agreement as the services satisfactorily rendered hereunder by Consultant bear to the total services otherwise required to be performed for such total payment; provided, however, that if services which have been satisfactorily rendered are to be paid on a per-hour or per-day basis, Consultant shall be entitled to receive as full payment an amount equal to the number of hours or days actually worked prior to the termination times the applicable hourly or daily rate; and further provided, however, that if ZWS terminates the Agreement for cause pursuant to Section 4.2, ZWS shall deduct from such amount the amount of damage, if any, sustained by ZWS by virtue of the breach of the Agreement by Consultant.

4.5 Authority to Terminate. The Board of Supervisors has the authority to terminate this Agreement on behalf of ZWS. In addition, the Purchasing Agent or _____ Department Head, in consultation with ZWS Counsel, shall have the authority to terminate this Agreement on behalf of ZWS.

5. Indemnification. Consultant agrees to accept all responsibility for loss or damage to any person or entity, including ZWS, and to indemnify, hold harmless, and release ZWS, its officers, agents, and employees, from and against any actions, claims, damages,

liabilities, disabilities, or expenses, that may be asserted by any person or entity, including Consultant, that arise out of, pertain to, or relate to Consultant's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. Consultant agrees to provide a complete defense for any claim or action brought against ZWS based upon a claim relating to such Consultant's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. Consultant's obligations under this Section apply whether or not there is concurrent or contributory negligence on ZWS's part, but to the extent required by law, excluding liability due to ZWS's conduct. ZWS shall have the right to select its legal counsel at Consultant's expense, subject to Consultant's approval, which shall not be unreasonably withheld. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Consultant or its agents under workers' compensation acts, disability benefits acts, or other employee benefit acts.

6. Insurance. With respect to performance of work under this Agreement, Consultant shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain, insurance as described in [Exhibit \[B/C/D\]](#), which is attached hereto and incorporated herein by this reference.

7. Prosecution of Work. The execution of this Agreement shall constitute Consultant's authority to proceed immediately with the performance of this Agreement. Performance of the services hereunder shall be completed within the time required herein, provided, however, that if the performance is delayed by earthquake, flood, high water, or other Act of God or by strike, lockout, or similar labor disturbances, the time for Consultant's performance of this Agreement shall be extended by a number of days equal to the number of days Consultant has been delayed.

8. Extra or Changed Work. Extra or changed work or other changes to the Agreement may be authorized only by written amendment to this Agreement, signed by both parties. The ZWS Board of Directors must authorize all extra or changed work. Failure of Consultant to secure such written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the Agreement price or Agreement time due to such unauthorized work and thereafter Consultant shall be entitled to no compensation whatsoever for the performance of such work. Consultant further expressly waives any and all right or remedy by way of restitution and quantum meruit for any and all extra work performed without such express and prior written authorization of ZWS.

9. Representations of Consultant.

9.1 Standard of Care. ZWS has relied upon the professional ability and training of Consultant as a material inducement to enter into this Agreement. Consultant hereby agrees that all its work will be performed and that its operations shall be conducted in accordance with generally accepted and applicable professional practices and standards as well as the requirements of applicable federal, state and local laws, it

being understood that acceptance of Consultant's work by ZWS shall not operate as a waiver or release.

9.2 Status of Consultant. The parties intend that Consultant, in performing the services specified herein, shall act as an independent contractor and shall control the work and the manner in which it is performed. Consultant is not to be considered an agent or employee of ZWS and is not entitled to participate in any pension plan, worker's compensation plan, insurance, bonus, or similar benefits ZWS provides its employees. In the event ZWS exercises its right to terminate this Agreement pursuant to Article 4, above, Consultant expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.

9.3 No Suspension or Debarment. Consultant warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Consultant also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration. If the Consultant becomes debarred, consultant has the obligation to inform ZWS

9.4 Taxes. Consultant agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Consultant agrees to indemnify and hold ZWS harmless from any liability which it may incur to the United States or to the State of California as a consequence of Consultant's failure to pay, when due, all such taxes and obligations. In case ZWS is audited for compliance regarding any withholding or other applicable taxes, Consultant agrees to furnish ZWS with proof of payment of taxes on these earnings.

9.5 Records Maintenance. Consultant shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this Agreement and shall make such documents and records available to ZWS for inspection at any reasonable time. Consultant shall maintain such records for a period of four (4) years following completion of work hereunder.

9.6 Conflict of Interest. Consultant covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Consultant further covenants that in the performance of this Agreement no person having any such interests shall be employed. In addition, if requested to do so by ZWS, Consultant shall complete and file and shall require any other person doing work under this Agreement to complete and file a "Statement of Economic Interest" with ZWS disclosing Consultant's or such other person's financial interests.

9.7 Statutory Compliance. Consultant agrees to comply with all applicable federal, state and local laws, regulations, statutes and policies, applicable to the services provided under this Agreement as they exist now and as they are changed, amended or modified during the term of this Agreement. Noncompliance during the term of the Agreement will be considered a material breach and may result in termination of the Agreement or pursuit of other legal or administrative remedies.

9.8 Nondiscrimination. Without limiting any other provision hereunder, Consultant shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, sexual orientation or other prohibited basis, including without limitation, the County's Non-Discrimination Policy. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated herein by this reference.

9.10 Assignment of Rights. Consultant assigns to ZWS all rights throughout the world in perpetuity in the nature of copyright, trademark, patent, right to ideas, in and to all versions of the plans and specifications, if any, now or later prepared by Consultant in connection with this Agreement. Consultant agrees to take such actions as are necessary to protect the rights assigned to ZWS in this Agreement, and to refrain from taking any action which would impair those rights. Consultant's responsibilities under this provision include, but are not limited to, placing proper notice of copyright on all versions of the plans and specifications as ZWS may direct, and refraining from disclosing any versions of the plans and specifications to any third party without first obtaining written permission of ZWS. Consultant shall not use or permit another to use the plans and specifications in connection with this or any other project without first obtaining written permission of ZWS.

9.11 Ownership and Disclosure of Work Product.

All reports, original drawings, graphics, plans, studies, and other data or documents ("documents"), in whatever form or format, assembled or prepared by Consultant or Consultant's subcontractors, consultants, and other agents in connection with this Agreement shall be the property of ZWS. ZWS shall be entitled to immediate possession of such documents upon completion of the work pursuant to this Agreement. Upon expiration or termination of this Agreement, Consultant shall promptly deliver to ZWS all such documents, which have not already been provided to ZWS in such form or format, as ZWS deems appropriate. Such documents shall be and will remain the property of ZWS without restriction or limitation. Consultant may retain copies of the above-described documents but agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of ZWS.

9.12 Authority. The undersigned hereby represents and warrants that he or she has authority to execute and deliver this Agreement on behalf of Consultant.

10. Demand for Assurance. Each party to this Agreement undertakes the obligation that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party, the other may in writing demand adequate assurance of due performance and until such assurance is received may, if commercially reasonable, suspend any performance for which the agreed return has not been received. "Commercially reasonable" includes not only the conduct of a party with respect to performance under this Agreement, but also conduct with respect to other agreements with parties to this Agreement or others. After receipt of a justified demand, failure to provide within a reasonable time, but not exceeding thirty (30) days, such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of this Agreement. Acceptance of any improper delivery, service, or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance. Nothing in this Article limits ZWS's right to terminate this Agreement pursuant to Article 4.

11. Assignment and Delegation. Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented.

12. Method and Place of Giving Notice, Submitting Bills and Making Payments. All notices, bills, and payments shall be made in writing and shall be given by personal delivery or by U.S. Mail or courier service. Notices, bills, and payments shall be addressed as follows:

TO: ZWS:

**[Department name, address, and email
Facsimile number may be included]**

TO: CONSULTANT:

**[Consultant name, address and email
Facsimile Number may be included]**

When a notice, bill or payment is given by a generally recognized overnight courier service, the notice, bill or payment shall be deemed received on the next business day. When a copy of a notice, bill or payment is sent by facsimile or email, the notice, bill or

payment shall be deemed received upon transmission as long as (1) the original copy of the notice, bill or payment is promptly deposited in the U.S. mail and postmarked on the date of the facsimile or email (for a payment, on or before the due date), (2) the sender has a written confirmation of the facsimile transmission or email, and (3) the facsimile or email is transmitted before 5 p.m. (recipient's time). In all other instances, notices, bills and payments shall be effective upon receipt by the recipient. Changes may be made in the names and addresses of the person to whom notices are to be given by giving notice pursuant to this paragraph.

13. Miscellaneous Provisions.

13.1 No Waiver of Breach. The waiver by ZWS of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or provision or any subsequent breach of the same or any other term or promise contained in this Agreement.

13.2 Construction. To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. Consultant and ZWS acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. Consultant and ZWS acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

13.3 Consent. Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.

13.4 No Third-Party Beneficiaries. Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

13.5 Applicable Law and Forum. This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts to the contrary in any jurisdiction. Any action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in Santa Rosa or the forum nearest to the city of Santa Rosa, in the County of Sonoma.

13.6 Captions. The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

13.7 Merger. This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure Section 1856. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

13.8. Survival of Terms. All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

13.9 Time of Essence. Time is and shall be of the essence of this Agreement and every provision hereof.

13.10. Counterpart; Electronic Signatures. The parties agree that this Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and together which when executed by the requisite parties shall be deemed to be a complete original agreement. Counterparts may be delivered via facsimile, electronic mail (including PDF) or other transmission method, and any counterpart so delivered shall be deemed to have been duly and validly delivered, be valid and effective for all purposes, and shall have the same legal force and effect as an original document. This Agreement, and any counterpart, may be electronically signed by each or any of the parties through the use of any commercially available digital and/or electronic signature software or other electronic signature method in compliance with the U.S. federal E-SIGN Act of 2000, California's Uniform Electronic Transactions Act (Cal. Civil Code § 1633.1 et seq.), or other applicable law. By its use of any electronic signature below, the signing party agrees to have conducted this transaction and to execution of this Agreement by electronic means.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

CONSULTANT: _____

By: _____
Name: _____
Title: _____
Date: _____

ZWS: _____

CERTIFICATES OF
INSURANCE REVIEWED, ON
FILE, AND APPROVED AS TO
SUBSTANCE FOR ZWS:

By: _____
Department Director or Designee
Date: _____

APPROVED AS TO FORM FOR
ZWS:

By: _____
ZWS Legal Counsel
Date: _____

EXECUTED BY:

By: _____
Executive Director
Date: _____