

Agreement for Professional Services

This Agreement is to provide services for the project identified as follows:

Project Name: Alleghany Galvanic Cathodic Protection System

Client Project Number: _____

Consultant Project Number: ALLE24-001

The Client and the Consultant are identified as follows:

CLIENT: <u>Alleghany County Water District</u>	CONSULTANT: <u>SB Coleman, Inc.</u>
Name: <u>Rae Bell Arbogast</u>	Name: <u>Chad R. Coleman</u>
Title: <u>General Manager</u>	Title: <u>Managing Principal</u>
Address: <u>P.O. Box 860</u>	Address: <u>1223 Pleasant Grove Blvd., Suite 100</u>
City, ST, Zip: <u>Alleghany, CA 95910</u>	City, ST, Zip: <u>Roseville, CA 95678</u>
Phone: <u>530-287-3204</u>	Phone: <u>916-791-1188</u>
e-mail: <u>alleghanywater@gmail.com</u>	e-mail: <u>chad@coleman-eng.com</u>

This Agreement is effective as of the date signed on the last page and is subject to each of the following terms.

1. PROFESSIONAL SERVICES

- A. Scope of Services. The Consultant's undertaking to perform professional services extends specifically to the services described in Exhibit A, which is attached and made a part of this Agreement ("the Services").
- B. Additional Services. If requested by the Client and agreed to by the Consultant, the Consultant will perform additional services ("Additional Services"). Additional Services must be authorized by the Client in writing including a complete identification of the scope of Additional Services, a schedule for their performance and an accompanying budget.

2. PERIOD OF SERVICES

- A. This Agreement has been made in anticipation of conditions permitting orderly and continuous progress of the Project through

completion of the Services. The Consultant shall begin providing services in a timely manner after receiving a fully executed copy of this Agreement and will complete the Services described in Exhibit A according to the schedule defined in Exhibit A or if not fully defined there within a reasonable length of time. Times for performance shall be extended as necessary for periods of delay or suspension resulting from circumstances the Consultant does not control.

3. COMPENSATION

Compensation shall be paid to the Consultant in accordance with the following provisions:

- A. For Services described in Exhibit A, the Consultant's compensation shall be computed as stated in Exhibit A, which is attached and made a part of this Agreement.

- B. Invoices will be submitted by the Consultant to the Client periodically for services performed and expenses incurred. Client is also responsible for payment of any taxes, including sales tax. When the Consultant's compensation is on a lump sum fee basis, the invoices will be based upon the portion of total Services performed at the time of billing. If the Consultant's compensation is on an hourly basis, the invoices shall be based on time expended in providing the Services.
- C. Payment of each such invoice will be due within 30 days of receipt. Interest will be added to accounts not paid within 45 days at the maximum rate allowed by law. If the Client fails to make payments when due, or is otherwise in breach of this agreement, the Consultant may, after giving notice to the Client, suspend services under this Agreement until it has been paid in full all amounts due. The Consultant shall have no liability whatsoever to the Client for any costs or damages that result from such suspension.
- D. If the Client objects to any charge on an invoice submitted by the Consultant, the Client shall so advise the Consultant in writing giving its reasons within 14 days of receipt of the invoice or all such objections shall be waived, and the amount stated in the invoice shall be conclusively deemed due and owing.
- E. Timing of payments defined in paragraphs C. and D. above may be modified by terms in the Scope of Services for projects dependent on receipt of funding. In case of modification in the Scope of Services, timing of payments noted in the Scope of Services shall prevail.

4. STANDARD OF CARE

In providing services under this Agreement, the Consultant shall perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time and in the same or similar locality.

5. DOCUMENTS

- A. All documents, including drawings, specifications, and computer software,

prepared by the Consultant pursuant to this Agreement are instruments of service in respect to this Project. They are not intended or represented to be suitable for reuse by the Client or others on extensions of this Project or on any other project. Any modifications made by the Client to any of the Consultant's documents, or any reuse, partial or otherwise, without written authorization or adaptation by the Consultant will be at the Client's sole risk and without liability or legal exposure to the Consultant; and the Client shall indemnify, defend, and hold harmless the Consultant against all claims, damages, losses, and expenses including attorney's fees arising out of or resulting from such reuse.

- B. Any electronic files are provided only for the convenience of the Client, and use of them is at the Client's sole risk. In the case of any defects in the electronic files or any discrepancies between them and the hardcopy of the documents prepared by the Consultant, the hardcopy shall govern. Only printed copies of documents conveyed by the Consultant may be relied upon. Because data stored in electronic media format can deteriorate or be modified without authorization of the data's creator, the Client has 60 days to perform acceptance tests, after which it shall be deemed to have accepted the data transferred.

6. OPINIONS OF COST AND SCHEDULE

In providing estimates of probable construction cost and/or schedules, the Client understands that the Consultant has no control over the cost or availability of labor, equipment or materials, or over market conditions or the Contractor's methods of pricing and scheduling, and that the Consultant's estimates of probable construction costs and schedules are made on the basis of the Consultant's professional judgment and experience. The Consultant makes no warranty, express or implied, that the bids or the negotiated cost of the Work, or the estimated schedules, will not vary from the Consultant's estimate of probable construction cost or the estimated schedule.

7. ENGINEERING SERVICES DURING CONSTRUCTION

- A. If the Consultant's services include the preparation of documents to be used for construction and the Consultant is not retained to make periodic site visits, the Client assumes all responsibility for interpretation of the documents and for construction observation, and the Client waives any claims against the Consultant in any way connected thereto.
- B. The Consultant shall have no responsibility for any contractor's means, methods, techniques, equipment choice or usage, sequence, schedule, safety programs, or safety practices, nor shall Consultant have any authority or responsibility to stop or direct the work of any contractor. The Consultant's visits will be for the purpose of endeavoring to provide the Client a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by the Consultant. Consultant neither guarantees the performance of contractors, nor assumes responsibility for any contractor's failure to perform its work in accordance with the contract documents.
- C. The Consultant and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions. The Client agrees that the General Contractor is solely responsible for jobsite safety, and warrants that this intent shall be made evident in the Client's agreement with the General Contractor.
- D. The Consultant is not responsible for any duties assigned to the design professional in the construction contract that are not expressly provided for in this Agreement. The Client agrees that each contract with any contractor shall state that the contractor shall be solely responsible for job site safety and for its means and methods; that the contractor shall indemnify the Client and the Consultant for all claims and liability arising out of job site accidents; and that the Client

and the Consultant shall be made additional insureds under the contractor's general liability insurance policy.

8. HAZARDOUS SUBSTANCES AND CONDITIONS

- A. As used in this Agreement, the term *hazardous materials* shall mean any substances, including without limitation asbestos, toxic or hazardous waste, PCBs, combustible gases and materials, petroleum or radioactive materials (as each of these is defined in applicable federal statutes) or any other substances under any conditions and in such quantities as would pose a substantial danger to persons or property exposed to such substances at or near the Project site.
- B. Both parties acknowledge that the Consultant's scope of services does not include any services related to the presence of any hazardous or toxic materials. In the event the Consultant or any other person or entity involved in the project encounters any hazardous or toxic materials, or should it become known to the Consultant that such materials may be present on or about the jobsite or any adjacent areas that may affect the performance of the Consultant's services, the Consultant may, at its sole option and without liability for consequential or any other damages, suspend performance of its services under this Agreement until the Client retains appropriate qualified consultants and/or contractors to identify and abate or remove the hazardous or toxic materials and warrants that the jobsite is in full compliance with all applicable laws and regulations.
- C. The Client agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant, its officers, partners, employees and subconsultants (collectively, Consultant) from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including reasonable attorneys' fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous or toxic substances, products or materials that exist on, about or adjacent to

the Project site, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability, regulatory or any other cause of action, except for the sole negligence or willful misconduct of the Consultant.

9. INDEMNITY

Consultant shall hold harmless and indemnify, without a duty to defend, Client for third party suits, claims, liabilities, and losses, including reasonable attorney's fees and costs, but only to the extent actually caused by the negligent acts, errors or omissions of the Consultant, its owners, officers, and employees in the performance of professional services for the Project as ultimately determined by a court of competent jurisdiction.

Client shall hold harmless and indemnify, without a duty to defend, Consultant for third party suits, claims, liabilities, and losses, including reasonable attorney's fees and costs, but only to the extent actually caused by the negligent acts, errors or omissions of the Client, its owners, officers, and employees as ultimately determined by a court of competent jurisdiction.

10. INSURANCE

The Consultant agrees to maintain the following insurance coverage: (1) statutory workers' compensation insurance; (2) comprehensive general liability insurance, and automobile liability insurance coverage in the sum of not less than one million dollars (\$1,000,000), (3) professional liability insurance in the sum of not less than one million dollars (\$1,000,000) annual aggregate, on a claims-made basis, as long as all are reasonably available under standard policies at rates comparable to those in effect at the time the Agreement is executed.

11. LIMITATION OF LIABILITY

To the maximum extent permitted by law, the Client agrees to limit the Consultant's liability for the Client's damages to the amount of the Consultant's fee, or \$50,000, whichever is greater. This limitation shall apply regardless

of the cause of action or legal theory pled or asserted and shall apply to the Consultant, its sub-consultants and all of their employees, agents and officers.

12. STEPPED DISPUTE RESOLUTION

In the event of a dispute arising out of or relating to this Agreement or the services to be rendered hereunder, the Client and the Consultant agree to attempt to resolve such disputes in the following manner:

- A. First, the parties agree to attempt to resolve such disputes through direct negotiations between the appropriate representatives of each party.
- B. Second, if such negotiations are not fully successful, the parties agree to attempt to resolve any remaining disputes by formal nonbinding mediation conducted in accordance with rules and procedures of the American Arbitration Association or such other mediation service or mediator upon which the parties agree. The parties shall share the mediator's fee and any filing fees equally.
- C. Third, if the parties to this Agreement are unable to reach a settlement of any dispute involving an amount of less than \$100,000, arising out of this Agreement or related to the services under this Agreement, in accordance with the procedures above, then such disputes may, with the consent of both parties, be settled by binding arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association current as of the date of this Agreement. The cost of the arbitration shall be split equally between the parties.
- D. Nothing in this section shall preclude or limit the Consultant's right to file an action for collection of fees if the amount in dispute is within the jurisdiction of the small claims court.
- E. Any mediation or civil action by the Client must be commenced within one year of the accrual of the cause of action asserted but in

no event later than allowed by applicable statutes.

13. PERSONAL LIABILITY PROTECTION

It is intended by the parties to this Agreement that the Consultants services in connection with the project shall not subject Consultants individual employees, officers, or directors to any personal legal exposure for the risks associated with this Agreement. Therefore, and notwithstanding anything to the contrary herein, the Client agrees that as the Clients sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against the Consultant, a California Corporation, and not against any of the Consultants employees, officers, or directors.

14. TERMINATION

The obligation to provide further services under this Agreement may be terminated by either party upon seven days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party, or upon thirty days' written notice for the convenience of the terminating party. In the event of any termination, the Consultant will be paid for all services performed to the effective date of termination, all expenses subject to reimbursement, and other reasonable expenses incurred by the Consultant as a result of such termination.

15. NO THIRD-PARTY BENEFICIARIES; ASSIGNMENT AND SUB-CONTRACTING

- A. Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than the Client and the Consultant, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the Client and the Consultant and not for the benefit of any other party.
- B. Neither the Client nor the Consultant shall assign, sublet or transfer any rights under or interest in this Agreement without the written consent of the other. However, the Consultant reserves the right to augment its staff with sub-consultants as it deems

appropriate due to project logistics, schedules, or market conditions. If the Consultant exercises this right, the Consultant will maintain the agreed-upon billing rates for services identified in the contract, regardless of whether the services are provided by in-house employees, contract employees, or independent sub-consultants. Also, if the Consultant engages the services of sub-consultants, the sub-consultants will meet the same insurance requirements as the Consultant is required to meet in this Agreement.

16. CONSEQUENTIAL DAMAGES

Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the Client nor the Consultant, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation and any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the Client and the Consultant shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.

17. NOTICE

Any notice or communication required or permitted by this Agreement shall be deemed sufficiently given if in writing and when delivered personally or upon receipt of registered or certified mail, postage prepaid with the U.S. Postal Service, and addressed as shown on Page 1 of this Agreement.

18. MISCELLANEOUS PROVISIONS

- A. This Agreement is to be governed by the laws of the State of California. This Agreement

contains the entire and fully integrated agreement between the parties, and supersedes all prior and contemporaneous negotiations, representations, agreements or understandings, whether written or oral. This Agreement can be supplemented or amended only by a written document executed by both parties.

- B. The Client, by signature of this agreement, recognizes that the Scope of Services is predicated upon the requisite level of service known to the Consultant. Should unknown factors occur, the Client will compensate the Consultant for those tasks that are not inclusive of this Scope of Services.

- C. If any provision of this agreement is held to be unenforceable, the remainder of this agreement shall be severable and not affected thereby.

19. AUTHORITY

Each party has full power and authority to enter into and perform this Agreement, and the person signing this contract on behalf of each party has been properly authorized and empowered to execute this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

The above is mutually agreed to this 6th day of June, 2024.

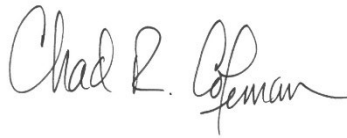
ALLEGHANY COUNTY WATER DISTRICT

By: 

Name: Rae Bell Arbogast

Title: General Manager

SB COLEMAN, INC.

By: 

Name: Chad R. Coleman, P.E.

Title: President

CA PE #: C 56490

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EXHIBIT A

Scope, Schedule, & Fee

Scope of Services

Client: Alleghany County Water District

Project: Tank Repairs

Project Location: Alleghany, CA

Summary of Services: Design and Installation of a Galvanic Cathodic Protection System

Utility Systems: Drinking Water

Project Background

The Alleghany County Water District (ACWD, District) is a groundwater system located in Sierra County. The system has 60 active connections and approximately 50 residents connected to the water system.

ACWD executed a construction contract with BRCO Constructors on December 8, 2017, to dismantle and remove an existing water tank and to construct a new 150,000-gallon bolted steel water storage tank. The new water tank was placed into service in December 2018. During the one-year inspection by CSI in January of 2020 many corroded bolts were found. The tank erection sub-contractor, Thompson Tank, undertook some repair work in June of 2020. The tank began to leak profusely in October of 2021. Once the tank was drained, extensive corrosion was found inside the tank.

Over the past two years ACWD has worked with the California Rural Water Association ("CRWA") to determine the cause of the tank failure. The tank had to remain out of service between November 2021 and July 2022. Thompson tank patched the holes in the bottom of the tank in the summer of 2022 allowing it to be temporarily placed back in service.

On March 17, 2023, the attorney for ACWD sent the contractor a letter making formal Notice of Warranty Claim. The notice asks the contractor to take actions necessary to repair the tank and make the District whole.

The Contractor replied to the District by email on March 23, 2023 proposing a list of repairs. The District is currently working with the Contractor to finalize the scope of repairs that are to be undertaken. It is anticipated that procurement of replacement materials could begin within 1-2 months and construction of repairs could begin early summer 2023.

Services to be provided under this Scope are required to represent the interests of the District and the State by providing engineering services during construction and observing construction.

Scope of Services

TASK 1 – Galvanic Cathodic Protection System Design and Installation

- 1.1 Tank Cathodic Protection System Design: Coleman Engineering will sub-contract with V&A Consulting Engineers (V&A) for V&A to provide a design of a galvanic cathodic protection system for the tank. V&A design will take the form of plans and technical specifications describing the materials and methods of installation.

- 1.2 Tank Cathodic Protection Installation: V&A will purchase and provide all materials required for the galvanic cathodic protection system for the tank. Generally, this is anticipated to include the following:
 - Magnesium anode rods
 - Connecting wire
 - PowerMag 1000 auto-potential controller
 - Ancillary connecting wire, conduits, junction boxes, etc.
 - Exothermic welder for plate welding
 - Wire and electrodes for plate welding
 - Coating and lining repair systems

Certified water treatment plant operators from the Coleman Engineering team will install a galvanic cathodic protection system consisting of vertically suspended magnesium anode rods and connecting wiring to an auto-potential anode controller. Also, tank plates will be electrically bonded to each other so that the entire steel tank structure is electrically continuous.

This task includes the following services from V&A:

- Tank cathodic protection start-up and checkout.

Services provided by Coleman Engineering under this task include:

- Installation of the galvanic cathodic protection system consisting of vertically suspended magnesium anode rods and connecting wiring to an auto-potential anode controller.
- Installation of electrical bonding wire between each adjacent tank panel either during or following tank reconstruction.

- Repair of tank coating and lining systems as necessary following installation of electrical bonding wire.

Task 1 Deliverables:

- *Tank galvanic cathodic protection system*

Schedule

Coleman Engineering will provide services in an expeditious and professional manner. Coleman Engineering anticipates the following approximate construction schedule.

Milestone	Elapsed Times
Authorization to Proceed	n/a
Review submittals from the contractor	4 weeks
Materials procurement lead time	12 weeks
Field installation of galvanic cathodic protection system	8 weeks

Budgets

Coleman Engineering will provide the services outlined above on a Time and Materials basis according to the terms of payment outlined in the Agreement. Coleman Engineering reserves the right to transfer budgets between tasks while maintaining the total budget of the project.

The estimated budgets below include the cost of expenses directly related to the project including mileage, duplication, blueprinting, postage, delivery charges, plotting, outside reproductions, etc.

Coleman Engineering estimates the following budgets will be required to provide the services described above assuming the services begin within 90 days of the date of the estimated budgets shown in the table below.

Task	Scope Item	Estimated Budget
1	Galvanic Cathodic Protection System Design and Installation	\$110,000
TOTAL ENGINEERING BUDGET =		\$110,000

Tasks Not Included in this Scope of Services

This Scope of Services is intended to outline the services offered to the Client by Coleman Engineering. The list below is offered as a clarification of the services that are not included, not anticipated, or that will be completed by others.

1. Coleman Engineering CAD standards to be used.
2. No tank design documents are to be prepared as part of this Scope. All design has been prepared previously or will be prepared and provided by the Contractor as a deferred submittal. The galvanic cathodic protection system will be designed as part of this scope.
3. No environmental documents or permits are to be prepared or procured as part of this Scope. It is assumed that all environmental clearances and permits have been obtained previously as part of the original tank construction project.
4. The only coordination for approvals that will be made are with the Client, DDW/DFA, Sierra County, and the California Department of Forestry. No other agencies will be consulted, coordinated with, or sought out for approvals.
5. Surveying or mapping. All topographic survey and legal descriptions are to be provided to Coleman Engineering by the Client.
6. Architectural renderings.
7. Utility coordination and design, including potholing is not anticipated to be required and is not included in this Scope of Services.
8. Dewatering plan is not included but will be specified to be required by the Contractor, if needed.
9. SWPPP preparation is not included but will be specified to be provided by the Contractor, if required.
10. Architecture and landscape architecture, including planting, irrigation, and other site aesthetic features are not included.
11. Obtaining any required construction permits.
12. Full-time construction inspection (may be offered under a separate contract).
13. Legal review of bidding documents.
14. Obtaining NPDES permits for discharges from sites (may be offered under a separate contract).
15. Hazardous materials permits or approvals.