

SUBMITTAL TO THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT BOARD COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

901B



FISCAL PROCEDURES APPROVED  
JEANINE J. REY, FINANCE DIRECTOR  
BY: Jeanine J. Rey 12/18/12  
JEANINE J. REY

FROM: General Manager-Chief Engineer

SUBMITTAL DATE:  
December 18, 2012

SUBJECT: Consulting Services Agreement  
Washington Representation

RECOMMENDED MOTION:

1. Approve the Sole Source Consulting Services Agreement (Agreement) between the District and Carmen Group, Inc. (Consultant); and
2. Authorize the Chairman to execute the Agreement on behalf of the District.

BACKGROUND:

Continued on page 2

*Warren D. Williams*

WARREN D. WILLIAMS  
General Manager-Chief Engineer

FINANCIAL DATA	Current F.Y. District Cost:	\$87,500	In Current Year Budget:	Yes
	Current F.Y. County Cost:	N/A	Budget Adjustment:	No
	Annual Net District Cost:	\$175,000	For Fiscal Year:	12-13, 13-14

SOURCE OF FUNDS:	15100 947200 525040 Administration – Legislative Management Services	Positions To Be Deleted Per A-30	<input type="checkbox"/>
		Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: Michael R. Shetler  
Michael R. Shetler

County Executive Office Signature

- Consent
- Policy
- Consent
- Policy

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

Prev. Agn. Ref.:

District: All

Agenda Number:

11.1

ATTACHMENTS FILED  
WITH THE CLERK OF THE BOARD

**FLOOD CONTROL AND WATER CONSERVATION DISTRICT BOARD SUBMITTAL  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

**SUBJECT:** Consulting Services Agreement  
Washington Representation

**SUBMITTAL DATE:** December 18, 2012  
**Page 2**

**BACKGROUND:**

The District continuously seeks to (i) secure Federal funds for flood control and other related water resources development projects; (ii) process permits and other approvals through various Federal departments and agencies in a timely manner; and (iii) gain support for legislative and rule changes that are beneficial to the District's mission. The District also seeks favorable administrative and regulatory treatment for flood protection, water resources, environmental restoration, and recreation projects through annual appropriation bills, the Water Resources Development Act, agency grants, and the President's annual budget submission, as well as the Work Plan approach in lieu of earmarks.

Carmen Group, Inc. (Consultant) is best suited to assist the District because of their intimate knowledge of the emerging environmentally sensitive flood protection and multi-purpose projects, and their broad-based environmental expertise coupled with an in-depth understanding of the Army Corps of Engineers' (Corps) policy and procedures through their extensive experience advocating for large-scale flood protection and environmental restoration projects, many of which have been precedent setting and transformative with regard to the Corps' traditional business practices. Environmental restoration has moved to the forefront of almost all significant water infrastructure projects and the Consultant has been a leader in working with the Corps and the District to not only secure approvals and funding for these projects but also to help decision makers in communities recognize the larger community benefits associated with such projects. The Consultant was selected on a sole source basis to provide continuity.

The Agreement sets forth the terms and conditions by which Consultant will assist the District in securing Federal assistance for flood control and other related water resource development projects. County Counsel has approved the Agreement as to legal form, County Purchasing has approved the sole source justification, and Consultant has executed the Agreement.

**FINANCIAL:**

Sufficient funds are included in District's Budget for FY 2012-2013 and will be included in the proposed budget for FY 2013-2014.

AM:bj




**MEMORANDUM**  
 RIVERSIDE COUNTY FLOOD CONTROL  
 AND WATER CONSERVATION DISTRICT

**DATE:** November 27, 2012

**TO:** Board of Supervisors

**VIA:** Purchasing Agent

**FROM:** Warren D. Williams, General Manager-Chief Engineer 

**RE:** Sole Source Procurement – Carmen Group Inc.  
 Request for Washington Representation

The information below is provided in support of my Department requesting approval for a sole source. Outside of a duly declared emergency, the time to develop a statement of work or specifications is not in itself justification for sole source.

1. **Supply/Service being requested:** Provide consulting services to work closely with the District's congressional delegation and U.S. Army Corps of Engineers' offices to gain support for legislation and funding benefiting the District and its constituents.
2. **Supplier being requested:** Carmen Group, Inc.
3. **Alternative suppliers that can or might be able to provide supply/service:** Alternative suppliers may be available; however, if we choose another firm for this particular task, it would require the long-term re-establishment of background information associated with ongoing District projects. The requested supplier has already established the congressional and Corps of Engineers' relationships necessary to secure funding benefiting major District projects. Carmen Group has been providing its services to the District for over ten years and the District is highly satisfied with their services.
4. **Extent of market search conducted:** Carmen Group, Inc. has already conducted extensive contact with Corps of Engineers at Headquarters, Division and District levels regarding ongoing District projects.
5. **Unique features of the supply/service being requested from this supplier, which no alternative supplier can provide:** Carmen Group, Inc., is best suited to assist the District because of their detailed knowledge of the emerging environmentally sensitive flood protection and multi-purpose projects, and the broad-based environmental expertise coupled with its in-depth understanding of Corps policy and procedures through its extensive experience advocating for large-scale flood protection and environmental restoration projects, many of which have been precedent setting and transformative with regard to the Corps of Engineers' traditional business practices. Environmental restoration has moved to the forefront of almost all significant water infrastructure projects and Carmen Group, Inc., has been a leader in working with the Corps and the District to not only secure approvals and funding for these projects but also to help decision makers in communities recognize the larger community benefits associated with such projects.

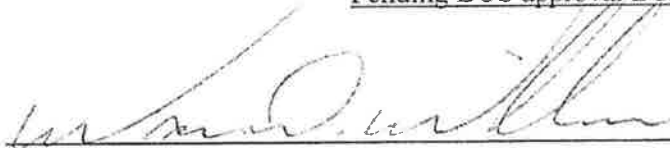
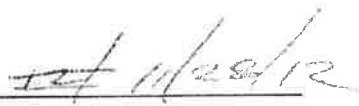
MEMORANDUM

November 27, 2012

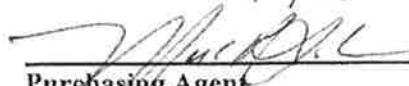
To: Board of Supervisors  
 Via: Purchasing Agent  
 From: Warren D. Williams, General Manager-Chief Engineer  
 Re: Sole Source Procurement – Carmen Group Inc.  
 Request for Washington Representation

6. **Reasons why my department requires these unique features and what benefit will accrue to the county:** Carmen Group's expertise and experience includes a record of success in securing Federal funding and favorable administrative and regulatory treatment for flood protection, water resources, environmental restoration, and recreation projects through annual appropriation bills, the Water Resources Development Act (WRDA), agency grants, and the President's annual budget submission, as well as the Work Plan approach in lieu of earmarks. Riverside County will benefit greatly by positioning itself to bringing Federal dollars into the County in order to construct the necessary flood control infrastructure.
7. **Price Reasonableness including purchase price and any ongoing maintenance or ancillary costs from the supplier:** The price is a total sum not to exceed \$175,000 to perform these services.
8. **Does moving forward on this product or service further obligate the county to future similar contractual arrangements or any ongoing costs affiliated with this sole source? (Maintenance, support, or upgrades, if so, please explain).** No.
9. **Period of Performance:** January 1, 2013 to December 31, 2013

Pending BOS approval December 18, 2012

  
 Department Head Signature   
 Date

Purchasing Department Comments:

<u>Approve</u>	Approve with Condition/s	Disapprove
Not to exceed: \$ <u>175,000</u>	One time	Annual Amount through <u>12-31-13</u>
	<u>11-29-12</u>	<u>13-247</u>
Purchasing Agent	Date	Approval Number <i>(Reference on Purchasing Documents)</i>

**CONSULTING SERVICES AGREEMENT**

WASHINGTON REPRESENTATION

2013 CALENDAR YEAR

RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION

DISTRICT, hereinafter called "DISTRICT", and CARMEN GROUP, INC., hereinafter called "CONSULTANT", hereby agree as follows:

1. SCOPE OF SERVICES - CONSULTANT shall provide assistance to and representation on behalf of DISTRICT in securing Federal assistance for flood control and other related water resource development projects, as described in Attachment "A", attached hereto and made a part hereof.
2. RETAINER - DISTRICT hereby retains CONSULTANT to furnish tools, equipment, facilities, materials, labor and incidentals necessary to perform in a complete, skillful and professional manner those consulting services described on Attachment "A".
3. TERM OF AGREEMENT - The term of this Agreement shall commence on January 1, 2013 and shall terminate at midnight on December 31, 2013.
4. COMPENSATION - As compensation for the services to be rendered hereunder, DISTRICT shall pay to CONSULTANT a total sum not to exceed one hundred seventy five thousand dollars (\$175,000) payable in twelve (12) equal installments of fourteen thousand five hundred eighty three dollars and thirty three cents (\$14,583.33).

In addition to the compensation referred to herein, CONSULTANT shall be reimbursed for actual expenses incurred traveling to California from Washington, D.C., and returning thereto; provided, however, that such travel is approved in advance by DISTRICT'S General Manager-Chief Engineer. DISTRICT shall pay CONSULTANT for such expenses upon receipt of billing and accounting therefor by CONSULTANT.

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5. PAYMENT - Payment to CONSULTANT shall be paid by DISTRICT following satisfactory performance of the services as set forth herein and within thirty (30) days after DISTRICT'S receipt of appropriate monthly invoice(s) from CONSULTANT. CONSULTANT shall keep employee and expense records according to customary accounting methods. Upon DISTRICT request, such records shall be made available for inspection to verify the invoices of CONSULTANT.

6. SUBCONTRACTS - CONSULTANT may, at CONSULTANT'S own expense, employ special consultants to accomplish the work covered by this Agreement, however, except as expressly identified in this Agreement, no portion of the services pertinent to this Agreement shall be subcontracted without prior written approval and authorization by DISTRICT.

In the event CONSULTANT subcontracts any portion of CONSULTANT'S duties under this Agreement, CONSULTANT shall require its subcontractors to comply with the terms of this Agreement in the same manner as required of CONSULTANT. The fact that CONSULTANT employs special consultants not in his regular employ shall not relieve CONSULTANT of any responsibility regarding the adequacy of the special consultant's designs or other work performed pursuant to this Agreement.

7. NOTICES AND REPORTS - Any notices and reports required or desired to be served by either party upon the other shall be delivered via fax, telephone, electronic mail or mailed by first class mail, postage prepaid, to the respective parties as set forth below:

RIVERSIDE COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT  
1995 Market Street  
Riverside, CA 92501  
Fax: 951.788.9965  
Phone: 951.955.1250  
Attn: Warren D. Williams

CARMEN GROUP, INC.  
1899 Pennsylvania Avenue, NW  
Fourth Floor  
Washington, DC 20006  
Fax: 202.478.1734  
Phone: 202.785.0500  
Attn: Mia O'Connell

1 8. INDEMNIFICATION - CONSULTANT shall indemnify and hold harmless DISTRICT  
 2 (including its officers, Board of Supervisors, elected and appointed officials, employees,  
 3 agents and representatives) from any liability, claim, damage, proceeding or action,  
 4 present or future, based upon, arising out of or in any way relating to CONSULTANT'S  
 5 (including its officers, employees, subcontractors and agents) actual or alleged negligent,  
 6 reckless or willful misconduct acts or omissions related to this Agreement, performance  
 7 under this Agreement, or failure to comply with the requirements of this Agreement,  
 8 including but not limited to: (a) property damage; (b) bodily injury or death; or (c) any  
 9 other element of any kind or nature whatsoever.

10 CONSULTANT shall defend, at its sole expense, including all costs and fees (including  
 11 but not limited to attorney fees, cost of investigation, defense and settlements or awards),  
 12 DISTRICT (including its officers, Board of Supervisors, elected and appointed officials,  
 13 employees, agents and representatives) in any claim, proceeding or action for which  
 14 indemnification is required.

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 16 With respect to any of CONSULTANT'S indemnification requirements,  
 17 CONSULTANT shall, at its sole cost, have the right to use counsel of their own choice  
 18 and shall have the right to adjust, settle, or compromise any such claim, proceeding or  
 19 action without the prior consent of DISTRICT; provided, however, that such adjustment,  
 20 settlement or compromise in no manner whatsoever limits or circumscribes  
 21 CONSULTANT'S indemnification obligations to DISTRICT.

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 23 CONSULTANT'S indemnification obligations shall be satisfied when CONSULTANT  
 24 has provided to DISTRICT the appropriate form of dismissal (or similar document)  
 25 relieving DISTRICT from any liability for the claim, proceeding or action involved.  
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1 The specified insurance limits required in this Agreement shall in no way limit or  
2 circumscribe CONSULTANT'S obligations to indemnify and hold harmless DISTRICT  
3 from third party claims.

4 In the event there is conflict between this section and California Civil Code Section  
5 2782, this section shall be interpreted to comply with California Civil Code 2782. Such  
6 interpretation shall not relieve CONSULTANT from indemnifying DISTRICT or the  
7 County of Riverside to the fullest extent allowed by law. The obligations reflected in  
8 this Section shall survive the discharge or other termination of this Agreement.

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10 9. CONFIDENTIALITY OF DATA - All financial, statistical, personal, technical or other  
11 data and information made available to CONSULTANT shall not be disclosed (in whole  
12 or in part) by CONSULTANT to any third parties and shall be protected by  
13 CONSULTANT from unauthorized use and disclosure. The only exception to this shall  
14 be if disclosure is approved in advance in writing by DISTRICT or if the disclosure is  
15 made to CONSULTANT'S subcontractors as anticipated by this Agreement.

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17 CONSULTANT shall not issue any news release or public relations item regarding such  
18 confidential information or CONSULTANT'S work under this Agreement, without prior  
19 review of the contents and written approval by DISTRICT.

20 These same requirements shall be applicable to any of CONSULTANT'S subcontractors.

21 CONSULTANT shall include the requirements stated in this section in the Agreement  
22 with any of its subcontractors.

- 23 10. TERMINATION - At any time during the term of this Agreement, DISTRICT may:  
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25 a. Terminate this Agreement without cause upon providing CONSULTANT thirty  
26 (30) days written notice stating the extent and effective date of termination; or



1 b. Upon five (5) days written notice, terminate this Agreement for CONSULTANT  
2 default, if CONSULTANT refuses or fails to comply with the provisions of this  
3 Agreement or fails to make progress so as to endanger performance and does not  
4 cure such failure within a reasonable period of time. In the event of such  
5 termination, the DISTRICT may proceed with the work in any manner deemed  
6 proper to DISTRICT.

7 In the event DISTRICT issues a Notice of Termination, CONSULTANT shall (i) stop all  
8 work under this Agreement on the date specified in the Notice of Termination; and (ii)  
9 transfer to DISTRICT and deliver in the manner, and to the extent, if any, as directed by  
10 DISTRICT, any equipment, data or reports which, if the Agreement had been completed,  
11 would have been required to be furnished to DISTRICT.

12 In the event DISTRICT terminates this Agreement, DISTRICT shall make payment for  
13 all services performed in accordance with this Agreement to the date of termination, a  
14 total amount which bears the same ratio to the total maximum fee otherwise payable  
15 under this Agreement as the services actually bear to the total services necessary for  
16 performance of this Agreement. Notwithstanding any of the other provisions of this  
17 Agreement, CONSULTANT rights under this Agreement shall terminate (except for fees  
18 accrued prior to the date of termination) upon dishonesty, or a willful or material breach  
19 of this Agreement by CONSULTANT; or in the event of CONSULTANT'S  
20 unwillingness or inability for any reason whatsoever to perform the duties hereunder; or  
21 if the Agreement is terminated pursuant to Section 16, (hereinafter titled NON-  
22 DISCRIMINATION). In such event, CONSULTANT shall not be entitled to any  
23 further compensation under this Agreement. The rights and remedies of DISTRICT  
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provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

11. ASSIGNMENT - Neither this Agreement nor any part thereof shall be assigned by CONSULTANT without the prior written consent of DISTRICT.

12. CONFLICT OF INTEREST - CONSULTANT covenants that it presently has no interest, including but not limited to, other projects or independent contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONSULTANT further covenants that in the performance of this Agreement, no person having any such interest shall be employed or retained by it under this Agreement.

13. INDEPENDENT CONTRACTOR – CONSULTANT and the agents and employees of CONSULTANT shall act at all times in an independent capacity during the term of this Agreement and in the performance of the services to be rendered hereunder and shall not act as or shall not be and shall not in any manner be considered employees or agents of DISTRICT.

14. JURISDICTION/LAW/SEVERABILITY – This Agreement is to be construed in accordance with the laws of the State of California. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall be declared severable and shall be given full force and effect to the extent possible.

Any legal action, in law or equity related to the performance or interpretation of this Agreement shall be filed only in the Superior Court for the State of California located in Riverside, California and the parties waive any provision of law providing for a change of venue to another location. Prior to the filing of any legal action, the parties shall be

obligated to attend a mediation session with a neutral mediator to try to resolve the dispute.

15. WAIVER – Any waiver by DISTRICT of any breach of any one or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or any other term thereof. Failure on the part of DISTRICT to require exact, full and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms hereof, or estopping DISTRICT from enforcement hereof.

16. NON-DISCRIMINATION - In the performance of the terms of this Agreement, CONSULTANT shall not engage in nor permit others he may employ to engage in discrimination in the employment of persons because of the race, color, national origin or ancestry, religion, physical handicap, disability as defined by the Americans with Disabilities Act (ADA), medical condition, marital status or sex of such persons, in accordance with the provision of California Labor Code Section 1735.

17. NON-APPROPRIATION OF FUNDS – It is mutually agreed and understood that the obligations of DISTRICT are limited by and contingent upon the availability of DISTRICT funds for the reimbursement of CONSULTANT'S fees. In the event that such funds are not forthcoming for any reason, DISTRICT shall immediately notify CONSULTANT in writing. This Agreement shall be deemed terminated and have no further force and effect immediately on receipt of DISTRICT'S notification by CONSULTANT. In the event of such termination, CONSULTANT shall be entitled to payment for work already performed in accordance with this Agreement.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on

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(to be filled in by Clerk of the Board)


RECOMMENDED FOR APPROVAL: **RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT**

By   
WARREN D. WILLIAMS  
General Manager-Chief Engineer

By \_\_\_\_\_  
MARION ASHLEY, Chairman  
Riverside County Flood Control and Water  
Conservation District Board of Supervisors

APPROVED AS TO FORM:

PAMELA J. WALLS  
County Counsel

By   
NEAL R. KIPNIS  
Deputy County Counsel

ATTEST:

KECIA HARPER-IHEM  
Clerk of the Board

By \_\_\_\_\_  
Deputy

(SEAL)

Consulting Services Agreement  
Washington Representation w/Carmen Group, Inc.  
1/1/2013-12/31/2013  
11/29/12  
AM:blj

**CARMEN GROUP, INC.**

By

  
\_\_\_\_\_  
MIA O'CONNELL,  
Executive Managing Director  
Water & Environmental Resources Practice

By

  
\_\_\_\_\_  
DAVID CARMEN, President and  
Chief Executive Officer

Consulting Services Agreement  
Washington Representation w/Carmen Group, Inc.  
1/1/2013-12/31/2013  
11/29/12  
AM:blj

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**ATTACHMENT "A"**

**SCOPE OF SERVICES**

1. Maintain close contact with the Corps of Engineers at the Headquarters, Division, District, and Assistant Secretary of the Army (Civil Works) levels, as may be appropriate.
2. Make appropriate calls on the Office of Management Budget, the Council on Environmental Quality, the Environmental Protection Agency, the Bureau of Reclamation and other executive departments and offices to expedite approvals of policy matters and funding for various flood control and related water resource projects affecting the District.
3. Maintain close contact with the appropriate committees in the Congress of the United States to ensure enactment of beneficial legislation and appropriations.
4. Assist the District in preparing testimony and legislation to be presented to the various committees in the Congress.
5. Work closely with the District's Congressional delegation to gain support for appropriations and legislation benefiting the District.
6. Assist the District in processing permits and approvals through various federal regulatory agencies.
7. As directed by the District, contact and establish liaison with individuals or officers as may be necessary to further the District's efforts on such matters as may arise during the term of this Agreement.

Consulting Services Agreement  
Washington Representation w/Carmen Group, Inc.  
1/1/2013-12/31/2013