

**AGREEMENT NO. 24-\_\_\_\_**

(Agreement for Operation and Maintenance Services for the Wild Wing Community Water Supply & Distribution and Wastewater Recycling Facilities)

This Agreement (“Agreement”) is made and entered into this 7th day of May, 2024, by and between the **County of Yolo**, a political subdivision of the State of California (“County”), and **Specialized Utility Service Program, Inc.**, a California corporation and subsidiary of the California Rural Water Association (“Operator”).

**I. BASIC SERVICE**

A. Operator shall furnish and perform the following services in accordance with Exhibit A and the tasks described below and in a manner satisfactory to the Community Services Director or his/her written designee (“Director”): operation and maintenance of wastewater recycling facility and water supply and distribution facility located in the Wild Wings Golf Community. These services include the following tasks and subtasks:

**1. Task A: Wastewater Recycling Facilities (WRF) – Basic Services**

- a. The Wastewater Recycling Facilities (WRF) include a tertiary wastewater treatment facility (WTF) located on Parcel H in the Wild Wings Golf Community, all gravity sewer lines between the cleanout located in back of the curb adjacent to each of 341 services and the WTF, sewer manholes, two sewer lift stations (Site B and at the WTF), and sewer force main. Operator shall manage, operate and maintain the WRF within its design capacity and capability, and in accordance with permit requirements, including the following:
  - 1) Operator shall provide a sufficient number of certified, qualified, capable and experienced personnel to manage, operate and monitor WRF operations 24 hours a day, 7 days a week, 365 days a year during the term of this Agreement. Personnel shall meet relevant California State Water Resources Control Board and Regional Water Quality Control Board-Central Valley Region (RWQCB) requirements and hold certifications required for wastewater treatment operations.
  - 2) Operator shall provide a sufficient number of certified, qualified, capable and experienced personnel for WRF operations as necessary to ensure proper, timely and safe operations in accordance with all permit requirements. This work includes but is not limited to:
    - i. Gravity sewer collection system operations and maintenance.
    - ii. Gravity sewer collection system flushing, cleaning and blockage removal.
    - iii. Force main and Site B lift station operations and maintenance.
    - iv. WTF operations and maintenance.
    - v. WTF process testing and process control.

- vi. Sample collection, delivery and analysis as required to comply with WDRs and optimize WTF operation.
  - vii. Optimizing WTF performance by adjusting valves, mechanical equipment and SCADA system.
  - viii. Groundwater monitoring well maintenance, monitoring and reporting of all CSA wells.
  - ix. SCADA operations and maintenance, software updates.
  - x. Recording plant data in a permanent log daily.
  - xi. Responding to routine service calls/complaints from residents within five days.
  - xii. Notifying customers prior to service interruptions at least seven calendar days in advance, when feasible.
- b. Operator shall schedule and coordinate sludge pumping, removal, waste characterization and waste disposal activities with sludge haulers and disposal sites. The most economical haulers and disposal sites shall be arranged by Operator. All waste haulers must provide licensing and certification showing approved disposal sites prior to contracting. Final selection of sludge haulers and disposal sites shall be subject to prior approval by the County.
- c. Operator shall operate sludge press activities and coordinate maintenance of sludge press equipment.
- d. Operator shall monitor grit accumulations in the package plant and coordinate grit pumping, removal, waste characterization and waste disposal activities with sludge haulers and disposal sites.
- e. Operator shall arrange for an electrician to inspect the lift stations, control room, pumps, etc. on an annual basis and provide a written report of the condition of the facilities.
- f. Operator shall arrange for the inspection of the sacrificial anode cathodic protection system on an annual basis.
- g. Operator shall operate odor mediating bio filter, maintain blower functions and bio cells if required by the Yolo-Solano Air Quality Management District.
- h. Operator shall maintain two stationary generators in good operating condition and arrange for annual servicing. The Operator shall prepare the Annual Throughput and Production Report to the Yolo-Solano Air-Quality Management District, due March 31st of each year.
- i. Operator shall develop a Preventative Maintenance Inspection (PMI) plan for County approval that includes all of the necessary inspections, tests, services, lubrication and repairs on the systems, within 30 calendar days of full execution of this Agreement. The plan shall include a weekly schedule of all work for each

system to be performed each year. Once approved, Operator shall follow and continuously document the PMI schedule and provide this information to the Administrator by the 15th day of each month.

- j. Operator shall provide and update Standard Operating Procedures (SOPs) and Emergency Response Plans within 60 calendar days of full execution of this agreement.
- k. Operator shall perform or arrange for all preventative, routine, and scheduled maintenance and repairs, and furnish all related materials, subject to County approval. Preventative, routine and scheduled maintenance and repairs are those ordinary and necessary tasks and supplies required to keep the mechanical components operating in accordance with manufacturer's recommendations under normal usage and good standards of care, and to keep the WTF and Site B sites maintained in a clean and neat manner, including but not limited to:
  - 1) Inspection of equipment.
  - 2) Lubrication of equipment.
  - 3) Cleaning and replacing equipment, including filters, screens, belts, fuse
  - 4) Checking and replacing lights.
  - 5) Cleaning equipment.
  - 6) Painting and corrosion control.
  - 7) Calibrating flowmeter and analysis equipment.
  - 8) Ordering and properly storing chemicals, chlorine, and flocculants.
  - 9) Maintaining the WTF site: sweeping, weed control, litter control, trash removal
  - 10) WTF site security.
  - 11) Odor control.
  - 12) Telephone service.
  - 13) Office and cleaning supplies.
  - 14) Tools and equipment, laboratory glassware and bench testing equipment.
  - 15) Scheduling deliveries and receiving.
- l. Operator shall coordinate all repair work necessary due to equipment failure.
- m. In the event of an equipment malfunction or failure, Operator shall take the necessary actions to restore the facility to normal operation. An emergency storage basin, with a 24 hour capacity, is included within the WTF site. All equipment or system failures must be repaired within this time frame to prevent overflows of the basin. Overflows and subsequent fines and added costs due to Operator's failure to make repairs in a timely manner, where the delay in making such repairs is attributable to Operator's fault, shall be the responsibility of Operator.
- n. Operator shall send any parts or equipment needing repair to a factory-authorized repair location to determine the cause of failure and whether it can be repaired. Upon receipt of repaired or replacement parts or equipment, Operator shall replace them.

- o. Operator shall communicate and coordinate with the Wild Wings golf course operator to ensure the recycled water storage pond contains adequate supplies of irrigation water during summer irrigation months and adequate capacity for treated wastewater during the winter months.
- p. Operator shall prepare all Discharge Monitoring Reports under the direct supervision of a Registered Engineer or Geologist per the Regional Water Quality Control Board Waste Discharge Requirements (WDRs) Order No. R5-2002-0077 or successor, and submit the reports to appropriate agencies and provide the County with copies.
  - 1) Monthly Monitoring Reports by the first day of the second month following sampling.
  - 2) Quarterly Monitoring Reports by the first day of the second month after the quarter.
  - 3) Annual Monitoring Reports by February 1 each year.
- q. Operator shall prepare a monthly facilities status report which will include, at a minimum, the following:
  - 1) Monthly influent and effluent flow totals for the WTP
  - 2) Maximum influent in gpm at the equalization tank
  - 3) Monthly summary of operational parameters, such as BOD, TSS, MLSS, DO and sludge judge
  - 4) Monthly summary of turbidity ranges and chlorine residuals
  - 5) Monthly list of equipment failures and or repairs for wastewater system
  - 6) Any violations of the permit
  - 7) Any sampling results that were out of compliance
  - 8) Any operational problems
  - 9) Any anticipated issues with the facilities in the upcoming months
- r. Operator shall prepare a capital expenditure plan including all expenses for the below:
  - 1) Non-emergency equipment replacement
  - 2) Process improvement
  - 3) Cost savings suggestions
  - 4) Regulatory compliance measures
- s. Operator shall arrange for the collection, delivery and analysis of all samples as per the WDRs.
- t. Operator shall receive automated emergency calls, 24 hours per day, and respond to emergency alarm calls. Emergency service involves the correction of conditions that constitute an immediate danger to personnel, threaten property and/or action

required to restore essential service. Operator shall take immediate action as conditions warrant. Operator shall be available on-site within one hour of an emergency call and shall work continuously to correct the problem.

- u. Operator shall notify the County if the facility's condition or its influent characteristics are such that any operations are not in compliance with any permit requirements. Operator shall take immediate corrective action, subject to applicable County approval as required elsewhere in this Agreement.
- v. Operator shall assist the County in preparing the annual operating budget. Preparation of the budget shall be limited to supplying estimated costs for chemicals, sludge hauling, Operator fees and any known equipment replacement needs. Operator shall attend Wild Wings County Service Area Advisory Committee Meetings as required by County.
- w. Operator shall monitor calls to Underground Service Alert (USA) or successor for underground service locating requests in the subdivision, and mark underground sewer facilities within three days of request.

## **2. Task B: Water Supply & Distribution – Basic Services**

- a. The water supply and distribution facilities include two water supply sites with 360,000-gallon steel water storage tanks, domestic water wells and associated pumps, hydro-pneumatic tanks and chlorination facilities, a trailer mounted diesel generator, C900 domestic water distribution pipes between the well sites and 340 domestic metered services and 1 metered irrigation service, C900 raw water distribution pipes between the two well sites and the WTF and 4 metered lake fill services, valves, air release valves, fire hydrants and a sampling port. Operator's personnel shall be familiar with all of the regulatory requirements regarding public drinking water systems contained in the California Health and Safety Code and the California Code of Regulations, and shall operate the facilities in full compliance with the law. Operator shall manage and maintain the water wells and distribution system within design capacity and capability, and in accordance with permit requirements, including the following:
  - 1) Operator shall provide a sufficient number of certified, qualified, capable and experienced personnel to manage, operate and monitor water supply and distribution operations who meet relevant California State Water Board or successor requirements and certifications.
  - 2) Operator shall provide a sufficient number of certified, qualified, capable and experienced personnel for general onsite water utility operations as necessary to ensure proper, timely and safe operations of both water well sites, pumping facilities and the distribution system in accordance with all permit requirements. This work includes but is not limited to:

- i. Plant and distribution system operations and maintenance, including personnel to climb to the top of tanks for monthly inspection.
  - ii. On-site process testing.
  - iii. Sample collection, delivery and analysis as required by the State Water Board.
  - iv. SCADA system operations and maintenance.
  - v. Data recording in a permanent log.
  - vi. Response to routine service calls/complaints from residents within five (5) days.
  - vii. Customer notifications required for service interruptions.
  - viii. Monitoring of all system functions, generating reports and maintaining a historical profile of system performance.
  
- b. Operator shall develop a PMI plan for County approval that includes all of the necessary inspections, tests, services, lubrication and repairs on the systems within 30 calendar days of contract award. The plan shall include a weekly schedule of all work for each system to be performed during the first year of the contract. Once approved, Operator shall follow and continuously document the PMI schedule and provide this information to the Administrator by the 15th day of each month.
  
- c. Operator shall perform or arrange for all preventative, routine and scheduled maintenance and repairs, subject to County approval as required elsewhere in this Agreement. Preventative, routine and scheduled maintenance and repairs are those ordinary and necessary tasks and supplies required to keep the mechanical components operating in accordance with manufacturer's recommendations and good standards of care, and to keep the two well sites maintained in a clean and neat manner, including but not limited to:
  - 1) Inspection, lubrication and cleaning of equipment
  - 2) Cla-valves servicing
  - 3) Backflow prevention testing
  - 4) Distribution line flushing twice per year, at a minimum
  - 5) Distribution and station valve exercising
  - 6) Tank flushing, annually
  - 7) Cleaning and replacing filters, screens, fuses
  - 8) Checking and replacing lights
  - 9) Cleaning interior of MCC units and fans
  - 10) Painting and cleaning corrosion
  - 11) Annual cathodic protection maintenance
  - 12) Calibrating flowmeters, transducers and analysis equipment
  - 13) Ordering chemicals, sodium hypochlorite and dechlorinating agents
  - 14) Maintaining the well site: sweeping, weed control, litter control, trash removal, gutter cleaning
  - 15) Well site security
  - 16) Telephone service
  - 17) Office and cleaning supplies

- 18) Tools and equipment, laboratory glassware and bench testing equipment
- 19) Scheduling deliveries and receiving

- d. Operator shall coordinate all repair work necessary due to equipment failure.
- e. In the event of an equipment malfunction, failure or other required repair such as a pipeline repair, Operator shall take the necessary actions to restore the system or facility to normal operation.
- f. Operator shall maintain, fuel and transport between the two well sites, a trailer mounted generator as needed to provide emergency backup power and will prepared the Annual Throughput and Production Report to the Yolo-Solano Air Quality Management District, due March 31st of each year.
- g. Operator shall send any parts or equipment needing repair to a factory-authorized repair location to determine the cause of failure and whether it can be repaired. Upon receipt of repaired or replacement parts or equipment, the Operator shall replace them.
- h. Operator shall communicate and coordinate with the Wild Wings golf course operator regarding raw water supplies for lake filling on the golf course property.
- i. Operator shall prepare all water quality reports required by the State Water Board including the annual Consumer Confidence Report, a copy of which shall be provided to the County for distribution to the Wild Wings water consumers.
- j. Operator shall prepare a monthly facilities status report which will include, at a minimum:
  - 1) Monthly total production of raw and drinking water in gallons from both wells
  - 2) Monthly pumping water and static water levels in both wells and clearance to the top of the bowls
  - 3) Monthly pressure ranges in distribution system
  - 4) Monthly chlorine residual ranges in system
  - 5) Water balances in months when water meters are read
  - 6) Monthly list of equipment failures and or repairs for system
  - 7) Any violations of the permit
  - 8) Any sampling results that were out of compliance
  - 9) Any operational problems
  - 10) Any anticipated issues with the facilities in the upcoming months
- k. Operator shall prepare a capital expenditure plan, including all expenses for the below:
  - 1) Non-emergency equipment replacement
  - 2) Process improvement

- 3) Cost savings suggestions
  - 4) Regulatory compliance measures
- l. Operator shall arrange for the collection and analysis of all water samples required under the Overall Water Quality Monitoring Plan and the Water System Permit (State System No. 5710011) now administered by the State Water Resources Control Board Division of Drinking Water. Operator shall utilize a State certified laboratory acceptable to the County.
  - m. Operator shall arrange for annual calibration of the facilities flow meter by a qualified service technician.
  - n. Operator shall provide the annual certification of all water system back-flow prevention devices located on the water supply site. Operator shall ensure that back-flow prevention devices on customer's property are certified annually.
  - o. Operator shall arrange for an electrician to service the MCC panels and pumps on an annual basis and provide a written report as to the condition of the facilities.
  - p. Operator shall arrange for annual calibration and service of the cathodic protection system at both well sites.
  - q. Operator shall take emergency calls 24 hours per day and respond to emergency alarm calls. Emergency service involves the correction of conditions that constitute an immediate danger to personnel, threaten property and/or action required to restore essential service. Operator shall take immediate action as conditions warrant. Operator shall be available on-site within one hour of an emergency call and shall work continuously to correct the problem.
  - r. Operator shall notify the County if the facility's condition or water quality and/or pressure conditions do not meet permit requirements. Operator shall take immediate corrective action.
  - s. Operator shall assist the County in preparing the annual operating budget. Preparation of the budget shall include supplying estimated costs for chemicals, Operator's costs and any known equipment replacement needs. Operator shall attend Wild Wings County Service Area Advisory Committee meetings as required by County.
  - t. Operator shall monitor calls to Underground Service Alert (USA) for underground service locating requests in the subdivision, and mark underground water facilities within three days of request.
  - u. Operator shall read all water system meters on a bi-monthly basis. Meter readings shall be made by radio and the results provided electronically and in a format acceptable to County to County for billing purposes. Operator shall perform all

necessary water service “lock-outs” for non-payment as directed by the Administrator.

### **3. Task C: Meetings Between County and Operator**

- a. Operator shall attend meetings with County, as requested by the Administrator, up to three meetings per month.
- B. The complete Agreement shall include the following exhibits attached hereto and incorporated herein, including:
  - Exhibit A: Proposal Excerpt
  - Exhibit B: Payment Bond
  - Exhibit C: Performance Bond

In the event of any conflict between the provisions of this Agreement and Operator’s Proposal, including Operator’s Cost Proposal, the provisions of this Agreement shall control. In the event of any other conflicts between any of the provisions of this Agreement (including exhibits), the provision that requires the highest level of performance from Operator for County’s benefit shall prevail.

## **II. ADDITIONAL SERVICES**

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## **III. COMPENSATION AND REIMBURSEMENT OF EXPENSES**

- A. **Monthly Fee.** For the services described in Paragraph I above and in Exhibit A attached hereto inclusive of any bonding costs Operator may incur but excluding expense reimbursements provided for in Paragraph III.B of this Agreement, and subject to the condition that the services have been completed in a manner satisfactory to the Administrator, County shall pay Operator a fixed monthly fee per month (the “Monthly Fee”) as follows:
  - June 7, 2024 through June 7, 2027 (“Initial Term”): Monthly Fee payable by County to Operator shall be \$31,578.17 per month.

In no event shall the Monthly Fees paid by County to Operator exceed the amounts set forth in this Paragraph of the Agreement. Notwithstanding any other provision of this Agreement, the maximum cumulative amount of compensation payable to Operator for the Monthly Fee during the Initial Term of this Agreement shall not exceed \$1,136,814.12.

As provided in the Paragraph IX of this Agreement, the Administrator may approve up to two additional one-year extensions of this Agreement. For the extension terms only, the Operator may request to increase the Monthly Fee by i) the California Consumer Price Index (CPI-W, US City Average, All Items; NSA) or ii) 2.5%, whichever is lower, for each one-year extension (described in Paragraph IX) by submitting such request to County at least 30 days prior to the start date of the extension period.

**B. Reimbursable Expenses.** Operator shall not be entitled to reimbursement for any expenses except as specifically set forth in this Section. Reimbursable expenses may not exceed \$408,866.25 **per year** during the Initial Term of this Agreement, unless a higher amount is necessary in connection with the operation, maintenance and repair of the facilities hereunder, in which case this Agreement may be amended in writing accordingly as authorized herein, subject to Board of Supervisors approval. If the Agreement is not amended to allow additional reimbursements, Operator shall not be responsible for incurring any additional expenses.

1. The following expenses may be reimbursed if they are incurred after Operator obtains prior written approval of the Administrator:
  - a. Equipment repair or replacement costs that are not the result of improper operations and maintenance.
  - b. Process chlorine and flocculants.
  - c. Sludge disposal and hauling costs.
  - d. Tertiary filter bed replacement.
  - e. Sacrificial anodes for cathodic protection system.
  - f. Plant improvements.
  - g. Costs due to operational changes imposed by permitting agencies.
  - h. Costs due to changes in water quality or water quality standards
  - i. Water statement process changes.
2. Notwithstanding subsection 1 above, Operator may incur qualified reimbursable expenses without prior County approval for the purchase of items with a total cost of less than \$1,000.00 per item, if such items are necessary for the direct operation of the Wild Wings County Service Area water or wastewater systems. Expenses incurred under this subsection may be incurred without prior written authorization of the County, provided that the aggregate cost of expenditures remains less than \$5,000.00 dollars in a calendar month. Operator shall report these costs within 15 days after the end of the calendar month in which the expense was incurred. County reserves the right to require prior written approval of all reimbursable expense and may rescind this provision by providing written notice to Operator.
3. County retains ownership of all items for which it reimburses Operator. Expenses shall only be reimbursed upon the presentation of paid invoices. Operator shall obtain and provide evidence to County showing quotes and/or competitive bids obtained in accordance with County's then current procurement process. Operator shall make good faith reasonable efforts to reduce reimbursable expense costs where possible.

**C. Contract Maximum.** The maximum amount payable by County to Operator under this Agreement, including the Monthly Fees and Reimbursements, during the Initial Term is two million three hundred sixty-three thousand four hundred twelve dollars and 87/100 (\$2,363,412.87).

- D. County shall be responsible for direct payment of electrical and natural gas bills incurred for operation of the wastewater recycling facilities and water supply facilities for County-owned property within the County Service Area boundaries.

#### **IV. METHOD OF PAYMENT**

- A. In consideration of Operator's satisfactory performance in providing the services described in this Agreement, and upon authorization of the Administrator, County shall, upon receipt of a monthly invoice submitted in arrears to County by the Operator, pay Operator the Monthly Fee and any claim for expense reimbursement, up to the maximum amount set forth in and subject to Section III above.
- B. Within 15 calendar days of County's receipt of Operator's invoice, with any necessary documentation, the Administrator shall either authorize payment or advise Operator in writing of any concerns that the Administrator has with the invoice and any need for further documentation.
- C. Within 30 calendar days of the Administrator's authorization for payment of an invoice, the County Auditor-Controller shall either issue the payment or advise Operator in writing of any concerns that the County Auditor-Controller has with the request and any need for further documentation.

#### **V. REPORTS**

- A. Operator shall provide such reports as are required elsewhere by this Agreement, and such additional information and reports relating to the services otherwise required by this Agreement as are reasonably requested by the Administrator, as the times and in the manner specified by this Agreement, or by the Administrator if not so specified. Any other provision of this Agreement notwithstanding, should Operator fail to provide any report required by this Agreement in a timely manner and as otherwise set forth in this Agreement, County may withhold any payments otherwise due Operator pursuant to this Agreement, and any other agreement between Operator and County, until such report is properly submitted as determined by the Administrator.
- B. County shall provide Operator with all information pertinent to the services required of Operator by this Agreement which is requested by Operator and which is within County's possession. No charge will be made for these materials.

#### **VI. OWNERSHIP OF DOCUMENTS AND WORK PRODUCTS**

All professional and technical documents and information developed under this Agreement, and all work products, including writings, work sheets, reports, and related data, materials, copyrights and all other rights and interests therein, shall become the property of the County, and Operator agrees to deliver and assign the foregoing to the County, upon completion of the services hereunder or upon any earlier termination of this Agreement. Operator assigns the work products, as and when the same shall arise, for the full terms of protection available throughout

the world. In addition, basic data prepared or obtained under this Agreement shall be made available to the County without restriction or limitation on their use.

No additional charge will be made for any of the foregoing.

## **VII. RECORDS: ACCESS, RETENTION**

Operator shall retain and make available for review by the County and its designees all records, documents, and general correspondence relating to this Agreement and the services required hereunder for a period of not less than five (5) years after receipt of final payment or until all pending audits and proceedings are completed, whichever is later. Operator shall make such records available for inspection and copying by the County and its designees at any reasonable time. At least thirty (30) calendar days prior to any destruction of these records following the five years, Operator shall notify the Administrator. Upon such notification, the Administrator shall either agree to the destruction or authorize the records to be forwarded to the County for further retention.

## **VIII. DISPUTES**

Any dispute arising under this Agreement shall be decided by the County Administrative Officer who shall put his or her decision in writing and mail a copy thereof to the address for the notice to Operator. The decision of the County Administrative Officer shall be final unless, within 30 days from the date such copy is mailed to Operator, Operator appeals the decision in writing to the County Board of Supervisors. Any such written appeal shall detail the reasons for the appeal and contain copies of all documentation supporting Operator's position. In connection with any appeal proceeding under this paragraph, Operator shall be afforded the opportunity to be heard and offer evidence in support of its appeal to the County Board of Supervisors at a regular Board meeting. Pending a final decision of the dispute, Operator shall proceed diligently with the performance of this Agreement and in accordance with the County Administrative Officer's decision. The decision of the County Board of Supervisors on the appeal shall be final for purposes of exhaustion of administrative remedies.

## **IX. TERM AND TERMINATION**

- A. The Initial Term of this Agreement shall be from June 7, 2024 through June 6, 2027, unless sooner terminated as provided in this Agreement. This Agreement may be extended for up to two additional one-year terms from June 7, 2027 through June 6, 2028 and June 7, 2028 through June 6, 2029 at the option of the Administrator on the same terms and conditions provided in this Agreement, subject to a mutually agreed upon increase, as provided in Article III of this Agreement if requested by the Operator and approved by a written amendment to this Agreement.
- B. Should either party fail to substantially perform its obligations in accordance with this Agreement, the other party may notify the defaulting party of such default in writing and provide not less than 30 days to cure the default. Such notice shall describe the default, and shall not be deemed a forfeiture or termination of this Agreement. If such default is not

cured within said thirty day period (or such longer period as is specified in the notice or agreed to by the parties), the party that gave notice of default may terminate this Agreement upon not less than 5 days advance written notice. In the event of such termination based upon Operator default, the County reserves the right to purchase or obtain the supplies or services elsewhere, and Operator shall be liable for the difference between the prices set forth in this Agreement and the actual cost thereof to the County. The foregoing notwithstanding, neither party waives the right to recover damages against the other for breach of this Agreement.

- C. If Operator willfully or negligently violates the Waste Discharge Requirements applicable to County, for which the State issues a Notice of Violation, the County may terminate this Agreement upon giving five days' written notice to Operator.
- D. This Agreement may be terminated for any reason by either party at any time during its term, by giving 30 days' written notice to the other party.
- E. Upon termination of this Agreement or suspension of work by either County or Operator, Operator shall furnish to County all documents and drawings prepared under this Agreement, whether complete or incomplete. In the event of termination for any reason, reproducible copies of all finished or unfinished documents, drawings, maps, models, photographs, and reports prepared by Operator shall become the sole and exclusive property of Yolo County and Operator shall be entitled to receive compensation for any work completed on such documents and other materials determined by the Administrator to be of satisfactory quality and within the terms and conditions of this Agreement.
- F. During and following the term of this Agreement, Operator shall not use, distribute or otherwise circulate any of the materials developed pursuant to this Agreement and for which Operator was compensated by the County without the express written permission of the Administrator.

## **X. APPLICABLE LAWS; PREVAILING WAGE**

- A. In the performance of the services required by this Agreement, Operator shall comply with all applicable Federal, State, and County statutes, ordinances, regulations, directives and laws. This Agreement is also subject to any additional restrictions or conditions that may be imposed upon the County by the Federal or State government.
- B. Contractor is aware of the requirements of Labor Code sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, Section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Since the Services involve an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, Contractor agrees to fully comply with such Prevailing Wage Laws. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification, or type of worker needed to perform work on the project available to interested parties upon request, and shall post copies at the Contractor's principal place of

business and at the project site, including a schedule showing all determined general prevailing wage rates and all authorized deductions, if any, from unpaid wages actually earned. Contractor shall defend, indemnify and hold the County, its officials, officers, employees and authorized volunteers 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.

1. If total compensation is \$15,000 or more for maintenance or \$25,000 or more for construction, alteration, demolition, installation, or repair, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Contractor and all subcontractors performing such Services must be registered with the Department of Industrial Relations. Contractor shall maintain registration for the duration of the Agreement and require the same of any subcontractors, as applicable. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations and related bonding requirements. It shall be Contractor's sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor that affect Contractor's performance of services, including any delay, shall be Contractor's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Contractor-caused delay and shall not be compensable by the County.

2. The County will not recognize any claim for additional compensation because of the payment by Contractor of any wage rate in excess of the prevailing wage rate set forth at the time of executing the Agreement. The possibility of wage increases is one of the elements to be considered by Contractor in determining a bid and will not under any circumstances be considered as the basis of a claim against the County on the Agreement.

C. This Agreement shall be deemed to be executed within the State of California and construed in accordance with and governed by the laws of the State of California. Any action or proceeding arising out of this Agreement shall be filed and resolved in a California State court located in Woodland, California. Operator waives any removal rights it might have under State or Federal law.

## **XI. NON-DISCRIMINATION IN SERVICES AND BENEFITS**

Operator certifies that any service provided pursuant to this Agreement shall be without discrimination based on color, race, creed, national origin, religion, sex, age, sexual preferences, or physical or mental disability in accordance with all applicable Federal, State and County laws and regulations and any administrative directives established by the County Board of Supervisors or the County Administrative Officer. For the purpose of this

Agreement, distinctions on the grounds of color, race, creed, national origin, religion, sex, age, sexual preferences, or physical or mental disability include but are not limited to the following: denying a participant any service or benefit which is different, or is provided in a different manner or at a different time from that provided to other participants under this

Agreement; subjecting a participant to segregation or separate treatment in any way in the enjoyment or any advantage or privilege enjoyed by others receiving any service or benefit; treating a participant differently from others in determining whether the participant has satisfied any admission, enrollment quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any service or benefit; and the assignment of times or places for the provision of services.

## **XII. OPERATOR'S RESPONSIBILITIES**

- A. Operator shall exercise all of the care and judgment consistent with good practices in the performance of the services required by this Agreement.
- B. With the exception that this Section shall in no event be construed to require indemnification by Operator to a greater extent than permitted under the public policy of the State of California, Operator shall indemnify, defend and hold harmless the County of Yolo, officers, agents, employees and volunteers from and against any and all claims, damages, demands, losses, defense costs, expenses (including attorney fees) and liability of any kind or nature arising out of or resulting from performance of the work, provided that any such claim, damage, demand, loss, cost, expense or liability is caused in whole or in part by any negligent or intentional act or omission of Operator, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, provided that if such claim, damage, demand, loss, cost, expense or liability arises from the negligence of County or any of its officers, agents, employees, or volunteers, then Operator's obligation hereunder shall be allocated in accordance with comparative negligence principles under California law. Operator and/or any subcontractor's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law. The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement.
- C. All subcontractors must agree to be bound to Operator and the County of Yolo in the same manner and to the same extent as Operator is bound to the County of Yolo under this Agreement. All subcontractors must further agree to include the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, with any sub-subcontractor to the extent they apply to the scope of the sub-subcontractor's work.
- D. In providing any defense under this Section, Operator shall use counsel reasonably acceptable to the County Counsel.

## **XIII. PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE**

- A. During the term of this Agreement, Operator shall at all times maintain, at its expense, the following coverages and requirements. The comprehensive general liability insurance shall include broad form property damage insurance.

1. Minimum Coverages (as applicable). Insurance coverage shall be with limits not less than the following:
  - a. **Comprehensive General Liability** – \$2,000,000/occurrence and \$4,000,000/aggregate
  - b. **Automobile Liability** – \$1,000,000/occurrence (general) and \$500,000/occurrence (property) (include coverage for Hired and Non-owned vehicles)
  - c. **Professional Liability/Malpractice/Errors and Omissions** – \$2,000,000/occurrence and \$2,000,000/aggregate (If any engineer, architect, attorney, accountant, medical professional, psychologist, or other licensed professional performs work under a contract, Operator must provide this insurance. If not, then this requirement automatically does not apply.)
  - d. **Workers’ Compensation-Statutory Limits/Employers’ Liability** – \$1,000,000/accident for bodily injury or disease (If no employees, this requirement automatically does not apply.)
2. The County, its officers, agents, employees and volunteers shall be named as additional insured on all but the workers’ compensation and professional liability coverages. It shall be a requirement under this agreement that any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any Insurance policy or proceeds available to the named Insured; whichever is greater.
  - a. The Additional Insured coverage under Operator’s policy shall be “primary and non-contributory” and will not seek contribution from the County’s insurance or self-insurance and shall be at least as broad as CG 20 01 04 13.
  - b. 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 County of Yolo (if agreed to in a written contract or agreement) before the County’s own Insurance or self-insurance shall be called upon to protect it as a named insured.
3. Said policies shall remain in force through the life of this Agreement and, with the exception of professional liability coverage, shall be payable on a “per occurrence” basis unless the County Risk Manager specifically consents in writing to a “claims made” basis. For all “claims made” coverage, in the event that Operator changes insurance carriers Operator shall purchase “tail” coverage covering the term of this

Agreement and not less than three years thereafter. Proof of such “tail” coverage shall be required at any time that Operator changes to a new carrier prior to receipt of any payments due.

4. Operator shall declare all aggregate limits on the coverage before commencing performance of this Agreement, and the County’s Risk Manager reserves the right to require higher aggregate limits to ensure that the coverage limits required for this Agreement as set forth above are available throughout the performance of this Agreement.
  5. Any deductibles or self-insured retentions must be declared to and are subject to the approval of the County Risk Manager. All self-insured retentions (SIR) must be disclosed to Risk Management for approval and shall not reduce the limits of liability. Policies containing any SIR provision shall provide or be endorsed to provide that the SIR may be satisfied either by the named Insured or Yolo County.
  6. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days’ prior written notice by certified mail, return receipt requested, has been given to the Administrator (ten (10) days for delinquent insurance premium payments).
  7. Insurance is to be placed with insurers with a current A.M. Best’s rating of no less than A:VII, unless otherwise approved by the County Risk Manager.
  8. The policies shall cover all activities of Operator, its officers, employees, agents and volunteers arising out of or in connection with this Agreement.
  9. For any claims relating to this Agreement, Operator’s insurance coverage shall be primary, including as respects the County, its officers, agents, employees and volunteers. Any insurance maintained by the County shall apply in excess of, and not contribute with, insurance provided by Operator’s liability insurance policy.
  10. Operator shall waive all rights of subrogation against the County, its officers, employees, agents and volunteers.
  11. County shall maintain property damage and commercial general liability insurance, in commercially reasonable coverage amounts, on all facilities and properties it owns that are subject to this Agreement. County shall waive all rights of subrogation against the Operator, its officers, employees, agents and volunteers with respect to such policies.
- B. Prior to commencing services pursuant to this Agreement, Operator shall furnish the County with original endorsements reflecting coverage required by this Agreement. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received by, and are subject to the approval of, the County Risk Manager before work commences. Upon County’s request, Operator shall

provide complete, certified copies of all required insurance policies, including endorsements reflecting the coverage required by these specifications.

- C. During the term of this Agreement, Operator shall furnish the County with original endorsements reflecting renewals, changes in insurance companies and any other documents reflecting the maintenance of the required coverage throughout the entire term of this Agreement. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. Upon County's request, Operator shall provide complete, certified copies of all required insurance policies, including endorsements reflecting the coverage required by these specifications. Yolo County reserves the right to obtain a full certified copy of any Insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.
- D. Operator agrees to include with all subcontractors in their subcontract the same requirements and provisions of this Agreement including the indemnity and insurance requirements to the extent they apply to the scope of the subcontractor's work. Subcontractors hired by Operator must agree to be bound to Operator and the County of Yolo in the same manner and to the same extent as Operator is bound to the County of Yolo under this Agreement. All subcontractors must further agree to include these same provisions with any sub-subcontractor. Operator shall require all subcontractors to provide a valid certificate of insurance and the required endorsements included in the agreement prior to commencement of any work and Operator will provide proof of compliance to the County of Yolo.
- E. Operator shall maintain insurance as required by this Agreement to the fullest amount allowed by law and shall maintain insurance for a minimum of five years following the completion of this project. In the event Operator fails to obtain or maintain completed operations coverage as required by this Agreement, the County at its sole discretion may purchase the coverage required and the cost will be paid by Operator.

#### **XIV. WORKERS' COMPENSATION**

Operator shall provide workers' compensation coverage as required by State law, and prior to commencing services pursuant to this Agreement shall file the following statement with the County in a form substantially as set forth below.

##### **WORKERS' COMPENSATION CERTIFICATE**

I am aware of the provisions of Section 3700 of the Labor Code that 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 I will comply with such provisions before commencing any services required by this Agreement.

The person executing this certificate on behalf of Operator affirmatively represents that she/he has the requisite legal authority to do so on behalf of Operator, both the person executing this Agreement on behalf of Operator and Operator understand that the County

is relying on this representation in entering into this Agreement.

**XV. NOTICE**

- A. All notices shall be deemed to have been given when made in writing and delivered or mailed to the respective representatives of County and Operator at their respective addresses as follows:

Operator: Specialized Utility Services Program, Inc. (SUSP)  
Attn: Dan DeMoss, Executive Director  
1234 Northgate Blvd.  
Sacramento, California 95834

County: Yolo County  
Department of Community Services  
Attn: CSA Manager  
292 W. Beamer St.  
Woodland, California 95695

- B. In lieu of written notice to the above addresses, any party may provide notices through the use of facsimile machines provided confirmation of delivery is obtained at the time of transmission of the notices and provided the following facsimile telephone numbers are used:

Operator: (916) 553-4904

County: (530) 813-5178

- C. Any party may change the address or facsimile number to which such communications are to be given by providing the other parties with written notice of such change at least 15 calendar days prior to the effective date of the change.
- D. All notices shall be effective upon receipt and shall be deemed received through delivery if personally served or served using facsimile machines, or on the fifth (5th) day following deposit in the mail if sent by first class mail.

**XVI. CONFLICT OF INTEREST**

- A. Operator shall comply with the laws and regulations of the State of California and County regarding conflicts of interest, including, but not limited to, Article 4 of Chapter 1, Division 4, Title 1 of the California Government Code, commencing with Section 1090, and Chapter 7 of Title 9 of said Code, commencing with Section 87100 including regulations promulgated by the California Fair Political Practices Commission.
- B. Operator covenants that it presently has no interest and shall not acquire any interest, direct

or indirect, which would conflict in any manner or degree with the performance of Operator's obligations and responsibilities hereunder. Operator further covenants that in the performance of this Agreement, no person having any such interest shall be employed. This covenant shall remain in force until Operator completes performance of the services required of it under this Agreement.

- C. Operator agrees that if any fact comes to its attention that raises any question as to the applicability of any conflict of interest law or regulation, Operator will immediately inform the County and provide all information needed for resolution of the question.

## **XVII. COVENANT AGAINST CONTINGENT FEES**

Operator warrants that it has not employed or retained any company or person, other than a bona fide employee working for Operator, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making this agreement. For breach or violation of this warranty, the County shall have the right to annul this agreement without liability, or in its discretion to deduct from the agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

## **XVIII. AUDITS**

- A. Operator shall be subject to examination and audit by the State or the County, or both, throughout the term of this Agreement and thereafter for a period of three years from the date that final payment is made pursuant to this Agreement. This does not preclude access to records by County, State, the Comptroller General of the United States, or any of their authorized representatives, as otherwise provided by this Agreement, the State contract, or State or Federal laws and regulations. Operator agrees that County and/or State has the right to review, obtain, and copy all records pertaining to the performance of this Agreement, and agrees to provide County and/or State with any and all relevant information requested.
- B. Any and all books, records, and facilities maintained by Operator related to services provided under this Agreement may be audited, inspected and copied at any time during normal business hours. Unannounced visits may be made at the discretion of the County or State. Employees who might reasonably have information related to such records may be interviewed. All expenditures of State and federal funds furnished to Operator pursuant to this Agreement are subject to audit by County, State and/or Federal representatives. Such audits shall consider and build upon external independent audits performed pursuant to audit requirements of the Office of Management and Budget (OMB) Circular A-133 as described in Paragraph C below.
- C. Should Operator expend \$500,000 or more in Federal funds during any fiscal year (based on information provided by County with respect to the expenditure of such Federal funds), Operator shall furnish County a certified copy of an Audit Report from an independent

CPA firm covering Operator's preceding fiscal year of January 1 through December 31. This Audit shall be performed in accordance with OMB Circular A-133 and conducted in accordance with generally accepted government auditing standards as described in Government Auditing Standards (1994 Revision), and provided in a form satisfactory to the Administrator.

Operator shall provide this Audit Report no later than July 31 of each year. In the event that this Agreement expires or is terminated on a date other than December 31, Operator shall provide County such an Audit Report covering the preceding period of January 1 through the date of expiration or termination no later than July 31 after the date of expiration or termination. Operator shall ensure that audit work papers supporting the report are retained for a period of three (3) years from the date of the audit report, and longer if notified by the State or County to extend the retention period, and are made available to the State and/or County upon request.

- D. Should an Audit Report or any State or County audit determine that Operator has misspent funds and been overpaid based on the requirements of this Agreement and applicable laws and regulations, County shall demand repayment from Operator in the amount of such audit findings and withhold any payment otherwise due under this Agreement until Operator repays such amount. Operator shall repay County such amount within sixty (60) days of the date of the County's demand for repayment. Should Operator fail to repay County within sixty (60) days of the date of County's demand for repayment, the County may offset the amount due from Operator against any amounts that would otherwise be due from the County to Operator pursuant to this Agreement or any other agreement or source.
- E. Any failure or refusal by Operator to permit access to any facilities, books, records or other information required to be provided to the State &/or the County by this Agreement &/or the State contract shall constitute an express and immediate breach of this Agreement.

## **XIX. ASSIGNMENT AND SUBCONTRACTS**

The services and obligations required of Operator under this Agreement are not assignable in whole or in part. In addition, Operator shall not subcontract any portion of the services required of Operator by this Agreement without the express written consent of the Administrator. If any portion of the services required of Operator are subcontracted, the subcontractor(s) shall maintain the same insurance as required of Operator by this Agreement and Operator shall be fully responsible to the County for all work undertaken by subcontractors.

## **XX. STATUS OF OPERATOR**

- A. It is understood and agreed by all the parties hereto that Operator is an independent contractor and that no relationship of employer-employee exists between the County and Operator. Neither Operator nor Operator's assigned personnel shall be entitled to any

benefits payable to employees of the County. Operator hereby indemnifies and holds the County harmless from any and all claims that may be made against the County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement or any services provided pursuant to this Agreement.

- B. It is further understood and agreed by all the parties hereto that neither Operator nor Operator's assigned personnel shall have any right to act on behalf of the County in any capacity whatsoever as an agent or to bind the County to any obligation whatsoever.
- C. It is further understood and agreed by all the parties hereto that Operator must issue any and all forms required by Federal and State laws for income and employment tax purposes, including W-2 and 941 forms, for all of Operator's assigned personnel.

**XXI. AMENDMENT**

This Agreement may be amended only by written instrument signed by the County and Operator.

**XXII. WAIVER**

The waiver by the County or any of its officers, agents or employees or the failure of the County or its officers, agents or employees to take action with respect to any right conferred by, or any breach of any obligation or responsibility of this Agreement shall not be deemed to be a waiver of such obligation or responsibility, or subsequent breach of same, or of any terms, covenants or conditions of this Agreement.

**XXIII. AUTHORIZED REPRESENTATIVE**

The person executing this Agreement on behalf of Operator affirmatively represents that she/he has the requisite legal authority to enter into this Agreement on behalf of Operator and to bind Operator to the terms and conditions of this Agreement. Both the person executing this Agreement on behalf of Operator and Operator understands that the County is relying on this representation in entering into this Agreement.

**XXIV. PUBLIC RECORDS ACT**

Upon its execution, this Agreement (including all exhibits and attachments) shall be subject to disclosure pursuant to the California Public Records Act.

**XXV. ADDITIONAL PROVISIONS**

- A. Where there is a doubt as to whether a provision of this document is a covenant or a condition, the provision shall carry the legal effect of both. Should the County choose to excuse any given failure of Operator to meet any given condition, covenant or obligation (whether precedent or subsequent), that decision will not be, or have the legal effect of, a waiver of the legal effect in subsequent circumstances of either that condition, covenant

or obligation or any other found in this document. All conditions, covenants and obligations continue to apply no matter how often County may choose to excuse a failure to perform them.

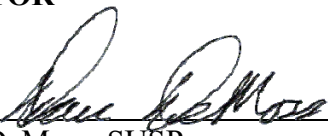
B. Except where specifically stated otherwise in this document, the promises in this document benefit the County and Operator only. They are not intended to, nor shall they be interpreted or applied to, give any enforcement rights to any other persons (including corporate) which might be affected by the performance or non-performance of this Agreement, nor do the parties hereto intend to convey to anyone any "legitimate claim of entitlement" with the meaning and rights that phrase has been given by case law.

**XXVI. ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the County and Operator and supersedes all prior negotiations, representations, or agreements, whether written or oral. In the event of a dispute between the parties as to the language of this Agreement or the construction or meaning of any term hereof, this Agreement shall be deemed to have been drafted by the parties in equal parts so that no presumptions or inferences concerning its terms or interpretation may be construed against any party to this Agreement.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the day and year first set forth above.

**OPERATOR**

By:   
Dan DeMoss, SUSP  
Executive Director

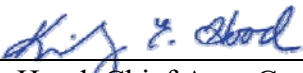
**COUNTY OF YOLO**

By: \_\_\_\_\_  
Lucas Frerichs, Chair  
Board of Supervisors

Attest: Julie Dachtler, Senior Deputy

By: \_\_\_\_\_  
(Seal)

Approved as to Form:  
Philip J. Pogledich, County Counsel

By:   
Kimberly Hood, Chief Asst. County Counsel