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

FROM: General Manager-Chief Engineer

SUBMITTAL DATE:

April 12, 2016

SUBJECT: Approve Consulting Services Agreement between the District and O'Connell & Dempsey, LLC for Washington Representation Services; [\$654,500]; District Funds 100%

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Consulting Services Agreement between the District and O'Connell & Dempsey, LLC; and
2. Authorize the Chairman to execute the Agreement documents on behalf of the District.

BACKGROUND:

Summary

The Agreement sets forth the terms and conditions by which the District and O'Connell & Dempsey, LLC will assist the District in securing federal assistance for flood control and other related water resources development projects for the remainder of Fiscal Year 2015-2016 and Fiscal Years 16/17 – 19/20. County Counsel has approved the Agreement as to legal form.

WARREN D. WILLIAMS
General Manager-Chief Engineer

P8\203480

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 38,500	\$ 154,000	\$ 654,500	\$	Consent <input type="checkbox"/> Policy <input type="checkbox"/>
NET DISTRICT COST	\$ 38,500	\$ 154,000	\$ 654,500	\$	

SOURCE OF FUNDS: 525040-15100-947200 Administration - Legislative Management Services	Budget Adjustment: No
	For Fiscal Year: 15/16 - 19/20

C.E.O. RECOMMENDATION:

APPROVE

BY:
Steven C. Horn

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

FORM APPROVED COLLIN BY: ANITA C. WILLIS 3-30-16

FISCAL PROCEDURES APPROVED BY: JEANINE J. REY 3/30/16 Departmental Concurrence

- A-30
- Positions Added
- 4/5 Vote
- Change Order

Prev. Agn. Ref.:

District: ALL

Agenda Number:

11-3

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

FORM 11: Approve Consulting Services Agreement between the District and O'Connell & Dempsey
LLC for Washington Representation Services; [\$654,500]; District Funds 100%

DATE: April 12, 2016

PAGE: Page 2 of 2

BACKGROUND: (continued)

On November 30, 2015 the District launched a Request for Qualifications #FCARC -111, for Federal Legislative Services on behalf of the District. On December 28, 2015 three (3) Consultants supplied Proposals. A scoring committee evaluated the proposals based on the criteria addressed in the scoring sheets, and the firm known as O'Connell & Dempsey, LLC received the highest scores and was awarded the contract for Federal Legislative Services on February 16, 2016.

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 Army Corps of Engineers' Work Plan.

O'Connell & Dempsey, LLC (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.

Impact on Residents and Businesses

Working with the Consultant will assist the District with the delivery of major flood hazard mitigation projects. The residents and businesses of Riverside County are the principal beneficiaries of these efforts. Costs incurred under this Agreement will be funded by ad-valorem property tax revenue and entails no new fees, taxes or bonded indebtedness to residents and businesses.

SUPPLEMENTAL:

Additional Fiscal Information

Sufficient funding is available in the District's Budget for Fiscal Year 2015-2016 and will be included in the proposed budgets for Fiscal Years 2016-2017, 2017-2018, 2018-2019 and 2019-2020 as appropriate.

ATTACHMENTS

1. Professional Services Agreement – O'Connell & Dempsey, LLC

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CONSULTING SERVICES AGREEMENT
WASHINGTON REPRESENTATION
2016 CALENDAR YEAR

RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION
DISTRICT, hereinafter called "DISTRICT", and O'CONNELL & DEMPSEY, LLC, 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, 2016 and shall terminate at midnight on June 30, 2020.
4. COMPENSATION - As compensation for the services to be rendered hereunder, DISTRICT shall pay to CONSULTANT a sum not to exceed one hundred fifty-four thousand dollars (\$154,000) for a single fiscal year payable in twelve (12) equal installments of twelve thousand eight hundred eighty-three dollars and thirty-three cents (\$12,833.33), with the total sum not to exceed six hundred fifty-four thousand five hundred dollars (\$654,500) for the term of the Agreement.

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

1 General Manager-Chief Engineer. DISTRICT shall pay CONSULTANT for such
2 expenses upon receipt of billing and accounting therefor by CONSULTANT.

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

9
10 6. SUBCONTRACTS - CONSULTANT may, at CONSULTANT'S own expense, employ
11 special consultants to accomplish the work covered by this Agreement, however, except
12 as expressly identified in this Agreement, no portion of the services pertinent to this
13 Agreement shall be subcontracted without prior written approval and authorization by
14 DISTRICT.

15
16 In the event CONSULTANT subcontracts any portion of CONSULTANT'S duties under
17 this Agreement, CONSULTANT shall require its subcontractors to comply with the terms
18 of this Agreement in the same manner as required of CONSULTANT. The fact that
19 CONSULTANT employs special consultants not in his regular employ shall not relieve
20 CONSULTANT of any responsibility regarding the adequacy of the special consultant's
21 designs or other work performed pursuant to this Agreement.

22
23 7. NOTICES AND REPORTS - Any notices and reports required or desired to be served by
24 either party upon the other shall be delivered via telephone, electronic mail or mailed by
25 first class mail, postage prepaid, to the respective parties as set forth below:
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RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT
1995 Market Street
Phone: 951.955.1250
Attn: General Manager-Chief Engineer

O'CONNELL & DEMPSEY, LLC
20 F Street NW
Washington, DC 20001
Phone: 202.507.6242
Attn: Mia O'Connell

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

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

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

1 CONSULTANT'S indemnification obligations shall be satisfied when CONSULTANT
2 has provided to DISTRICT the appropriate form of dismissal (or similar document)
3 relieving DISTRICT from any liability for the claim, proceeding or action involved.

4 The specified insurance limits required in this Agreement shall in no way limit or
5 circumscribe CONSULTANT'S obligations to indemnify and hold harmless DISTRICT
6 from third party claims.

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

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

20
21 CONSULTANT shall not issue any news release or public relations item regarding such
22 confidential information or CONSULTANT'S work under this Agreement, without prior
23 review of the contents and written approval by DISTRICT.

24 These same requirements shall be applicable to any of CONSULTANT'S subcontractors.
25 CONSULTANT shall include the requirements stated in this section in the Agreement
26 with any of its subcontractors.

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28 10. TERMINATION - At any time during the term of this Agreement, DISTRICT may:

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- a. Terminate this Agreement without cause upon providing CONSULTANT thirty (30) days written notice stating the extent and effective date of termination; or
- b. Upon five (5) days written notice, terminate this Agreement for CONSULTANT default, if CONSULTANT refuses or fails to comply with the provisions of this Agreement or fails to make progress so as to endanger performance and does not cure such failure within a reasonable period of time. In the event of such termination, DISTRICT may proceed with the work in any manner deemed proper to DISTRICT.

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

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

1 compensation under this Agreement. The rights and remedies of DISTRICT provided in
2 this section shall not be exclusive and are in addition to any other rights and remedies
3 provided by law or under this Agreement.

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

6
7 12. CONFLICT OF INTEREST - CONSULTANT covenants that it presently has no interest,
8 including but not limited to, other projects or independent contracts, and shall not acquire
9 any such interest, direct or indirect, which would conflict in any manner or degree with
10 the performance of services required to be performed under this Agreement.
11 CONSULTANT further covenants that in the performance of this Agreement, no person
12 having any such interest shall be employed or retained by it under this Agreement.

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

19
20 14. JURISDICTION/LAW/SEVERABILITY – This Agreement is to be construed in
21 accordance with the laws of the State of California. If any provision of this Agreement
22 is held by a court of competent jurisdiction to be invalid, void or unenforceable, the
23 remaining provisions shall be declared severable and shall be given full force and effect
24 to the extent possible.

25 Any legal action, in law or equity related to the performance or interpretation of this
26 Agreement shall be filed only in the Superior Court for the State of California located in
27 Riverside, California and the parties waive any provision of law providing for a change
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1 of venue to another location. Prior to the filing of any legal action, the parties shall be
2 obligated to attend a mediation session with a neutral mediator to try to resolve the
3 dispute.

4 15. WAIVER – Any waiver by DISTRICT of any breach of any one or more of the terms of
5 this Agreement shall not be construed to be a waiver of any subsequent or other breach
6 of the same or any other term thereof. Failure on the part of DISTRICT to require exact,
7 full and complete compliance with any terms of this Agreement shall not be construed as
8 in any manner changing the terms hereof, or estopping DISTRICT from enforcement
9 hereof.
10

11 16. NON-DISCRIMINATION - In the performance of the terms of this Agreement,
12 CONSULTANT shall not engage in nor permit others he may employ to engage in
13 discrimination in the employment of persons because of the race, color, national origin
14 or ancestry, religion, physical handicap, disability as defined by the Americans with
15 Disabilities Act (ADA), medical condition, marital status or sex of such persons, in
16 accordance with the provision of California Labor Code Section 1735.
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18 17. NON-APPROPRIATION OF FUNDS – It is mutually agreed and understood that the
19 obligations of DISTRICT are limited by and contingent upon the availability of
20 DISTRICT funds for the reimbursement of CONSULTANT'S fees. In the event that such
21 funds are not forthcoming for any reason, DISTRICT shall immediately notify
22 CONSULTANT in writing. This Agreement shall be deemed terminated and have no
23 further force and effect immediately on receipt of DISTRICT'S notification by
24 CONSULTANT. In the event of such termination, CONSULTANT shall be entitled to
25 payment for work already performed in accordance with this Agreement.
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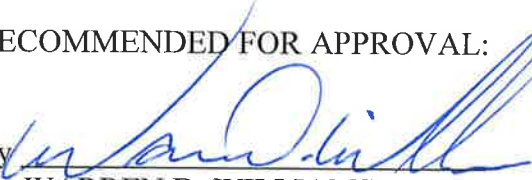
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on

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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:

ATTEST:

GREGORY P. PRIAMOS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

By 
NEAL R. KIPNIS
Deputy County Counsel


By _____
Deputy

(SEAL)

Consulting Services Agreement
Washington Representation w/O'Connell & Dempsey, LLC
7/1/2015-6/30/2020

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O'CONNELL & DEMPSEY, LLC


By _____
MIA O'CONNELL
President

Consulting Services Agreement
Washington Representation w/O'Connell & Dempsey, LLC
7/1/2015-6/30/2020

ATTACHMENT "A"

SCOPE OF SERVICES

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1. Provide a monthly synopsis of flood control and other water resource development legislation.
2. Maintain close contact with the U.S. Army Corps of Engineers at the Headquarters, Division, District and Assistant Secretary of the Army (Civil Works) levels as may be appropriate.
3. Make appropriate calls on the Office of Management and 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.
4. Maintain close contact with the appropriate committees in the Congress of the United States to endure enactment of beneficial legislation and appropriations.
5. Assist the District in preparing testimony and legislation to be presented to the various committees in the Congress of the United States.
6. Work closely with the District's Congressional delegation to gain support for appropriations and legislation benefiting the District.
7. Assist the District in processing permits and approvals through various federal regulatory agencies.
8. 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/O'Connell & Dempsey, LLC
7/1/2015-6/30/2020