

# REGIONAL TOILET SATURATION STUDY

## REQUEST FOR PROPOSALS

Regional Water Authority  
5620 Birdcage Street, Suite 180  
Citrus Heights, California 95610

Proposals Due By 4:00 PM PT, July 11, 2022



# **Regional Toilet Saturation Study**

## **Request for Proposal**

<b>General Study Information</b>	<p>The Regional Water Authority (RWA), through the regional Water Efficiency Program (WEP) is seeking support for the development of a Regional Toilet Saturation Study (Study). Situated in the central valley of California, the Sacramento region's residential indoor water use is estimated to be between 40-50% of a household's total use on average. The goal of the study is to assess the remaining potential for high efficiency toilet upgrades in single family and multifamily (5 units or more) sectors throughout the Sacramento region. Geographic study area includes all RWA water supplier services areas as defined in Attachments A &amp; B. The Study timeline is August 2022-August 2023. The Study budget is \$100,000 and 100% funded through California's Proposition 1 Implementation Grant Program. There may be additional opportunities for more detailed analysis of individual water supplier's service areas pending the availability of additional local funding to supplement the regional study scope and funding.</p> <p>RWA is seeking responses from Consultants for the following tasks:</p> <ol style="list-style-type: none"><li>1. Design and implement regional assessment of high efficiency toilet saturation.</li><li>2. Develop a Saturation Study Report based on assessment, resulting recommendations for future efficiency program development and/or sunsetting and potential water and energy savings from upgrading estimated remaining non efficient toilets in the region.</li></ol> <p>More details provided in Scope of Work section below.</p>
<b>Disclaimer</b>	<p>The RWA reserves the right to modify the anticipated timeline set forth below. There will be no public opening of proposals. The RWA reserves the right to reject any and all proposals, cancel all or part of this Request for Proposals (RFP), waive any minor irregularities and to request additional information from proposing Consultants. This RFP does not obligate the RWA to award a contract. <u>There is no expressed or implied obligation for the RWA to reimburse responding Consultants for any expenses incurred in preparing proposals in response to this request.</u></p> <p>To be considered, each Consultant submitting an RFP proposal must provide an electronic copy of the RFP proposal via email sent directly to RWA's principal contact by the <b>filing deadline of July 11, 2022 by 4:00 P.M. Pacific Time.</b> Late submissions will not be considered. The RWA reserves the right to reject any or all submittals.</p>

<b>RWA Profile</b>	The RWA was formed in 2001 as a joint powers authority that represents the interests of over 25 water providers and associate agencies, serving 2 million people in the greater Sacramento, Placer, El Dorado, Sutter, and Yolo Counties Region (Attachments A & B). The RWA's mission is to serve, represent and align the interests of regional water providers and stakeholders for the purpose of improving water supply reliability, availability, quality and affordability. RWA is governed by a Board of Directors comprised of two representatives from each of the member agencies. The representatives are appointed by the member agencies. For more information, visit the RWA website at <a href="http://www.rwah2o.org">www.rwah2o.org</a> .
<b>Principal Contact</b>	The principal contact with the RWA will be: Amy Talbot, Principal Project Manager 5620 Birdcage Street, Suite 180 Citrus Heights, California, 95610 (916) 967-7692 <a href="mailto:atalbot@rwah2o.org">atalbot@rwah2o.org</a>
<b>RFP Timeline</b>	June 13, 2022 Distribution and online posting of RFP July 11, 2022 RFP filing deadline-must be received by RWA by 4:00 p.m. PT July 11 - 15, 2022 RWA staff/member review of RFPs July 27, 2022 RWA Executive Committee presentation of staff recommendation July 28, 2022 RWA notifies selected Consultant (if approved by Exe. Committee) August 2022 Contract signed and study begins

## **Scope of Work**

The RWA is soliciting qualified Consultants to implement the following Study and Tasks:

<b>Nature of Services</b>	<p><b>Study Description:</b> The Regional Water Authority (RWA), through the regional Water Efficiency Program (WEP) is seeking support for the development of a Regional Toilet Saturation Study (Study). Situated in the central valley of California, the Sacramento region's residential indoor water use is estimated to be between 40-50% of a household's total use on average. The goal of the study is to assess the remaining potential for high efficiency toilet upgrades in single family and multifamily (5 units or more) sectors throughout the Sacramento region. Geographic study area includes all RWA water supplier services areas as defined in Attachments A &amp; B. The Study timeline is August 2022-August 2023. The Study budget is \$100,000 and 100% funded through California's Proposition 1 Implementation Grant Program. There may be additional opportunities for more detailed analysis of individual water supplier's service areas pending the availability of additional local funding to supplement the regional study scope and funding.</p> <p><b>RWA is seeking responses from Consultants for the following tasks:</b></p> <ol style="list-style-type: none"><li>1. Design and implement regional assessment of high efficiency toilet saturation.</li><li>2. Develop a Saturation Study Report based on assessment, resulting recommendations for future efficiency program development and/or sunsetting and potential water and energy savings from upgrading estimated remaining non efficient toilets in the region.</li></ol> <p>Tasks may be modified throughout the timeline on the approval of both RWA and the selected Consultant.</p> <p>To assist Consultant with performing the Scope of Work, RWA will provide the following supplementary information:</p> <ul style="list-style-type: none"><li>• Past RWA indoor direct installation program data for multifamily properties</li><li>• RWA toilet rebate local supplier participation data for 2003-2021</li><li>• Water rate information for all RWA suppliers</li><li>• Energy intensity (million gallons/kWh) estimates<ul style="list-style-type: none"><li>○ Regional average and individual supplier intensity data</li></ul></li><li>• Current rebate program's list for all RWA suppliers<ul style="list-style-type: none"><li>○ <a href="https://bewatersmart.info/wp-content/uploads/2017/09/RWA-Incentive-Overview.pdf">https://bewatersmart.info/wp-content/uploads/2017/09/RWA-Incentive-Overview.pdf</a></li></ul></li><li>• Spatial files (ex: Geographic Information System) for RWA local supplier service areas</li><li>• Additional information as requested by Consultant as needed and available.</li></ul>
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## **TASK 1. Assessment Study Design and Implementation**

Consultant will work with RWA staff to design and implement a high-level regional assessment of high efficiency toilet saturation in order to estimate remaining potential for water supplier intervention (rebates and direct installation programs). Target audience is single family and multifamily (5 units or more) sector properties within the RWA water suppliers' service areas. Design includes developing a methodology to estimate the following:

- **1) Toilet Survey** to estimate the total number of toilets in all study target audience properties to establish a baseline for further analysis
- **2) Current High Efficiency Toilet Survey** to estimate the total number of existing high efficiency toilets in all study target audience properties to establish a baseline for further analysis
  - A high efficiency toilet is defined for this study by the U.S EPA WaterSense Specifications. More information visit: <https://www.epa.gov/watersense>
  - Estimate should include separate replacement rates for natural fixture replacement (replacement occurred outside of an incentive/rebate program) and incentivized fixture replacement (replacement occurred as part of an incentive/rebate program)
  - Estimate should account for the potential impacts of varying socioeconomic factors like income and percentage of owner-occupied units, if possible.
- **3) Remaining Non-High Efficiency Toilets** that are still currently installed in the study's target audience properties with the potential to be upgraded to high efficiency toilets either by natural or incentivized replacement.
  - This estimate is essentially a function of the 1) toilet survey estimate and the 2) current high efficiency toilet survey estimate.

Once the methodology is developed for the three estimates above, the Consultant will implement the necessary actions to obtain the proper data to calculate these estimates. Consultant may choose to use a combination of the following methods to obtain data for these estimates including but not limited to: "desktop" analysis of available electronic data, phone and in person site customer surveys, national and California specific customer water use studies, RWA provided data (described above), market penetration studies, U.S. Census Bureau, American Community Survey, and County Assessor data, interviews with water efficiency staff and technologies that have the ability to estimate or disaggregate customer water use by fixture.

Note: RWA does not have direct access to individual supplier or customer meter data. Data requests can be managed through RWA but not guaranteed.

	<p>The study methodology should be designed to allow for the resulting estimates (#1-3 above) to be displayed in both a total toilet (#) and percentage of baseline. Estimates should be calculated as a regional figure and in the smallest scale possible (preferably the local water supplier level). Estimate ranges are acceptable.</p> <p>Consultant will include information in the RFP response speaking to their strategy for minimizing sampling bias, managing data quality concerns and producing statistically valid survey results (ex: 95% confidence level/interval).</p> <p><b>TASK 2. Saturation Summary Report</b></p> <p>Consultant will produce a saturation summary report based off work produced under Task 1. Report will include an executive summary and standalone tables that display the survey and saturation estimates at both the regional and individual supplier level (or smallest scale possible). Report will also include a set of recommendations at the regional and local supplier level for future efficiency program development and/or sunsetting and potential water and energy savings from upgrading estimated remaining non-efficient toilets in the region.</p> <p>Report will be produced in an electronic format only. Consultant will scope at least 1 (in-person, if possible) regional meeting to present the summary report results to RWA and RWA water supplier staff.</p>
<b>Study Expansion Opportunities</b>	<p>An individual RWA water supplier may be interested in a more detailed saturation assessment in their service area. Consultant should brainstorm and present potential expansion options for individual local suppliers in the RFP response that could complement the regional study scope of work. Consultant should incorporate the following considerations into their response:</p> <ul style="list-style-type: none"> <li>• What additional saturation assessment options could be available for individual suppliers? Examples include more in-person site surveys, additional fixture assessments like showerheads and faucet aerators, inclusion of additional customer sectors like restaurants and schools, etc.</li> <li>• List benefits a supplier would receive for these additional options.</li> <li>• List potential challenges that could result from offering these additional options for individual suppliers beyond the regional study proposal.</li> </ul> <p>RWA is not obligated to include or guarantee any or all of the expansion opportunities described in this section in the final RWA Study contract. Providing cost estimates for these potential additional opportunities is encouraged but not required.</p>

<b>Program Timeline</b>	RWA is anticipating a 12-month study timeline (August 2022-August 2023), with the final/hard stop option to extend to November 2023, if needed.
<b>Program Advisory Committee</b>	During the Study process, selected Consultant may be expected to provide Study updates and/or presentations to the RWA Regional Water Efficiency Program Advisory Committee (RWE PAC), as requested. The RWE PAC includes one or more water efficiency related staff representatives from each RWA Water Efficiency Program (WEP) member water supplier. Consultant should prepare for and attend at least one RWE PAC meeting to provide a study update (virtual or in person). In-person meetings will be primarily held at the RWA office in Citrus Heights, California.
<b>Attachments</b>	<ul style="list-style-type: none"> <li>A. RWA Member Water Suppliers' Service Area Map</li> <li>B. General Information about RWA Member Water Suppliers</li> <li>C. Fee Schedule Chart (<b>REQUIRED for RFP submission</b>)</li> <li>D. RWA Standard Services Agreement</li> </ul>

## **Submittal Process and Evaluation**

<b>Proper Completion and Submission of RFP</b>	To be considered, each Consultant submitting an RFP proposal must provide an electronic copy of the RFP proposal via email sent directly to RWA's principal contact by the filing deadline of July 11, 2022 by 4:00 P.M. Pacific Time. Late submissions will not be considered. The RWA reserves the right to reject any or all submittals.
<b>Rights to Submitted Materials</b>	RWA reserves the right to retain all submittals. Submission of RFP proposal indicates acceptance by the Consultant of the conditions contained in this RFP document, unless exceptions are clearly and specifically noted in the Consultant RFP response submittal. Exceptions include any comments or proposed changes to Attachment D –RWA Standard Services Agreement.
<b>Changes to RFP</b>	RWA will send any changes to this RFP proposal to each Consultant to whom an RFP notification has been sent and will also post changes on the RWA website: <a href="https://rwah2o.org/news-info/public-notices/">https://rwah2o.org/news-info/public-notices/</a> . Such changes become an integral part of the RFP for incorporation into any contract awarded pursuant to the RFP.
<b>Inquiries to RFP</b>	Submit any inquiries or requests for clarification concerning the RFP via email to RWA's principal contact. Answers to inquiries will be returned via email. Answers to any inquiries that are of a general nature will also be distributed to other Consultants that were directly sent notification of this RFP and posted on the RWA website: <a href="https://rwah2o.org/news-info/public-notices/">https://rwah2o.org/news-info/public-notices/</a> .
<b>Evaluation of RFP</b>	Submittals will be considered by a selection team consisting of RWA staff and representatives of RWA water suppliers and/or partners. Submittals will be evaluated on a combination of factors that will be assigned point values up to the total amounts indicated in the following criteria: the Consultant profile (10 points), staff qualifications (15 points), past experience and references (30 points), Tasks (25 points), fee schedule (10 points), Study Expansion Opportunities (5 points) and overall proposal quality (5 points). There is a maximum possible score of 100 points. The criteria are further described in the "Submittal Requirements" section below. During the evaluation process, the selection team, RWA management and/or RWA Board of Directors reserve the right, where it may serve the RWA's best interest, to request additional information or clarifications from Consultant proposers, or to allow corrections of errors or omissions.

## **Submittal Requirements**

To facilitate the comparison of submittals from interested Consultants and to assist the selection team with the review process, Consultants are required to organize their submittals in accordance with the following order and substance.

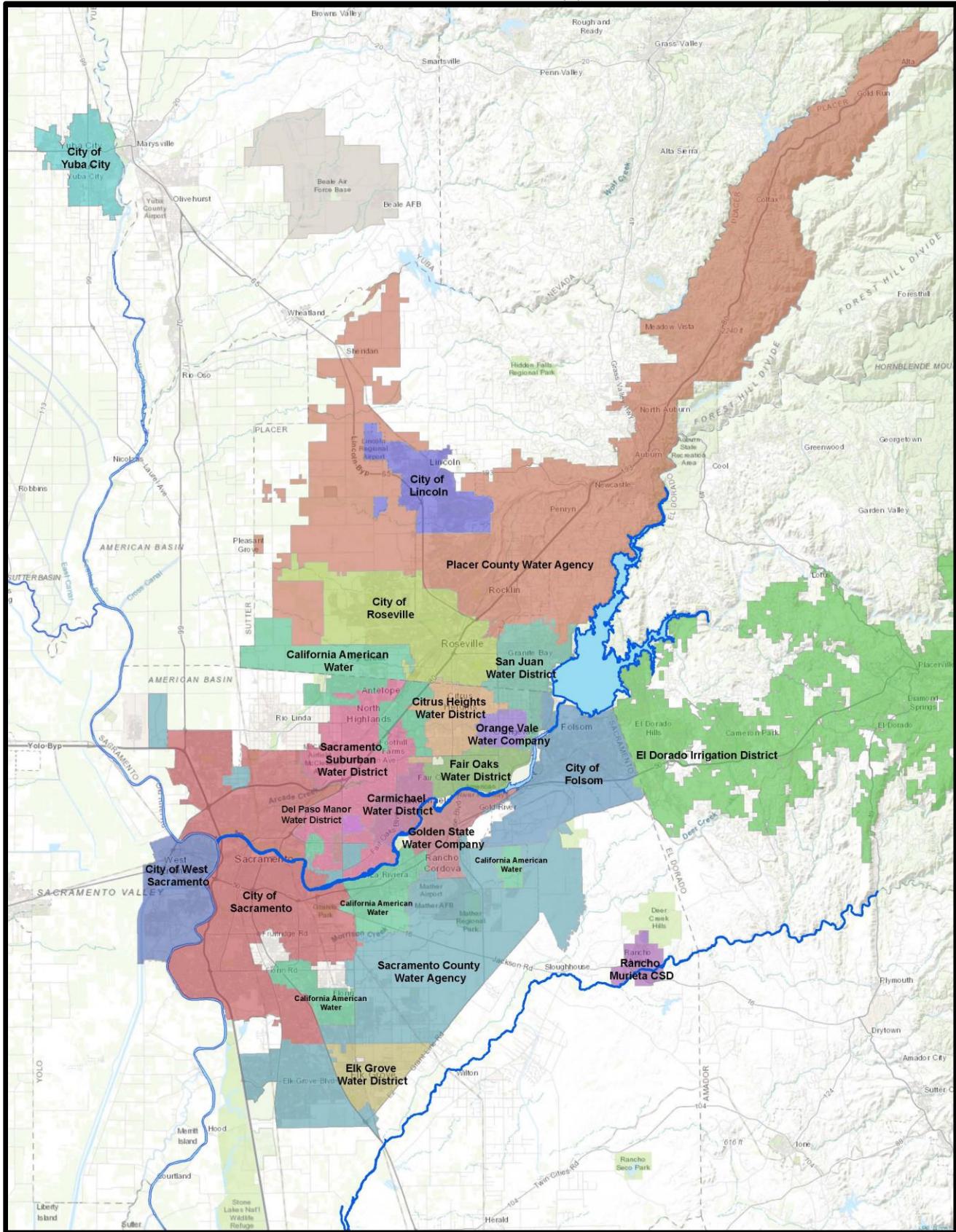
<b>Title Page</b>	State the RFP subject (Regional Toilet Saturation Study), name of the Consultant, local address, email, and telephone number of the Consultant's primary contact person, and the date of the proposal.
<b>Table of Contents</b>	The table of contents of the submittal should include a clear and complete identification of the materials submitted by section and page number.
<b>Consultant Profile</b>	Include staffing size of your business, your business's client base (i.e., local, regional, statewide, etc.), the location of the office from which the work will be done and the staffing capacity for that office. Include a statement on your business's capability to support the proposed scope work.
<b>Staff Qualifications</b>	Identify all staff (managers, supervisors and specialists), including primary point-of-contact, who would be assigned to the Study. Clearly identify the Project manager and his or her availability to manage the Study between August 2022 and August 2023. Specifically discuss project administration, technical skills, communication style, and other skills necessary to perform this Study. Any subcontractors should be identified both in name/company and scope/task.
<b>Past Experience and References</b>	List a minimum of two and a maximum of five similar recent engagements performed. Indicate the scope of work, date, engagement partner(s), total hours or budget, and the name and telephone number of the principal client contact. Maximum of one page per engagement.
<b>Tasks</b>	Consultant must provide a detailed description of how each task, described in RFP, will be accomplished. <ul style="list-style-type: none"><li>• Task 1: Assessment Design and Implementation</li><li>• Task 2: Saturation Summary Report</li></ul> A timeline that corresponds to each Task must be included in this section.
<b>Fee Schedule</b>	Attachment C: Fee Schedule Chart is a required document and must be included in the RFP proposal in this section. Supplemental explanatory information in addition to Attachment C may be submitted as part of this section but is limited to two pages. Attachment C should reflect billing rates for the duration of the Study through August 2023. Please note that per diem expenses will not be allowable expenses for this Study.

<b>Study Expansion Opportunities</b>	Consultant must provide information outlined in "Study Expansion Opportunities" Scope of Work section.
<b>Proof of Insurance</b>	Consultant must provide proof of insurance as described in the "Additional Information" section and in Attachment D – RWA Standard Services Agreement. If Consultant does not currently have proof of insurance, describe timeline for acquiring required insurance coverages prior to August 2022.

## Additional Information

<b>Award of Contract</b>	RWA's Consultant selection will be complete by July 28, 2022. Following the notification of the selected Consultant, a contract will be executed between RWA and the selected Consultant in August. These timelines are dependent on pending RWA Executive Committee approval in July and may be modified.																		
<b>Term of Engagement</b>	The contract term is from August 2022 and August 2023. The contract term may be modified based on selected final scope of work and other related factors.																		
<b>Subcontracting</b>	If a proposer Consultant intends to subcontract any of the work in its proposal, that fact, the name of the proposed subcontracting Consultant(s), and the work to be performed by each subcontractor must be clearly identified in the proposal. Subcontractors must have prior experience with similarly scoped programs.																		
<b>Insurance</b>	<p>The selected Consultant will maintain in full force and effect throughout the term of the services contract the following insurance coverage:</p> <table border="1"> <thead> <tr> <th>Type</th><th>Limits</th><th>Scope</th></tr> </thead> <tbody> <tr> <td>Commercial general liability</td><td>\$2,000,000 per occurrence &amp; \$5,000,000 aggregate</td><td>at least as broad as ISO CG 0001</td></tr> <tr> <td>Automobile liability</td><td>\$2,000,000 per accident</td><td>at least as broad as ISO CA 0001, code 1 (any auto)</td></tr> <tr> <td>Workers' compensation</td><td>Statutory limits</td><td></td></tr> <tr> <td>Employers' liability</td><td>\$1,000,000 per accident</td><td></td></tr> <tr> <td>Professional liability*</td><td>\$1,000,000 per claim</td><td></td></tr> </tbody> </table> <p>*Required only if Consultant is a licensed engineer, land surveyor, geologist, architect, doctor or attorney.</p>	Type	Limits	Scope	Commercial general liability	\$2,000,000 per occurrence & \$5,000,000 aggregate	at least as broad as ISO CG 0001	Automobile liability	\$2,000,000 per accident	at least as broad as ISO CA 0001, code 1 (any auto)	Workers' compensation	Statutory limits		Employers' liability	\$1,000,000 per accident		Professional liability*	\$1,000,000 per claim	
Type	Limits	Scope																	
Commercial general liability	\$2,000,000 per occurrence & \$5,000,000 aggregate	at least as broad as ISO CG 0001																	
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Workers' compensation	Statutory limits																		
Employers' liability	\$1,000,000 per accident																		
Professional liability*	\$1,000,000 per claim																		
<b>Invoicing</b>	Invoices should be submitted to RWA on a monthly basis. RWA will pay submitted and approved (by RWA Principal Contact and RWA Executive Director) invoices at or within 30 days.																		
<b>Other Agreement Terms</b>	Proposer Consultants are strongly recommended to review the RWA Standard Services Agreement (Attachment D) for additional requirements of RWA contractors. This agreement must be executed before work can begin. Minor changes to the agreement may be considered but proposed changes must be clearly and specifically noted in the Consultant RFP response submittal.																		

## **ATTACHMENT A – RWA Member Water Suppliers’ Service Areas Map**



## **ATTACHMENT B – General Information about RWA Member Water Suppliers**

	<b>RWA Water Suppliers</b>	<b>Population</b>	<b>Connections</b>	<b>Area (Sq. Miles)</b>
<b>1</b>	California American Water	203,851	59,946	54
<b>2</b>	Carmichael Water District	37,897	11,695	9
<b>3</b>	Citrus Heights Water District	69,964	19,513	13
<b>4</b>	City of Folsom	71,494	19,040	36
<b>5</b>	City of Lincoln	49,624	18,609	20
<b>6</b>	City of Roseville	129,262	39,452	43
<b>7</b>	City of Sacramento	515,673	144,089	99
<b>8</b>	City of West Sacramento	53,082	15,558	23
<b>9</b>	City of Yuba City <sup>1</sup>	71,922	18,803	16
<b>10</b>	Del Paso Manor Water District	5,000	1,797	1
<b>11</b>	El Dorado Irrigation District	131,033	41,441	232
<b>12</b>	Elk Grove Water District	46,991	12,349	13
<b>13</b>	Fair Oaks Water District	36,226	13,864	10
<b>14</b>	Golden State Water Company	50,053	17,114	13
<b>15</b>	Orange Vale Water Company	16,815	5,531	5
<b>16</b>	Placer County Water Agency	111,916	43,772	260
<b>17</b>	Rancho Murieta Community Services District	5,488	2,654	6
<b>18</b>	Sacramento County Water Agency	197,972	59,150	109
<b>19</b>	Sacramento Suburban Water District	181,222	45,907	36
<b>20</b>	San Juan Water District	28,791	10,657	17
<b>Regional Total</b>		<b>2,014,276</b>	<b>600,941</b>	<b>1,032</b>

<sup>1</sup> City of Yuba City is a RWA member but is not a Water Efficiency Program (WEP) participant and will not be included in this study scope and analysis.

## ATTACHMENT C - Fee Schedule

**Business Name:**

Task	Cost
<b>Task 1: Assessment Design and Implementation</b>	
Staff*	\$
Other:	\$
<b>Task 2: Saturation Summary Report</b>	
Staff*	\$
Other:	\$
<b>Meetings with RWA and Suppliers</b>	
Staff*	\$
Other:	\$
Other:	\$
<b>Miscellaneous Costs: if applicable.</b>	
Other:	\$
Other:	\$
<b>Total Study Cost*</b>	\$

Notes: Supplemental explanatory information may be submitted as part of this section but is limited to two pages. The fee schedule should reflect billing rates for the duration of the Study through August 2023. Please note that per diem expenses will not be allowable expenses for this Study.

\*Required information.

## **ATTACHMENT D -RWA Standard Services Agreement**

### **Regional Water Authority Services Agreement**

This Agreement is entered into as of the date last signed and dated below by and between Regional Water Authority, a local government agency ("RWA"), and

\_\_\_\_\_, a \_\_\_\_\_ [*Insert type and jurisdiction of entity*] ("Contractor"), who agree as follows:

#### **1 Scope of Work**

Contractor shall perform the work and render the services described in the attached Exhibit A (the "Work"). Contractor shall provide all labor, services, equipment, tools, material and supplies required or necessary to properly, competently and completely perform the Work. Contractor shall determine the method, details and means of doing the Work.

#### **2 Payment**

2.1 RWA shall pay to Contractor a fee based on **[check one]**:

- Contractor's time and expenses necessarily and actually expended or incurred on the Work in accordance with Contractor's fee schedule on the attached Exhibit A.
- The fee arrangement described on the attached Exhibit A.

The total fee for the Work shall not exceed \$ \_\_\_\_\_ [*Delete this sentence if not applicable*]. There shall be no compensation for extra or additional work or services by Contractor unless approved in advance in writing by RWA. Contractor's fee includes all of Contractor's costs and expenses related to the Work.

2.2 At the end of each month, Contractor shall submit to RWA an invoice for the Work performed during the preceding month. The invoice shall include a brief description of the Work performed, the dates of Work, number of hours worked and by whom (if payment is based on time), payment due, and an itemization of any reimbursable expenditures. If the Work is satisfactorily completed and the invoice is accurately computed, RWA shall pay the invoice within 30 days of its receipt.

#### **3 Term**

3.1 This Agreement shall take effect on the above date and continue in effect until completion of the Work, unless sooner terminated as provided below. Time is of the essence in this Agreement. If Exhibit A includes a Work schedule or deadline, then Contractor must complete the Work in accordance with the specified schedule or deadline, which may be extended by RWA for good cause shown by Contractor. If Exhibit A does not include a Work schedule or deadline, then Contractor must perform the Work diligently and as expeditiously as possible, consistent with the professional skill and care appropriate for the orderly progress of the Work.

3.2 This Agreement may be terminated at any time by RWA upon 10 days advance written notice to Contractor. In the event of such termination, Contractor shall be fairly compensated for all work performed to the date of termination as calculated by RWA based on the above fee and payment provisions.

Compensation under this section shall not include any termination-related expenses, cancellation or demobilization charges, or lost profit associated with the expected completion of the Work or other such similar payments relating to Contractor's claimed benefit of the bargain.

#### **4 Professional Ability of Contractor**

4.1 Contractor represents that it is specially trained and experienced, and possesses the skill, ability, knowledge and certification, to competently perform the Work provided by this Agreement. RWA has relied upon Contractor's training, experience, skill, ability, knowledge and certification as a material inducement to enter into this Agreement. All Work performed by Contractor shall be in accordance with applicable legal requirements and meet the standard of care and quality ordinarily to be expected of competent professionals in Contractor's field.

**[The paragraphs in section 4.2 can be replaced with "Intentionally omitted" if the RWA is not requiring the Contractor to designate key personnel.]**

4.2 The following individuals are designated as key personnel and are considered to be essential to the successful performance of the work hereunder: **[Describe Contractor's key personnel by name or by reference, e.g. the individuals whose resumes are included in Exhibit A.]** Contractor agrees that these individuals may not be removed from the Work or replaced without compliance with the following sections:

4.2.1 If one or more of the key personnel, for whatever reason, becomes, or is expected to become, unavailable for work under this contract for a continuous period exceeding 30 work days, or is expected to devote substantially less effort to the work than indicated in the proposal or initially anticipated, Contractor shall immediately notify RWA and shall, subject to RWA's concurrence, promptly replace the personnel with personnel of at least substantially equal ability and qualifications.

4.2.2 Each request for approval of substitutions must be in writing and contain a detailed explanation of the circumstances necessitating the proposed substitutions. The request must also contain a complete resume for the proposed substitute and other information requested or needed by RWA to evaluate the proposed substitution. RWA shall evaluate Contractor's request and RWA shall promptly notify Contractor of its decision in writing.

#### **5 Conflict of Interest**

Contractor (including principals, associates and professional employees) represents and acknowledges that (a) it does not now have and shall not acquire any direct or indirect investment, interest in real property or source of income that would be affected in any manner or degree by the performance of Contractor's services under this agreement, and (b) no person having any such interest shall perform any portion of the Work. The parties agree that Contractor is not a designated employee within the meaning of the Political Reform Act and RWA's conflict of interest code because Contractor will perform the Work independent of the control and direction of the RWA or of any RWA official, other than normal contract monitoring, and Contractor possesses no authority with respect to any RWA decision beyond the rendition of information, advice, recommendation or counsel.

#### **6 Contractor Records**

6.1 Contractor shall keep and maintain all ledgers, books of account, invoices, vouchers, canceled checks, and other records and documents evidencing or relating to the Work and invoice preparation and

support for a minimum period of three years (or for any longer period required by law) from the date of final payment to Contractor under this Agreement. RWA may inspect and audit such books and records, including source documents, to verify all charges, payments and reimbursable costs under this Agreement.

6.2 In accordance with California Government Code section 8546.7, the parties acknowledge that this Agreement, and performance and payments under it, are subject to examination and audit by the California State Auditor for three years following final payment under the Agreement.

## 7 Ownership of Documents

All works of authorship and every report, study, spreadsheet, worksheet, plan, design, blueprint, specification, drawing, map, photograph, computer model, computer disk, magnetic tape, CAD data file, computer software and any other document or thing prepared, developed or created by Contractor under this Agreement and provided to RWA ("Work Product") shall be the property of RWA, and RWA shall have the rights to use, modify, reuse, reproduce, publish, display, broadcast and distribute the Work Product and to prepare derivative and additional documents or works based on the Work Product without further compensation to Contractor or any other party. Contractor may retain a copy of any Work Product and use, reproduce, publish, display, broadcast and distribute any Work Product and prepare derivative and additional documents or works based on any Work Product; provided, however, that Contractor shall not provide any Work Product to any third party without RWA's prior written approval, unless compelled to do so by legal process. If any Work Product is copyrightable, Contractor may copyright the same, except that, as to any Work Product that is copyrighted by Contractor, RWA reserves a royalty-free, nonexclusive and irrevocable license to use, reuse, reproduce, publish, display, broadcast and distribute the Work Product and to prepare derivative and additional documents or works based on the Work Product. If RWA reuses or modifies any Work Product for a use or purpose other than that intended by the scope of work under this Agreement, then RWA shall hold Contractor harmless against all claims, damages, losses and expenses arising from such reuse or modification. For any Work Product provided to RWA in paper format, upon request by RWA at any time (including, but not limited to, at expiration or termination of this Agreement), Contractor agrees to provide the Work Product to RWA in a readable, transferable and usable electronic format generally acknowledged as being an industry-standard format for information exchange between computers (e.g., Word file, Excel spreadsheet file, AutoCAD file).

## 8 Confidentiality of Information

*[The paragraphs in this section can be replaced with the phrase "Intentionally omitted" if the District will not provide any confidential information to the Contractor.]*

8.1 Contractor shall keep in strict confidence all confidential, privileged, trade secret, and proprietary information, data and other materials in any format generated, used or obtained by the RWA or created by Contractor in connection with the performance of the Work under this Agreement (the "Confidential Material"). Contractor shall not use any Confidential Material for any purpose other than the performance of the Work under this Agreement, unless otherwise authorized in writing by RWA. Contractor also shall not disclose any Confidential Material to any person or entity not connected with the performance of the Work under this Agreement, unless otherwise authorized in advance in writing by RWA. If there is a question if Confidential Material is protected from disclosure or is a public record or in the public domain, the party considering disclosure of such materials shall consult with the other party concerning the proposed disclosure.

8.2 Contractor, and its officers, employees, agents, and subcontractors, shall at all times take all steps that are necessary to protect and preserve all Confidential Material. At no time shall Contractor, or its

officers, employees, agents, or subcontractors in any manner, either directly or indirectly, use for personal benefit or divulge, disclose, or communicate in any manner, any Confidential Material to any person or entity unless specifically authorized in writing by the RWA or by order of a court or regulatory entity with jurisdiction over the matter. Contractor, and its officers, employees, agents, and subcontractors shall protect the Confidential Material and treat it as strictly confidential in accordance with applicable law, RWA policies and directives, and best industry security practices and standards.

8.3 If any person or entity, other than RWA or Contractor, requests or demands, by subpoena, discovery request, California Public Records Act request or otherwise, Confidential Material or its contents, the party to whom the request is made will immediately notify the other party, so that the parties may collectively consider appropriate steps to protect the disclosure of those materials. The parties agree to take all steps reasonably necessary to preserve the confidential and privileged nature of the Confidential Material and its content. In the event that the parties cannot agree whether to oppose or comply with a disclosure demand, the opposing party may oppose the demand at its sole cost and expense, in which event the party favoring disclosure will refrain from disclosing the demanded Confidential Material until such time as a final agreement regarding disclosure is reached or, if an agreement is not reached, a judicial determination is made concerning the demand.

8.4 Unless otherwise directed in writing by the RWA, upon contract completion or termination, Contractor must destroy all Confidential Materials (written, printed and/or electronic) and shall provide a written statement to the RWA that such materials have been destroyed.

## **9 Compliance with Laws**

9.1 General. Contractor shall perform the Work in compliance with all applicable federal, state and local laws and regulations. Contractor shall possess, maintain and comply with all federal, state and local permits, licenses and certificates that may be required for it to perform the Work. Contractor shall comply with all federal, state and local air pollution control laws and regulations applicable to the Contractor and its Work (as required by California Code of Regulations title 13, section 2022.1). Contractor shall be responsible for the safety of its workers and Contractor shall comply with applicable federal and state worker safety-related laws and regulations.

9.2 California Labor Code Compliance for Pre- and Post-Construction Related Work and Maintenance.

9.2.1 This section 9.2 applies if the Work includes either of the following:

9.2.1.1 Labor performed during the design, site assessment, feasibility study and pre-construction phases of construction, including, but not limited to, inspection and land surveying work, and labor performed during the post-construction phases of construction, including, but not limited to, cleanup work at the jobsite. (See California Labor Code section 1720(a).) If the Work includes some labor as described in the preceding sentence and other labor that is not, then this section 9.2 applies only to workers performing the pre-construction and post-construction work.

9.2.1.2 "Maintenance" work, which means (i) routine, recurring and usual work for the preservation, protection and keeping of any RWA facility, plant, building, structure, utility system or other property ("RWA Facility") in a safe and continually usable condition, (ii) carpentry, electrical, plumbing, glazing, touchup painting, and other craft work designed to preserve any RWA Facility in a safe, efficient and continuously usable condition, including repairs, cleaning and other operations on RWA machinery and equipment, and (iii) landscape maintenance. "Maintenance" excludes (i) janitorial or custodial services of a

routine, recurring or usual nature, and (ii) security, guard or other protection-related services. (See California Labor Code section 1771 and 8 California Code of Regulations section 16000.) If the Work includes some “maintenance” work and other work that is not “maintenance,” then this section 9.2 applies only to workers performing the “maintenance” work.

9.2.2 Contractor shall comply with the California Labor Code provisions concerning payment of prevailing wage rates, penalties, employment of apprentices, hours of work and overtime, keeping and retention of payroll records, and other requirements applicable to public works as may be required by the Labor Code and applicable state regulations. (See California Labor Code division 2, part 7, chapter 1 (sections 1720-1861), which is incorporated in this Agreement by this reference.) The state-approved prevailing rates of per diem wages are available at <http://www.dir.ca.gov/oprl/DPreWageDetermination.htm>. Contractor also shall comply with Labor Code sections 1775 and 1813, including provisions that require Contractor to (a) forfeit as a penalty to RWA up to \$200 for each calendar day or portion thereof for each worker (whether employed by Contractor or any subcontractor) paid less than the applicable prevailing wage rates for any labor done under this Agreement in violation of the Labor Code, (b) pay to each worker the difference between the prevailing wage rate and the amount paid to each worker for each calendar day or portion thereof for which the worker was paid less than the prevailing wage, and (c) forfeit as a penalty to RWA the sum of \$25 for each worker (whether employed by Contractor or any subcontractor) for each calendar day during which the worker is required or permitted to work more than 8 hours in any one day and 40 hours in any one calendar week in violation of Labor Code sections 1810 through 1815.

9.2.3 If the Work includes labor during pre- or post-construction phases as defined in section 9.2.1.1 above and the amount of the fee payable to Contractor under section 2 of this Agreement exceeds \$25,000, Contractor must be registered and qualified to perform public work with the Department of Industrial Relations pursuant section 1725.5 of the Labor Code.

Contractor's Public Works Contractor Registration Number: \_\_\_\_\_

9.2.4 If the Work includes maintenance as defined in section 9.2.1.2 above and the amount of the fee payable to Contractor under section 2 of this Agreement exceeds \$15,000, Contractor must be registered and qualified to perform public work with the Department of Industrial Relations pursuant section 1725.5 of the Labor Code.

Contractor's Public Works Contractor Registration Number: \_\_\_\_\_

d. **[This paragraph may be replaced with “Intentionally omitted” if the Work is not subject to a grant or loan agreement]** Contractor may perform some of the Work pursuant to funding provided to the RWA by various federal and/or state grant and/or loan agreement(s) that impose certain funding conditions on RWA and its sub-recipients (the “Funding Conditions”). For any such Work, if RWA informs Contractor about the Funding Conditions, then Contractor agrees to determine, comply with and be subject to the Funding Conditions that apply to RWA’s Contractors and contractors performing the Work, including, but not limited to, provisions concerning record keeping, retention and inspection, audits, state or federal government’s right to inspect Contractor’s work, nondiscrimination, workers’ compensation insurance, drug-free workplace certification, and, compliance with the Americans with Disabilities Act and related State laws.

## **10 Indemnification.**

10.1 Contractor shall indemnify, defend, protect, and hold harmless RWA, and its officers, employees and agents (“Indemnitees”) from and against any claims, liability, losses, damages and expenses

(including attorney, expert witness and Contractor fees, and litigation costs) (collectively a “Claim”) that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Contractor or its employees, agents or subcontractors. The duty to indemnify, including the duty and the cost to defend, is limited as provided in this section. However, this indemnity provision will not apply to any Claim arising from the sole negligence or willful misconduct of RWA or its employees or agents. Contractor’s obligations under this indemnification provision shall survive the termination of, or completion of Work under, this Agreement.

10.2 This section 10.2 applies if the Contractor is a “design professional” as that term is defined in Civil Code section 2782.8. If a court or arbitrator determines that the incident or occurrence that gave rise to the Claim was partially caused by the fault of an Indemnitee, then in no event shall Contractor’s total costs incurred pursuant to its duty to defend Indemnitees exceed Contractor’s proportionate percentage of fault as determined by a final judgment of a court or final decision of arbitrator.

## 11 Insurance

Types & Limits. Contractor at its sole cost and expense shall procure and maintain for the duration of this Agreement the following types and limits of insurance: **[The general liability and automobile coverage limits may be adjusted depending on the Work’s overall risks, cost and complexity.]**

Type	Limits	Scope
Commercial general liability	\$2,000,000 per occurrence & \$4,000,000 aggregate	at least as broad as 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
Automobile liability	\$1,000,000 per accident	at least as broad as ISO Business Auto Coverage (Form CA 00 01)
Workers’ compensation	Statutory limits	
Employers’ liability	\$1,000,000 per accident	
Professional liability*	\$1,000,000 per claim	

\*Required only if Contractor is a licensed engineer, land surveyor, geologist, architect, doctor, attorney or accountant.

11.1 Other Requirements. The general and automobile liability policy(ies) shall be endorsed to name RWA, its officers, employees, volunteers and agents as additional insureds regarding liability arising out of the Work. Contractor’s general and automobile coverage shall be primary and apply separately to each insurer against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability. RWA’s insurance or self-insurance, if any, shall be excess and shall not contribute with Contractor’s insurance. Each insurance policy shall be endorsed to state that coverage shall not be canceled, except after

30 days (10 days for non-payment of premium) prior written notice to RWA. Insurance is to be placed with insurers authorized to do business in California with a current A.M. Best's rating of A:VII or better unless otherwise acceptable to RWA. Workers' compensation insurance issued by the State Compensation Insurance Fund is acceptable. Except for professional liability insurance, Contractor agrees to waive subrogation that any insurer may acquire from Contractor by virtue of the payment of any loss relating to the Work. Contractor agrees to obtain any endorsement that may be necessary to implement this subrogation waiver. The workers' compensation policy must be endorsed to contain a subrogation waiver in favor of RWA for the Work performed by Contractor.

**11.2 Proof of Insurance.** Upon request, Contractor shall provide to RWA the following proof of insurance: (a) certificate(s) of insurance evidencing this insurance; and (b) endorsement(s) on ISO Form CG 2010 (or insurer's equivalent), signed by a person authorized to bind coverage on behalf of the insurer(s), and certifying the additional insured coverage.

## **12 General Provisions**

**12.1 Entire Agreement; Amendment.** The parties intend this writing to be the sole, final, complete, exclusive and integrated expression and statement of the terms of their contract concerning the Work. This Agreement supersedes all prior oral or written negotiations, representations, contracts or other documents that may be related to the Work, except those other documents (if any) that are expressly referenced in this Agreement. This Agreement may be amended only by a subsequent written contract approved and signed by both parties.

**12.2 Independent Contractor.** Contractor's relationship to RWA is that of an independent contractor. All persons hired by Contractor and performing the Work shall be Contractor's employees or agents. Contractor and its officers, employees and agents are not RWA employees, and they are not entitled to RWA employment salary, wages or benefits. Contractor shall pay, and RWA shall not be responsible in any way for, the salary, wages, workers' compensation, unemployment insurance, disability insurance, tax withholding, and benefits to and on behalf of Contractor's employees. Contractor shall, to the fullest extent permitted by law, indemnify RWA, and its officers, employees, volunteers and agents from and against any and all liability, penalties, expenses and costs resulting from any adverse determination by the federal Internal Revenue Service, California Franchise Tax Board, other federal or state agency, or court concerning Contractor's independent contractor status or employment-related liability.

**12.3 Subcontractors.** No subcontract shall be awarded nor any subcontractor engaged by Contractor without RWA's prior written approval. Contractor shall be responsible for requiring and confirming that each approved subcontractor meets the minimum insurance requirements specified in section 11 of this Agreement. Any approved subcontractor shall obtain the required insurance coverages and provide proof of same to RWA in the manner provided in section 11 of this Agreement.

**12.4 Assignment.** This Agreement and all rights and obligations under it are personal to the parties. The Agreement may not be transferred, assigned, delegated or subcontracted in whole or in part, whether by assignment, subcontract, merger, operation of law or otherwise, by either party without the prior written consent of the other party. Any transfer, assignment, delegation, or subcontract in violation of this provision is null and void and grounds for the other party to terminate the Agreement.

**12.5 No Waiver of Rights.** Any waiver at any time by either party of its rights as to a breach or default of this Agreement shall not be deemed to be a waiver as to any other breach or default. No payment by RWA to Contractor shall be considered or construed to be an approval or acceptance of any Work or a waiver of any breach or default.

**12.6 Severability.** If any part of this Agreement is held to be void, invalid, illegal or unenforceable, then the remaining parts will continue in full force and effect and be fully binding, provided that each party still receives the benefits of this Agreement.

**12.7 Governing Law and Venue.** This Agreement will be governed by and construed in accordance with the laws of the State of California. The county and federal district court where RWA's office is located shall be venue for any state and federal court litigation concerning the enforcement or construction of this Agreement.

**12.8 Notice.** Any notice, demand, invoice or other communication required or permitted to be given under this Agreement must be in writing and delivered either (a) in person, (b) by prepaid, first class U.S. mail, (c) by a nationally-recognized commercial overnight courier service that guarantees next day delivery and provides a receipt, or (d) by email with confirmed receipt. Such notices, etc. shall be addressed as follows:

RWA:

Regional Water Authority

Attn: \_\_\_\_\_

Regional Water Authority, 5620 Birdcage St # 180, Citrus Heights, CA 95610

E-mail: \_\_\_\_\_

Contractor:

\_\_\_\_\_

E-mail: \_\_\_\_\_

Notice given as above will be deemed given (a) when delivered in person, (b) three days after deposited in prepaid, first class U.S. mail, (c) on the date of delivery as shown on the overnight courier service receipt, or (d) upon the sender's receipt of an email from the other party confirming the delivery of the notice, etc. Any party may change its contact information by notifying the other party of the change in the manner provided above.

**12.9 Signatures and Authority.** Each party warrants that the person signing this Agreement is authorized to act on behalf of the party for whom that person signs. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute the same instrument. Counterparts may be delivered by facsimile, electronic mail (including PDF or any electronic signature complying with California's Uniform Electronic Transactions Act (Cal. Civ. Code, §1633.1, et seq.) or any other applicable law) or other transmission method. The parties agree that any electronic signatures appearing on the Agreement are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

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Regional Water Authority:

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
*[Name]*

*[Title]*

*[Name of Contractor]:*

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
*[Name/Title]*