

PROFESSIONAL CONSTRUCTION SERVICES AGREEMENT

This AGREEMENT FOR PROFESSIONAL CONSTRUCTION SERVICES (“**Agreement**”), dated as of _____, 2024 for reference purposes only, is executed by and between **SACRAMENTO VALLEY CONSERVANCY**, a California nonprofit public benefit corporation (hereinafter “**SVC**”) and., a corporation certified to conduct business in California (hereinafter “**CONTRACTOR**”). SVC and CONTRACTOR are referred to herein collectively as the “**the Parties**,” and individually as a “**Party**.” The effective date of this Agreement shall be the date as of which it has been executed and delivered by both Parties (“**Effective Date**”).

RECITALS

WHEREAS, SVC is the Lessee of that certain real property located in the County of Sacramento, State of California, shown on the map attached hereto and incorporated herein by reference as **Exhibit A** (commonly known as “Camp Pollock”) under the terms and conditions of Lease Number PRC 9033.1, dated January 22, 2013, and amended June 28, 2019, by between SVC and the California State Lands Commission at Camp Pollock;

WHEREAS, the Budget Act of FY 2021-22 (SB 170) established the General Fund Specified Grant Projects within the State of California Natural Resources Agency (“State”), which included funding allocations obtained by Assembly Member McCarty for the City of Sacramento referred to as the Lower American River Parkway Public Access Improvements (“Parkway Projects”);

WHEREAS, SVC has been awarded grant funds through the State to undertake certain public access improvements at Camp Pollock pursuant to that certain LARP Grant Program Subrecipient Agreement executed on October 31, 2022 (“LARP Grant Agreement”);

WHEREAS, SVC desires to engage CONTRACTOR as a professional consultant to provide professional construction services, site assessments, project design, environmental compliance, acquire permits, and;

WHEREAS, CONTRACTOR is willing to provide labor and equipment to achieve -----
----- specified design, environmental compliance, and permitting in accordance with the terms and conditions of this Agreement for specified access improvements at Camp Pollock;

NOW, THEREFORE, in consideration of the foregoing recitals, which are specifically incorporated into the body of this Agreement, the mutual promises contained herein and the material reliance by the Parties thereon, and other valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows.

AGREEMENT

1. **Scope of Work.** CONTRACTOR agrees to provide the design, environmental compliance and permitting services specified in the proposal attached hereto as **Exhibit B** and incorporated herein by reference (the “**Services**”).
2. **Completion of Services.** CONTRACTOR shall be required to commence the Services within 30 calendar days after the Effective Date, and to complete all Services to the reasonable satisfaction of SVC before March 31, 2025.
3. **Payment.** SVC agrees, in consideration of the Services to be performed, and subject to the terms and conditions hereof, a total sum not to exceed \$xx,xxx.00 (xxx dollars) payable in accordance with terms set forth in Exhibit “B” within 30 days following CONTRACTOR’s completion of the Services to the reasonable satisfaction of SVC, and in accordance with usual accounting procedures upon receipt and approval of an itemized invoice setting forth the Services performed. No payment made under this Agreement shall be construed to be an acceptance of defective work.
4. **Insurance.** CONTRACTOR shall meet the following insurance requirements at CONTRACTOR’s sole cost and expense.
 - a. **General Liability and Property Damage.** CONTRACTOR shall maintain occurrence-based commercial general liability and property damage liability insurance for the duration of the Services in coverage amounts of not less than \$1,000,000 for each occurrence of injury and \$200,000 for each occurrence of property loss or damage, with a replacement cost endorsement, and with a general aggregate limit of \$3,000,000, with all standard extended coverages, including medical expenses, vandalism, and malicious mischief.
 - b. **Worker’s Compensation.** CONTRACTOR shall maintain worker’s compensation insurance as required by the State of California for each employee of CONTRACTOR employed in providing the Services.
 - c. **General Requirements.** Each policy of insurance required to be maintained by CONTRACTOR shall be issued by an insurance company authorized to do business in California with a current A.M Best’s rating of no less than A-VII. Required insurance protection may be carried under a blanket policy. Each such policy shall include as additional insureds: (i) Sacramento Valley Conservancy and its directors, officers, employees, contractors and agents; (ii) State of California, State Lands Commission, and its officers, employees and agents; and

Commented [AFJ1]: Only a portion of the Services will be performed at Camp Pollock.

Commented [AFJ2]: Revised description to correspond to the scope of work; substituted term “Services” globally for a consistent reference.

Commented [AFJ3]: Substituted Services here and elsewhere, because execution of the project will ultimately involve construction, which is outside the scope of the Services.

(iii) Sacramento County Regional Parks, and its officers, employees and agents. CONTRACTOR shall provide SVC with a certificate of the required insurance coverages, as an Accord and Endorsement, at the email or physical address listed in SVC's signature block. SVC shall be notified in writing at least 30 days prior to the cancellation, non-renewal, or reduction in coverage of the insurance policy.

CONTRACTOR shall require any subcontractor engaged by CONTRACTOR to provide any portion of the Services to meet all of the preceding insurance requirements.

5. **Indemnification.** In accordance with California Civil Code Section 2782.8, CONTRACTOR agrees to indemnify, defend and hold harmless SVC, and its directors, officers, employees, and agents, and the State of California, including the State Lands Commission, and the County of Sacramento, and its officers, employees and agents, from and against claims that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the CONTRACTOR in its performance of the Services. In no event shall the cost to defend charged to CONTRACTOR exceed the CONTRACTOR'S proportionate percentage of fault.
6. **Correction of Work and Back Charges.** CONTRACTOR shall immediately, upon written direction from SVC, correct any defect or deficiency in the Services. SVC may withhold from CONTRACTOR, any amounts it reasonably estimates to be necessary for the correction of defective work if CONTRACTOR fails to correct and/or replace such defective work after direction from SVC.
7. **CONTRACTOR as Independent Contractor.** The Parties agree that at all times during the term of this Agreement, CONTRACTOR and CONTRACTOR's employees and agents hired to perform the Services are independent contractors and are not agents or employees of the SVC. CONTRACTOR shall be solely responsible for and have control over means, methods, techniques, sequences, and procedures for providing the Services. Neither Contractor nor any third persons employed by CONTRACTOR to perform the Services shall be entitled to workers' compensation benefits from SVC should CONTRACTOR or any of its employees sustain an injury in the course of performing services specified in this Agreement. Furthermore, neither CONTRACTOR nor any third persons employed by CONTRACTOR shall be entitled to any other benefits payable to employees of SVC. SVC is not required to make any deductions from the compensation payable to CONTRACTOR under the provisions of CONTRACTOR's bid. CONTRACTOR hereby agrees to defend and hold SVC harmless from any and all claims that may be made against SVC based on any contention by any third party that an employer/employee relationship exists between SVC and that third party by reason of this Agreement. CONTRACTOR further agrees to defend and hold SVC harmless from any

Commented [AFJ4]: Corrected statutory reference.

Commented [AFJ5]: Not applicable for the Services to be provided.

and all claims that may be made against SVC by any third party based on any failure of the CONTRACTOR to fulfill its obligations contractual or otherwise, to any such third party. CONTRACTOR represents that it, and its subcontractors, if any, are properly licensed and will remain so during the progress of the work.

8. **Default by Contractor.** If CONTRACTOR materially breaches this Agreement, SVC shall provide CONTRACTOR with a notice of breach and shall afford the CONTRACTOR fifteen (15) days to cure the breach. If the CONTRACTOR fails to cure the breach to SVC's satisfaction, SVC shall have a right to terminate the Agreement. SVC's remedy in the event of a termination for default by CONTRACTOR shall be a return of compensation paid to CONTRACTOR by SVC.
9. **Delays and Extensions of Time.** If CONTRACTOR is delayed in the performance of the work by extraordinary inclement weather, flood, fire, earthquake, strikes, or other causes beyond the control of CONTRACTOR, then CONTRACTOR will apply to SVC, in writing, for an extension of time within ten (10) days after commencement of the delay. The time for the completion of the contract may be extended as determined, in writing, by SVC or its designated representative. CONTRACTOR waives any and all claims for delay which are not presented in a timely manner as provided for in this Section. CONTRACTOR shall not be entitled for any extensions of time for delays caused by weather which is not uncommon for the time of year in which the work is to be provided. If CONTRACTOR is delayed in the progress of the work by any act of SVC, or SVC's agents or employees, CONTRACTOR will be entitled to an extension of time for completion of the work. An extension of time shall be CONTRACTOR's sole and exclusive remedy, and CONTRACTOR will be entitled to no damages for delay. In any event, any claim of delay by CONTRACTOR must be submitted to SVC within ten (10) days of the commencement of the delay.
10. **Concealed Conditions.** CONTRACTOR has examined the job site, and the applicable building codes, laws and regulations as well as any applicable laws and regulations of any and all utilities, that govern the conduct of the work, and has made such investigation as it deems appropriate. The contract price includes full compensation for all efforts to be expended by CONTRACTOR obtaining any and all approvals of the governing water, electricity, gas and other utility companies, and in dealing with any concealed, underground, known and or unknown conditions.
11. **Subcontractors.** All subcontracts entered into by CONTRACTOR shall incorporate by reference the provisions of this Agreement. This incorporation by reference shall not, however, create any contractual relationship between SVC and subcontractors. No subcontractor will be recognized as having a contractual relationship with SVC, and any

Commented [AFJ6]: Presumably, the weather-related provisions may be relevant to the conduct of onsite surveys.

such claims of such a relationship is hereby denied. It is not intended by either SVC or CONTRACTOR that any third party shall be beneficiaries of this agreement. All persons engaged in the work under this Agreement will be considered as employees of CONTRACTOR, and their work shall be subject to all the provisions of this Agreement. SVC and its representatives will deal only with the CONTRACTOR who shall be responsible for the proper execution of the Services.

12. **Permits; Compliance with Law.** CONTRACTOR agrees and understands that it is the responsibility of CONTRACTOR to obtain all necessary permits required for the performance of the Services and to comply with all local, state, and federal laws, ordinances and regulations, including but not limited to land use rules as specified in the American River Parkway Plan, applicable to the Services.
13. **Covid-19 Precautions.** CONTRACTOR agrees to implement all State and County requirements applicable to the protection of the workers performing the any portion of the Services at Camp Pollock.
14. **Assignment.** CONTRACTOR shall not assign this Agreement to any person or entity without the prior written consent of SVC, which consent may be withheld by SVC in its sole and absolute discretion.
15. **Attorney's Fees.** If any legal action or proceeding arising out of or related to this Agreement is brought by either Party to this Agreement, the prevailing Party shall be entitled to receive from the other Party, in addition to any other relief that may be granted, the reasonable attorneys' and experts' fees, costs and expenses incurred in the action or proceeding by the prevailing Party.
16. **Severability.** If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force and effect without being impaired or invalidated in any way.
17. **Amendment.** The terms of this Agreement may be modified only in writing by mutual agreement on signature of the SVC and CONTRACTOR. Said amendment shall be attached to this Agreement.
18. **Notice.** Any notices to be given pursuant to this Agreement by either Party to the other may be effected either by personal delivery in writing or by mail, registered or certified, postage prepaid, with return receipt requested. Mailed notices shall be addressed to the parties at the addresses following the Parties' respective signatures on Agreement, but each Party may change the address by written notice to the other. Notices delivered

Commented [AFJ7]: May be applicable to site investigations.

personally shall be deemed communicated as of the date of actual receipt. Mailed notice shall be deemed communicated as of two (2) business days following the date of deposit in the mail.

19. **Governing Law.** This Agreement shall be governed and construed according to the laws of the State of California, disregarding its conflicts of law principles.
20. **Entire Agreement.** This Agreement constitutes the entire agreement between SVC and CONTRACTOR relating to the Services. Any prior agreements, promises, negotiations or representations not expressly set forth in this Agreement are of no force and effect. Any amendment to this Agreement shall be of no force and effect unless it is in writing and signed by SVC and CONTRACTOR.
21. **Authority.** Each person signing this Agreement represents and warrants that such person has the full legal power, authority and right to execute and deliver this Agreement on behalf of the Party for which such person is acting.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

22. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original (including copies sent to a Party as a “PDF” file attachment to electronic mail or by DocuSign) as against the party signing such counterpart, but which together shall constitute one and the same instrument above written.

IN WITNESS WHEREOF the Parties have executed this Agreement.

Commented [AFJ8]: The Effective Date is defined as the date as of which the Agreement has been signed by both Parties; therefore, dates are needed with the signatures.

<p>SVC</p> <p>Sacramento Valley Conservancy, a California nonprofit public benefit corporation</p> <p>By: _____ Kelly Hopkins Executive Director</p> <p>Dated: _____</p> <p>Sacramento Valley Conservancy Attn: Executive Director Tel: (916) 731-8798</p> <p>For Delivery by Mail PO Box 163351 Sacramento, CA 95816</p> <p>For Delivery in Person or by Courier 1851 Heritage Lane, Suite 155 Sacramento, CA 95815</p> <p>For Delivery by Email: khopkins@sacramentovalleyconservancy.org</p>	<p>CONTRACTOR</p> <p>, Inc. a corporation, certified to conduct business in California</p> <p>By: _____ Name: Title:</p> <p>Dated: _____</p> <p>, Inc. Attn:</p> <p>Tel: (916) 000-0000</p> <p>For Delivery by Email:</p>
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DRAFT SAMPLE

Exhibit A to Agreement

MAP OF PROJECT LOCATION

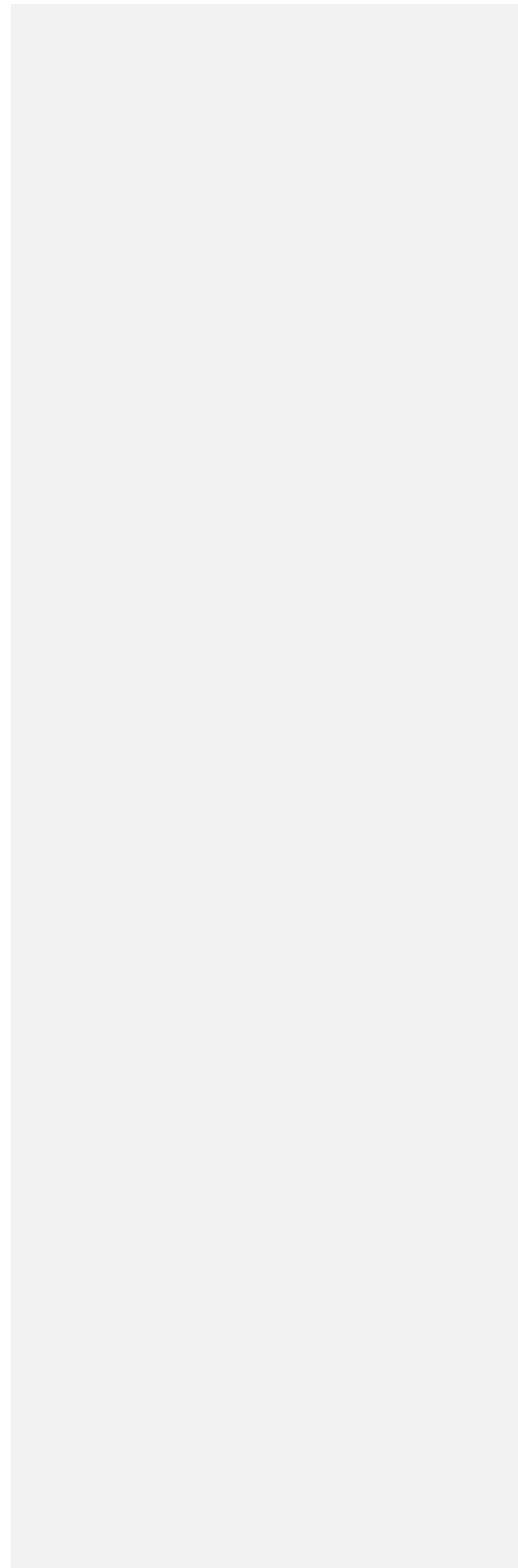


Exhibit B to Agreement

SCOPE OF WORK

[See following Proposal]