

Name of Project: **Regional Large Landscape Water Budget Program**

SOLANO COUNTY WATER AGENCY

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, **effective July 1, 2022**, is between SOLANO COUNTY WATER AGENCY, a public agency existing under and by virtue of Chapter 573 of the 1989 statutes of the State of California, hereinafter referred to as "Agency," and **Waterfluence**, hereinafter referred to as "Contractor."

The Agency requires services for **Large Landscape Water Budget Program**; and the Contractor is willing to perform these services pursuant to the terms and conditions set out in this Agreement.

IT IS MUTUALLY AGREED, as follows:

1. **SCOPE OF SERVICES**

The Agency hereby engages the Contractor, and the Contractor agrees to perform the services for **Low Income and Senior Water Efficiency Upgrades**, as described in Exhibit A, in accordance with the terms of this Agreement and any applicable laws, codes, ordinances, rules or regulations. In case of conflict between any part of this Agreement, this Agreement shall control over any Exhibit.

2. **COMPENSATION**

Compensation for services shall be as follows: Hourly rate of personnel plus any allowed reimbursable expenses based on unit costs as indicated on any allowed reimbursable expense in Exhibit B **not to exceed \$70,000** for all work contemplated by this Agreement.

3. **METHOD OF PAYMENT**

Payment for services will be approved by the Agency's representative only if all contract requirements have been met.

Invoices must be submitted monthly, and upon approval of the Agency's representative, the Agency shall pay the Contractor monthly in arrears for fees and allowed expenses incurred the prior month. *Invoices that are over 6 months old will not be approved or paid by the Agency.* **In no event shall the cumulative total paid pursuant to this agreement exceed the maximum amount provided for in paragraph 2 of this Agreement.**

Every invoice shall specify hours worked for each task identified in Exhibit A undertaken. To be approved by payment, any allowed reimbursable expenses will need supporting written documentation such as receipts and mileage logs.

Each invoice shall be accompanied by a spreadsheet showing, by month, costs incurred to date for the project broken down by the Tasks identified in Exhibit A. The spreadsheet

shall show, for each task, budget amounts, total expended and remaining amounts. The spreadsheet shall show a subtotal for each fiscal year covered by the contract. Any amendments to the contract shall be listed and incorporated into spreadsheet. An example of a typical spreadsheet shall be provided by the Agency.

4. **TIME OF PERFORMANCE**

This Agreement shall become effective as of the date it is executed and said services will take place between this date and **June 30, 2023** as directed by the Agency.

5. **MODIFICATION AND TERMINATION**

This Agreement may be modified or amended only by written instrument signed by the parties hereto, and the Contractor's compensation and time of performance of this Agreement shall be adjusted if they are materially affected by such modification or amendment.

This Agreement may be terminated by the Agency at any time, without cause, upon written notification to the Contractor. The Contractor may terminate this Agreement upon 30 days written notice to Agency.

Following termination by the Agency or the Contractor, the Contractor shall be reimbursed for all expenditures made in good faith in accordance with the terms of this Agreement that are unpaid at the time of termination.

6. **INDEMNIFY AND HOLD HARMLESS**

To the extent permitted by law, Contractor shall hold harmless, defend at its own expense, and indemnify Solano County Water Agency, its directors, officers, employees, and authorized volunteers, against any and all liability, claims, losses, damages, or expenses, including reasonable attorney's fees and costs, arising from all acts or omissions of Contractor or its officers, agents, or employees in rendering services under this contract; excluding, however, such liability, claims, losses, damages or expenses arising Solano County Water Agency's sole negligence or willful acts.

7. **INSURANCE**

Minimum Insurance Requirements: Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries or death 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 Contractor, his agents, representatives, employees or sub-contractors.

Coverage - Coverage shall be at least as broad as the following:

1. **Commercial General Liability (CGL)** - Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG 00 01) including products and completed operations, property damage, bodily injury, personal and advertising injury with limit of at least two million dollars (\$2,000,000) per occurrence or the full per occurrence limits of the policies available, whichever is greater. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (coverage as broad as

the ISO CG 25 03, or ISO CG 25 04 endorsement provided to Solano County Water Agency) or the general aggregate limit shall be twice the required occurrence limit.

2. **Automobile Liability** – (if necessary) Insurance Services Office (ISO) Business Auto Coverage (Form CA 00 01), covering Symbol 1 (any auto) or if Contractor has no owned autos, Symbol 8 (hired) and 9 (non-owned) with limit of one million dollars (\$1,000,000) for bodily injury and property damage each accident.
3. **Workers' Compensation Insurance** - 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. **Waiver of Subrogation:** The insurer(s) named above agree to waive all rights of subrogation against the Solano County Water Agency, its elected or appointed officers, officials, agents, authorized volunteers and employees for losses paid under the terms of this policy which arise from work performed by the Named Insured for the Agency; but this provision applies regardless of whether or not the Solano County Water Agency has received a waiver of subrogation from the insurer.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the Solano County Water Agency 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 Solano County Water Agency.

Other Required Provisions - The general liability policy must contain, or be endorsed to contain, the following provisions:

1. **Additional Insured Status:** Solano County Water Agency, its directors, officers, employees, and authorized volunteers are to be given insured status (at least as broad as ISO Form CG 20 10 10 01), with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations.
2. **Primary Coverage:** For any claims related to this project, the Contractor's insurance coverage shall be primary at least as broad as ISO CG 20 01 04 13 as respects to the Solano County Water Agency, its directors, officers, employees and authorized volunteers. Any insurance or self-insurance maintained by the Solano County Water Agency its directors, officers, employees and authorized volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

Notice of Cancellation: Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Solano County Water Agency.

Self-Insured Retentions - Self-insured retentions must be declared to and approved by the Solano County Water Agency. The Solano County Water Agency require the Contractor to 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 endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Solano County Water Agency.

Acceptability of Insurers - Insurance is to be placed with insurers having a current A.M. Best rating of no less than A: VII or as otherwise approved by Solano County Water Agency.

Verification of Coverage – Contractor shall furnish the Solano County Water Agency with 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 Solano County Water Agency before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The Solano County Water Agency reserves the right to require complete, certified copies of all required insurance policies, including policy Declaration pages and Endorsement pages.

Sub-contractors - Contractor shall require and verify that all sub-contractor maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that Solano County Water Agency its directors, officers, employees, and authorized volunteers are an additional insured are an additional insured on Commercial General Liability Coverage.

8. **COMPLIANCE WITH LAW**

The Contractor shall be subject to and comply with all federal, state and local laws and regulations applicable with respect to its performance under this Agreement, including but not limited to, licensing, employment and purchasing practices; and wages, hours and conditions of employment.

9. **RECORD RETENTION**

Except for materials and records, delivered to the Agency, the Contractor shall retain all materials and records prepared or obtained in the performance of this Agreement, including financial records, for a period of at least three years after the Contractor's receipt of the final payment under this Agreement. Upon request by the Agency, the Contractor shall make such materials and records available to the Agency at no additional charge and without restriction or limitation to State and federal governments at no additional charge.

10. **OWNERSHIP OF DOCUMENTS**

All materials and records of a finished nature, such as final plans, specifications, reports and maps, prepared or obtained in the performance of this Agreement, shall be delivered to and become the property of the Agency. All materials of a preliminary nature, such as survey notes, sketches, preliminary plans, computations and other data, prepared or obtained in the performance of this Agreement, shall be made available, upon request, to the Agency at no additional charge and without restriction or limitation on their use.

11. **SUBCONTRACT AND ASSIGNMENT**

This Agreement binds the heirs, successors, assigns and representatives of the Contractor. The Contractor shall not enter into subcontracts for any work contemplated under this Agreement and shall not assign this Agreement or monies due or to become due, without the prior written consent of the General Manager of the Agency or his designee, subject to any required state or federal approval. (*Note: list any subcontractors here*)

13. **NONRENEWAL**

The Contractor understands and agrees that there is no representation, implication, or understanding that the services provided by the Contractor under this Agreement will be purchased by the Agency under a new agreement following expiration or termination of this Agreement, and waives all rights or claims to notice or hearing respecting any failure to continue purchase of all or any such services from the Contractor.

14. **NOTICE**

Any notice provided for herein are necessary to the performance of this Agreement and shall be given in writing by personal delivery or by prepaid first-class mail addressed as follows:

AGENCY

Roland Sanford, General Manager

Solano County Water Agency

810 Vaca Valley Parkway, Suite 203
Vacaville, CA 95688

CONTRACTOR

John Whitcomb, Ph. D. Director

WaterFluence LLC

P.O. Box 561
Menlo Park, CA 94026

The parties have executed this Agreement the day and year first above written. If the Contractor is a corporation, documentation must be provided that the person signing below for the Contractor has the authority to do so.

Solano County Water Agency
a Public Agency

By: _____
Roland Sanford, General Manager

Solano County Water Agency

By: _____
John Whitcomb, Ph. D. Director

WaterFluence LLC

FOR SCWA USE ONLY

Contract Period: July 1, 2022 to June 30, 2023

File Number: _____

Account Manager: Andrew Florendo

G/L Account #: 6551AC

Job Cost #: 2027

Contract Type: Professional Services

EXHIBIT A

SCOPE OF SERVICES

Setup

1. Site Selection. Agency provides Waterfluence with account billing information (customer and historic water use files) for accounts to potentially add to program. Waterfluence consolidates accounts to sites and ranks sites by potential water savings. Agency selects sites to participate in program.
2. Platform Data. For selected sites, Waterfluence adds account billing information used in site selection into the Platform database. Waterfluence collects water prices and local weather data from CIMIS, NOAA, or other sources. Agency provides digital file of its logo.
3. Site Map. Waterfluence creates a map for each site using aerial imagery. The maps include square footage measurements of irrigated turf, irrigated shrubs/trees, and water features using Google Earth, ArcMap or similar.
4. Water Use Report. Waterfluence creates a one-page report for each site containing customer information, site characteristics, historical water use, a water budget range based on site characteristics and daily local weather matched exactly in time with billing cycle, customized messaging, and peer-based irrigation performance ranking.
5. Introduction Packet. Waterfluence produces and distributes a packet to each site that includes an introduction letter, FAQ, and Water Use Report. Waterfluence provides a generic introduction letter for Agency to customize. Waterfluence contacts each site about two weeks after sending the Introduction Packet to check if it got to the right person, get details about the site contacts (email addresses), identify the landscaper and/or others involved with irrigation decisions, and answer any questions about the program.

6. Platform Access. All site contacts get access to view their site information via the online Platform at www.waterfluence.com. Platform provides interactive water use charts, alerts and messages, and customized recommendations. Contacts can authorize third parties such as HOA board members and landscape contractors to also access their site information.
7. Agency Administrative Portal. Agency staff get an online portal to view all program information including site details, field survey queue, and summary statistics.

Annual Maintenance

1. Data Collection. At the beginning of each month, Agency forwards Waterfluence a file with the previous month's water use for accounts in the program. Waterfluence collects daily weather data from CIMIS, NOAA, or other sources and updates water rates when relevant. Waterfluence performs quality controls measures and updates all program information.
2. Report Distribution. Each month, Waterfluence either notifies online site contacts when updated information is ready to view or mails hard copies of the updated water use reports.
3. Contact Management. Waterfluence continually updates site contact information. This includes monitoring changes in account number, investigating returned mail envelopes, and investigating email bounce backs. The customer (water bill payer) can authorize third parties to view site information. Agency staff can assist with site contact management to maximize program engagement.
4. Messaging. Agency can have Waterfluence send specific messages to sites. Messages might include information on other landscape programs, events, useful hyperlinks, or irrigation policies.
5. Customer Service. Waterfluence provides customer service to site contacts via Platform messages, email and toll-free telephone number. Waterfluence will correct any map errors identified by site contacts or agency staff.
6. Platform Maintenance. Waterfluence continuously maintains the features and security of its online Platform software.

Landscape Field Surveys

1. Targeting and Marketing. Using the Agency Administrative Portal, Agency staff can target / preapprove sites eligible to receive a field survey. The Platform will market the field survey opportunity to preapproved sites. Preapproved sites can accept the field survey opportunity via the platform with a click-through agreement. Sites accepting a field survey will be added to our field survey queue.
2. Performing Field Surveys. Waterfluence staff will schedule field surveys for sites in the queue. The survey process includes: (1) refining the site map and water budget assumptions, (2) operating portions of the irrigation system to evaluate performance, and (3) document findings and recommendations in a Landscape Field Survey Report.
3. Distributing Field Survey Report. Completed field survey reports will be posted online and all site contacts notified. Waterfluence will address any follow up questions. The Agency Administrative Portal documents all field survey activity, dates, and final report.

EXHIBIT B

RATE OF COMPENSATION

Waterfluence Annual Program Fees			
Description	Unit Cost	x Quantity Number of Sites	= Total Cost
Startup (one time)	\$150		
Annual Subscription	\$75		
Landscape Field Surveys	\$1,500		
Total			

EXHIBIT B

RATE OF COMPENSATION