

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

612



FROM: TLMA – Planning Department

SUBMITTAL DATE:
July 31, 2012

SUBJECT: Agreement for Professional Services between the County of Riverside, TLMA – Planning Department and the City of Menifee.

RECOMMENDED MOTION: That the Board of Supervisors:

- 1) Ratify the Professional Services Agreement between the County of Riverside and the City of Menifee; and authorize Chairman to execute the same; and
- 2) Direct the Planning Director to administer the contract.

BACKGROUND: The current Service Agreement with the City of Menifee expired on June 30, 2012. The City of Menifee has requested the Planning Department to provide professional services including but not limited to Archeological, Biological, Geological, Planning Services, and Landscape Architect Review.

The Planning department will only perform services as requested by the City. All work will be performed under the direction of the City at the rates set forth in the Service Agreement. This hourly rate covers the full cost of County services.

Carolyn Syms Luna
Carolyn Syms Luna, Director

Initials:
CSL: ph

FINANCIAL DATA	Current F.Y. Total Cost:	\$ N/A	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ N/A	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ N/A	For Fiscal Year:	2012/2013

SOURCE OF FUNDS: N/A	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: *Tina Grande*
Tina Grande

County Executive Office Signature

FORM APPROVED COUNTY COUNSEL
BY: *KATHERINE A. LIND* 07/09/12
DATE

Departmental Concurrence

Policy
 Consent
 Policy
 Consent

Dep't Recomm.:
 Per Exec. Ofc.:

Prev. Agn. Ref.: 10/19/10 #3.47, 7/12/11 #3.39

District:
All

Agenda Number:

3.61

The Honorable Board of Supervisors
RE: Ratification of the Professional Services Agreement between the Riverside
County TLMA – Planning Department and the City of Menifee
Date July 31, 2012
Page 2

BACKGROUND (Continued)

On July 12, 2011, as Item No. 3.39, the Board Approved a Professional Services Agreement with the City of Menifee for County services to assist the City by providing Planning Services during its incorporation transition. The City has requested that the County continue to provide services through the end of fiscal year 2013.

Upon request, the Planning Department will provide services that included the review of public and private development to ensure that projects are consistent with State law and City Ordinances. The review of projects will address the need for additional cultural, paleontological and/or geologic resources. The Environmental Programs Division will review projects for consistency with the Western Riverside County Multi-Species Habitat Conservation Plan.

The period of performance for this Agreement is effective upon its approval by the Riverside County Board of Supervisors and shall remain in effect until June 30, 2013.

The Service Agreement was approved by the City of Menifee City Council on June 19, 2012.

Staff is requesting that the Board ratify the Professional Services Agreement between the Riverside County TLMA – Planning Department and the City of Menifee and direct the Planning Director to administer the Agreement.

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**AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN THE COUNTY OF RIVERSIDE
AND THE CITY OF MENIFEE**

The County of Riverside, California (hereinafter "COUNTY"), and the City of Menifee, California (hereinafter "CITY"), hereby agree as follows:

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RECITALS

- A. CITY desires that the following COUNTY departments within the Transportation & Land Management Agency (hereinafter "TLMA") provide certain professional services for CITY: the Planning Department, including the Environmental Programs Division.
- B. Services by other COUNTY departments or agencies are not the subject of this Agreement.
- C. COUNTY and CITY desire to define the scope of the professional services to be provided and the terms and conditions pursuant to which COUNTY will provide the professional services.

NOW THEREFORE, the parties hereto mutually agree as follows:

SECTION 1 - RECITALS INCORPORATED

The foregoing recitals are incorporated herein and made a part of this Agreement by this reference.

SECTION 2 - ADMINISTRATION

The TLMA Director, or his designee, shall administer this Agreement on behalf of COUNTY (hereinafter "COUNTY'S contract administrator"). The CITY manager, or his designee, shall administer this Agreement on behalf of CITY (hereinafter "CITY'S contract administrator").

SECTION 3 - SCOPE OF SERVICES

Upon CITY'S request and COUNTY'S approval as set forth herein, COUNTY will provide the



1 professional services described in Attachments A to this Agreement, as well as any other
2 professional services mutually agreed to by the parties (hereinafter "professional services").
3 COUNTY, or consultants under contract to COUNTY, if any, shall comply with CITY codes in
4 providing the professional services. COUNTY shall work directly with CITY and its staff in
5 providing the professional services. COUNTY staff shall consult with CITY staff if CITY staff
6 desires such consultation. COUNTY shall not be required to, and shall not, respond to any
7 person or entity other than CITY concerning the professional services it provides. CITY shall be
8 responsible for responding to all such persons or entities as set forth herein.
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10 SECTION 4 - REQUESTS FOR SERVICES

11 CITY may use any desired means or process to decide whether to request professional
12 services. CITY may request professional services for a single project or a group or class of
13 projects. CITY shall make all requests for professional services in writing and CITY'S contract
14 administrator shall send such requests to COUNTY'S contract administrator. Before requesting
15 professional services, CITY'S contract administrator may ask COUNTY'S contract administrator
16 for a written estimate of the cost of the services.
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18 SECTION 5 - APPROVAL OF REQUESTS

19 If COUNTY agrees to provide the professional services requested, COUNTY'S contract
20 administrator shall notify CITY'S contract administrator and the appropriate TLMA department in
21 writing. If the appropriate TLMA department has an established procedure for providing the
22 professional services requested (hereinafter "service delivery procedure"), the written notification
23 to CITY shall include the service delivery procedure. Services shall be provided in accordance
24 with the service delivery procedure unless the parties mutually agree to a different procedure.
25 COUNTY shall not provide professional services if the request for such services is not made and
26 approved in the manner described above.
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1 SECTION 6 - DANGEROUS CONDITION EXCEPTION

2 Notwithstanding the provisions of Sections 4. and 5. of this Agreement, COUNTY is hereby
3 authorized to immediately remedy any dangerous condition it encounters in the course of
4 providing professional services, and CITY hereby agrees to pay the costs incurred by COUNTY
5 for such remediation. For purposes of this Agreement, a dangerous condition shall be any
6 condition that may result in imminent personal injury or property damage. COUNTY contract
7 administrator shall promptly notify CITY contract administrator of any dangerous condition
8 remedied pursuant to this exception.
9

10 SECTION 7 - PERTINENT INFORMATION

11 Once a request for professional services has been made and approved in the manner described
12 above, CITY'S contract administrator shall promptly transmit to COUNTY'S contract
13 administrator all pertinent information concerning the project or group or class of projects. Such
14 information shall include, but not be limited to, CITY'S case file(s); CITY'S approvals; CITY'S
15 codes; CITY'S General Plan; any applicable specific plans; and any reports relating to biology,
16 cultural resources, paleontology or geology.
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18 SECTION 8 - PERSONNEL

19 In providing the professional services described in this Agreement, COUNTY and its staff shall
20 be considered independent contractors and shall not be considered CITY employees for any
21 purpose. COUNTY staff shall at all times be under COUNTY'S exclusive direction and control.
22 COUNTY shall pay all wages, salaries and other amounts due such personnel in connection with
23 their provision of the professional services and as required by law. COUNTY staff shall be
24 located at COUNTY facilities.
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26 SECTION 9 - VEHICLES

27 If CITY chooses to provide vehicles for COUNTY'S use in providing professional services, the
28 vehicles shall meet COUNTY'S specifications, shall be adequately equipped and ready for
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1 service and shall be registered in the name of CITY. CITY-owned vehicles shall only be used for
2 CITY-approved functions.

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4 SECTION 10 - COST OF SERVICES

5 Unless the parties have mutually agreed to a set fee for professional services, CITY shall pay
6 COUNTY for all such services, including staff-to-staff consultations, at the hourly rates set forth
7 in Attachment B to this Agreement. CITY shall pay COUNTY for each hour of services it
8 provides, or each fraction of an hour billed at 1/10th increments, including any required travel
9 time. CITY may request overtime hours at the hourly rates set forth in Attachment B, if overtime
10 hours are offered by the appropriate COUNTY department. Notwithstanding the above, CITY
11 shall pay COUNTY the full costs of producing any aerial photographs, aerial maps or satellite
12 images for CITY. If CITY chooses to provide vehicles for COUNTY'S use, CITY shall also pay
13 COUNTY the full costs of operating such vehicles, including, but not limited to, fuel,
14 maintenance, and licensing costs.

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16 SECTION 11 - RECORDS and BILLING

17 COUNTY'S contract administrator shall submit to CITY'S contract administrator a monthly
18 invoice which shall include an itemized accounting of all services performed and the cost
19 thereof.

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21 SECTION 12 - PAYMENTS

22 CITY shall pay each monthly invoice within thirty (30) days of the date CITY'S contract
23 administrator receives the invoice from COUNTY'S contract administrator. CITY may dispute
24 any monthly invoice by submitting a written description of the dispute to COUNTY'S contract
25 administrator within ten (10) days of the date CITY'S contract administrator receives the invoice
26 from COUNTY'S contract administrator. CITY may defer the payment of any portion of the
27 invoice in dispute until such time as the dispute is resolved; however, all portions of the invoice
28 not in dispute must be paid within the thirty (30)-day period set forth herein.

1 SECTION 13 - DUTY TO INFORM AND RESPOND

2 CITY'S contract administrator shall promptly transmit to COUNTY'S contract administrator all
3 inquiries, complaints, and correspondence that CITY receives concerning COUNTY'S
4 professional services and all information concerning dangerous conditions that may exist in
5 CITY. COUNTY'S contract administrator shall promptly transmit to CITY'S contract
6 administrator all inquiries, complaints, and correspondence that COUNTY receives in the course
7 of providing professional services. CITY shall be responsible for responding to all such
8 inquiries, complaints and correspondence.
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10 SECTION 14 - NOTICES

11 Any notices required or permitted to be sent to either party shall be deemed given when
12 personally delivered to the individuals identified below or when addressed as follows and
13 deposited in the U.S. Mail, postage prepaid:

14	County of Riverside	City of Menifee
15	Transportation & Land Management Agency	29714 Haun Road
16	P.O. Box 1409	Menifee, CA 92586
17	Riverside, CA 92502-1409	Attention: Carmen Cave
18	Attention: Planning Department	Community Development
19	Director	Director

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21 SECTION 15 - OWNERSHIP OF DATA

22 Ownership and title to all reports, documents, plans, specifications, and estimates produced or
23 compiled pursuant to this Agreement shall automatically be vested in CITY and become the
24 property of CITY. CITY reserves the right to authorize others to use or reproduce such materials
25 and COUNTY shall not circulate such materials, in whole or in part, or release such materials to
26 any person or entity other than CITY without the authorization of CITY'S contract administrator.
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1 SECTION 16 - CONFIDENTIALITY

2 COUNTY shall observe all Federal and State regulations concerning the confidentiality of
3 records.

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5 SECTION 17 - INDEMNIFICATION

6 Indemnification by COUNTY. Excepted as provided below in the paragraph entitled "Special
7 Circumstances", COUNTY shall indemnify, defend and hold harmless CITY, its officials, officers,
8 employees and agents from all claims and liability for loss, damage, or injury to property or
9 persons, including wrongful death, based on COUNTY'S negligent acts, omissions or willful
10 misconduct arising out of or in connection with the performance of professional services under
11 this Agreement including, without limitation, the payment of attorney's fees.

12 Indemnification by CITY. CITY shall indemnify, defend and hold harmless COUNTY, its
13 officials, officers, employees and agents from all claims and liability for loss, damage, or injury to
14 property or persons, including wrongful death, based on CITY'S negligent acts, omissions or
15 willful misconduct arising out of or in connection with the performance of professional services
16 under this Agreement including, without limitation, the payment of attorney's fees.

17 Special Circumstances. Notwithstanding the above, COUNTY shall not indemnify, defend and
18 hold harmless CITY, its officials, officers, employees and agents, and CITY shall indemnify,
19 defend, and hold harmless COUNTY its officials, officers, employees and agents, from all claims
20 and liability resulting from any of the following:

21 The invalidity of CITY'S codes.

22 How CITY decides to address, or prioritize actions addressing, alleged violations of
23 CITY'S codes.

24 How CITY decides to maintain, or prioritize the maintenance of, CITY facilities, including,
25 but not limited to, streets and sidewalks.

26 How CITY decides to deploy, or prioritize the deployment of, school crossing guards.

27 The design of CITY facilities, including, but not limited to, streets and sidewalks
28 constructed after July 1, 2009.
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1 CITY'S failure to provide pertinent information and inform as provided in Sections 7. and
2 13. of this Agreement.
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4 SECTION 18 - INSURANCE

5 The parties agree to maintain the types of insurance and liability limits that are expected for
6 entities of their size and diversity. The types of insurance maintained and the limits of liability for
7 each insurance type shall not limit the indemnification provided by each party to the other. If
8 CITY chooses to provide vehicles for COUNTY'S use, CITY shall maintain liability insurance for
9 the CITY-owned vehicles and insurance for any physical damage to the CITY-owned vehicles in
10 an amount equal to the replacement value of all vehicles provided. The vehicle policies shall, by
11 endorsement, name COUNTY, its agencies and departments and their respective officials,
12 officers, employees and agents as additional insureds.
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14 SECTION 19 - IMMUNITIES

15 Nothing in this Agreement is intended to nor shall it impair the statutory limitations and/or
16 immunities applicable or available to the parties under State laws and regulations.
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18 SECTION 20 - MODIFICATIONS

19 This Agreement may be amended or modified only by mutual agreement of the parties. No
20 alteration or variation of the terms of this Agreement shall be valid unless made in writing and
21 signed by the parties hereto, and no oral understanding or agreement not incorporated herein
22 shall be binding on any of the parties hereto.
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24 SECTION 21 - WAIVER

25 Any waiver by a party of any breach of one or more of the terms of this Agreement shall not be
26 construed to be a waiver of any subsequent or other breach of the same or of any other term
27 hereof. Failure on the part of either party to require exact, full and complete compliance with any
28 terms of this Agreement shall not be construed as changing in any manner the terms hereof, or
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1 estopping that party from enforcing the terms hereof.
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3 SECTION 22 - SEVERABILITY

4 If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void
5 or unenforceable, the remaining provisions will nevertheless continue in full force without being
6 impaired or invalidated in any way.
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8 SECTION 23 - TERM

9 This Agreement shall become effective upon its approval by the Riverside County Board of
10 Supervisors and shall remain in effect until June 30, 2013. This agreement may be terminated
11 by either party upon thirty (30) days written notice to the other party. This Agreement may be
12 extended for up to an additional twelve (12) months if the parties, through their respective
13 governing bodies, mutually agree to the extension in writing and mutually agree on the hourly
14 rate to be charged for services.
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16 SECTION 24 - ENTIRE AGREEMENT

17 This Agreement is intended by the parties as a final expression of their understanding with
18 respect to the subject matter hereof and supersedes any and all prior and contemporaneous
19 agreements and understandings, written or oral.
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APPROVALS

COUNTY Approvals

CITY Approvals

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Katherine A. Lind Dated: 06/12/12

Joseph Fletcher Dated: 6-19-12

Katherine A. Lind
Assistant County Counsel

Joseph Fletcher
City Attorney, City of Menifee

APPROVED BY BOARD OF SUPERVISORS:

APPROVED BY CITY COUNCIL:

_____ Dated: _____

John V. Denver Dated: 6/19/12

John Tavaglione
Chairman, Riverside County Board
of Supervisors

John V. Denver
Mayor, City of Menifee

ATTEST:

ATTEST:

CLERK OF THE BOARD:

CITY CLERK:

By: _____

By: Kathy Bennett

Deputy

Kathy Bennett

(SEAL)

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ATTACHMENT A

Planning Department Services, including Environmental Programs Division

Upon request and approval as set forth in this Agreement, the Planning Department will do any of the following: review public and private development projects to ensure that such projects are consistent with State law and CITY codes; review development projects to determine the level of analysis needed for cultural, paleontological and geologic resources; review reports related to these resources; prepare environmental analyses for development projects; prepare conditions of approval for development projects; provide any other services customarily provided by a City planning department.

Upon request and approval as set forth in this Agreement, the Environmental Programs Division will do any of the following: review public and private development projects to ensure that such projects are consistent with Multi-Species Habitat Conservation Plans (MSHCPs); prepare conditions of approval for development projects; process Habitat Acquisition Negotiation Strategy (HANS) applications and conduct Single-Family Expedited Review Processes as required by the Western Riverside County MSHCP; review biological reports and MSHCP consistency analyses; perform habitat assessments and biological surveys.

ATTACHMENT B

HOURLY RATES FOR PROFESSIONAL SERVICES

DEPARTMENT	POSITION	REGULAR HOURS	OVERTIME HOURS
Planning Department	Geologic and Paleontological Services	\$ 138	N/A
Planning Department	Archeological Services	\$ 138	N/A
Planning Department and Environmental Programs Division	Principal Planner Services	\$ 140	N/A
Planning Department	Planner Services (Including Landscape Architect Review)	\$ 135	N/A
Environmental Programs Division	Ecological Resource Specialist	\$106	N/A
Environmental Programs Division	Clerical	\$54	N/A