

SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 20__, by and between the City of Merced, a California Charter Municipal Corporation, whose address of record is 678 West 18th Street, Merced, California 95340, (hereinafter referred to as "City") and Black Water Consulting Engineers, a Corporation, whose address of record is 602 Lyell Drive, Modesto, CA 95356, (hereinafter referred to as "Contractor").

WHEREAS, City is undertaking a project to develop a Former Sludge Drying Bed Closure Work Plan; and,

WHEREAS, Contractor represents that it possesses the professional skills to provide engineering/consulting services in connection with said project.

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants hereinafter recited, hereby agree as follows:

1. **SCOPE OF SERVICES.** The Contractor shall furnish the following services: Contractor shall provide the engineering/consulting services described in Exhibit "A" attached hereto.

No additional services shall be performed by Contractor unless approved in advance in writing by the City, stating the dollar value of the services, the method of payment, and any adjustment in contract time. All such services are to be coordinated with City and the results of the work shall be monitored by the Director of Public Works or designee. However, the means by which the work is accomplished shall be the sole responsibility of the Contractor.

2. **TIME OF PERFORMANCE.** All of the work outlined in the Scope of Services shall be completed in accordance with the Schedule outlined in Exhibit "B" attached hereto and incorporated herein by reference. By mutual agreement and written addendum to this Agreement, the City and the Contractor may change the requirements in said Schedule.

3. **TERM OF AGREEMENT.** The term of this Agreement shall commence upon the day first above written and end on March 31, 2027.

4. **COMPENSATION.** Payment by the City to the Contractor for actual services rendered under this Agreement shall be made upon presentation of an

invoice detailing services performed under the Scope of Services, in accordance with the fee schedule set forth in Exhibit "C" attached hereto and incorporated herein by reference. The Contractor agrees to provide all services required under the Scope of Services in Exhibit "A" within the compensation amount set forth in Exhibit "C". For Contractor's services rendered under this Agreement, City shall pay Contractor the not to exceed sum of \$51,348.00.

5. **METHOD OF PAYMENT.** Compensation to Contractor shall be paid by the City after submission by Contractor of an invoice delineating the services performed.

6. **RECORDS.** It is understood and agreed that all plans, studies, specifications, data magnetically or otherwise recorded on computer or computer diskettes, records, files, reports, etc., in possession of the Contractor relating to the matters covered by this Agreement shall be the property of the City, and Contractor hereby agrees to deliver the same to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials including but not limited to those set forth hereinabove, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use.

7. **CONTRACTOR'S BOOKS AND RECORDS.** Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor to this Agreement. Any records or documents required to be maintained shall be made available for inspection, audit and/or copying at any time during regular business hours, upon oral or written request of the City.

8. **INDEPENDENT CONTRACTOR.** It is expressly understood that Contractor is an independent contractor and that its employees shall not be employees of or have any contractual relationship with the City. Contractor shall be responsible for the payment of all taxes, workers' compensation insurance and unemployment insurance. Should Contractor desire any insurance protection, the Contractor is to acquire same at its expense.

In the event Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System

(PERS) to be eligible for enrollment in PERS as an employee of the City, Contractor shall indemnify, protect, defend, and hold harmless the City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

9. **INDEMNITY.** Contractor shall indemnify, protect, defend (with legal counsel selected by the City), save and hold City, its officers, employees, and agents, harmless from any and all claims or causes of action for death or injury to persons, or damage to property resulting from intentional or negligent acts, errors, or omissions of Contractor or Contractor's officers, employees, volunteers, and agents during performance of this Agreement; Contractor shall indemnify, protect, defend (with counsel selected by the City) save and hold City, its officers, employees and agents harmless from any and all claims or causes of action for any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct, negligent acts, or omissions of Contractor or its employees, subcontractors, or agents, or by the quality or character of Contractor's work. It is understood that the duty of Contractor to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall survive the termination of this Agreement and shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

10. **INSURANCE.** During the term of this Agreement, Contractor shall maintain in full force and effect at its own cost and expense, the following insurance coverage:

a. **Workers' Compensation Insurance.** Full workers' compensation insurance shall be provided with a limit of at least One Hundred Thousand Dollars (\$100,000) for any one person and as required by law, including Employer's Liability limits of \$1,000,000.00 per accident. The policy shall be endorsed to waive the insurer's subrogation rights against the City.

b. General Liability.

- (i) Contractor shall obtain and keep in full force and effect general liability coverage at least as broad as ISO commercial general liability coverage occurrence Form CG 0001.
- (ii) Contractor shall maintain limits of no less than One Million Dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage.
- (iii) The City, its officers, employees, volunteers and agents are to be named as additional insureds under the policy, as respects liability arising out of work or operations performed by or on behalf of the Contractor.
- (iv) The policy shall stipulate that this insurance will operate as primary insurance for work performed by Contractor and its sub-contractors, and that any other insurance or self insurance maintained by City or other named insureds shall be excess and non-contributory.
- (v) Contractor shall maintain its commercial general liability coverage for three (3) years after completion of the work and shall add an additional insured endorsement form acceptable to the City naming the City of Merced, its officers, employees, agents and volunteers for each year thereafter for at least three (3) years after completion of the work. Copies of the annual renewal and additional insured endorsement form shall be sent to the City within thirty (30) days of the annual renewal.

c. Automobile Insurance.

- (i) Contractor shall obtain and keep in full force and effect an automobile policy of at least One Million Dollars (\$1,000,000) per accident for bodily injury and property damage.
- (ii) The City, its officers, employees, volunteers and agents are to be named as additional insureds under the policy, as respects automobiles owned, leased, hired or borrowed by the Contractor.

- (iii) The policy shall stipulate that this insurance will operate as primary insurance for work performed by Contractor and its sub-contractors, and that any other insurance or self insurance maintained by City or other named insureds shall be excess and non-contributory.

d. Professional Liability Insurance. Contractor shall carry professional liability insurance appropriate to Contractor's profession in the minimum amount of One Million Dollars (\$1,000,000). Architects and engineers' coverage is to be endorsed to include contractual liability.

e. Reserved.

f. Qualifications of Insurer. The insurance shall be provided by an acceptable insurance provider, as determined by City, which satisfies all of the following minimum requirements:

- (i) An insurance carrier admitted to do business in California and maintaining an agent for service of process within this State; and,
- (ii) An insurance carrier with a current A.M. Best Rating of A:VII or better (except for workers' compensation provided through the California State Compensation Fund).

g. Certificate of Insurance. Contractor shall complete and file with the City prior to engaging in any operation or activity set forth in this Agreement, certificates of insurance evidencing coverage as set forth above and which shall provide that no cancellation or expiration by the insurance company will be made during the term of this Agreement, without thirty (30) days written notice to City prior to the effective date of such cancellation—including cancellation for nonpayment of premium. In addition to any other remedies City may have, City reserves the right to withhold payment if Contractor's insurance policies are not current.

11. PREVAILING WAGES.

A. Labor Code Compliance. If the work performed under this Agreement falls within Labor Code Section 1720(a)(1) definition of a "public works" the Contractor agrees to comply with all of the applicable provisions of the

Labor Code including, those provisions requiring the payment of not less than the general prevailing rate of wages. The Contractor further agrees to the penalties and forfeitures provided in said Code in the event a violation of any of the provisions occurs in the execution of this Agreement.

B. These wage rate determinations are made a specific part of this Agreement by reference pursuant to Labor Code Section 1773.2. General Prevailing Wage Rate Determinations may be obtained from the Department of Industrial Relations Internet site at <http://www.dir.ca.gov/>.

C. After award of the Agreement, and prior to commencing work, all applicable General Prevailing Wage Rate Determinations, if applicable, are to be obtained by the Contractor from the Department of Industrial Relations. These wage rate determinations are to be posted by the Contractor at the job site in accordance with Section 1773.2 of the California Labor Code.

D. Contractor agrees to include prevailing wage requirements, if applicable, in all subcontracts when the work to be performed by the subcontractor under this Agreement is a "public works" as defined in Labor Code Section 1720(a)(1) and Labor Code Section 1771.

12. NOTICES. Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by: (i) personal service, (ii) delivery by a reputable document delivery service, such as, but not limited to, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by Notice. Notice shall be effective upon delivery to the addresses specified below or on the third business day following deposit with the document delivery service or United States Mail as provided above.

To City: City of Merced
678 West 18th Street
Merced, California 95340
Attention: City Manager

To Contractor: Black Water Consulting Engineers
602 Lyell Drive
Modesto, CA 95356
Attention: Alison Furuya

13. **ASSIGNABILITY OF AGREEMENT.** It is understood and agreed that this Agreement contemplates personal performance by the Contractor and is based upon a determination of its unique personal competence and experience and upon its specialized personal knowledge. Assignments of any or all rights, duties or obligations of the Contractor under this Agreement will be permitted only with the express written consent of the City.

14. **TERMINATION FOR CONVENIENCE OF CITY.** The City may terminate this Agreement any time by mailing a notice in writing to Contractor that the Agreement is terminated. Said Agreement shall then be deemed terminated, and no further work shall be performed by Contractor. If the Agreement is so terminated, the Contractor shall be paid for that percentage of the phase of work actually completed, based on a pro rata portion of the compensation for said phase satisfactorily completed at the time the notice of termination is received.

15. **CONFORMANCE TO APPLICABLE LAWS.** Contractor shall comply with its standard of care regarding all applicable Federal, State, and municipal laws, rules and ordinances. No discrimination shall be made by Contractor in the employment of persons to work under this contract because of race, color, national origin, ancestry, disability, sex or religion of such person.

Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act (8 U.S.C.A. 1101 *et seq.*), as amended; and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Contractor so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any agency or instrumentality of the federal or state government, including the courts, impose sanctions against the City for such use of unauthorized aliens, Contractor hereby agrees to, and shall, reimburse City for the cost of all such sanctions imposed, together with any and all costs, including attorneys' fees, incurred by the City in connection therewith.

16. **WAIVER.** In the event that either City or Contractor shall at any time or times waive any breach of this Agreement by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement, whether of the same or any other covenant, condition or obligation. Waiver shall not be deemed effective until and unless signed by the waiving party.

17. **INCONSISTENT OR CONFLICTING TERMS IN AGREEMENT AND EXHIBITS.** In the event of any contradiction or inconsistency between any

attached document(s) or exhibit(s) incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control.

Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the City are not binding upon the City unless specifically agreed to in writing, and initialed by the authorized City representative, as to each additional contractual term or condition.

18. **AMBIGUITIES.** This Agreement has been negotiated at arms' length between persons knowledgeable in the matters dealt with herein. Accordingly, any rule of law, including, but not limited to, Section 1654 of the Civil Code of California, or any other statutes, legal decisions, or common-law principles of similar effect, that would require interpretation of any ambiguities in this Agreement against the party that drafted this Agreement is of no application and is hereby expressly waived.

19. **VENUE.** This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this agreement shall be held exclusively in a state court in the County of Merced.

20. **AMENDMENT.** This Agreement shall not be amended, modified, or otherwise changed unless in writing and signed by both parties hereto.

21. **INTEGRATION.** This Agreement constitutes the entire understanding and agreement of the parties and supersedes all previous and/or contemporaneous understanding or agreement between the parties with respect to all or any part of the subject matter hereof.

22. **AUTHORITY TO EXECUTE.** The person or persons executing this Agreement on behalf of the parties hereto warrants and represents that he/she/they has/have the authority to execute this Agreement on behalf of their entity and has/have the authority to bind their party to the performance of its obligations hereunder.

23. **COUNTERPARTS.** This Agreement may be executed in one or more counterparts with each counterpart being deemed an original. No counterpart shall be deemed to be an original or presumed delivered unless and until the

counterparts executed by the other parties hereto are in the physical possession of the party or parties seeking enforcement thereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first above written.

CITY OF MERCED
A California Charter Municipal
Corporation

BY: _____
D. Scott McBride
City Manager

ATTEST:
D. SCOTT MCBRIDE, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

APPROVED AS TO FORM:
CRAIG J. CORNWELL, CITY ATTORNEY

BY: Craig Cornwell 6-24-2026
City Attorney Date

ACCOUNT DATA:
M. VENUS RODRIGUEZ, FINANCE OFFICER

BY: _____
Verified by Finance Officer

{Signatures continued on next page}

CONTRACTOR
Black Water Consulting Engineers

BY: Alison Furuya
(Signature)

Alison Furuya
(Typed Name)

Its: Vice President
(Title)

BY: Aja Verburg
(Signature)

Aja Verburg
(Typed Name)

Its: Vice President
(Title)

Taxpayer I.D. No. 46-1504431

ADDRESS: 602 Lyell Drive
Modesto, CA 95356

TELEPHONE: 209.322.1820

FAX: None

E-MAIL: stacy@blackwater-eng.com

EXHIBIT A

PROJECT UNDERSTANDING

Black Water understands the requirements of the City's National Pollutant Discharge Elimination System Permit, Order No. R5-2026-0005 (NPDES Permit). The NPDES Permit requires the City to prepare a Former Sludge Drying Beds Closure Work Plan (Work Plan) for its Wastewater Treatment Facility (WWTF).

The Work Plan must propose actions to permanently decommission the former sludge drying beds and must be submitted to the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) for review by April 1, 2027.

Per the NPDES Permit, the Work Plan must include the following:

- Proposed actions to permanently decommission the former sludge drying beds
- A timeline for a proper identification of constituents of concern and characterization of nitrogen compounds, arsenic, manganese, and the identified constituents of concern in soils beneath the former sludge drying beds compared to background concentrations
- An evaluation of potential risks to groundwater quality from residual nitrate, total Kjeldahl nitrogen, arsenic, manganese, and other constituents of concern in soils
- A plan for closure
- Potential repurposing
- Long-term maintenance and use of the site

The timeline for implementation of the Work Plan shall not exceed seven (7) years from the effective date of the NPDES Permit, April 1, 2026.

Black Water understands that the City will retain a contractor to prepare the Final Technical Report following implementation of the Work Plan.

Per the NPDES Permit, the Final Technical Report must include:

- Evaluation that demonstrates that the former sludge drying beds do not pose a threat to groundwater quality.
- Analyze the Effluent Channel's impact on potentially mobilizing constituents of concern associated with the former sludge drying beds.

TASK 1.0 – PROJECT MANAGEMENT, ADMINISTRATION, AND MEETINGS

Black Water will provide proactive project management and maintain clear communication with the City to support the successful and timely completion of the Work Plan. Black Water will keep the City informed of project status, key issues, schedule, and budget tracking throughout the project.

This task includes internal project management, staff scheduling, monthly project updates to the City, budget oversight, project correspondence, document production, quality control review, and general administrative support.

Black Water will also participate in project meetings to support timely completion and effective coordination with City staff:

- **Kickoff Meeting:** Black Water will conduct one (1) kickoff meeting to review the scope of services, confirm initial data needs and data collection methods, and establish a detailed project schedule.
- **Progress Meetings:** Black Water will attend up to two (2) progress meetings with City staff to provide project updates and discuss key findings or outstanding items.

EXHIBIT A

Deliverables: Kickoff meeting agenda and summary, Monthly progress reports, Meeting agendas and meeting minutes, and Project schedule updates

TASK 2.0 – PREPARE FORMER SLUDGE DRYING BED CLOSURE WORK PLAN

Black Water will prepare the Work Plan in accordance with the applicable NPDES Permit requirements and guidance from the Central Valley Water Board. *Under this task, Black Water will:*

- Collect and review available historical and analytical data provided by the City
- Conduct a site visit
- Prepare the draft Work Plan for City review
- Incorporate City comments, as appropriate
- Prepare the Final Work Plan
- Assist the City with the submission of the Work Plan to the Central Valley Water Board
- Respond to one round of comments from the Central Valley Water Board, as appropriate

The Work Plan is anticipated to include the following sections:

- Introduction
- Background
- Proposed Methodology and Schedule for Identification and Characterization of Constituents of Concern in Soil
- Evaluation of Potential Risks to Groundwater Quality
- Plan for Closure
- Potential Repurposing
- Long-term maintenance and site use

Preparation of the Final Technical Report is not included under this task. The Final Technical Report is anticipated to be prepared following implementation of the Work Plan activities by others under a separate contract.

Deliverables: Draft and Final Former Sludge Drying Beds Closure Work Plan

Exclusion:

- *Preparation of the Final Technical Report*
- *Field investigation activities, including drilling, sampling, and laboratory analysis*
- *Additional services not specifically identified in this scope of work*

EXHIBIT B

SCHEDULE

Black Water is committed to delivering quality work in a timely manner. We recognize that adherence to schedule is critical for our municipality clients, especially when tied to regulatory milestones, funding deadlines, and seasonal construction windows.

Scheduling Approach | Our project schedule is regularly updated to meet the changing demands of evolving projects. This ongoing maintenance mitigates project delays and ensures key project delivery milestones are met.

Black Water approaches scheduling with a proactive and collaborative mindset—setting realistic internal deadlines, maintaining frequent communication with stakeholders, and using internal QA/QC checkpoints to avoid late-stage revisions. Our project managers monitor progress weekly and anticipate delays early, allowing us to adjust resources or sequencing as needed. This disciplined approach has enabled us to consistently deliver submittals on time.

Black Water will maintain the following project schedule to complete the Former Sludge Drying Beds Closure Work Plan in advance of the required State submittal deadline

Project Schedule:

Task	Description	Date
	Estimated Notice to Proceed	August 3, 2026
	Contract Term End Date per RFP	March 31, 2027
1	Project Management, Administration, and Meetings	
	Project Management and Administration	August 3, 2026 – March 31, 2027
	Kickoff Meeting	August 10, 2026
	Progress Meeting 1	October 2026
	Progress Meeting 2	February 2027
2	Prepare Former Sludge Drying Bed Closure Work Plan	
	Data Collection and Review	August 3, 2026 – August 31, 2026
	Prepare Draft Work Plan	September 1, 2026 – December 31, 2026
	Draft Work Plan City Review Period ¹	January 1, 2027 – February 28, 2027
	Prepare Final Work Plan	March 1, 2027 – March 24, 2027
	Submit Final Work Plan ²	March 30, 2027
	Respond to State Questions/Comments ³	As needed

¹ Per the RFP, the Draft Former Sludge Drying Beds Closure Work Plan is due to the City for review by March 1, 2027. Black Water proposes to deliver the Draft Work Plan in advance of this deadline to allow adequate time for City review, comments, and preparation of the Final Work Plan.

² Per the RFP, the Final Former Sludge Drying Beds Closure Work Plan is due no later than March 31, 2027.

³ Black Water recommends extending the contract term beyond March 31, 2027, to allow for responses to State comments, if needed.

EXHIBIT C

BLACK B WATER CONSULTING ENGINEERS		CITY OF MERCED FORMER SLUDGE DRYING BEDS CLOSURE WORK PLAN 21.km-26										
		Fee Proposal/ Level of Effort										
		BLACK WATER										
		Totals										
		Totals										
TASK	Task Activity	Billing Rates \$/hr	302	239	193	178	155	155	Admin	Black Water Total Hours	Black Water Fee	Total Fee
1	Project Management, Administration, and Meetings											
1.1	Kickoff Meeting		1	1	1					3	\$734	\$734
1.2	Progress Meetings		2	2	2					6	\$1,468	\$1,468
1.3	Project Management and Administration		6	10				10	10	26	\$5,752	\$5,752
	Task 1 Total		9	13	3	0	0	10	10	35	\$7,954	\$7,954
2	Prepare Former Sludge Drying Bed Closure Work Plan											
2.1	Data Collection and Review		2	10	24					36	\$7,620	\$7,620
2.2	Prepare Draft Work Plan		8	30	80	8	8			134	\$27,690	\$27,690
2.3	Prepare Final Work Plan		4	10	20		4			38	\$8,078	\$8,078
	Task 2 Total		14	50	124	8	12	0	0	208	\$43,394	\$43,394
TOTALS			23	63	127	8	12	10	10	243	\$51,348	\$51,348
											TOTAL FEE	\$51,348

Notes:

1. All scope items and associated fees are based on the best approximation we can make given the current level of information we have.
2. Black Water will discuss and/or negotiate with the Client any scope or fee item shown on this Proposal.