

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

442B



FISCAL PROCEDURES APPROVED
W/M. CHAND, FINANCE DIRECTOR
BY: *[Signature]*
LEANNIE NEY-HAWKINS

FROM: General Manager-Chief Engineer

SUBMITTAL DATE:
July 26, 2011

SUBJECT: Prequalification for On-Call Environmental/Regulatory Support and Ancillary Professional Services and Project Specific Environmental/Regulatory Professional Services

RECOMMENDED MOTION:

1. Approve the selection of the listed On-Call Environmental/Regulatory Support and Ancillary Professional Services providers (Attachment "A") for use on an as needed basis with negotiated fees not to exceed \$100,000 per project or per fiscal year for Fiscal Years 2011-2012, 2012-2013 and 2013-2014; and

Continued on Page 2.

BACKGROUND:

See Pages 2 and 3.

FINANCIAL:

See Page 3.

[Signature]

WARREN D. WILLIAMS
General Manager-Chief Engineer

FINANCIAL DATA	Current F.Y. District Cost:	\$3,000,000	In Current Year Budget:	Yes
	Current F.Y. County Cost:	N/A	Budget Adjustment:	N/A
	Annual Net District Cost:	\$3,000,000	For Fiscal Year:	11/12; 12/13; 13/14

SOURCE OF FUNDS: 25110-25170 525440 Zone 1 through Zone 7 Funds Professional Services	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: *[Signature]*
Michael R. Shetler

County Executive Office Signature

MINUTES OF THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT

On motion of Supervisor Buster, seconded by Supervisor Stone and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Stone, Benoit and Ashley
Nays: None
Absent: Tavaglione
Date: July 26, 2011
xc: Flood

Kecia Harper-Ihem
Clerk of the Board
By: *[Signature]*
Deputy

Prev. Agn. Ref.: District: All Agenda Number: **11.6**

ATTACHMENTS FILED WITH THE CLERK OF THE BOARD

FORM APPROVED COUNTY COUNSEL
BY: *[Signature]* 6/27/11 DATE
MARSHAL L. VICTOR

Policy Policy
Consent Consent
Dept's Recomm.: Per Exec. Ofc.:

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

SUBJECT: Prequalification for On-Call Environmental/Regulatory Support and Ancillary Professional Services and Project Specific Environmental/Regulatory Professional Services

SUBMITTAL DATE: July 26, 2011

Page 2

RECOMMENDED MOTION:

2. Approve the Project Specific Environmental/Regulatory Professional Services providers (Attachment "B") for services that are greater than \$100,000 for an individual project, with a limit of \$750,000 over three years and a cap of \$250,000 per year for Fiscal Years 2011-2012, 2012-2013 and 2013-2014; and
3. Approve the Consulting Services Agreements for the Project Specific Environmental/Regulatory Professional Services; and
4. Authorize the Chairman to execute the Agreement documents on behalf of the District.

BACKGROUND:

The purpose of the Prequalification for On-Call Environmental/Regulatory Support and Ancillary Professional Services list (On-Call list) and Project Specific Environmental/Regulatory Professional Services list (Project Specific list) is to provide expedited access to specialized technical expertise necessary to support the District's ongoing Planning, Capital Improvement and Maintenance Programs.

To expedite the implementation of the District's Capital Improvement Program the County Board Policy H-7 limits of \$100,000 per project with a further \$100,000 cap in a single year needs to be increased. Therefore, the Project Specific list would raise the contract limit to \$750,000 over 3 years with a cap of \$250,000 per year. This is identical to the higher limit approved by the Board for the Transportation Department. Furthermore, the Board will authorize the General Manager-Chief Engineer to issue task orders to the consultants for individual projects. The District will fairly apportion the work among the members of the list.

Once a year there will be an opportunity for new firms to qualify for the present Project Specific list and be added to the list for the remainder of the term. However, at the end of the three years in 2014 all agreements will terminate and a new pre-qualified list of firms will be selected.

Pursuant to Board Policy H-7, on March 3, 2011, the District mailed a Request for Qualifications to various environmental consulting and regulatory compliance firms with the intent to establish a pre-qualified list of environmental/regulatory professional service providers. A Notice of Availability was also published in The Press Enterprise on March 4, 2011. The Request for Qualifications was made available to the public on the District's website from March 3, 2011 through April 7, 2011.

A selection committee comprised of District Office staff was established to review each firm's qualifications relative to the following service areas:

- Cultural and/or paleontological resources assessment;
- Biological resources assessment;
- Hazardous waste sites and soil contamination assessment;

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SUBMITTAL DATE: July 26, 2011
Page 3

BACKGROUND: Continued

- California Environmental Quality Act (CEQA)/National Environmental Policy Act (NEPA) compliance;
- Biological, cultural and/or paleontological resources construction monitoring;
- Regulatory permitting (CDFG 1602, COE 404, CWA 401, etc.);
- Habitat Mitigation/Restoration and Monitoring Plans (HMMP);
- Federal Endangered Species Act (FESA) and California Endangered Species Act (CESA) compliance; and
- Compliance with habitat conservation plans

Two lists (Attachment "A" and Attachment "B") were developed as a result of this Request for Qualifications.

The On-Call Environmental/Regulatory Support and Ancillary Professional Services agreements will be approved and executed by the General Manager-Chief Engineer at a later date in accordance with Board Policy H-7.

FINANCIAL:

Sufficient funding is available in the District's Zone 1 through Zone 7 budget(s) for Fiscal Year 2011-2012 and will be included in the proposed budget(s) for Fiscal Year 2012-2013 and Fiscal Year 2013-2014.

PRE-QUALIFIED LIST OF CONSULTANTS FOR SERVICES UNDER \$100,000.
(Per Board Policy H-7)

On-Call Environmental/Regulatory Support and Ancillary Professional Services

AECOM

Albert A. Webb Associates

AMEC

Cogstone

Dudek

ECORP Consulting, Inc.

Glenn Lukos Associates, Inc.

HELIX Environmental Planning, Inc.

ICF International

LSA

RBF Consulting

TRC

PRE-QUALIFIED LIST OF CONSULTANTS FOR SERVICES BETWEEN \$100,000-\$300,000
(Per Board's Approval)

Project Specific Environmental/Regulatory Professional Services

AECOM

Albert A. Webb Associates

AMEC

Dudek

ECORP Consulting, Inc.

ESA

HELIX Environmental Planning, Inc.

ICF International

LSA

Michael Brandman Associates

RBF Consulting

TRC

CONSULTING SERVICES AGREEMENT

1
2 RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION
3 DISTRICT, hereinafter called "DISTRICT", and ECORP CONSULTING, INC., hereinafter
4 called "CONSULTANT", hereby agree as follows:

5 1. PROJECT

6 CONSULTANT shall provide on-call environmental and regulatory support services in
7 accordance with applicable federal, state, and local laws and regulations as requested by
8 DISTRICT.

9 2. SCOPE OF SERVICES

10 As requested by DISTRICT, CONSULTANT shall provide Project Specific
11 Environmental/Regulatory Professional Services as described on Attachment "A" for
12 DISTRICT projects on an "on-call" basis. During the term of this Agreement, the
13 CONSULTANT may be invited to submit proposals for some of the various services
14 listed in Attachment "A" as requested by DISTRICT and be assigned subsequent Task
15 Orders, the form of which is Attachment "B" hereto. CONSULTANT understands and
16 expressly agrees that the execution of this Agreement by CONSULTANT and/or the
17 submission of any proposal to furnish services does not guarantee the assignment or
18 approval of any subsequent Task Order(s).

19 3. PERSONNEL20 A. Project Manager

21 For each Task Order, the DISTRICT shall designate a representative who shall
22 act as the DISTRICT'S Project Manager ("Project Manager"). The Project
23 Manager shall have authority to act on behalf of DISTRICT for all purposes
24 under this Task Order. DISTRICT shall provide written notice to
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1 CONSULTANT of any change in Project Manager assignment for a given Task
2 Order.

3 B. CONSULTANT'S Representative

4 CONSULTANT shall appoint a designated Representative for each assigned
5 Task Order who shall be responsible for coordinating all aspects of the assigned
6 Task Order. CONSULTANT'S Representative shall be available to DISTRICT'S
7 Project Manager at reasonable times. CONSULTANT may appoint another
8 person as Representative upon written notice to DISTRICT.
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10 C. Substitution of Key Personnel

11 At the time of Task Order approval, CONSULTANT shall identify its Key
12 Personnel who will perform each assigned Task Order to the DISTRICT'S
13 Project Manager. Should one or more of the identified Key Personnel become
14 unavailable, CONSULTANT may substitute other personnel of equal or greater
15 competence upon written approval by DISTRICT. In the event that DISTRICT
16 and CONSULTANT cannot agree as to the substitution of the Key Personnel,
17 DISTRICT may terminate the Task Order, pursuant to the applicable provisions
18 of this Agreement.
19

20 4. TERM

21 The term of this Agreement shall become effective on the date the Agreement is
22 executed by DISTRICT'S Board of Supervisors, and shall remain in effect through the
23 later of:
24

- 25 A. Three (3) years from the date of the Board of Supervisors approval; or
26 B. The required date for completion of an assigned Task Order, provided that such
27 Task Order was approved prior to expiration date stipulated in 4.A., above.
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1 5. COMPENSATION

2 CONSULTANT shall receive compensation for all services satisfactorily performed
3 under this Agreement in accordance with the terms of the approved Task Order(s). The
4 total amount to be paid to CONSULTANT for the performance of all Task Orders
5 approved pursuant to this Agreement shall not exceed seven hundred fifty thousand
6 dollars (\$750,000), or two hundred fifty thousand dollars (\$250,000) in a single fiscal
7 year.

8 6. PAYMENTS

9 Progress payments shall be made in accordance with the Compensation/Fee Rate
10 Schedule attached to the approved Task Order. Progress payments shall be processed no
11 more than once per month. Upon satisfactory performance of CONSULTANT'S
12 services pursuant to an approved Task Order, DISTRICT shall pay CONSULTANT
13 within forty-five (45) days after DISTRICT'S receipt of CONSULTANT'S appropriate
14 invoices. CONSULTANT shall keep employee and expense records according to
15 customary accounting methods and such records shall, upon request, be available for
16 inspection by DISTRICT to verify the invoices of CONSULTANT. All invoices shall
17 itemize charges to conform to the Compensation/Fee Rate Schedule negotiated for the
18 task order. DISTRICT shall notify CONSULTANT of any disputed amounts on invoice
19 within thirty (30) days of receipt.
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22 7. PROJECT PERFORMANCE

23 A. Commencement of Services

24 CONSULTANT shall commence performance of the services for each Task
25 Order upon receipt of the DISTRICT'S approved Task Order.
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1 B. Time of Completion

2 Time is of the essence in the performance of this Agreement. CONSULTANT
3 shall complete services in accordance with the schedule(s) set forth in the
4 approved Task Order(s).

5 8. LICENSES – CONSULTANT, its employees, agents, contractors and subcontractors
6 shall possess appropriate federal and/or state permits and maintain professional licenses
7 required by the applicable Federal, State and local regulations at all times while
8 performing services under this Agreement.

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10 9. STANDARD OF CARE

11 While performing the services, CONSULTANT shall exercise the reasonable
12 professional care and skill customarily exercised by reputable members of
13 CONSULTANT'S profession practicing in the State of California, and shall use
14 reasonable diligence and best judgment while exercising CONSULTANT'S professional
15 skill and expertise. By executing this Agreement, CONSULTANT represents and
16 maintains that CONSULTANT has the necessary experience and expertise to skillfully
17 perform all services, duties and obligations required by this Agreement and to fully and
18 adequately complete each approved Task Order.

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20 10. ERRORS AND OMISSIONS

21 In the event CONSULTANT'S reports or work products contain any errors or omissions
22 that cause the DISTRICT to incur additional expense beyond what would have otherwise
23 resulted if there were no errors or omissions in CONSULTANT'S reports or work
24 products, such additional expense shall be borne solely by CONSULTANT.
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11. PERMITS AND RIGHTS OF ENTRY

1 DISTRICT shall obtain all rights of entry as may be required to allow CONSULTANT
 2 to perform the proposed consulting services within and upon privately-owned property.
 3 All permits and rights of entry as may be required from any and all affected public
 4 entities shall be obtained by CONSULTANT. Sufficient evidence of having obtained
 5 such permits and/or rights of entry shall be furnished to DISTRICT by CONSULTANT,
 6 prior to initiation of work. CONSULTANT will prosecute the work in such a manner as
 7 to minimize public inconvenience and possible hazard, and will restore the streets and
 8 other work areas to their original condition and former usefulness as soon as practicable.
 9 CONSULTANT shall be responsible for the protection of public and private property
 10 adjacent to the work and shall exercise due caution to avoid damage to such property.
 11

12. NOTICES

14 Any and all notices sent or required to be sent to the parties of this Agreement will be
 15 mailed by first class mail, postage prepaid, to the following addresses:

17 RIVERSIDE COUNTY FLOOD CONTROL	ECORP CONSULTING, INC.
18 AND WATER CONSERVATION DISTRICT	215 North 5 th Street
19 1995 Market Street	Redlands, CA 92374
Riverside, CA 92501	Attn: Anne Surdzial
Attn: Regulatory/ERS	

20 13. REQUIRED INSURANCE

21 Without limiting or diminishing the CONSULTANT'S obligation to indemnify or hold
 22 DISTRICT harmless, CONSULTANT shall procure and maintain or cause to be
 23 maintained, at its sole cost and expense, the following insurance coverages during the
 24 term of this Agreement:
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1 A. Workers' Compensation

2 If CONSULTANT has employees as defined by the State of California,
3 CONSULTANT shall maintain Workers' Compensation Insurance (Coverage A)
4 as prescribed by the laws of the State of California. Policy shall include
5 Employer's Liability (Coverage B) including Occupational Disease with limits
6 not less than \$1,000,000 per person per accident. Policy shall be endorsed to
7 waive subrogation in favor of DISTRICT and, if applicable, to provide a
8 Borrowed Servant/Alternate Employer endorsement.
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10 B. Commercial General Liability

11 Commercial General Liability insurance coverage, including but not limited to,
12 premises liability, contractual liability, completed operations, personal and
13 advertising injury covering claims which may arise from or out of
14 CONSULTANT'S performance of its obligations hereunder. Policy shall name
15 Riverside County Flood Control and Water Conservation District, the County of
16 Riverside, special districts, their respective directors, officers, Board of
17 Supervisors, elected officials, employees, agents or representatives as additional
18 insureds. Policy's limit of liability shall not be less than \$1,000,000 per
19 occurrence combined single limit. If such insurance contains a general aggregate
20 limit, it shall apply separately to this Agreement or be no less than two (2) times
21 the occurrence limit.
22

23 C. Vehicle Liability

24 If vehicles or mobile equipment are used in the performance of the obligations
25 under this Agreement, CONSULTANT shall maintain liability insurance for all
26 owned, non-owned or hired vehicles in an amount not less than \$1,000,000 per
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1 occurrence combined single limit. If such insurance contains a general aggregate
2 limit, it shall apply separately to this Agreement or be no less than two (2) times
3 the occurrence limit. If CONSULTANT does not own vehicles, CONSULTANT
4 shall maintain coverage for non-owned or hired vehicles in an amount not less
5 than \$1,000,000 per occurrence combined single limit. Such non-owned or hired
6 coverage may be included on the Commercial General Liability policy. Policy
7 shall name Riverside County Flood Control and Water Conservation District, the
8 County of Riverside, special districts, their respective directors, officers, Board
9 of Supervisors, elected officials, employees, agents or representatives as
10 additional insureds.
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12 D. Professional Liability

13 CONSULTANT shall maintain Professional Liability Insurance providing
14 coverage for CONSULTANT'S performance of work included within this
15 Agreement, with a limit of liability of not less than \$1,000,000 per occurrence
16 and \$2,000,000 annual aggregate. If CONSULTANT'S Professional Liability
17 Insurance is written on a claims made basis rather than an occurrence basis, such
18 insurance shall continue through the term of this Agreement and CONSULTANT
19 shall purchase at his sole expense either: 1) an Extended Reporting Endorsement
20 (also known as Tail Coverage); or 2) Prior Dates Coverage from a new insurer
21 with a date retroactive to the date of, or prior to, the inception of this Agreement;
22 or 3) demonstrate through Certificates of Insurance that CONSULTANT has
23 maintained continuous coverage with the same or original insurer. Coverage
24 provided under items: 1), 2) or 3) will continue as long as the law allows.
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E. General Insurance Provisions – All Lines

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1. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A.M. BEST rating of not less than an A: VIII (A: 8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for the specific insurer and only for one policy term.
2. CONSULTANT'S insurance carrier(s) must declare its insurance deductibles or self-insured retentions. If such deductibles or self-insured retentions exceed \$500,000 per occurrence such deductibles and/or retentions shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of deductibles or self-insured retentions which are deemed unacceptable to the DISTRICT, at the election of the County's Risk Manager, CONSULTANT'S carriers shall either: 1) reduce or eliminate such deductibles or self-insured retentions with respect to this Agreement with DISTRICT, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, defense costs and expenses.
3. CONSULTANT shall cause their insurance carrier(s) to furnish DISTRICT with: 1) a properly executed original certificate(s) of insurance and original certified copies of endorsements effecting coverage as required herein; or 2) if requested to do so orally or in writing by the County Risk Manager, provide original certified copies of policies

1 including all endorsements and all attachments thereto, showing such
2 insurance is in full force and effect. Further, said certificate(s) and
3 policies of insurance shall contain the covenant that the insurance
4 carrier(s) shall provide no less than thirty (30) days written notice be
5 given to DISTRICT prior to any material modification or cancellation of
6 such insurance. In the event of a material modification or cancellation of
7 coverage, this Agreement shall terminate forthwith, unless DISTRICT
8 receives, prior to such effective date, another properly executed original
9 certificate of insurance and original copies of endorsements or original
10 certified policies, including all endorsements and attachments thereto,
11 evidencing coverages and the insurance required herein is in full force
12 and effect. Individual(s) authorized by the insurance carrier to do so on
13 its behalf shall sign the original endorsements for each policy and the
14 certificate of insurance.

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17 CONSULTANT shall not commence operations until DISTRICT has
18 been furnished with original certificate(s) of insurance and original
19 certified copies of endorsements or policies of insurance including all
20 endorsements and any and all other attachments as required in this
21 Section.

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23 4. It is understood and agreed by the parties hereto and the
24 CONSULTANT'S insurance company(s), that the certificate(s) of
25 insurance and policies shall so covenant and shall be construed as primary
26 insurance, and the DISTRICT'S insurance and/or deductibles and/or self-
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insured retentions or self-insured programs shall not be construed as contributory.

5. If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or there is a material change in the equipment to be used in the performance of the scope of work which will add additional exposures (such as the use of aircraft, watercraft, cranes, etc.); or the term of this Agreement, including any extensions thereof, exceeds five (5) years, the County reserves the right to adjust the types of insurance required under this Agreement and the monetary limits of liability for the insurance coverage's currently required herein, if, in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONSULTANT has become inadequate.

6. CONSULTANT shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.

7. The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to DISTRICT.

8. CONSULTANT agrees to notify DISTRICT of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

14. INDEMNIFICATION

CONSULTANT shall indemnify and hold harmless DISTRICT (including its directors, 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

1 its officers, employees, subcontractors and agents) actual or alleged negligent, reckless
2 or willful misconduct acts or omissions related to this Agreement, performance under
3 this Agreement, or failure to comply with the requirements of this Agreement, including
4 but not limited to: (a) property damage; (b) bodily injury or death; or (c) any other
5 element of any kind or nature whatsoever.

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

12 With respect to any of CONSULTANT'S indemnification requirements,
13 CONSULTANT shall, at its sole cost, have the right to use counsel of their own choice
14 and shall have the right to adjust, settle, or compromise any such claim, proceeding or
15 action without the prior consent of DISTRICT; provided, however, that such adjustment,
16 settlement or compromise in no manner whatsoever limits or circumscribes
17 CONSULTANT'S indemnification obligations to DISTRICT.
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19 CONSULTANT'S indemnification obligations shall be satisfied when CONSULTANT
20 has provided to DISTRICT the appropriate form of dismissal (or similar document)
21 relieving DISTRICT from any liability for the claim, proceeding or action involved.

22 The specified insurance limits required in this Agreement shall in no way limit or
23 circumscribe CONSULTANT'S obligations to indemnify and hold harmless DISTRICT
24 from third party claims.
25

26 In the event there is conflict between this section and California Civil Code Section
27 2782, this section shall be interpreted to comply with Civil Code 2782. Such
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1 interpretation shall not relieve the CONSULTANT from indemnifying DISTRICT
2 (including its directors, officers, Board of Supervisors, elected and appointed officials,
3 employees, agents and representatives) or the County of Riverside to the fullest extent
4 allowed by law.

5 15. WORK PRODUCT

6 CONSULTANT shall provide all report(s) as set forth in the approved Task Order(s).
7 All drawings, logs and reports shall be and remain the sole property of DISTRICT.
8 CONSULTANT shall not publish or transfer any material produced or resulting from
9 activities supported by this Agreement without the written consent of the General
10 Manager-Chief Engineer of DISTRICT. If any such material is subject to copyright or
11 trademark, the parties agree that the right to any and all copyright and/or trademark in
12 and to the material is expressly reserved to DISTRICT. If any such material is
13 copyrighted, the parties hereto understand and agree that DISTRICT reserves a royalty-
14 free, non-exclusive, and irrevocable license to reproduce, publish, and use such material,
15 in whole or in part, and to authorize others to do so, provided written credit is given the
16 author.
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19 16. TERMINATION

20 At any time during the term of this Agreement, DISTRICT may:

21 A. Agreement

- 22 1) Terminate this Agreement without cause upon providing CONSULTANT
23 thirty (30) days written notice stating the extent and effective date of
24 termination; or
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26 2) Upon five (5) days written notice, terminate this Agreement for
27 CONSULTANT default, if CONSULTANT refuses or fails to comply
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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, the DISTRICT may proceed with the work in a 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 provision 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 26 (NON-DISCRIMINATION). In such event, CONSULTANT shall not be entitled to any further compensation under this Agreement. The rights and remedies of DISTRICT provided in this

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

3 B. Approved Task Order

4 Terminate an approved Task Order or portion thereof without cause upon
5 providing CONSULTANT fourteen (14) days written notice stating the extent
6 and effective date of termination. In the event DISTRICT issues a Notice of
7 Termination for an approved Task Order, CONSULTANT shall: i) stop all work
8 under the Task Order 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
10 directed by DISTRICT, any equipment, data, reports or other documents which,
11 if the Task Order had been completed, would have been required to be furnished
12 to DISTRICT.
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14 In the event DISTRICT terminates an approved Task Order, DISTRICT shall
15 make payment for all services satisfactorily performed in accordance with the
16 negotiated Task Order to the date of termination, a total amount which bears the
17 same ratio to the total maximum fee otherwise payable under the Task Order as
18 the services actually bear to the total services necessary for performance of the
19 Task Order.
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21 17. Basic Services of CONSULTANT

22 The scope of services associated with the performance of any specific Task Order under
23 this Agreement shall be expressly defined and agreed upon prior to the approval of the
24 Task Order by the Project Manager. Any changes to the approved scope of services must
25 be authorized by the Project Manager, and shall be made in writing.
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1 A. Right to Preliminary Review

2 All work prepared by CONSULTANT shall be subject to the approval of the
3 Project Manager. CONSULTANT shall allow Project Manager to inspect and
4 review CONSULTANT'S work in progress at any reasonable time. All reports,
5 working papers, and similar work products prepared for submission in the course
6 of providing services under this Agreement shall be submitted to the Project
7 Manager in draft form. In the event that Project Manager, in his or her sole
8 discretion, determines the formally submitted work product to be inadequate,
9 CONSULTANT may be required to revise and resubmit the work at no
10 additional cost to DISTRICT. Should CONSULTANT fail to make requested
11 corrections in a timely manner, such corrections may be made by DISTRICT,
12 and the cost thereof charged to CONSULTANT. The responsibility for accuracy
13 and completeness of such items remains solely that of CONSULTANT. Neither
14 DISTRICT'S review or approval shall give rise to any liability or responsibility
15 on the part of DISTRICT, or waive any of DISTRICT'S rights, or relieve
16 CONSULTANT of its professional responsibilities or obligations under this
17 Agreement.
18 Agreement.

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20 B. Progress Reports

21 Attached with CONSULTANT'S periodic invoice(s), CONSULTANT shall
22 submit a Progress Report indicating the project status in relation to the approved
23 Project Schedule and, as DISTRICT deems necessary, an updated Project
24 Schedule for review and approval. Failure to submit the Progress Report or
25 updated Project Schedule shall be cause for DISTRICT to withhold payment of
26 CONSULTANT'S invoice.
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18. INDEPENDENT CONTRACTOR

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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 to be employees or agents of DISTRICT.

19. SUBCONTRACTING

A list of sub-consultants (Sub-consultants), as identified by the CONSULTANT, is attached hereto as Attachment "C". CONSULTANT may, at CONSULTANT'S own expense, retain or employ Sub-consultants from Attachment "C" to accomplish certain portions of the work covered by this Agreement.

Should one or more of the Sub-consultants, as identified in Attachment "C", become unavailable, CONSULTANT may substitute other sub-consultants of equal or greater competence upon written approval by DISTRICT. In the event that DISTRICT and CONSULTANT cannot agree as to the substitution of the sub-consultant, DISTRICT may terminate the Task Order, pursuant to the applicable provisions of this Agreement.

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

20. CHANGES TO TASK ORDER SCOPE OF SERVICES

CONSULTANT shall not perform any additional work or services outside the scope of an approved Task Order without the prior written approval of the Project Manager. If at

1 any time during the performance of an approved Task Order, CONSULTANT believes
2 that it is necessary to include certain work or services which are not clearly covered
3 under the scope of an approved Task Order, CONSULTANT shall immediately notify
4 the Project Manager in writing of CONSULTANT'S assertion that the work is out of
5 scope. Said notification by CONSULTANT to the Project Manager shall not in any way
6 be construed as proving that the work or services in question are outside the scope of the
7 Task Order. The Project Manager must approve or reject CONSULTANT'S assertion in
8 writing. In the event the Project Manager determines that CONSULTANT is correct, the
9 additional work or services shall be authorized by a new or revised Task Order that
10 covers the new scope, cost and schedule. In the event that such notification is not given
11 or if the Project Manager is not afforded an opportunity to negotiate the appropriate fee
12 for such additional services prior to CONSULTANT'S commencement of such
13 additional services, then CONSULTANT shall be deemed to have agreed to perform the
14 work or services without any additional compensation and to have accepted sole
15 responsibility for the performance of said work or services. Extra work done or services
16 performed without a new or revised Task Order from the Project Manager shall be
17 considered unauthorized and shall not be paid for by DISTRICT.

20 At any time during the performance of an approved Task Order, DISTRICT may request
21 that CONSULTANT perform extra services. Any work which is determined by
22 DISTRICT to be necessary for the proper completion of the approved Task Order, but
23 which neither CONSULTANT nor DISTRICT reasonably anticipated would be
24 necessary at the time the scope of services for the assigned Task Order was approved,
25 must be authorized by the Project Manager by a new or revised Task Order.
26

1 At any time during the performance of the Task Order, the Project Manager, upon
2 providing five (5) days written notice to the CONSULTANT, may delete services and
3 the associated fees from the Task Order. In the event DISTRICT requests deletion of
4 services from the Task Order, DISTRICT shall make payment for all services
5 satisfactorily performed in accordance with the negotiated Task Order up to the effective
6 date of deletion; the amount of the payment shall be prorated to the total services
7 necessary for completion of the Task Order. No work product for the deleted services
8 shall be provided to DISTRICT.
9

10 21. DISPUTES

11 A. In the event CONSULTANT considers any work demanded of CONSULTANT
12 to be outside the requirements of this Agreement, or if CONSULTANT considers
13 any order, instruction or decision of DISTRICT to be unfair, CONSULTANT
14 shall promptly, upon receipt of such order, instruction or decision, ask for a
15 written confirmation of the same whereupon CONSULTANT shall proceed
16 without delay to perform the work or to conform to the order, instruction, or
17 decision. However, if CONSULTANT finds such order, instruction or decision
18 unsatisfactory, CONSULTANT shall, within twenty-one (21) calendar days after
19 receipt of same, file a written protest with DISTRICT stating clearly and in detail
20 its objections and reasons therefor. Except for such protests or objections as are
21 made of record in the manner specified and within the time stated herein, and
22 except for such instances where the basis of a protest could not reasonably have
23 been foreseen by CONSULTANT within the time limit specified for protest,
24 CONSULTANT hereby waives all grounds for protests or objections to orders,
25 instruction, or decisions of DISTRICT and hereby agrees that, as to all matters
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1 not included in such protests, the orders, instructions and decisions of DISTRICT
2 will be limited to matters properly falling within DISTRICT'S authority.

3 B. Any controversy or claim arising out of or relating to this Agreement which
4 cannot be resolved by mutual agreement may be settled by arbitration, provided
5 that the parties hereto mutually agree to submit to arbitration.

6
7 C. Neither the pendency of a dispute nor its consideration by arbitration shall excuse
8 CONSULTANT from full and timely performance in accordance with the terms
9 of this Agreement.

10 22. ASSIGNMENT

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

13 23. CONFLICT OF INTEREST

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

20 24. JURISDICTION/LAW/SEVERABILITY

21 This Agreement is to be construed in accordance with the laws of the State of California.
22 If any provision of this Agreement is held by a court of competent jurisdiction to be
23 invalid, void or unenforceable, the remaining provisions shall be declared severable and
24 shall be given full force and effect to the extent possible.
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1 Any legal action, in law or equity related to the performance or interpretation of this
2 Agreement shall be filed only in the Superior Court for the State of California located in
3 Riverside, California, and the parties waive any provision of law providing for a change
4 of venue to another location. Prior to the filing of any legal action, the parties shall be
5 obligated to attend a mediation session with a neutral mediator to try to resolve the
6 dispute.

7 25. WAIVER

8 Any waiver by DISTRICT of any breach of any one or more of the terms of this
9 Agreement shall not be construed to be a waiver of any subsequent or other breach of the
10 same or any other term thereof. Failure on the part of DISTRICT to require exact, full
11 and complete compliance with any terms of this Agreement shall not be construed as in
12 any manner changing the terms hereof, or estopping DISTRICT from enforcement
13 hereof.
14

15 26. NON-DISCRIMINATION

16 In the performance of the terms of this Agreement, CONSULTANT shall not engage in
17 nor permit others he may employ to engage in discrimination in the employment of
18 persons because of the race, color, national origin or ancestry, religion, physical
19 handicap, disability as defined by the Americans with Disabilities Act (ADA), medical
20 condition, marital status or sex of such persons, in accordance with the provision of
21 California Labor Code Section 1735.
22

23 27. NON-APPROPRIATION OF FUNDS

24 It is mutually agreed and understood that the obligation(s) of DISTRICT are limited by
25 and contingent upon the availability of DISTRICT funds for the reimbursement of
26 CONSULTANT'S fees. In the event that such funds are not forthcoming for any reason,
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1 DISTRICT shall immediately notify CONSULTANT in writing. This Agreement shall
2 be deemed terminated and have no further force and effect immediately upon receipt of
3 DISTRICT'S notification by CONSULTANT. In the event of such termination,
4 CONSULTANT shall be entitled to reimbursement of its costs in accordance with
5 Section 5 (COMPENSATION).

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

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7/26/2011
(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By: [Signature]
WARREN D. WILLIAMS
General Manager-Chief Engineer

By: [Signature]
MARION ASHLEY, Chairman
Riverside County Flood Control and Water
Conservation District Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

By: [Signature] 6/30/11
MARSHA L. VICTOR
Principal Deputy County Counsel

By: [Signature]
Deputy

(SEAL.)

ECORP CONSULTING, INC.

By: [Signature]
DONALD R. MITCHELL
Vice President

(NOTARY)

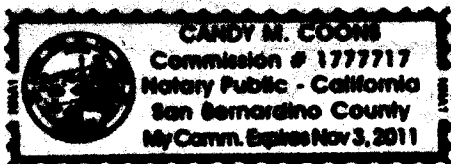
Agreement for Consulting Services
Project Specific
06/22/11
SEM:mcv:blj

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California }
 County of San Bernardino }
 On 07/08/2011 before me, Candy M. Coons, Notary Public
Date Here Insert Name and Title of the Officer
 personally appeared Donald R. Mitchell
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Candy M. Coons
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Donald R. Mitchell Signer's Name: _____

Corporate Officer — Title(s): VP Corporate Officer — Title(s): _____

Individual Partner — Limited General Attorney in Fact Trustee Guardian or Conservator Other: _____

Individual Partner — Limited General Attorney in Fact Trustee Guardian or Conservator Other: _____

Attorney in Fact Trustee Guardian or Conservator Other: _____

Trustee Guardian or Conservator Other: _____

Guardian or Conservator Other: _____

Other: _____

Signer Is Representing: ECORP Consulting Signer Is Representing: _____

ATTACHMENT "A"

SCOPE OF SERVICES

CONSULTANT may be asked to perform one or more of the following types of services as specifically directed in Task Orders issued to CONSULTANT:

1. Prepare a Cultural Resources Report that addresses all potential issues related to archaeological, traditional and built environment resources in accordance with applicable Federal, State and local laws and regulations regarding cultural resources in the environmental review and/or regulatory permitting process including, but not limited to Section 106 of the National Historic Preservation Act.
2. Prepare a Paleontological Resources assessment that addresses all potential issues related to paleontological resources in accordance with applicable Federal, State and local laws and regulations in the environmental review and/or regulatory permitting process.
3. Prepare a Biological Resources Assessment that addresses all potential biological issues and concerns for the project area, including, but not limited to:
 - Reconnaissance surveys, habitat assessments, and focused surveys for sensitive or listed plant and wildlife species.
 - Federal and State Jurisdictional Area Delineation.
 - Designated Critical Habitat Areas with Federal Endangered Species Act (FESA).
 - Applicable Habitat Conservation Plans consistency assessment (i.e. Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), Coachella Valley MSHCP and Tribal Habitat Conservation Plan (HCP)).
4. Prepare a Jurisdictional Area Delineation Report and Impact Analysis, including significant nexus evaluation, that addresses all potential issues related to "Waters of the U.S." and wetlands (Clean Water Act), "Waters of the State" and wetlands (Porter-Cologne Water Quality Control Act), and areas under the jurisdiction of the California Department of Fish and Game Code (Section 1600 et seq.).
5. Prepare a native Habitat Mitigation and Monitoring Plan (HMMP).
6. Implement a HMMP.
7. Prepare a Preliminary Environmental Assessment Report (PEAR) for proposed District projects. The PEAR identifies potential environmental concerns (biological, cultural, historical, paleontological, jurisdictional, geological, or regulatory permitting, etc.) that could pose significant hurdles to a project based on preliminary design data. A PEAR may be needed at the early stage of a project to ensure that project alternatives (e.g., types of facility, facility size, alignment, etc.) are fully evaluated by the District.
8. Prepare as appropriate a separate or joint California Environmental Quality Act (CEQA) Initial Study and/or National Environmental Policy Act (NEPA) Environmental Assessment, if applicable, including but not limited to technical appendices, exhibits, and mitigation and monitoring plan to determine if the project may have a significant impact on the environment.
9. Prepare as appropriate a CEQA Negative Declaration, Mitigated Negative Declaration,

and Notice of Determination.

10. Prepare as appropriate a separate or joint CEQA Draft Environmental Impact Report (DEIR)/Final Environmental Impact Report (FEIR) and/or NEPA Draft Environmental Impact Statement (DEIS)/Final Environmental Impact Statement (FEIS) including, but not limited to technical appendices, exhibits, finding of any significance, mitigation, and monitoring plan to avoid or reduce potentially significant adverse impacts.
11. Prepare written responses to comments received during the CEQA and/or NEPA process.
12. Make presentations as needed to the public, government agencies, or others related to project review and its associated environmental documents.
13. Participate in public hearings and meetings as necessary.
14. Provide technical assistance and participate in permit negotiation as needed for the District to secure all necessary regulatory permits (e.g. FESA/CESA Incidental Take Permit, Department of Fish and Game Consistency Determination, Section 404 Individual/Nationwide Permit, 401 Water Quality Certification, 1602 Streambed Alteration Agreement, Waste Discharge Requirements, etc.) for flood control projects.
15. Conduct protocol level pre-construction biological surveys and provide written reports summarizing survey results.
16. Provide biological monitoring and reporting services.
17. Provide cultural and/or paleontological resources monitoring and reporting services.
18. Prepare a MSHCP/HCP consistency assessment that demonstrates project compliance with all applicable provisions of the appropriate habitat conservation plans (i.e. Western Riverside County MSHCP, Coachella Valley MSHCP and Tribal HCP).
19. Provide Hazardous Materials report to determine the presence/absence of any hazardous materials in accordance with the California Government Code Section 65962.5.
20. Provide a Determination of Biological Equivalent or Superior Preservation (DBESP) report in accordance with Section 6.1.2 of the Western Riverside County MSHCP for impacts to Riparian/Riverine Area/Vernal Pools which would be submitted for review to the U.S. Fish and Wildlife Service and the California Department of Fish and Game.

ATTACHMENT "B"

TASK ORDER APPROVAL FORM

CONSULTANT: _____

PROJECT NAME: _____

The Scope of Services for _____, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference, shall constitute an approved Task Order pursuant to the Agreement between the DISTRICT and CONSULTANT dated _____ ("AGREEMENT"). CONSULTANT agrees to perform the services described in Exhibit "A" within the time set forth in the Project Schedule as described in Exhibit "B" attached hereto and incorporated herein, for a fee amount of \$_____, unless otherwise modified by the DISTRICT'S Project Manager in a subsequent Task Order Approval Form. All charges shall be consistent with the Compensation/Fee Rate Schedule which is attached as Exhibit "C" and incorporated herein by this reference.

Performance of the services shall be subject to the terms and conditions contained in the AGREEMENT.

Dated this _____ day of _____
(To be filled in by General Manager-Chief Engineer)

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

By: _____
WARREN D. WILLIAMS
General Manager-Chief Engineer

CONSULTANT

By: _____
Printed Name and Title

ATTACHMENT "C"

List of Sub-Consultants

- Cogstone
- Ninyo & Moore

CONSULTING SERVICES AGREEMENT

1
2 RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION
3 DISTRICT, hereinafter called "DISTRICT", and ALBERT A. WEBB ASSOCIATES,
4 hereinafter called "CONSULTANT", hereby agree as follows:

5 1. PROJECT

6 CONSULTANT shall provide on-call environmental and regulatory support services in
7 accordance with applicable federal, state, and local laws and regulations as requested by
8 DISTRICT.
9

10 2. SCOPE OF SERVICES

11 As requested by DISTRICT, CONSULTANT shall provide Project Specific
12 Environmental/Regulatory Professional Services as described on Attachment "A" for
13 DISTRICT projects on an "on-call" basis. During the term of this Agreement, the
14 CONSULTANT may be invited to submit proposals for some of the various services
15 listed in Attachment "A" as requested by DISTRICT and be assigned subsequent Task
16 Orders, the form of which is Attachment "B" hereto. CONSULTANT understands and
17 expressly agrees that the execution of this Agreement by CONSULTANT and/or the
18 submission of any proposal to furnish services does not guarantee the assignment or
19 approval of any subsequent Task Order(s).
20

21 3. PERSONNEL22 A. Project Manager

23 For each Task Order, the DISTRICT shall designate a representative who shall
24 act as the DISTRICT'S Project Manager ("Project Manager"). The Project
25 Manager shall have authority to act on behalf of DISTRICT for all purposes
26 under this Task Order. DISTRICT shall provide written notice to
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1 CONSULTANT of any change in Project Manager assignment for a given Task
2 Order.

3 B. CONSULTANT'S Representative

4 CONSULTANT shall appoint a designated Representative for each assigned
5 Task Order who shall be responsible for coordinating all aspects of the assigned
6 Task Order. CONSULTANT'S Representative shall be available to DISTRICT'S
7 Project Manager at reasonable times. CONSULTANT may appoint another
8 person as Representative upon written notice to DISTRICT.
9

10 C. Substitution of Key Personnel

11 At the time of Task Order approval, CONSULTANT shall identify its Key
12 Personnel who will perform each assigned Task Order to the DISTRICT'S
13 Project Manager. Should one or more of the identified Key Personnel become
14 unavailable, CONSULTANT may substitute other personnel of equal or greater
15 competence upon written approval by DISTRICT. In the event that DISTRICT
16 and CONSULTANT cannot agree as to the substitution of the Key Personnel,
17 DISTRICT may terminate the Task Order, pursuant to the applicable provisions
18 of this Agreement.
19

20 4. TERM

21 The term of this Agreement shall become effective on the date the Agreement is
22 executed by DISTRICT'S Board of Supervisors, and shall remain in effect through the
23 later of:
24

25 A. Three (3) years from the date of the Board of Supervisors approval; or

26 B. The required date for completion of an assigned Task Order, provided that such
27 Task Order was approved prior to expiration date stipulated in 4.A., above.
28

1 5. COMPENSATION

2 CONSULTANT shall receive compensation for all services satisfactorily performed
3 under this Agreement in accordance with the terms of the approved Task Order(s). The
4 total amount to be paid to CONSULTANT for the performance of all Task Orders
5 approved pursuant to this Agreement shall not exceed seven hundred fifty thousand
6 dollars (\$750,000), or two hundred fifty thousand dollars (\$250,000) in a single fiscal
7 year.

8
9 6. PAYMENTS

10 Progress payments shall be made in accordance with the Compensation/Fee Rate
11 Schedule attached to the approved Task Order. Progress payments shall be processed no
12 more than once per month. Upon satisfactory performance of CONSULTANT'S
13 services pursuant to an approved Task Order, DISTRICT shall pay CONSULTANT
14 within forty-five (45) days after DISTRICT'S receipt of CONSULTANT'S appropriate
15 invoices. CONSULTANT shall keep employee and expense records according to
16 customary accounting methods and such records shall, upon request, be available for
17 inspection by DISTRICT to verify the invoices of CONSULTANT. All invoices shall
18 itemize charges to conform to the Compensation/Fee Rate Schedule negotiated for the
19 task order. DISTRICT shall notify CONSULTANT of any disputed amounts on invoice
20 within thirty (30) days of receipt.

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23 7. PROJECT PERFORMANCE

24 A. Commencement of Services

25 CONSULTANT shall commence performance of the services for each Task
26 Order upon receipt of the DISTRICT'S approved Task Order.

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1 B. Time of Completion

2 Time is of the essence in the performance of this Agreement. CONSULTANT
3 shall complete services in accordance with the schedule(s) set forth in the
4 approved Task Order(s).

- 5 8. LICENSES – CONSULTANT, its employees, agents, contractors and subcontractors
6 shall possess appropriate federal and/or state permits and maintain professional licenses
7 required by the applicable Federal, State and local regulations at all times while
8 performing services under this Agreement.

9
10 9. STANDARD OF CARE

11 While performing the services, CONSULTANT shall exercise the reasonable
12 professional care and skill customarily exercised by reputable members of
13 CONSULTANT'S profession practicing in the State of California, and shall use
14 reasonable diligence and best judgment while exercising CONSULTANT'S professional
15 skill and expertise. By executing this Agreement, CONSULTANT represents and
16 maintains that CONSULTANT has the necessary experience and expertise to skillfully
17 perform all services, duties and obligations required by this Agreement and to fully and
18 adequately complete each approved Task Order.

19
20 10. ERRORS AND OMISSIONS

21 In the event CONSULTANT'S reports or work products contain any errors or omissions
22 that cause the DISTRICT to incur additional expense beyond what would have otherwise
23 resulted if there were no errors or omissions in CONSULTANT'S reports or work
24 products, such additional expense shall be borne solely by CONSULTANT.
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11. PERMITS AND RIGHTS OF ENTRY

1 DISTRICT shall obtain all rights of entry as may be required to allow CONSULTANT
 2 to perform the proposed consulting services within and upon privately-owned property.
 3 All permits and rights of entry as may be required from any and all affected public
 4 entities shall be obtained by CONSULTANT. Sufficient evidence of having obtained
 5 such permits and/or rights of entry shall be furnished to DISTRICT by CONSULTANT,
 6 prior to initiation of work. CONSULTANT will prosecute the work in such a manner as
 7 to minimize public inconvenience and possible hazard, and will restore the streets and
 8 other work areas to their original condition and former usefulness as soon as practicable.
 9 CONSULTANT shall be responsible for the protection of public and private property
 10 adjacent to the work and shall exercise due caution to avoid damage to such property.
 11
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13 12. NOTICES

14 Any and all notices sent or required to be sent to the parties of this Agreement will be
 15 mailed by first class mail, postage prepaid, to the following addresses:
 16

17 RIVERSIDE COUNTY FLOOD CONTROL
 18 AND WATER CONSERVATION DISTRICT
 19 1995 Market Street
 Riverside, CA 92501
 Attn: Regulatory/ERS

ALBERT A. WEBB ASSOCIATES
 3788 McCray Street
 Riverside, CA 92506
 Attn: Sonya Hooker

20 13. REQUIRED INSURANCE

21 Without limiting or diminishing the CONSULTANT'S obligation to indemnify or hold
 22 DISTRICT harmless, CONSULTANT shall procure and maintain or cause to be
 23 maintained, at its sole cost and expense, the following insurance coverages during the
 24 term of this Agreement:
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1 A. Workers' Compensation

2 If CONSULTANT has employees as defined by the State of California,
3 CONSULTANT shall maintain Workers' Compensation Insurance (Coverage A)
4 as prescribed by the laws of the State of California. Policy shall include
5 Employer's Liability (Coverage B) including Occupational Disease with limits
6 not less than \$1,000,000 per person per accident. Policy shall be endorsed to
7 waive subrogation in favor of DISTRICT and, if applicable, to provide a
8 Borrowed Servant/Alternate Employer endorsement.
9

10 B. Commercial General Liability

11 Commercial General Liability insurance coverage, including but not limited to,
12 premises liability, contractual liability, completed operations, personal and
13 advertising injury covering claims which may arise from or out of
14 CONSULTANT'S performance of its obligations hereunder. Policy shall name
15 Riverside County Flood Control and Water Conservation District, the County of
16 Riverside, special districts, their respective directors, officers, Board of
17 Supervisors, elected officials, employees, agents or representatives as additional
18 insureds. Policy's limit of liability shall not be less than \$1,000,000 per
19 occurrence combined single limit. If such insurance contains a general aggregate
20 limit, it shall apply separately to this Agreement or be no less than two (2) times
21 the occurrence limit.
22

23 C. Vehicle Liability

24 If vehicles or mobile equipment are used in the performance of the obligations
25 under this Agreement, CONSULTANT shall maintain liability insurance for all
26 owned, non-owned or hired vehicles in an amount not less than \$1,000,000 per
27
28

1 occurrence combined single limit. If such insurance contains a general aggregate
2 limit, it shall apply separately to this Agreement or be no less than two (2) times
3 the occurrence limit. If CONSULTANT does not own vehicles, CONSULTANT
4 shall maintain coverage for non-owned or hired vehicles in an amount not less
5 than \$1,000,000 per occurrence combined single limit. Such non-owned or hired
6 coverage may be included on the Commercial General Liability policy. Policy
7 shall name Riverside County Flood Control and Water Conservation District, the
8 County of Riverside, special districts, their respective directors, officers, Board
9 of Supervisors, elected officials, employees, agents or representatives as
10 additional insureds.
11

12 D. Professional Liability

13 CONSULTANT shall maintain Professional Liability Insurance providing
14 coverage for CONSULTANT'S performance of work included within this
15 Agreement, with a limit of liability of not less than \$1,000,000 per occurrence
16 and \$2,000,000 annual aggregate. If CONSULTANT'S Professional Liability
17 Insurance is written on a claims made basis rather than an occurrence basis, such
18 insurance shall continue through the term of this Agreement and CONSULTANT
19 shall purchase at his sole expense either: 1) an Extended Reporting Endorsement
20 (also known as Tail Coverage); or 2) Prior Dates Coverage from a new insurer
21 with a date retroactive to the date of, or prior to, the inception of this Agreement;
22 or 3) demonstrate through Certificates of Insurance that CONSULTANT has
23 maintained continuous coverage with the same or original insurer. Coverage
24 provided under items: 1), 2) or 3) will continue as long as the law allows.
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1 E. General Insurance Provisions – All Lines

2 1. Any insurance carrier providing insurance coverage hereunder shall be
3 admitted to the State of California and have an A.M. BEST rating of not
4 less than an A: VIII (A: 8) unless such requirements are waived, in
5 writing, by the County Risk Manager. If the County's Risk Manager
6 waives a requirement for a particular insurer such waiver is only valid for
7 the specific insurer and only for one policy term.

8 2. CONSULTANT'S insurance carrier(s) must declare its insurance
9 deductibles or self-insured retentions. If such deductibles or self-insured
10 retentions exceed \$500,000 per occurrence such deductibles and/or
11 retentions shall have the prior written consent of the County Risk
12 Manager before the commencement of operations under this Agreement.
13 Upon notification of deductibles or self-insured retentions which are
14 deemed unacceptable to the DISTRICT, at the election of the County's
15 Risk Manager, CONSULTANT'S carriers shall either: 1) reduce or
16 eliminate such deductibles or self-insured retentions with respect to this
17 Agreement with DISTRICT, or 2) procure a bond which guarantees
18 payment of losses and related investigations, claims administration,
19 defense costs and expenses.

20 3. CONSULTANT shall cause their insurance carrier(s) to furnish
21 DISTRICT with: 1) a properly executed original certificate(s) of
22 insurance and original certified copies of endorsements effecting
23 coverage as required herein; or 2) if requested to do so orally or in writing
24 by the County Risk Manager, provide original certified copies of policies
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1 including all endorsements and all attachments thereto, showing such
2 insurance is in full force and effect. Further, said certificate(s) and
3 policies of insurance shall contain the covenant that the insurance
4 carrier(s) shall provide no less than thirty (30) days written notice be
5 given to DISTRICT prior to any material modification or cancellation of
6 such insurance. In the event of a material modification or cancellation of
7 coverage, this Agreement shall terminate forthwith, unless DISTRICT
8 receives, prior to such effective date, another properly executed original
9 certificate of insurance and original copies of endorsements or original
10 certified policies, including all endorsements and attachments thereto,
11 evidencing coverages and the insurance required herein is in full force
12 and effect. Individual(s) authorized by the insurance carrier to do so on
13 its behalf shall sign the original endorsements for each policy and the
14 certificate of insurance.

15
16 CONSULTANT shall not commence operations until DISTRICT has
17 been furnished with original certificate(s) of insurance and original
18 certified copies of endorsements or policies of insurance including all
19 endorsements and any and all other attachments as required in this
20 Section.
21

- 22 4. It is understood and agreed by the parties hereto and the
23 CONSULTANT'S insurance company(s), that the certificate(s) of
24 insurance and policies shall so covenant and shall be construed as primary
25 insurance, and the DISTRICT'S insurance and/or deductibles and/or self-
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insured retentions or self-insured programs shall not be construed as contributory.

5. If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or there is a material change in the equipment to be used in the performance of the scope of work which will add additional exposures (such as the use of aircraft, watercraft, cranes, etc.); or the term of this Agreement, including any extensions thereof, exceeds five (5) years, the County reserves the right to adjust the types of insurance required under this Agreement and the monetary limits of liability for the insurance coverage's currently required herein, if, in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONSULTANT has become inadequate.

6. CONSULTANT shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.

7. The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to DISTRICT.

8. CONSULTANT agrees to notify DISTRICT of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

14. INDEMNIFICATION

CONSULTANT shall indemnify and hold harmless DISTRICT (including its directors, 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

1 its officers, employees, subcontractors and agents) actual or alleged negligent, reckless
2 or willful misconduct acts or omissions related to this Agreement, performance under
3 this Agreement, or failure to comply with the requirements of this Agreement, including
4 but not limited to: (a) property damage; (b) bodily injury or death; or (c) any other
5 element of any kind or nature whatsoever.

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

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

19 CONSULTANT'S indemnification obligations shall be satisfied when CONSULTANT
20 has provided to DISTRICT the appropriate form of dismissal (or similar document)
21 relieving DISTRICT from any liability for the claim, proceeding or action involved.
22

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

26 In the event there is conflict between this section and California Civil Code Section
27 2782, this section shall be interpreted to comply with Civil Code 2782. Such
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1 interpretation shall not relieve the CONSULTANT from indemnifying DISTRICT
2 (including its directors, officers, Board of Supervisors, elected and appointed officials,
3 employees, agents and representatives) or the County of Riverside to the fullest extent
4 allowed by law.

5 15. WORK PRODUCT

6 CONSULTANT shall provide all report(s) as set forth in the approved Task Order(s).
7 All drawings, logs and reports shall be and remain the sole property of DISTRICT.
8 CONSULTANT shall not publish or transfer any material produced or resulting from
9 activities supported by this Agreement without the written consent of the General
10 Manager-Chief Engineer of DISTRICT. If any such material is subject to copyright or
11 trademark, the parties agree that the right to any and all copyright and/or trademark in
12 and to the material is expressly reserved to DISTRICT. If any such material is
13 copyrighted, the parties hereto understand and agree that DISTRICT reserves a royalty-
14 free, non-exclusive, and irrevocable license to reproduce, publish, and use such material,
15 in whole or in part, and to authorize others to do so, provided written credit is given the
16 author.
17
18

19 16. TERMINATION

20 At any time during the term of this Agreement, DISTRICT may:

21 A. Agreement

- 22 1) Terminate this Agreement without cause upon providing CONSULTANT
- 23 thirty (30) days written notice stating the extent and effective date of
- 24 termination; or
- 25
- 26 2) Upon five (5) days written notice, terminate this Agreement for
- 27 CONSULTANT default, if CONSULTANT refuses or fails to comply
- 28

1 with the provisions of this Agreement or fails to make progress so as to
2 endanger performance and does not cure such failure within a reasonable
3 period of time. In the event of such termination, the DISTRICT may
4 proceed with the work in a manner deemed proper to DISTRICT.

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

12 In the event DISTRICT terminates this Agreement, DISTRICT shall make
13 payment for all services performed in accordance with this Agreement to the date
14 of termination, a total amount which bears the same ratio to the total maximum
15 fee otherwise payable under this Agreement as the services actually bear to the
16 total services necessary for performance of this Agreement. Notwithstanding any
17 of the other provision of this Agreement, CONSULTANT rights under this
18 Agreement shall terminate (except for fees accrued prior to the date of
19 termination) upon dishonesty, or a willful or material breach of this Agreement
20 by CONSULTANT; or in the event of CONSULTANT'S unwillingness or
21 inability for any reason whatsoever to perform the duties hereunder; or if the
22 Agreement is terminated pursuant to Section 26 (NON-DISCRIMINATION). In
23 such event, CONSULTANT shall not be entitled to any further compensation
24 under this Agreement. The rights and remedies of DISTRICT provided in this
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1 section shall not be exclusive and are in addition to any other rights and remedies
2 provided by law or under this Agreement.

3 B. Approved Task Order

4 Terminate an approved Task Order or portion thereof without cause upon
5 providing CONSULTANT fourteen (14) days written notice stating the extent
6 and effective date of termination. In the event DISTRICT issues a Notice of
7 Termination for an approved Task Order, CONSULTANT shall: i) stop all work
8 under the Task Order 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
10 directed by DISTRICT, any equipment, data, reports or other documents which,
11 if the Task Order had been completed, would have been required to be furnished
12 to DISTRICT.
13

14 In the event DISTRICT terminates an approved Task Order, DISTRICT shall
15 make payment for all services satisfactorily performed in accordance with the
16 negotiated Task Order to the date of termination, a total amount which bears the
17 same ratio to the total maximum fee otherwise payable under the Task Order as
18 the services actually bear to the total services necessary for performance of the
19 Task Order.
20

21 17. Basic Services of CONSULTANT

22 The scope of services associated with the performance of any specific Task Order under
23 this Agreement shall be expressly defined and agreed upon prior to the approval of the
24 Task Order by the Project Manager. Any changes to the approved scope of services must
25 be authorized by the Project Manager, and shall be made in writing.
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1 A. Right to Preliminary Review

2 All work prepared by CONSULTANT shall be subject to the approval of the
3 Project Manager. CONSULTANT shall allow Project Manager to inspect and
4 review CONSULTANT'S work in progress at any reasonable time. All reports,
5 working papers, and similar work products prepared for submission in the course
6 of providing services under this Agreement shall be submitted to the Project
7 Manager in draft form. In the event that Project Manager, in his or her sole
8 discretion, determines the formally submitted work product to be inadequate,
9 CONSULTANT may be required to revise and resubmit the work at no
10 additional cost to DISTRICT. Should CONSULTANT fail to make requested
11 corrections in a timely manner, such corrections may be made by DISTRICT,
12 and the cost thereof charged to CONSULTANT. The responsibility for accuracy
13 and completeness of such items remains solely that of CONSULTANT. Neither
14 DISTRICT'S review or approval shall give rise to any liability or responsibility
15 on the part of DISTRICT, or waive any of DISTRICT'S rights, or relieve
16 CONSULTANT of its professional responsibilities or obligations under this
17 Agreement.
18 Agreement.

19
20 B. Progress Reports

21 Attached with CONSULTANT'S periodic invoice(s), CONSULTANT shall
22 submit a Progress Report indicating the project status in relation to the approved
23 Project Schedule and, as DISTRICT deems necessary, an updated Project
24 Schedule for review and approval. Failure to submit the Progress Report or
25 updated Project Schedule shall be cause for DISTRICT to withhold payment of
26 CONSULTANT'S invoice.
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18. INDEPENDENT CONTRACTOR

1
2 CONSULTANT and the agents and employees of CONSULTANT, shall act at all times
3 in an independent capacity during the term of this Agreement and in the performance of
4 the services to be rendered hereunder and shall not act as or shall not be and shall not in
5 any manner be considered to be employees or agents of DISTRICT.

6 19. SUBCONTRACTING

7 A list of sub-consultants (Sub-consultants), as identified by the CONSULTANT, is
8 attached hereto as Attachment "C". CONSULTANT may, at CONSULTANT'S own
9 expense, retain or employ Sub-consultants from Attachment "C" to accomplish certain
10 portions of the work covered by this Agreement.

11
12 Should one or more of the Sub-consultants, as identified in Attachment "C", become
13 unavailable, CONSULTANT may substitute other sub-consultants of equal or greater
14 competence upon written approval by DISTRICT. In the event that DISTRICT and
15 CONSULTANT cannot agree as to the substitution of the sub-consultant, DISTRICT
16 may terminate the Task Order, pursuant to the applicable provisions of this Agreement.

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

24
25 20. CHANGES TO TASK ORDER SCOPE OF SERVICES

26 CONSULTANT shall not perform any additional work or services outside the scope of
27 an approved Task Order without the prior written approval of the Project Manager. If at
28

1 any time during the performance of an approved Task Order, CONSULTANT believes
2 that it is necessary to include certain work or services which are not clearly covered
3 under the scope of an approved Task Order, CONSULTANT shall immediately notify
4 the Project Manager in writing of CONSULTANT'S assertion that the work is out of
5 scope. Said notification by CONSULTANT to the Project Manager shall not in any way
6 be construed as proving that the work or services in question are outside the scope of the
7 Task Order. The Project Manager must approve or reject CONSULTANT'S assertion in
8 writing. In the event the Project Manager determines that CONSULTANT is correct, the
9 additional work or services shall be authorized by a new or revised Task Order that
10 covers the new scope, cost and schedule. In the event that such notification is not given
11 or if the Project Manager is not afforded an opportunity to negotiate the appropriate fee
12 for such additional services prior to CONSULTANT'S commencement of such
13 additional services, then CONSULTANT shall be deemed to have agreed to perform the
14 work or services without any additional compensation and to have accepted sole
15 responsibility for the performance of said work or services. Extra work done or services
16 performed without a new or revised Task Order from the Project Manager shall be
17 considered unauthorized and shall not be paid for by DISTRICT.

20 At any time during the performance of an approved Task Order, DISTRICT may request
21 that CONSULTANT perform extra services. Any work which is determined by
22 DISTRICT to be necessary for the proper completion of the approved Task Order, but
23 which neither CONSULTANT nor DISTRICT reasonably anticipated would be
24 necessary at the time the scope of services for the assigned Task Order was approved,
25 must be authorized by the Project Manager by a new or revised Task Order.
26

1 At any time during the performance of the Task Order, the Project Manager, upon
 2 providing five (5) days written notice to the CONSULTANT, may delete services and
 3 the associated fees from the Task Order. In the event DISTRICT requests deletion of
 4 services from the Task Order, DISTRICT shall make payment for all services
 5 satisfactorily performed in accordance with the negotiated Task Order up to the effective
 6 date of deletion; the amount of the payment shall be prorated to the total services
 7 necessary for completion of the Task Order. No work product for the deleted services
 8 shall be provided to DISTRICT.

9
 10 21. DISPUTES

11 A. In the event CONSULTANT considers any work demanded of CONSULTANT
 12 to be outside the requirements of this Agreement, or if CONSULTANT considers
 13 any order, instruction or decision of DISTRICT to be unfair, CONSULTANT
 14 shall promptly, upon receipt of such order, instruction or decision, ask for a
 15 written confirmation of the same whereupon CONSULTANT shall proceed
 16 without delay to perform the work or to conform to the order, instruction, or
 17 decision. However, if CONSULTANT finds such order, instruction or decision
 18 unsatisfactory, CONSULTANT shall, within twenty-one (21) calendar days after
 19 receipt of same, file a written protest with DISTRICT stating clearly and in detail
 20 its objections and reasons therefor. Except for such protests or objections as are
 21 made of record in the manner specified and within the time stated herein, and
 22 except for such instances where the basis of a protest could not reasonably have
 23 been foreseen by CONSULTANT within the time limit specified for protest,
 24 CONSULTANT hereby waives all grounds for protests or objections to orders,
 25 instruction, or decisions of DISTRICT and hereby agrees that, as to all matters
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1 not included in such protests, the orders, instructions and decisions of DISTRICT
2 will be limited to matters properly falling within DISTRICT'S authority.

3 B. Any controversy or claim arising out of or relating to this Agreement which
4 cannot be resolved by mutual agreement may be settled by arbitration, provided
5 that the parties hereto mutually agree to submit to arbitration.

6 C. Neither the pendency of a dispute nor its consideration by arbitration shall excuse
7 CONSULTANT from full and timely performance in accordance with the terms
8 of this Agreement.
9

10 22. ASSIGNMENT

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

13 23. CONFLICT OF INTEREST

14 CONSULTANT covenants that it presently has no interest, including but not limited to,
15 other projects or independent contracts, and shall not acquire any such interest, direct or
16 indirect, which would conflict in any manner or degree with the performance of services
17 required to be performed under this Agreement. CONSULTANT further covenants that
18 in the performance of this Agreement, no person having any such interest shall be
19 employed or retained by it under this Agreement.
20

21 24. JURISDICTION/LAW/SEVERABILITY

22 This Agreement is to be construed in accordance with the laws of the State of California.
23 If any provision of this Agreement is held by a court of competent jurisdiction to be
24 invalid, void or unenforceable, the remaining provisions shall be declared severable and
25 shall be given full force and effect to the extent possible.
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1 Any legal action, in law or equity related to the performance or interpretation of this
 2 Agreement shall be filed only in the Superior Court for the State of California located in
 3 Riverside, California, and the parties waive any provision of law providing for a change
 4 of venue to another location. Prior to the filing of any legal action, the parties shall be
 5 obligated to attend a mediation session with a neutral mediator to try to resolve the
 6 dispute.

7 25. WAIVER

8 Any waiver by DISTRICT of any breach of any one or more of the terms of this
 9 Agreement shall not be construed to be a waiver of any subsequent or other breach of the
 10 same or any other term thereof. Failure on the part of DISTRICT to require exact, full
 11 and complete compliance with any terms of this Agreement shall not be construed as in
 12 any manner changing the terms hereof, or estopping DISTRICT from enforcement
 13 hereof.
 14

15 26. NON-DISCRIMINATION

16 In the performance of the terms of this Agreement, CONSULTANT shall not engage in
 17 nor permit others he may employ to engage in discrimination in the employment of
 18 persons because of the race, color, national origin or ancestry, religion, physical
 19 handicap, disability as defined by the Americans with Disabilities Act (ADA), medical
 20 condition, marital status or sex of such persons, in accordance with the provision of
 21 California Labor Code Section 1735.
 22

23 27. NON-APPROPRIATION OF FUNDS

24 It is mutually agreed and understood that the obligation(s) of DISTRICT are limited by
 25 and contingent upon the availability of DISTRICT funds for the reimbursement of
 26 CONSULTANT'S fees. In the event that such funds are not forthcoming for any reason,
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1 DISTRICT shall immediately notify CONSULTANT in writing. This Agreement shall
2 be deemed terminated and have no further force and effect immediately upon receipt of
3 DISTRICT'S notification by CONSULTANT. In the event of such termination,
4 CONSULTANT shall be entitled to reimbursement of its costs in accordance with
5 Section 5 (COMPENSATION).

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

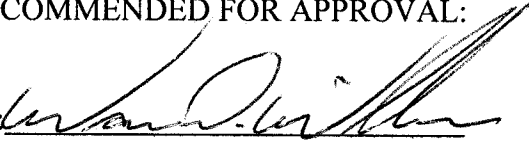
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7/26/2011

(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

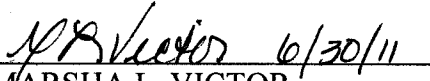
By: 
MARION ASHLEY, Chairman
Riverside County Flood Control and Water Conservation District Board of Supervisors

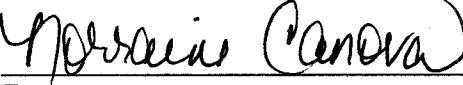
APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS
County Counsel


KECIA HARPER-IHEM
Clerk of the Board

By:  6/30/11
MARSHA L. VICTOR
Principal Deputy County Counsel

By: 
Deputy

(SEAL)

ALBERT A. WEBB ASSOCIATES

By: 
MATT WEBB
President

Agreement for Consulting Services
Project Specific
06/22/11
SEM:blj

ATTACHMENT "A"

SCOPE OF SERVICES

CONSULTANT may be asked to perform one or more of the following types of services as specifically directed in Task Orders issued to CONSULTANT:

1. Prepare a Cultural Resources Report that addresses all potential issues related to archaeological, traditional and built environment resources in accordance with applicable Federal, State and local laws and regulations regarding cultural resources in the environmental review and/or regulatory permitting process including, but not limited to Section 106 of the National Historic Preservation Act.
2. Prepare a Paleontological Resources assessment that addresses all potential issues related to paleontological resources in accordance with applicable Federal, State and local laws and regulations in the environmental review and/or regulatory permitting process.
3. Prepare a Biological Resources Assessment that addresses all potential biological issues and concerns for the project area, including, but not limited to:
 - Reconnaissance surveys, habitat assessments, and focused surveys for sensitive or listed plant and wildlife species.
 - Federal and State Jurisdictional Area Delineation.
 - Designated Critical Habitat Areas with Federal Endangered Species Act (FESA).
 - Applicable Habitat Conservation Plans consistency assessment (i.e. Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), Coachella Valley MSHCP and Tribal Habitat Conservation Plan (HCP)).
4. Prepare a Jurisdictional Area Delineation Report and Impact Analysis, including significant nexus evaluation, that addresses all potential issues related to "Waters of the U.S." and wetlands (Clean Water Act), "Waters of the State" and wetlands (Porter-Cologne Water Quality Control Act), and areas under the jurisdiction of the California Department of Fish and Game Code (Section 1600 et seq.).
5. Prepare a native Habitat Mitigation and Monitoring Plan (HMMP).
6. Implement a HMMP.
7. Prepare a Preliminary Environmental Assessment Report (PEAR) for proposed District projects. The PEAR identifies potential environmental concerns (biological, cultural, historical, paleontological, jurisdictional, geological, or regulatory permitting, etc.) that could pose significant hurdles to a project based on preliminary design data. A PEAR may be needed at the early stage of a project to ensure that project alternatives (e.g., types of facility, facility size, alignment, etc.) are fully evaluated by the District.
8. Prepare as appropriate a separate or joint California Environmental Quality Act (CEQA) Initial Study and/or National Environmental Policy Act (NEPA) Environmental Assessment, if applicable, including but not limited to technical appendices, exhibits, and mitigation and monitoring plan to determine if the project may have a significant impact on the environment.
9. Prepare as appropriate a CEQA Negative Declaration, Mitigated Negative Declaration,

and Notice of Determination.

10. Prepare as appropriate a separate or joint CEQA Draft Environmental Impact Report (DEIR)/Final Environmental Impact Report (FEIR) and/or NEPA Draft Environmental Impact Statement (DEIS)/Final Environmental Impact Statement (FEIS) including, but not limited to technical appendices, exhibits, finding of any significance, mitigation, and monitoring plan to avoid or reduce potentially significant adverse impacts.
11. Prepare written responses to comments received during the CEQA and/or NEPA process.
12. Make presentations as needed to the public, government agencies, or others related to project review and its associated environmental documents.
13. Participate in public hearings and meetings as necessary.
14. Provide technical assistance and participate in permit negotiation as needed for the District to secure all necessary regulatory permits (e.g. FESA/CESA Incidental Take Permit, Department of Fish and Game Consistency Determination, Section 404 Individual/Nationwide Permit, 401 Water Quality Certification, 1602 Streambed Alteration Agreement, Waste Discharge Requirements, etc.) for flood control projects.
15. Conduct protocol level pre-construction biological surveys and provide written reports summarizing survey results.
16. Provide biological monitoring and reporting services.
17. Provide cultural and/or paleontological resources monitoring and reporting services.
18. Prepare a MSHCP/HCP consistency assessment that demonstrates project compliance with all applicable provisions of the appropriate habitat conservation plans (i.e. Western Riverside County MSHCP, Coachella Valley MSHCP and Tribal HCP).
19. Provide Hazardous Materials report to determine the presence/absence of any hazardous materials in accordance with the California Government Code Section 65962.5.
20. Provide a Determination of Biological Equivalent or Superior Preservation (DBESP) report in accordance with Section 6.1.2 of the Western Riverside County MSHCP for impacts to Riparian/Riverine Area/Vernal Pools which would be submitted for review to the U.S. Fish and Wildlife Service and the California Department of Fish and Game.

ATTACHMENT "B"

TASK ORDER APPROVAL FORM

CONSULTANT: _____

PROJECT NAME: _____

The Scope of Services for _____, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference, shall constitute an approved Task Order pursuant to the Agreement between the DISTRICT and CONSULTANT dated _____ ("AGREEMENT"). CONSULTANT agrees to perform the services described in Exhibit "A" within the time set forth in the Project Schedule as described in Exhibit "B" attached hereto and incorporated herein, for a fee amount of \$_____, unless otherwise modified by the DISTRICT'S Project Manager in a subsequent Task Order Approval Form. All charges shall be consistent with the Compensation/Fee Rate Schedule which is attached as Exhibit "C" and incorporated herein by this reference.

Performance of the services shall be subject to the terms and conditions contained in the AGREEMENT.

Dated this _____ day of _____
(To be filled in by General Manager-Chief Engineer)

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

By: _____
WARREN D. WILLIAMS
General Manager-Chief Engineer

CONSULTANT

By: _____
Printed Name and Title

ATTACHMENT "C"

List of Sub-Consultants

- Glenn Lukos Associates
- AMEC
- CRM Tech
- CHJ, Inc.

CONSULTING SERVICES AGREEMENT

1
2 RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION
3 DISTRICT, hereinafter called "DISTRICT", and DUDEK, hereinafter called "CONSULTANT",
4 hereby agree as follows:

5 1. PROJECT

6 CONSULTANT shall provide on-call environmental and regulatory support services in
7 accordance with applicable federal, state, and local laws and regulations as requested by
8 DISTRICT.

9
10 2. SCOPE OF SERVICES

11 As requested by DISTRICT, CONSULTANT shall provide Project Specific
12 Environmental/Regulatory Professional Services as described on Attachment "A" for
13 DISTRICT projects on an "on-call" basis. During the term of this Agreement, the
14 CONSULTANT may be invited to submit proposals for some of the various services
15 listed in Attachment "A" as requested by DISTRICT and be assigned subsequent Task
16 Orders, the form of which is Attachment "B" hereto. CONSULTANT understands and
17 expressly agrees that the execution of this Agreement by CONSULTANT and/or the
18 submission of any proposal to furnish services does not guarantee the assignment or
19 approval of any subsequent Task Order(s).
20

21 3. PERSONNEL22 A. Project Manager

23 For each Task Order, the DISTRICT shall designate a representative who shall
24 act as the DISTRICT'S Project Manager ("Project Manager"). The Project
25 Manager shall have authority to act on behalf of DISTRICT for all purposes
26 under this Task Order. DISTRICT shall provide written notice to
27
28

1 CONSULTANT of any change in Project Manager assignment for a given Task
2 Order.

3 B. CONSULTANT'S Representative

4 CONSULTANT shall appoint a designated Representative for each assigned
5 Task Order who shall be responsible for coordinating all aspects of the assigned
6 Task Order. CONSULTANT'S Representative shall be available to DISTRICT'S
7 Project Manager at reasonable times. CONSULTANT may appoint another
8 person as Representative upon written notice to DISTRICT.

9 C. Substitution of Key Personnel

10 At the time of Task Order approval, CONSULTANT shall identify its Key
11 Personnel who will perform each assigned Task Order to the DISTRICT'S
12 Project Manager. Should one or more of the identified Key Personnel become
13 unavailable, CONSULTANT may substitute other personnel of equal or greater
14 competence upon written approval by DISTRICT. In the event that DISTRICT
15 and CONSULTANT cannot agree as to the substitution of the Key Personnel,
16 DISTRICT may terminate the Task Order, pursuant to the applicable provisions
17 of this Agreement.
18
19

20 4. TERM

21 The term of this Agreement shall become effective on the date the Agreement is
22 executed by DISTRICT'S Board of Supervisors, and shall remain in effect through the
23 later of:

- 24 A. Three (3) years from the date of the Board of Supervisors approval; or
25 B. The required date for completion of an assigned Task Order, provided that such
26 Task Order was approved prior to expiration date stipulated in 4.A., above.
27
28

1 5. COMPENSATION

2 CONSULTANT shall receive compensation for all services satisfactorily performed
3 under this Agreement in accordance with the terms of the approved Task Order(s). The
4 total amount to be paid to CONSULTANT for the performance of all Task Orders
5 approved pursuant to this Agreement shall not exceed seven hundred fifty thousand
6 dollars (\$750,000), or two hundred fifty thousand dollars (\$250,000) in a single fiscal
7 year.

8 6. PAYMENTS

9 Progress payments shall be made in accordance with the Compensation/Fee Rate
10 Schedule attached to the approved Task Order. Progress payments shall be processed no
11 more than once per month. Upon satisfactory performance of CONSULTANT'S
12 services pursuant to an approved Task Order, DISTRICT shall pay CONSULTANT
13 within forty-five (45) days after DISTRICT'S receipt of CONSULTANT'S appropriate
14 invoices. CONSULTANT shall keep employee and expense records according to
15 customary accounting methods and such records shall, upon request, be available for
16 inspection by DISTRICT to verify the invoices of CONSULTANT. All invoices shall
17 itemize charges to conform to the Compensation/Fee Rate Schedule negotiated for the
18 task order. DISTRICT shall notify CONSULTANT of any disputed amounts on invoice
19 within thirty (30) days of receipt.
20
21

22 7. PROJECT PERFORMANCE

23 A. Commencement of Services

24 CONSULTANT shall commence performance of the services for each Task
25 Order upon receipt of the DISTRICT'S approved Task Order.
26
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1 B. Time of Completion

2 Time is of the essence in the performance of this Agreement. CONSULTANT
3 shall complete services in accordance with the schedule(s) set forth in the
4 approved Task Order(s).

- 5 8. LICENSES – CONSULTANT, its employees, agents, contractors and subcontractors
6 shall possess appropriate federal and/or state permits and maintain professional licenses
7 required by the applicable Federal, State and local regulations at all times while
8 performing services under this Agreement.

9 9. STANDARD OF CARE

10 While performing the services, CONSULTANT shall exercise the reasonable
11 professional care and skill customarily exercised by reputable members of
12 CONSULTANT'S profession practicing in the State of California, and shall use
13 reasonable diligence and best judgment while exercising CONSULTANT'S professional
14 skill and expertise. By executing this Agreement, CONSULTANT represents and
15 maintains that CONSULTANT has the necessary experience and expertise to skillfully
16 perform all services, duties and obligations required by this Agreement and to fully and
17 adequately complete each approved Task Order.

18 10. ERRORS AND OMISSIONS

19 In the event CONSULTANT'S reports or work products contain any errors or omissions
20 that cause the DISTRICT to incur additional expense beyond what would have otherwise
21 resulted if there were no errors or omissions in CONSULTANT'S reports or work
22 products, such additional expense shall be borne solely by CONSULTANT.
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11. PERMITS AND RIGHTS OF ENTRY

DISTRICT shall obtain all rights of entry as may be required to allow CONSULTANT to perform the proposed consulting services within and upon privately-owned property. All permits and rights of entry as may be required from any and all affected public entities shall be obtained by CONSULTANT. Sufficient evidence of having obtained such permits and/or rights of entry shall be furnished to DISTRICT by CONSULTANT, prior to initiation of work. CONSULTANT will prosecute the work in such a manner as to minimize public inconvenience and possible hazard, and will restore the streets and other work areas to their original condition and former usefulness as soon as practicable. CONSULTANT shall be responsible for the protection of public and private property adjacent to the work and shall exercise due caution to avoid damage to such property.

12. NOTICES

Any and all notices sent or required to be sent to the parties of this Agreement will be mailed by first class mail, postage prepaid, to the following addresses:

RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT 1995 Market Street Riverside, CA 92501 Attn: Regulatory/ERS	DUDEK 1650 Spruce Street Riverside, CA 92507 Attn: Stephanie Standerfer
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13. REQUIRED INSURANCE

Without limiting or diminishing the CONSULTANT'S obligation to indemnify or hold DISTRICT harmless, CONSULTANT shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverages during the term of this Agreement:

1 A. Workers' Compensation

2 If CONSULTANT has employees as defined by the State of California,
3 CONSULTANT shall maintain Workers' Compensation Insurance (Coverage A)
4 as prescribed by the laws of the State of California. Policy shall include
5 Employer's Liability (Coverage B) including Occupational Disease with limits
6 not less than \$1,000,000 per person per accident. Policy shall be endorsed to
7 waive subrogation in favor of DISTRICT and, if applicable, to provide a
8 Borrowed Servant/Alternate Employer endorsement.
9

10 B. Commercial General Liability

11 Commercial General Liability insurance coverage, including but not limited to,
12 premises liability, contractual liability, completed operations, personal and
13 advertising injury covering claims which may arise from or out of
14 CONSULTANT'S performance of its obligations hereunder. Policy shall name
15 Riverside County Flood Control and Water Conservation District, the County of
16 Riverside, special districts, their respective directors, officers, Board of
17 Supervisors, elected officials, employees, agents or representatives as additional
18 insureds. Policy's limit of liability shall not be less than \$1,000,000 per
19 occurrence combined single limit. If such insurance contains a general aggregate
20 limit, it shall apply separately to this Agreement or be no less than two (2) times
21 the occurrence limit.
22

23 C. Vehicle Liability

24 If vehicles or mobile equipment are used in the performance of the obligations
25 under this Agreement, CONSULTANT shall maintain liability insurance for all
26 owned, non-owned or hired vehicles in an amount not less than \$1,000,000 per
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1 occurrence combined single limit. If such insurance contains a general aggregate
2 limit, it shall apply separately to this Agreement or be no less than two (2) times
3 the occurrence limit. If CONSULTANT does not own vehicles, CONSULTANT
4 shall maintain coverage for non-owned or hired vehicles in an amount not less
5 than \$1,000,000 per occurrence combined single limit. Such non-owned or hired
6 coverage may be included on the Commercial General Liability policy. Policy
7 shall name Riverside County Flood Control and Water Conservation District, the
8 County of Riverside, special districts, their respective directors, officers, Board
9 of Supervisors, elected officials, employees, agents or representatives as
10 additional insureds.
11

12 D. Professional Liability

13 CONSULTANT shall maintain Professional Liability Insurance providing
14 coverage for CONSULTANT'S performance of work included within this
15 Agreement, with a limit of liability of not less than \$1,000,000 per occurrence
16 and \$2,000,000 annual aggregate. If CONSULTANT'S Professional Liability
17 Insurance is written on a claims made basis rather than an occurrence basis, such
18 insurance shall continue through the term of this Agreement and CONSULTANT
19 shall purchase at his sole expense either: 1) an Extended Reporting Endorsement
20 (also known as Tail Coverage); or 2) Prior Dates Coverage from a new insurer
21 with a date retroactive to the date of, or prior to, the inception of this Agreement;
22 or 3) demonstrate through Certificates of Insurance that CONSULTANT has
23 maintained continuous coverage with the same or original insurer. Coverage
24 provided under items: 1), 2) or 3) will continue as long as the law allows.
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E. General Insurance Provisions – All Lines

1. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A.M. BEST rating of not less than an A: VIII (A: 8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for the specific insurer and only for one policy term.
2. CONSULTANT'S insurance carrier(s) must declare its insurance deductibles or self-insured retentions. If such deductibles or self-insured retentions exceed \$500,000 per occurrence such deductibles and/or retentions shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of deductibles or self-insured retentions which are deemed unacceptable to the DISTRICT, at the election of the County's Risk Manager, CONSULTANT'S carriers shall either: 1) reduce or eliminate such deductibles or self-insured retentions with respect to this Agreement with DISTRICT, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, defense costs and expenses.
3. CONSULTANT shall cause their insurance carrier(s) to furnish DISTRICT with: 1) a properly executed original certificate(s) of insurance and original certified copies of endorsements effecting coverage as required herein; or 2) if requested to do so orally or in writing by the County Risk Manager, provide original certified copies of policies

1 including all endorsements and all attachments thereto, showing such
2 insurance is in full force and effect. Further, said certificate(s) and
3 policies of insurance shall contain the covenant that the insurance
4 carrier(s) shall provide no less than thirty (30) days written notice be
5 given to DISTRICT prior to any material modification or cancellation of
6 such insurance. In the event of a material modification or cancellation of
7 coverage, this Agreement shall terminate forthwith, unless DISTRICT
8 receives, prior to such effective date, another properly executed original
9 certificate of insurance and original copies of endorsements or original
10 certified policies, including all endorsements and attachments thereto,
11 evidencing coverages and the insurance required herein is in full force
12 and effect. Individual(s) authorized by the insurance carrier to do so on
13 its behalf shall sign the original endorsements for each policy and the
14 certificate of insurance.

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16
17 CONSULTANT shall not commence operations until DISTRICT has
18 been furnished with original certificate(s) of insurance and original
19 certified copies of endorsements or policies of insurance including all
20 endorsements and any and all other attachments as required in this
21 Section.

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23 4. It is understood and agreed by the parties hereto and the
24 CONSULTANT'S insurance company(s), that the certificate(s) of
25 insurance and policies shall so covenant and shall be construed as primary
26 insurance, and the DISTRICT'S insurance and/or deductibles and/or self-

insured retentions or self-insured programs shall not be construed as contributory.

5. If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or there is a material change in the equipment to be used in the performance of the scope of work which will add additional exposures (such as the use of aircraft, watercraft, cranes, etc.); or the term of this Agreement, including any extensions thereof, exceeds five (5) years, the County reserves the right to adjust the types of insurance required under this Agreement and the monetary limits of liability for the insurance coverage's currently required herein, if, in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONSULTANT has become inadequate.

6. CONSULTANT shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.

7. The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to DISTRICT.

8. CONSULTANT agrees to notify DISTRICT of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

14. INDEMNIFICATION

CONSULTANT shall indemnify and hold harmless DISTRICT (including its directors, 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

1 its officers, employees, subcontractors and agents) actual or alleged negligent, reckless
2 or willful misconduct acts or omissions related to this Agreement, performance under
3 this Agreement, or failure to comply with the requirements of this Agreement, including
4 but not limited to: (a) property damage; (b) bodily injury or death; or (c) any other
5 element of any kind or nature whatsoever.

6 CONSULTANT shall defend, at its sole expense, including all costs and fees (including
7 but not limited to attorney fees, cost of investigation, defense and settlements or awards),
8 DISTRICT (including its directors, officers, Board of Supervisors, elected and appointed
9 officials, employees, agents and representatives) in any claim, proceeding or action for
10 which indemnification is required.
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12 With respect to any of CONSULTANT'S indemnification requirements,
13 CONSULTANT shall, at its sole cost, have the right to use counsel of their own choice
14 and shall have the right to adjust, settle, or compromise any such claim, proceeding or
15 action without the prior consent of DISTRICT; provided, however, that such adjustment,
16 settlement or compromise in no manner whatsoever limits or circumscribes
17 CONSULTANT'S indemnification obligations to DISTRICT.
18

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

22 The specified insurance limits required in this Agreement shall in no way limit or
23 circumscribe CONSULTANT'S obligations to indemnify and hold harmless DISTRICT
24 from third party claims.
25

26 In the event there is conflict between this section and California Civil Code Section
27 2782, this section shall be interpreted to comply with Civil Code 2782. Such
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1 interpretation shall not relieve the CONSULTANT from indemnifying DISTRICT
2 (including its directors, officers, Board of Supervisors, elected and appointed officials,
3 employees, agents and representatives) or the County of Riverside to the fullest extent
4 allowed by law.

5 15. WORK PRODUCT

6 CONSULTANT shall provide all report(s) as set forth in the approved Task Order(s).
7 All drawings, logs and reports shall be and remain the sole property of DISTRICT.
8 CONSULTANT shall not publish or transfer any material produced or resulting from
9 activities supported by this Agreement without the written consent of the General
10 Manager-Chief Engineer of DISTRICT. If any such material is subject to copyright or
11 trademark, the parties agree that the right to any and all copyright and/or trademark in
12 and to the material is expressly reserved to DISTRICT. If any such material is
13 copyrighted, the parties hereto understand and agree that DISTRICT reserves a royalty-
14 free, non-exclusive, and irrevocable license to reproduce, publish, and use such material,
15 in whole or in part, and to authorize others to do so, provided written credit is given the
16 author.
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19 16. TERMINATION

20 At any time during the term of this Agreement, DISTRICT may:

21 A. Agreement

- 22 1) Terminate this Agreement without cause upon providing CONSULTANT
- 23 thirty (30) days written notice stating the extent and effective date of
- 24 termination; or
- 25
- 26 2) Upon five (5) days written notice, terminate this Agreement for
- 27 CONSULTANT default, if CONSULTANT refuses or fails to comply
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1 with the provisions of this Agreement or fails to make progress so as to
2 endanger performance and does not cure such failure within a reasonable
3 period of time. In the event of such termination, the DISTRICT may
4 proceed with the work in a manner deemed proper to DISTRICT.

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

12 In the event DISTRICT terminates this Agreement, DISTRICT shall make
13 payment for all services performed in accordance with this Agreement to the date
14 of termination, a total amount which bears the same ratio to the total maximum
15 fee otherwise payable under this Agreement as the services actually bear to the
16 total services necessary for performance of this Agreement. Notwithstanding any
17 of the other provision of this Agreement, CONSULTANT rights under this
18 Agreement shall terminate (except for fees accrued prior to the date of
19 termination) upon dishonesty, or a willful or material breach of this Agreement
20 by CONSULTANT; or in the event of CONSULTANT'S unwillingness or
21 inability for any reason whatsoever to perform the duties hereunder; or if the
22 Agreement is terminated pursuant to Section 26 (NON-DISCRIMINATION). In
23 such event, CONSULTANT shall not be entitled to any further compensation
24 under this Agreement. The rights and remedies of DISTRICT provided in this
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1 section shall not be exclusive and are in addition to any other rights and remedies
2 provided by law or under this Agreement.

3 B. Approved Task Order

4 Terminate an approved Task Order or portion thereof without cause upon
5 providing CONSULTANT fourteen (14) days written notice stating the extent
6 and effective date of termination. In the event DISTRICT issues a Notice of
7 Termination for an approved Task Order, CONSULTANT shall: i) stop all work
8 under the Task Order 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
10 directed by DISTRICT, any equipment, data, reports or other documents which,
11 if the Task Order had been completed, would have been required to be furnished
12 to DISTRICT.
13

14 In the event DISTRICT terminates an approved Task Order, DISTRICT shall
15 make payment for all services satisfactorily performed in accordance with the
16 negotiated Task Order to the date of termination, a total amount which bears the
17 same ratio to the total maximum fee otherwise payable under the Task Order as
18 the services actually bear to the total services necessary for performance of the
19 Task Order.
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21 17. Basic Services of CONSULTANT

22 The scope of services associated with the performance of any specific Task Order under
23 this Agreement shall be expressly defined and agreed upon prior to the approval of the
24 Task Order by the Project Manager. Any changes to the approved scope of services must
25 be authorized by the Project Manager, and shall be made in writing.
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1 A. Right to Preliminary Review

2 All work prepared by CONSULTANT shall be subject to the approval of the
3 Project Manager. CONSULTANT shall allow Project Manager to inspect and
4 review CONSULTANT'S work in progress at any reasonable time. All reports,
5 working papers, and similar work products prepared for submission in the course
6 of providing services under this Agreement shall be submitted to the Project
7 Manager in draft form. In the event that Project Manager, in his or her sole
8 discretion, determines the formally submitted work product to be inadequate,
9 CONSULTANT may be required to revise and resubmit the work at no
10 additional cost to DISTRICT. Should CONSULTANT fail to make requested
11 corrections in a timely manner, such corrections may be made by DISTRICT,
12 and the cost thereof charged to CONSULTANT. The responsibility for accuracy
13 and completeness of such items remains solely that of CONSULTANT. Neither
14 DISTRICT'S review or approval shall give rise to any liability or responsibility
15 on the part of DISTRICT, or waive any of DISTRICT'S rights, or relieve
16 CONSULTANT of its professional responsibilities or obligations under this
17 Agreement.
18 Agreement.

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20 B. Progress Reports

21 Attached with CONSULTANT'S periodic invoice(s), CONSULTANT shall
22 submit a Progress Report indicating the project status in relation to the approved
23 Project Schedule and, as DISTRICT deems necessary, an updated Project
24 Schedule for review and approval. Failure to submit the Progress Report or
25 updated Project Schedule shall be cause for DISTRICT to withhold payment of
26 CONSULTANT'S invoice.
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18. 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 to be employees or agents of DISTRICT.

19. SUBCONTRACTING

A list of sub-consultants (Sub-consultants), as identified by the CONSULTANT, is attached hereto as Attachment "C". CONSULTANT may, at CONSULTANT'S own expense, retain or employ Sub-consultants from Attachment "C" to accomplish certain portions of the work covered by this Agreement.

Should one or more of the Sub-consultants, as identified in Attachment "C", become unavailable, CONSULTANT may substitute other sub-consultants of equal or greater competence upon written approval by DISTRICT. In the event that DISTRICT and CONSULTANT cannot agree as to the substitution of the sub-consultant, DISTRICT may terminate the Task Order, pursuant to the applicable provisions of this Agreement.

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

20. CHANGES TO TASK ORDER SCOPE OF SERVICES

CONSULTANT shall not perform any additional work or services outside the scope of an approved Task Order without the prior written approval of the Project Manager. If at

1 any time during the performance of an approved Task Order, CONSULTANT believes
2 that it is necessary to include certain work or services which are not clearly covered
3 under the scope of an approved Task Order, CONSULTANT shall immediately notify
4 the Project Manager in writing of CONSULTANT'S assertion that the work is out of
5 scope. Said notification by CONSULTANT to the Project Manager shall not in any way
6 be construed as proving that the work or services in question are outside the scope of the
7 Task Order. The Project Manager must approve or reject CONSULTANT'S assertion in
8 writing. In the event the Project Manager determines that CONSULTANT is correct, the
9 additional work or services shall be authorized by a new or revised Task Order that
10 covers the new scope, cost and schedule. In the event that such notification is not given
11 or if the Project Manager is not afforded an opportunity to negotiate the appropriate fee
12 for such additional services prior to CONSULTANT'S commencement of such
13 additional services, then CONSULTANT shall be deemed to have agreed to perform the
14 work or services without any additional compensation and to have accepted sole
15 responsibility for the performance of said work or services. Extra work done or services
16 performed without a new or revised Task Order from the Project Manager shall be
17 considered unauthorized and shall not be paid for by DISTRICT.

20 At any time during the performance of an approved Task Order, DISTRICT may request
21 that CONSULTANT perform extra services. Any work which is determined by
22 DISTRICT to be necessary for the proper completion of the approved Task Order, but
23 which neither CONSULTANT nor DISTRICT reasonably anticipated would be
24 necessary at the time the scope of services for the assigned Task Order was approved,
25 must be authorized by the Project Manager by a new or revised Task Order.

1 At any time during the performance of the Task Order, the Project Manager, upon
2 providing five (5) days written notice to the CONSULTANT, may delete services and
3 the associated fees from the Task Order. In the event DISTRICT requests deletion of
4 services from the Task Order, DISTRICT shall make payment for all services
5 satisfactorily performed in accordance with the negotiated Task Order up to the effective
6 date of deletion; the amount of the payment shall be prorated to the total services
7 necessary for completion of the Task Order. No work product for the deleted services
8 shall be provided to DISTRICT.

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10 21. DISPUTES

11 A. In the event CONSULTANT considers any work demanded of CONSULTANT
12 to be outside the requirements of this Agreement, or if CONSULTANT considers
13 any order, instruction or decision of DISTRICT to be unfair, CONSULTANT
14 shall promptly, upon receipt of such order, instruction or decision, ask for a
15 written confirmation of the same whereupon CONSULTANT shall proceed
16 without delay to perform the work or to conform to the order, instruction, or
17 decision. However, if CONSULTANT finds such order, instruction or decision
18 unsatisfactory, CONSULTANT shall, within twenty-one (21) calendar days after
19 receipt of same, file a written protest with DISTRICT stating clearly and in detail
20 its objections and reasons therefor. Except for such protests or objections as are
21 made of record in the manner specified and within the time stated herein, and
22 except for such instances where the basis of a protest could not reasonably have
23 been foreseen by CONSULTANT within the time limit specified for protest,
24 CONSULTANT hereby waives all grounds for protests or objections to orders,
25 instruction, or decisions of DISTRICT and hereby agrees that, as to all matters
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1 not included in such protests, the orders, instructions and decisions of DISTRICT
2 will be limited to matters properly falling within DISTRICT'S authority.

3 B. Any controversy or claim arising out of or relating to this Agreement which
4 cannot be resolved by mutual agreement may be settled by arbitration, provided
5 that the parties hereto mutually agree to submit to arbitration.

6 C. Neither the pendency of a dispute nor its consideration by arbitration shall excuse
7 CONSULTANT from full and timely performance in accordance with the terms
8 of this Agreement.
9

10 22. ASSIGNMENT

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

13 23. CONFLICT OF INTEREST

14 CONSULTANT covenants that it presently has no interest, including but not limited to,
15 other projects or independent contracts, and shall not acquire any such interest, direct or
16 indirect, which would conflict in any manner or degree with the performance of services
17 required to be performed under this Agreement. CONSULTANT further covenants that
18 in the performance of this Agreement, no person having any such interest shall be
19 employed or retained by it under this Agreement.
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21 24. JURISDICTION/LAW/SEVERABILITY

22 This Agreement is to be construed in accordance with the laws of the State of California.
23 If any provision of this Agreement is held by a court of competent jurisdiction to be
24 invalid, void or unenforceable, the remaining provisions shall be declared severable and
25 shall be given full force and effect to the extent possible.
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1 Any legal action, in law or equity related to the performance or interpretation of this
2 Agreement shall be filed only in the Superior Court for the State of California located in
3 Riverside, California, and the parties waive any provision of law providing for a change
4 of venue to another location. Prior to the filing of any legal action, the parties shall be
5 obligated to attend a mediation session with a neutral mediator to try to resolve the
6 dispute.

7 25. WAIVER

8 Any waiver by DISTRICT of any breach of any one or more of the terms of this
9 Agreement shall not be construed to be a waiver of any subsequent or other breach of the
10 same or any other term thereof. Failure on the part of DISTRICT to require exact, full
11 and complete compliance with any terms of this Agreement shall not be construed as in
12 any manner changing the terms hereof, or estopping DISTRICT from enforcement
13 hereof.
14

15 26. NON-DISCRIMINATION

16 In the performance of the terms of this Agreement, CONSULTANT shall not engage in
17 nor permit others he may employ to engage in discrimination in the employment of
18 persons because of the race, color, national origin or ancestry, religion, physical
19 handicap, disability as defined by the Americans with Disabilities Act (ADA), medical
20 condition, marital status or sex of such persons, in accordance with the provision of
21 California Labor Code Section 1735.
22

23 27. NON-APPROPRIATION OF FUNDS

24 It is mutually agreed and understood that the obligation(s) of DISTRICT are limited by
25 and contingent upon the availability of DISTRICT funds for the reimbursement of
26 CONSULTANT'S fees. In the event that such funds are not forthcoming for any reason,
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1 DISTRICT shall immediately notify CONSULTANT in writing. This Agreement shall
2 be deemed terminated and have no further force and effect immediately upon receipt of
3 DISTRICT'S notification by CONSULTANT. In the event of such termination,
4 CONSULTANT shall be entitled to reimbursement of its costs in accordance with
5 Section 5 (COMPENSATION).

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

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7/26/2011

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By: [Signature]
WARREN D. WILLIAMS
General Manager-Chief Engineer

By: [Signature]
MARION ASHLEY, Chairman
Riverside County Flood Control and Water
Conservation District Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

By: [Signature] 6/30/11
MARSHA L. VICTOR
Principal Deputy County Counsel

By: [Signature]
Deputy

(SEAL)

DUDEK

By: [Signature] 7/6/11
FRANK DUDEK
President

(NOTARY)

SEE ATTACHED ACKNOWLEDGMENT
DATED 7/16/11

Agreement for Consulting Services
Project Specific
06/22/11
SEM:mcv:blj

ATTACHMENT "A"

SCOPE OF SERVICES

CONSULTANT may be asked to perform one or more of the following types of services as specifically directed in Task Orders issued to CONSULTANT:

1. Prepare a Cultural Resources Report that addresses all potential issues related to archaeological, traditional and built environment resources in accordance with applicable Federal, State and local laws and regulations regarding cultural resources in the environmental review and/or regulatory permitting process including, but not limited to Section 106 of the National Historic Preservation Act.
2. Prepare a Paleontological Resources assessment that addresses all potential issues related to paleontological resources in accordance with applicable Federal, State and local laws and regulations in the environmental review and/or regulatory permitting process.
3. Prepare a Biological Resources Assessment that addresses all potential biological issues and concerns for the project area, including, but not limited to:
 - Reconnaissance surveys, habitat assessments, and focused surveys for sensitive or listed plant and wildlife species.
 - Federal and State Jurisdictional Area Delineation.
 - Designated Critical Habitat Areas with Federal Endangered Species Act (FESA).
 - Applicable Habitat Conservation Plans consistency assessment (i.e. Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), Coachella Valley MSHCP and Tribal Habitat Conservation Plan (HCP)).
4. Prepare a Jurisdictional Area Delineation Report and Impact Analysis, including significant nexus evaluation, that addresses all potential issues related to "Waters of the U.S." and wetlands (Clean Water Act), "Waters of the State" and wetlands (Porter-Cologne Water Quality Control Act), and areas under the jurisdiction of the California Department of Fish and Game Code (Section 1600 et seq.).
5. Prepare a native Habitat Mitigation and Monitoring Plan (HMMP).
6. Implement a HMMP.
7. Prepare a Preliminary Environmental Assessment Report (PEAR) for proposed District projects. The PEAR identifies potential environmental concerns (biological, cultural, historical, paleontological, jurisdictional, geological, or regulatory permitting, etc.) that could pose significant hurdles to a project based on preliminary design data. A PEAR may be needed at the early stage of a project to ensure that project alternatives (e.g., types of facility, facility size, alignment, etc.) are fully evaluated by the District.
8. Prepare as appropriate a separate or joint California Environmental Quality Act (CEQA) Initial Study and/or National Environmental Policy Act (NEPA) Environmental Assessment, if applicable, including but not limited to technical appendices, exhibits, and mitigation and monitoring plan to determine if the project may have a significant impact on the environment.
9. Prepare as appropriate a CEQA Negative Declaration, Mitigated Negative Declaration,

and Notice of Determination.

10. Prepare as appropriate a separate or joint CEQA Draft Environmental Impact Report (DEIR)/Final Environmental Impact Report (FEIR) and/or NEPA Draft Environmental Impact Statement (DEIS)/Final Environmental Impact Statement (FEIS) including, but not limited to technical appendices, exhibits, finding of any significance, mitigation, and monitoring plan to avoid or reduce potentially significant adverse impacts.
11. Prepare written responses to comments received during the CEQA and/or NEPA process.
12. Make presentations as needed to the public, government agencies, or others related to project review and its associated environmental documents.
13. Participate in public hearings and meetings as necessary.
14. Provide technical assistance and participate in permit negotiation as needed for the District to secure all necessary regulatory permits (e.g. FESA/CESA Incidental Take Permit, Department of Fish and Game Consistency Determination, Section 404 Individual/Nationwide Permit, 401 Water Quality Certification, 1602 Streambed Alteration Agreement, Waste Discharge Requirements, etc.) for flood control projects.
15. Conduct protocol level pre-construction biological surveys and provide written reports summarizing survey results.
16. Provide biological monitoring and reporting services.
17. Provide cultural and/or paleontological resources monitoring and reporting services.
18. Prepare a MSHCP/HCP consistency assessment that demonstrates project compliance with all applicable provisions of the appropriate habitat conservation plans (i.e. Western Riverside County MSHCP, Coachella Valley MSHCP and Tribal HCP).
19. Provide Hazardous Materials report to determine the presence/absence of any hazardous materials in accordance with the California Government Code Section 65962.5.
20. Provide a Determination of Biological Equivalent or Superior Preservation (DBESP) report in accordance with Section 6.1.2 of the Western Riverside County MSHCP for impacts to Riparian/Riverine Area/Vernal Pools which would be submitted for review to the U.S. Fish and Wildlife Service and the California Department of Fish and Game.

ATTACHMENT "B"

TASK ORDER APPROVAL FORM

CONSULTANT: _____

PROJECT NAME: _____

The Scope of Services for _____, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference, shall constitute an approved Task Order pursuant to the Agreement between the DISTRICT and CONSULTANT dated _____ ("AGREEMENT"). CONSULTANT agrees to perform the services described in Exhibit "A" within the time set forth in the Project Schedule as described in Exhibit "B" attached hereto and incorporated herein, for a fee amount of \$_____, unless otherwise modified by the DISTRICT'S Project Manager in a subsequent Task Order Approval Form. All charges shall be consistent with the Compensation/Fee Rate Schedule which is attached as Exhibit "C" and incorporated herein by this reference.

Performance of the services shall be subject to the terms and conditions contained in the AGREEMENT.

Dated this _____ day of _____
(To be filled in by General Manager-Chief Engineer)

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

By: _____
WARREN D. WILLIAMS
General Manager-Chief Engineer

CONSULTANT

By: _____
Printed Name and Title

ATTACHMENT "C"

List of Sub-Consultants

- Paleo Solutions
- JM Research and Consulting

CONSULTING SERVICES AGREEMENT

1 RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION
2 DISTRICT, hereinafter called "DISTRICT", and HELIX ENVIRONMENTAL PLANNING,
3 INC., hereinafter called "CONSULTANT", hereby agree as follows:
4

5 1. PROJECT

6 CONSULTANT shall provide on-call environmental and regulatory support services in
7 accordance with applicable federal, state, and local laws and regulations as requested by
8 DISTRICT.
9

10 2. SCOPE OF SERVICES

11 As requested by DISTRICT, CONSULTANT shall provide Project Specific
12 Environmental/Regulatory Professional Services as described on Attachment "A" for
13 DISTRICT projects on an "on-call" basis. During the term of this Agreement, the
14 CONSULTANT may be invited to submit proposals for some of the various services
15 listed in Attachment "A" as requested by DISTRICT and be assigned subsequent Task
16 Orders, the form of which is Attachment "B" hereto. CONSULTANT understands and
17 expressly agrees that the execution of this Agreement by CONSULTANT and/or the
18 submission of any proposal to furnish services does not guarantee the assignment or
19 approval of any subsequent Task Order(s).
20

21 3. PERSONNEL22 A. Project Manager

23 For each Task Order, the DISTRICT shall designate a representative who shall
24 act as the DISTRICT'S Project Manager ("Project Manager"). The Project
25 Manager shall have authority to act on behalf of DISTRICT for all purposes
26 under this Task Order. DISTRICT shall provide written notice to
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1 CONSULTANT of any change in Project Manager assignment for a given Task
2 Order.

3 B. CONSULTANT'S Representative

4 CONSULTANT shall appoint a designated Representative for each assigned
5 Task Order who shall be responsible for coordinating all aspects of the assigned
6 Task Order. CONSULTANT'S Representative shall be available to DISTRICT'S
7 Project Manager at reasonable times. CONSULTANT may appoint another
8 person as Representative upon written notice to DISTRICT.

9 C. Substitution of Key Personnel

10 At the time of Task Order approval, CONSULTANT shall identify its Key
11 Personnel who will perform each assigned Task Order to the DISTRICT'S
12 Project Manager. Should one or more of the identified Key Personnel become
13 unavailable, CONSULTANT may substitute other personnel of equal or greater
14 competence upon written approval by DISTRICT. In the event that DISTRICT
15 and CONSULTANT cannot agree as to the substitution of the Key Personnel,
16 DISTRICT may terminate the Task Order, pursuant to the applicable provisions
17 of this Agreement.
18

19
20 4. TERM

21 The term of this Agreement shall become effective on the date the Agreement is
22 executed by DISTRICT'S Board of Supervisors, and shall remain in effect through the
23 later of:

- 24 A. Three (3) years from the date of the Board of Supervisors approval; or
25 B. The required date for completion of an assigned Task Order, provided that such
26 Task Order was approved prior to expiration date stipulated in 4.A., above.
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1 5. COMPENSATION

2 CONSULTANT shall receive compensation for all services satisfactorily performed
3 under this Agreement in accordance with the terms of the approved Task Order(s). The
4 total amount to be paid to CONSULTANT for the performance of all Task Orders
5 approved pursuant to this Agreement shall not exceed seven hundred fifty thousand
6 dollars (\$750,000), or two hundred fifty thousand dollars (\$250,000) in a single fiscal
7 year.

8 6. PAYMENTS

9 Progress payments shall be made in accordance with the Compensation/Fee Rate
10 Schedule attached to the approved Task Order. Progress payments shall be processed no
11 more than once per month. Upon satisfactory performance of CONSULTANT'S
12 services pursuant to an approved Task Order, DISTRICT shall pay CONSULTANT
13 within forty-five (45) days after DISTRICT'S receipt of CONSULTANT'S appropriate
14 invoices. CONSULTANT shall keep employee and expense records according to
15 customary accounting methods and such records shall, upon request, be available for
16 inspection by DISTRICT to verify the invoices of CONSULTANT. All invoices shall
17 itemize charges to conform to the Compensation/Fee Rate Schedule negotiated for the
18 task order. DISTRICT shall notify CONSULTANT of any disputed amounts on invoice
19 within thirty (30) days of receipt.
20 within thirty (30) days of receipt.

21 7. PROJECT PERFORMANCE

22 A. Commencement of Services

23 CONSULTANT shall commence performance of the services for each Task
24 Order upon receipt of the DISTRICT'S approved Task Order.
25 Order upon receipt of the DISTRICT'S approved Task Order.
26 Order upon receipt of the DISTRICT'S approved Task Order.
27 Order upon receipt of the DISTRICT'S approved Task Order.
28 Order upon receipt of the DISTRICT'S approved Task Order.

1 B. Time of Completion

2 Time is of the essence in the performance of this Agreement. CONSULTANT
3 shall complete services in accordance with the schedule(s) set forth in the
4 approved Task Order(s).

- 5 8. LICENSES – CONSULTANT, its employees, agents, contractors and subcontractors
6 shall possess appropriate federal and/or state permits and maintain professional licenses
7 required by the applicable Federal, State and local regulations at all times while
8 performing services under this Agreement.

9 9. STANDARD OF CARE

10 While performing the services, CONSULTANT shall exercise the reasonable
11 professional care and skill customarily exercised by reputable members of
12 CONSULTANT'S profession practicing in the State of California, and shall use
13 reasonable diligence and best judgment while exercising CONSULTANT'S professional
14 skill and expertise. By executing this Agreement, CONSULTANT represents and
15 maintains that CONSULTANT has the necessary experience and expertise to skillfully
16 perform all services, duties and obligations required by this Agreement and to fully and
17 adequately complete each approved Task Order.

18 10. ERRORS AND OMISSIONS

19 In the event CONSULTANT'S reports or work products contain any errors or omissions
20 that cause the DISTRICT to incur additional expense beyond what would have otherwise
21 resulted if there were no errors or omissions in CONSULTANT'S reports or work
22 products, such additional expense shall be borne solely by CONSULTANT.
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11. PERMITS AND RIGHTS OF ENTRY

1 DISTRICT shall obtain all rights of entry as may be required to allow CONSULTANT
 2 to perform the proposed consulting services within and upon privately-owned property.
 3 All permits and rights of entry as may be required from any and all affected public
 4 entities shall be obtained by CONSULTANT. Sufficient evidence of having obtained
 5 such permits and/or rights of entry shall be furnished to DISTRICT by CONSULTANT,
 6 prior to initiation of work. CONSULTANT will prosecute the work in such a manner as
 7 to minimize public inconvenience and possible hazard, and will restore the streets and
 8 other work areas to their original condition and former usefulness as soon as practicable.
 9 CONSULTANT shall be responsible for the protection of public and private property
 10 adjacent to the work and shall exercise due caution to avoid damage to such property.
 11

12. NOTICES

14 Any and all notices sent or required to be sent to the parties of this Agreement will be
 15 mailed by first class mail, postage prepaid, to the following addresses:

16 RIVERSIDE COUNTY FLOOD CONTROL
 17 AND WATER CONSERVATION DISTRICT
 18 1995 Market Street
 19 Riverside, CA 92501
 Attn: Regulatory/ERS

HELIX ENVIRONMENTAL
 PLANNING, INC.
 7578 El Cajon Boulevard, Suite 200
 La Mesa, CA 91942
 Attn: Greg Mason

20 13. REQUIRED INSURANCE

21 Without limiting or diminishing the CONSULTANT'S obligation to indemnify or hold
 22 DISTRICT harmless, CONSULTANT shall procure and maintain or cause to be
 23 maintained, at its sole cost and expense, the following insurance coverages during the
 24 term of this Agreement:
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A. Workers' Compensation

If CONSULTANT has employees as defined by the State of California, CONSULTANT shall maintain Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employer's Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. Policy shall be endorsed to waive subrogation in favor of DISTRICT and, if applicable, to provide a Borrowed Servant/Alternate Employer endorsement.

B. Commercial General Liability

Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, completed operations, personal and advertising injury covering claims which may arise from or out of CONSULTANT'S performance of its obligations hereunder. Policy shall name Riverside County Flood Control and Water Conservation District, the County of Riverside, special districts, their respective directors, officers, Board of Supervisors, elected officials, employees, agents or representatives as additional insureds. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the occurrence limit.

C. Vehicle Liability

If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, CONSULTANT shall maintain liability insurance for all owned, non-owned or hired vehicles in an amount not less than \$1,000,000 per

1 occurrence combined single limit. If such insurance contains a general aggregate
2 limit, it shall apply separately to this Agreement or be no less than two (2) times
3 the occurrence limit. If CONSULTANT does not own vehicles, CONSULTANT
4 shall maintain coverage for non-owned or hired vehicles in an amount not less
5 than \$1,000,000 per occurrence combined single limit. Such non-owned or hired
6 coverage may be included on the Commercial General Liability policy. Policy
7 shall name Riverside County Flood Control and Water Conservation District, the
8 County of Riverside, special districts, their respective directors, officers, Board
9 of Supervisors, elected officials, employees, agents or representatives as
10 additional insureds.
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12 D. Professional Liability

13 CONSULTANT shall maintain Professional Liability Insurance providing
14 coverage for CONSULTANT'S performance of work included within this
15 Agreement, with a limit of liability of not less than \$1,000,000 per occurrence
16 and \$2,000,000 annual aggregate. If CONSULTANT'S Professional Liability
17 Insurance is written on a claims made basis rather than an occurrence basis, such
18 insurance shall continue through the term of this Agreement and CONSULTANT
19 shall purchase at his sole expense either: 1) an Extended Reporting Endorsement
20 (also known as Tail Coverage); or 2) Prior Dates Coverage from a new insurer
21 with a date retroactive to the date of, or prior to, the inception of this Agreement;
22 or 3) demonstrate through Certificates of Insurance that CONSULTANT has
23 maintained continuous coverage with the same or original insurer. Coverage
24 provided under items: 1), 2) or 3) will continue as long as the law allows.
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E. General Insurance Provisions – All Lines

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1. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A.M. BEST rating of not less than an A: VIII (A: 8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for the specific insurer and only for one policy term.
 2. CONSULTANT'S insurance carrier(s) must declare its insurance deductibles or self-insured retentions. If such deductibles or self-insured retentions exceed \$500,000 per occurrence such deductibles and/or retentions shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of deductibles or self-insured retentions which are deemed unacceptable to the DISTRICT, at the election of the County's Risk Manager, CONSULTANT'S carriers shall either: 1) reduce or eliminate such deductibles or self-insured retentions with respect to this Agreement with DISTRICT, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, defense costs and expenses.
 3. CONSULTANT shall cause their insurance carrier(s) to furnish DISTRICT with: 1) a properly executed original certificate(s) of insurance and original certified copies of endorsements effecting coverage as required herein; or 2) if requested to do so orally or in writing by the County Risk Manager, provide original certified copies of policies

1 including all endorsements and all attachments thereto, showing such
2 insurance is in full force and effect. Further, said certificate(s) and
3 policies of insurance shall contain the covenant that the insurance
4 carrier(s) shall provide no less than thirty (30) days written notice be
5 given to DISTRICT prior to any material modification or cancellation of
6 such insurance. In the event of a material modification or cancellation of
7 coverage, this Agreement shall terminate forthwith, unless DISTRICT
8 receives, prior to such effective date, another properly executed original
9 certificate of insurance and original copies of endorsements or original
10 certified policies, including all endorsements and attachments thereto,
11 evidencing coverages and the insurance required herein is in full force
12 and effect. Individual(s) authorized by the insurance carrier to do so on
13 its behalf shall sign the original endorsements for each policy and the
14 certificate of insurance.

15
16 CONSULTANT shall not commence operations until DISTRICT has
17 been furnished with original certificate(s) of insurance and original
18 certified copies of endorsements or policies of insurance including all
19 endorsements and any and all other attachments as required in this
20 Section.

- 21
22 4. It is understood and agreed by the parties hereto and the
23 CONSULTANT'S insurance company(s), that the certificate(s) of
24 insurance and policies shall so covenant and shall be construed as primary
25 insurance, and the DISTRICT'S insurance and/or deductibles and/or self-
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insured retentions or self-insured programs shall not be construed as contributory.

5. If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or there is a material change in the equipment to be used in the performance of the scope of work which will add additional exposures (such as the use of aircraft, watercraft, cranes, etc.); or the term of this Agreement, including any extensions thereof, exceeds five (5) years, the County reserves the right to adjust the types of insurance required under this Agreement and the monetary limits of liability for the insurance coverage's currently required herein, if, in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONSULTANT has become inadequate.

6. CONSULTANT shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.

7. The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to DISTRICT.

8. CONSULTANT agrees to notify DISTRICT of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

14. INDEMNIFICATION

CONSULTANT shall indemnify and hold harmless DISTRICT (including its directors, 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

1 its officers, employees, subcontractors and agents) actual or alleged negligent, reckless
2 or willful misconduct acts or omissions related to this Agreement, performance under
3 this Agreement, or failure to comply with the requirements of this Agreement, including
4 but not limited to: (a) property damage; (b) bodily injury or death; or (c) any other
5 element of any kind or nature whatsoever.

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

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

17
18 CONSULTANT'S indemnification obligations shall be satisfied when CONSULTANT
19 has provided to DISTRICT the appropriate form of dismissal (or similar document)
20 relieving DISTRICT from any liability for the claim, proceeding or action involved.

21
22 The specified insurance limits required in this Agreement shall in no way limit or
23 circumscribe CONSULTANT'S obligations to indemnify and hold harmless DISTRICT
24 from third party claims.

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26 In the event there is conflict between this section and California Civil Code Section
27 2782, this section shall be interpreted to comply with Civil Code 2782. Such
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1 interpretation shall not relieve the CONSULTANT from indemnifying DISTRICT
2 (including its directors, officers, Board of Supervisors, elected and appointed officials,
3 employees, agents and representatives) or the County of Riverside to the fullest extent
4 allowed by law.

5 15. WORK PRODUCT

6 CONSULTANT shall provide all report(s) as set forth in the approved Task Order(s).
7 All drawings, logs and reports shall be and remain the sole property of DISTRICT.
8 CONSULTANT shall not publish or transfer any material produced or resulting from
9 activities supported by this Agreement without the written consent of the General
10 Manager-Chief Engineer of DISTRICT. If any such material is subject to copyright or
11 trademark, the parties agree that the right to any and all copyright and/or trademark in
12 and to the material is expressly reserved to DISTRICT. If any such material is
13 copyrighted, the parties hereto understand and agree that DISTRICT reserves a royalty-
14 free, non-exclusive, and irrevocable license to reproduce, publish, and use such material,
15 in whole or in part, and to authorize others to do so, provided written credit is given the
16 author.
17

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19 16. TERMINATION

20 At any time during the term of this Agreement, DISTRICT may:

21 A. Agreement

- 22 1) Terminate this Agreement without cause upon providing CONSULTANT
23 thirty (30) days written notice stating the extent and effective date of
24 termination; or
25
26 2) Upon five (5) days written notice, terminate this Agreement for
27 CONSULTANT default, if CONSULTANT refuses or fails to comply
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1 with the provisions of this Agreement or fails to make progress so as to
2 endanger performance and does not cure such failure within a reasonable
3 period of time. In the event of such termination, the DISTRICT may
4 proceed with the work in a manner deemed proper to DISTRICT.

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

12 In the event DISTRICT terminates this Agreement, DISTRICT shall make
13 payment for all services performed in accordance with this Agreement to the date
14 of termination, a total amount which bears the same ratio to the total maximum
15 fee otherwise payable under this Agreement as the services actually bear to the
16 total services necessary for performance of this Agreement. Notwithstanding any
17 of the other provision of this Agreement, CONSULTANT rights under this
18 Agreement shall terminate (except for fees accrued prior to the date of
19 termination) upon dishonesty, or a willful or material breach of this Agreement
20 by CONSULTANT; or in the event of CONSULTANT'S unwillingness or
21 inability for any reason whatsoever to perform the duties hereunder; or if the
22 Agreement is terminated pursuant to Section 26 (NON-DISCRIMINATION). In
23 such event, CONSULTANT shall not be entitled to any further compensation
24 under this Agreement. The rights and remedies of DISTRICT provided in this
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1 section shall not be exclusive and are in addition to any other rights and remedies
2 provided by law or under this Agreement.

3 B. Approved Task Order

4 Terminate an approved Task Order or portion thereof without cause upon
5 providing CONSULTANT fourteen (14) days written notice stating the extent
6 and effective date of termination. In the event DISTRICT issues a Notice of
7 Termination for an approved Task Order, CONSULTANT shall: i) stop all work
8 under the Task Order 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
10 directed by DISTRICT, any equipment, data, reports or other documents which,
11 if the Task Order had been completed, would have been required to be furnished
12 to DISTRICT.
13

14 In the event DISTRICT terminates an approved Task Order, DISTRICT shall
15 make payment for all services satisfactorily performed in accordance with the
16 negotiated Task Order to the date of termination, a total amount which bears the
17 same ratio to the total maximum fee otherwise payable under the Task Order as
18 the services actually bear to the total services necessary for performance of the
19 Task Order.
20

21 17. Basic Services of CONSULTANT

22 The scope of services associated with the performance of any specific Task Order under
23 this Agreement shall be expressly defined and agreed upon prior to the approval of the
24 Task Order by the Project Manager. Any changes to the approved scope of services must
25 be authorized by the Project Manager, and shall be made in writing.
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1 A. Right to Preliminary Review

2 All work prepared by CONSULTANT shall be subject to the approval of the
3 Project Manager. CONSULTANT shall allow Project Manager to inspect and
4 review CONSULTANT'S work in progress at any reasonable time. All reports,
5 working papers, and similar work products prepared for submission in the course
6 of providing services under this Agreement shall be submitted to the Project
7 Manager in draft form. In the event that Project Manager, in his or her sole
8 discretion, determines the formally submitted work product to be inadequate,
9 CONSULTANT may be required to revise and resubmit the work at no
10 additional cost to DISTRICT. Should CONSULTANT fail to make requested
11 corrections in a timely manner, such corrections may be made by DISTRICT,
12 and the cost thereof charged to CONSULTANT. The responsibility for accuracy
13 and completeness of such items remains solely that of CONSULTANT. Neither
14 DISTRICT'S review or approval shall give rise to any liability or responsibility
15 on the part of DISTRICT, or waive any of DISTRICT'S rights, or relieve
16 CONSULTANT of its professional responsibilities or obligations under this
17 Agreement.
18

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20 B. Progress Reports

21 Attached with CONSULTANT'S periodic invoice(s), CONSULTANT shall
22 submit a Progress Report indicating the project status in relation to the approved
23 Project Schedule and, as DISTRICT deems necessary, an updated Project
24 Schedule for review and approval. Failure to submit the Progress Report or
25 updated Project Schedule shall be cause for DISTRICT to withhold payment of
26 CONSULTANT'S invoice.
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18. INDEPENDENT CONTRACTOR

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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 to be employees or agents of DISTRICT.

19. SUBCONTRACTING

A list of sub-consultants (Sub-consultants), as identified by the CONSULTANT, is attached hereto as Attachment "C". CONSULTANT may, at CONSULTANT'S own expense, retain or employ Sub-consultants from Attachment "C" to accomplish certain portions of the work covered by this Agreement.

Should one or more of the Sub-consultants, as identified in Attachment "C", become unavailable, CONSULTANT may substitute other sub-consultants of equal or greater competence upon written approval by DISTRICT. In the event that DISTRICT and CONSULTANT cannot agree as to the substitution of the sub-consultant, DISTRICT may terminate the Task Order, pursuant to the applicable provisions of this Agreement.

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

20. CHANGES TO TASK ORDER SCOPE OF SERVICES

CONSULTANT shall not perform any additional work or services outside the scope of an approved Task Order without the prior written approval of the Project Manager. If at

1 any time during the performance of an approved Task Order, CONSULTANT believes
2 that it is necessary to include certain work or services which are not clearly covered
3 under the scope of an approved Task Order, CONSULTANT shall immediately notify
4 the Project Manager in writing of CONSULTANT'S assertion that the work is out of
5 scope. Said notification by CONSULTANT to the Project Manager shall not in any way
6 be construed as proving that the work or services in question are outside the scope of the
7 Task Order. The Project Manager must approve or reject CONSULTANT'S assertion in
8 writing. In the event the Project Manager determines that CONSULTANT is correct, the
9 additional work or services shall be authorized by a new or revised Task Order that
10 covers the new scope, cost and schedule. In the event that such notification is not given
11 or if the Project Manager is not afforded an opportunity to negotiate the appropriate fee
12 for such additional services prior to CONSULTANT'S commencement of such
13 additional services, then CONSULTANT shall be deemed to have agreed to perform the
14 work or services without any additional compensation and to have accepted sole
15 responsibility for the performance of said work or services. Extra work done or services
16 performed without a new or revised Task Order from the Project Manager shall be
17 considered unauthorized and shall not be paid for by DISTRICT.

20 At any time during the performance of an approved Task Order, DISTRICT may request
21 that CONSULTANT perform extra services. Any work which is determined by
22 DISTRICT to be necessary for the proper completion of the approved Task Order, but
23 which neither CONSULTANT nor DISTRICT reasonably anticipated would be
24 necessary at the time the scope of services for the assigned Task Order was approved,
25 must be authorized by the Project Manager by a new or revised Task Order.
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1 At any time during the performance of the Task Order, the Project Manager, upon
2 providing five (5) days written notice to the CONSULTANT, may delete services and
3 the associated fees from the Task Order. In the event DISTRICT requests deletion of
4 services from the Task Order, DISTRICT shall make payment for all services
5 satisfactorily performed in accordance with the negotiated Task Order up to the effective
6 date of deletion; the amount of the payment shall be prorated to the total services
7 necessary for completion of the Task Order. No work product for the deleted services
8 shall be provided to DISTRICT.
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10 21. DISPUTES

11 A. In the event CONSULTANT considers any work demanded of CONSULTANT
12 to be outside the requirements of this Agreement, or if CONSULTANT considers
13 any order, instruction or decision of DISTRICT to be unfair, CONSULTANT
14 shall promptly, upon receipt of such order, instruction or decision, ask for a
15 written confirmation of the same whereupon CONSULTANT shall proceed
16 without delay to perform the work or to conform to the order, instruction, or
17 decision. However, if CONSULTANT finds such order, instruction or decision
18 unsatisfactory, CONSULTANT shall, within twenty-one (21) calendar days after
19 receipt of same, file a written protest with DISTRICT stating clearly and in detail
20 its objections and reasons therefor. Except for such protests or objections as are
21 made of record in the manner specified and within the time stated herein, and
22 except for such instances where the basis of a protest could not reasonably have
23 been foreseen by CONSULTANT within the time limit specified for protest,
24 CONSULTANT hereby waives all grounds for protests or objections to orders,
25 instruction, or decisions of DISTRICT and hereby agrees that, as to all matters
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1 not included in such protests, the orders, instructions and decisions of DISTRICT
2 will be limited to matters properly falling within DISTRICT'S authority.

3 B. Any controversy or claim arising out of or relating to this Agreement which
4 cannot be resolved by mutual agreement may be settled by arbitration, provided
5 that the parties hereto mutually agree to submit to arbitration.

6
7 C. Neither the pendency of a dispute nor its consideration by arbitration shall excuse
8 CONSULTANT from full and timely performance in accordance with the terms
9 of this Agreement.

10 22. ASSIGNMENT

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

13 23. CONFLICT OF INTEREST

14 CONSULTANT covenants that it presently has no interest, including but not limited to,
15 other projects or independent contracts, and shall not acquire any such interest, direct or
16 indirect, which would conflict in any manner or degree with the performance of services
17 required to be performed under this Agreement. CONSULTANT further covenants that
18 in the performance of this Agreement, no person having any such interest shall be
19 employed or retained by it under this Agreement.
20

21 24. JURISDICTION/LAW/SEVERABILITY

22 This Agreement is to be construed in accordance with the laws of the State of California.
23 If any provision of this Agreement is held by a court of competent jurisdiction to be
24 invalid, void or unenforceable, the remaining provisions shall be declared severable and
25 shall be given full force and effect to the extent possible.
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1 Any legal action, in law or equity related to the performance or interpretation of this
2 Agreement shall be filed only in the Superior Court for the State of California located in
3 Riverside, California, and the parties waive any provision of law providing for a change
4 of venue to another location. Prior to the filing of any legal action, the parties shall be
5 obligated to attend a mediation session with a neutral mediator to try to resolve the
6 dispute.

7 25. WAIVER

8 Any waiver by DISTRICT of any breach of any one or more of the terms of this
9 Agreement shall not be construed to be a waiver of any subsequent or other breach of the
10 same or any other term thereof. Failure on the part of DISTRICT to require exact, full
11 and complete compliance with any terms of this Agreement shall not be construed as in
12 any manner changing the terms hereof, or estopping DISTRICT from enforcement
13 hereof.
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15 26. NON-DISCRIMINATION

16 In the performance of the terms of this Agreement, CONSULTANT shall not engage in
17 nor permit others he may employ to engage in discrimination in the employment of
18 persons because of the race, color, national origin or ancestry, religion, physical
19 handicap, disability as defined by the Americans with Disabilities Act (ADA), medical
20 condition, marital status or sex of such persons, in accordance with the provision of
21 California Labor Code Section 1735.
22

23 27. NON-APPROPRIATION OF FUNDS

24 It is mutually agreed and understood that the obligation(s) of DISTRICT are limited by
25 and contingent upon the availability of DISTRICT funds for the reimbursement of
26 CONSULTANT'S fees. In the event that such funds are not forthcoming for any reason,
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1 DISTRICT shall immediately notify CONSULTANT in writing. This Agreement shall
2 be deemed terminated and have no further force and effect immediately upon receipt of
3 DISTRICT'S notification by CONSULTANT. In the event of such termination,
4 CONSULTANT shall be entitled to reimbursement of its costs in accordance with
5 Section 5 (COMPENSATION).

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


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7/26/2011

(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

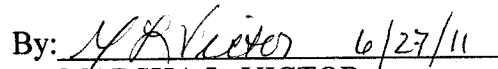
By: 
MARION ASHLEY, Chairman
Riverside County Flood Control and Water
Conservation District Board of Supervisors

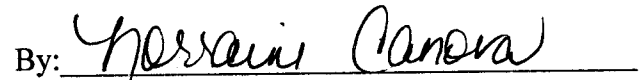
APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS
County Counsel

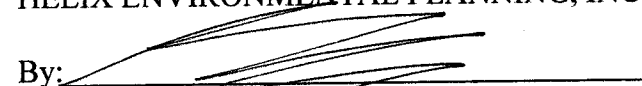
KECIA HARPER-IHEM
Clerk of the Board

By:  6/27/11
MARSHA L. VICTOR
Principal Deputy County Counsel

By: 
Deputy

(SEAL)

HELIX ENVIRONMENTAL PLANNING, INC.

By: 
GREG MASON
Vice President

Agreement for Consulting Services
Project Specific
06/22/11
SEM:blj

ATTACHMENT "A"

SCOPE OF SERVICES

CONSULTANT may be asked to perform one or more of the following types of services as specifically directed in Task Orders issued to CONSULTANT:

1. Prepare a Cultural Resources Report that addresses all potential issues related to archaeological, traditional and built environment resources in accordance with applicable Federal, State and local laws and regulations regarding cultural resources in the environmental review and/or regulatory permitting process including, but not limited to Section 106 of the National Historic Preservation Act.
2. Prepare a Paleontological Resources assessment that addresses all potential issues related to paleontological resources in accordance with applicable Federal, State and local laws and regulations in the environmental review and/or regulatory permitting process.
3. Prepare a Biological Resources Assessment that addresses all potential biological issues and concerns for the project area, including, but not limited to:
 - Reconnaissance surveys, habitat assessments, and focused surveys for sensitive or listed plant and wildlife species.
 - Federal and State Jurisdictional Area Delineation.
 - Designated Critical Habitat Areas with Federal Endangered Species Act (FESA).
 - Applicable Habitat Conservation Plans consistency assessment (i.e. Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), Coachella Valley MSHCP and Tribal Habitat Conservation Plan (HCP)).
4. Prepare a Jurisdictional Area Delineation Report and Impact Analysis, including significant nexus evaluation, that addresses all potential issues related to "Waters of the U.S." and wetlands (Clean Water Act), "Waters of the State" and wetlands (Porter-Cologne Water Quality Control Act), and areas under the jurisdiction of the California Department of Fish and Game Code (Section 1600 et seq.).
5. Prepare a native Habitat Mitigation and Monitoring Plan (HMMP).
6. Implement a HMMP.
7. Prepare a Preliminary Environmental Assessment Report (PEAR) for proposed District projects. The PEAR identifies potential environmental concerns (biological, cultural, historical, paleontological, jurisdictional, geological, or regulatory permitting, etc.) that could pose significant hurdles to a project based on preliminary design data. A PEAR may be needed at the early stage of a project to ensure that project alternatives (e.g., types of facility, facility size, alignment, etc.) are fully evaluated by the District.
8. Prepare as appropriate a separate or joint California Environmental Quality Act (CEQA) Initial Study and/or National Environmental Policy Act (NEPA) Environmental Assessment, if applicable, including but not limited to technical appendices, exhibits, and mitigation and monitoring plan to determine if the project may have a significant impact on the environment.
9. Prepare as appropriate a CEQA Negative Declaration, Mitigated Negative Declaration,

and Notice of Determination.

10. Prepare as appropriate a separate or joint CEQA Draft Environmental Impact Report (DEIR)/Final Environmental Impact Report (FEIR) and/or NEPA Draft Environmental Impact Statement (DEIS)/Final Environmental Impact Statement (FEIS) including, but not limited to technical appendices, exhibits, finding of any significance, mitigation, and monitoring plan to avoid or reduce potentially significant adverse impacts.
11. Prepare written responses to comments received during the CEQA and/or NEPA process.
12. Make presentations as needed to the public, government agencies, or others related to project review and its associated environmental documents.
13. Participate in public hearings and meetings as necessary.
14. Provide technical assistance and participate in permit negotiation as needed for the District to secure all necessary regulatory permits (e.g. FESA/CESA Incidental Take Permit, Department of Fish and Game Consistency Determination, Section 404 Individual/Nationwide Permit, 401 Water Quality Certification, 1602 Streambed Alteration Agreement, Waste Discharge Requirements, etc.) for flood control projects.
15. Conduct protocol level pre-construction biological surveys and provide written reports summarizing survey results.
16. Provide biological monitoring and reporting services.
17. Provide cultural and/or paleontological resources monitoring and reporting services.
18. Prepare a MSHCP/HCP consistency assessment that demonstrates project compliance with all applicable provisions of the appropriate habitat conservation plans (i.e. Western Riverside County MSHCP, Coachella Valley MSHCP and Tribal HCP).
19. Provide Hazardous Materials report to determine the presence/absence of any hazardous materials in accordance with the California Government Code Section 65962.5.
20. Provide a Determination of Biological Equivalent or Superior Preservation (DBESP) report in accordance with Section 6.1.2 of the Western Riverside County MSHCP for impacts to Riparian/Riverine Area/Vernal Pools which would be submitted for review to the U.S. Fish and Wildlife Service and the California Department of Fish and Game.

ATTACHMENT "B"

TASK ORDER APPROVAL FORM

CONSULTANT: _____

PROJECT NAME: _____

The Scope of Services for _____, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference, shall constitute an approved Task Order pursuant to the Agreement between the DISTRICT and CONSULTANT dated _____ ("AGREEMENT"). CONSULTANT agrees to perform the services described in Exhibit "A" within the time set forth in the Project Schedule as described in Exhibit "B" attached hereto and incorporated herein, for a fee amount of \$_____, unless otherwise modified by the DISTRICT'S Project Manager in a subsequent Task Order Approval Form. All charges shall be consistent with the Compensation/Fee Rate Schedule which is attached as Exhibit "C" and incorporated herein by this reference.

Performance of the services shall be subject to the terms and conditions contained in the AGREEMENT.

Dated this _____ day of _____
(To be filled in by General Manager-Chief Engineer)

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

By: _____
WARREN D. WILLIAMS
General Manager-Chief Engineer

CONSULTANT

By: _____
Printed Name and Title

ATTACHMENT "C"

List of Sub-Consultants

- Applied Earthworks
- Leighton Consulting

CONSULTING SERVICES AGREEMENT

1 RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION
2 DISTRICT, hereinafter called "DISTRICT", and TRC, hereinafter called "CONSULTANT",
3 hereby agree as follows:
4

5 1. PROJECT

6 CONSULTANT shall provide on-call environmental and regulatory support services in
7 accordance with applicable federal, state, and local laws and regulations as requested by
8 DISTRICT.

9 2. SCOPE OF SERVICES

10 As requested by DISTRICT, CONSULTANT shall provide Project Specific
11 Environmental/Regulatory Professional Services as described on Attachment "A" for
12 DISTRICT projects on an "on-call" basis. During the term of this Agreement, the
13 CONSULTANT may be invited to submit proposals for some of the various services
14 listed in Attachment "A" as requested by DISTRICT and be assigned subsequent Task
15 Orders, the form of which is Attachment "B" hereto. CONSULTANT understands and
16 expressly agrees that the execution of this Agreement by CONSULTANT and/or the
17 submission of any proposal to furnish services does not guarantee the assignment or
18 approval of any subsequent Task Order(s).
19

20 3. PERSONNEL

21 A. Project Manager

22 For each Task Order, the DISTRICT shall designate a representative who shall
23 act as the DISTRICT'S Project Manager ("Project Manager"). The Project
24 Manager shall have authority to act on behalf of DISTRICT for all purposes
25 under this Task Order. DISTRICT shall provide written notice to
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CONSULTANT of any change in Project Manager assignment for a given Task Order.

B. CONSULTANT'S Representative

CONSULTANT shall appoint a designated Representative for each assigned Task Order who shall be responsible for coordinating all aspects of the assigned Task Order. CONSULTANT'S Representative shall be available to DISTRICT'S Project Manager at reasonable times. CONSULTANT may appoint another person as Representative upon written notice to DISTRICT.

C. Substitution of Key Personnel

At the time of Task Order approval, CONSULTANT shall identify its Key Personnel who will perform each assigned Task Order to the DISTRICT'S Project Manager. Should one or more of the identified Key Personnel become unavailable, CONSULTANT may substitute other personnel of equal or greater competence upon written approval by DISTRICT. In the event that DISTRICT and CONSULTANT cannot agree as to the substitution of the Key Personnel, DISTRICT may terminate the Task Order, pursuant to the applicable provisions of this Agreement.

4. TERM

The term of this Agreement shall become effective on the date the Agreement is executed by DISTRICT'S Board of Supervisors, and shall remain in effect through the later of:

- A. Three (3) years from the date of the Board of Supervisors approval; or
- B. The required date for completion of an assigned Task Order, provided that such Task Order was approved prior to expiration date stipulated in 4.A., above.

5. COMPENSATION

1 CONSULTANT shall receive compensation for all services satisfactorily performed
2 under this Agreement in accordance with the terms of the approved Task Order(s). The
3 total amount to be paid to CONSULTANT for the performance of all Task Orders
4 approved pursuant to this Agreement shall not exceed seven hundred fifty thousand
5 dollars (\$750,000), or two hundred fifty thousand dollars (\$250,000) in a single fiscal
6 year.
7

8 6. PAYMENTS

9 Progress payments shall be made in accordance with the Compensation/Fee Rate
10 Schedule attached to the approved Task Order. Progress payments shall be processed no
11 more than once per month. Upon satisfactory performance of CONSULTANT'S
12 services pursuant to an approved Task Order, DISTRICT shall pay CONSULTANT
13 within forty-five (45) days after DISTRICT'S receipt of CONSULTANT'S appropriate
14 invoices. CONSULTANT shall keep employee and expense records according to
15 customary accounting methods and such records shall, upon request, be available for
16 inspection by DISTRICT to verify the invoices of CONSULTANT. All invoices shall
17 itemize charges to conform to the Compensation/Fee Rate Schedule negotiated for the
18 task order. DISTRICT shall notify CONSULTANT of any disputed amounts on invoice
19 within thirty (30) days of receipt.
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22 7. PROJECT PERFORMANCE

23 A. Commencement of Services

24 CONSULTANT shall commence performance of the services for each Task
25 Order upon receipt of the DISTRICT'S approved Task Order.
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B. Time of Completion

1 Time is of the essence in the performance of this Agreement. CONSULTANT
2 shall complete services in accordance with the schedule(s) set forth in the
3 approved Task Order(s).
4

- 5 8. LICENSES – CONSULTANT, its employees, agents, contractors and subcontractors
6 shall possess appropriate federal and/or state permits and maintain professional licenses
7 required by the applicable Federal, State and local regulations at all times while
8 performing services under this Agreement.

9 9. STANDARD OF CARE

10 While performing the services, CONSULTANT shall exercise the reasonable
11 professional care and skill customarily exercised by reputable members of
12 CONSULTANT'S profession practicing in the State of California, and shall use
13 reasonable diligence and best judgment while exercising CONSULTANT'S professional
14 skill and expertise. By executing this Agreement, CONSULTANT represents and
15 maintains that CONSULTANT has the necessary experience and expertise to skillfully
16 perform all services, duties and obligations required by this Agreement and to fully and
17 adequately complete each approved Task Order.
18

19 10. ERRORS AND OMISSIONS

20 In the event CONSULTANT'S reports or work products contain any errors or omissions
21 that cause the DISTRICT to incur additional expense beyond what would have otherwise
22 resulted if there were no errors or omissions in CONSULTANT'S reports or work
23 products, such additional expense shall be borne solely by CONSULTANT.
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11. PERMITS AND RIGHTS OF ENTRY

1 DISTRICT shall obtain all rights of entry as may be required to allow CONSULTANT
 2 to perform the proposed consulting services within and upon privately-owned property.
 3 All permits and rights of entry as may be required from any and all affected public
 4 entities shall be obtained by CONSULTANT. Sufficient evidence of having obtained
 5 such permits and/or rights of entry shall be furnished to DISTRICT by CONSULTANT,
 6 prior to initiation of work. CONSULTANT will prosecute the work in such a manner as
 7 to minimize public inconvenience and possible hazard, and will restore the streets and
 8 other work areas to their original condition and former usefulness as soon as practicable.
 9 CONSULTANT shall be responsible for the protection of public and private property
 10 adjacent to the work and shall exercise due caution to avoid damage to such property.
 11

12. NOTICES

14 Any and all notices sent or required to be sent to the parties of this Agreement will be
 15 mailed by first class mail, postage prepaid, to the following addresses:

16 RIVERSIDE COUNTY FLOOD CONTROL	TRC
17 AND WATER CONSERVATION DISTRICT	123 Technology Drive
18 1995 Market Street	Irvine, CA 92618
19 Riverside, CA 92501	Attn: Elisha Back
20 Attn: Regulatory/ERS	

13. REQUIRED INSURANCE

21 Without limiting or diminishing the CONSULTANT'S obligation to indemnify or hold
 22 DISTRICT harmless, CONSULTANT shall procure and maintain or cause to be
 23 maintained, at its sole cost and expense, the following insurance coverages during the
 24 term of this Agreement:
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1 A. Workers' Compensation

2 If CONSULTANT has employees as defined by the State of California,
3 CONSULTANT shall maintain Workers' Compensation Insurance (Coverage A)
4 as prescribed by the laws of the State of California. Policy shall include
5 Employer's Liability (Coverage B) including Occupational Disease with limits
6 not less than \$1,000,000 per person per accident. Policy shall be endorsed to
7 waive subrogation in favor of DISTRICT and, if applicable, to provide a
8 Borrowed Servant/Alternate Employer endorsement.

9 B. Commercial General Liability

10 Commercial General Liability insurance coverage, including but not limited to,
11 premises liability, contractual liability, completed operations, personal and
12 advertising injury covering claims which may arise from or out of
13 CONSULTANT'S performance of its obligations hereunder. Policy shall name
14 Riverside County Flood Control and Water Conservation District, the County of
15 Riverside, special districts, their respective directors, officers, Board of
16 Supervisors, elected officials, employees, agents or representatives as additional
17 insureds. Policy's limit of liability shall not be less than \$1,000,000 per
18 occurrence combined single limit. If such insurance contains a general aggregate
19 limit, it shall apply separately to this Agreement or be no less than two (2) times
20 the occurrence limit.
21 the occurrence limit.

22 C. Vehicle Liability

23 If vehicles or mobile equipment are used in the performance of the obligations
24 under this Agreement, CONSULTANT shall maintain liability insurance for all
25 owned, non-owned or hired vehicles in an amount not less than \$1,000,000 per
26 owned, non-owned or hired vehicles in an amount not less than \$1,000,000 per
27 owned, non-owned or hired vehicles in an amount not less than \$1,000,000 per
28 owned, non-owned or hired vehicles in an amount not less than \$1,000,000 per

1 occurrence combined single limit. If such insurance contains a general aggregate
2 limit, it shall apply separately to this Agreement or be no less than two (2) times
3 the occurrence limit. If CONSULTANT does not own vehicles, CONSULTANT
4 shall maintain coverage for non-owned or hired vehicles in an amount not less
5 than \$1,000,000 per occurrence combined single limit. Such non-owned or hired
6 coverage may be included on the Commercial General Liability policy. Policy
7 shall name Riverside County Flood Control and Water Conservation District, the
8 County of Riverside, special districts, their respective directors, officers, Board
9 of Supervisors, elected officials, employees, agents or representatives as
10 additional insureds.

11
12 D. Professional Liability

13 CONSULTANT shall maintain Professional Liability Insurance providing
14 coverage for CONSULTANT'S performance of work included within this
15 Agreement, with a limit of liability of not less than \$1,000,000 per occurrence
16 and \$2,000,000 annual aggregate. If CONSULTANT'S Professional Liability
17 Insurance is written on a claims made basis rather than an occurrence basis, such
18 insurance shall continue through the term of this Agreement and CONSULTANT
19 shall purchase at his sole expense either: 1) an Extended Reporting Endorsement
20 (also known as Tail Coverage); or 2) Prior Dates Coverage from a new insurer
21 with a date retroactive to the date of, or prior to, the inception of this Agreement;
22 or 3) demonstrate through Certificates of Insurance that CONSULTANT has
23 maintained continuous coverage with the same or original insurer. Coverage
24 provided under items: 1), 2) or 3) will continue as long as the law allows.
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E. General Insurance Provisions – All Lines

1. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A.M. BEST rating of not less than an A: VIII (A: 8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for the specific insurer and only for one policy term.
2. CONSULTANT'S insurance carrier(s) must declare its insurance deductibles or self-insured retentions. If such deductibles or self-insured retentions exceed \$500,000 per occurrence such deductibles and/or retentions shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of deductibles or self-insured retentions which are deemed unacceptable to the DISTRICT, at the election of the County's Risk Manager, CONSULTANT'S carriers shall either: 1) reduce or eliminate such deductibles or self-insured retentions with respect to this Agreement with DISTRICT, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, defense costs and expenses.
3. CONSULTANT shall cause their insurance carrier(s) to furnish DISTRICT with: 1) a properly executed original certificate(s) of insurance and original certified copies of endorsements effecting coverage as required herein; or 2) if requested to do so orally or in writing by the County Risk Manager, provide original certified copies of policies

1 including all endorsements and all attachments thereto, showing such
2 insurance is in full force and effect. Further, said certificate(s) and
3 policies of insurance shall contain the covenant that the insurance
4 carrier(s) shall provide no less than thirty (30) days written notice be
5 given to DISTRICT prior to any material modification or cancellation of
6 such insurance. In the event of a material modification or cancellation of
7 coverage, this Agreement shall terminate forthwith, unless DISTRICT
8 receives, prior to such effective date, another properly executed original
9 certificate of insurance and original copies of endorsements or original
10 certified policies, including all endorsements and attachments thereto,
11 evidencing coverages and the insurance required herein is in full force
12 and effect. Individual(s) authorized by the insurance carrier to do so on
13 its behalf shall sign the original endorsements for each policy and the
14 certificate of insurance.

15
16 CONSULTANT shall not commence operations until DISTRICT has
17 been furnished with original certificate(s) of insurance and original
18 certified copies of endorsements or policies of insurance including all
19 endorsements and any and all other attachments as required in this
20 Section.
21

- 22 4. It is understood and agreed by the parties hereto and the
23 CONSULTANT'S insurance company(s), that the certificate(s) of
24 insurance and policies shall so covenant and shall be construed as primary
25 insurance, and the DISTRICT'S insurance and/or deductibles and/or self-
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insured retentions or self-insured programs shall not be construed as contributory.

5. If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or there is a material change in the equipment to be used in the performance of the scope of work which will add additional exposures (such as the use of aircraft, watercraft, cranes, etc.); or the term of this Agreement, including any extensions thereof, exceeds five (5) years, the County reserves the right to adjust the types of insurance required under this Agreement and the monetary limits of liability for the insurance coverage's currently required herein, if, in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONSULTANT has become inadequate.

6. CONSULTANT shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.

7. The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to DISTRICT.

8. CONSULTANT agrees to notify DISTRICT of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

14. INDEMNIFICATION

CONSULTANT shall indemnify and hold harmless DISTRICT (including its directors, 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

1 its officers, employees, subcontractors and agents) actual or alleged negligent, reckless
2 or willful misconduct acts or omissions related to this Agreement, performance under
3 this Agreement, or failure to comply with the requirements of this Agreement, including
4 but not limited to: (a) property damage; (b) bodily injury or death; or (c) any other
5 element of any kind or nature whatsoever.

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

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

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

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

25
26 In the event there is conflict between this section and California Civil Code Section
27 2782, this section shall be interpreted to comply with Civil Code 2782. Such
28

1 interpretation shall not relieve the CONSULTANT from indemnifying DISTRICT
2 (including its directors, officers, Board of Supervisors, elected and appointed officials,
3 employees, agents and representatives) or the County of Riverside to the fullest extent
4 allowed by law.

5 15. WORK PRODUCT

6 CONSULTANT shall provide all report(s) as set forth in the approved Task Order(s).
7 All drawings, logs and reports shall be and remain the sole property of DISTRICT.
8 CONSULTANT shall not publish or transfer any material produced or resulting from
9 activities supported by this Agreement without the written consent of the General
10 Manager-Chief Engineer of DISTRICT. If any such material is subject to copyright or
11 trademark, the parties agree that the right to any and all copyright and/or trademark in
12 and to the material is expressly reserved to DISTRICT. If any such material is
13 copyrighted, the parties hereto understand and agree that DISTRICT reserves a royalty-
14 free, non-exclusive, and irrevocable license to reproduce, publish, and use such material,
15 in whole or in part, and to authorize others to do so, provided written credit is given the
16 author.
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19 16. TERMINATION

20 At any time during the term of this Agreement, DISTRICT may:

21 A. Agreement

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

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

12 In the event DISTRICT terminates this Agreement, DISTRICT shall make
13 payment for all services performed in accordance with this Agreement to the date
14 of termination, a total amount which bears the same ratio to the total maximum
15 fee otherwise payable under this Agreement as the services actually bear to the
16 total services necessary for performance of this Agreement. Notwithstanding any
17 of the other provision of this Agreement, CONSULTANT rights under this
18 Agreement shall terminate (except for fees accrued prior to the date of
19 termination) upon dishonesty, or a willful or material breach of this Agreement
20 by CONSULTANT; or in the event of CONSULTANT'S unwillingness or
21 inability for any reason whatsoever to perform the duties hereunder; or if the
22 Agreement is terminated pursuant to Section 26 (NON-DISCRIMINATION). In
23 such event, CONSULTANT shall not be entitled to any further compensation
24 under this Agreement. The rights and remedies of DISTRICT provided in this
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1 section shall not be exclusive and are in addition to any other rights and remedies
2 provided by law or under this Agreement.

3 B. Approved Task Order

4 Terminate an approved Task Order or portion thereof without cause upon
5 providing CONSULTANT fourteen (14) days written notice stating the extent
6 and effective date of termination. In the event DISTRICT issues a Notice of
7 Termination for an approved Task Order, CONSULTANT shall: i) stop all work
8 under the Task Order 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
10 directed by DISTRICT, any equipment, data, reports or other documents which,
11 if the Task Order had been completed, would have been required to be furnished
12 to DISTRICT.
13

14 In the event DISTRICT terminates an approved Task Order, DISTRICT shall
15 make payment for all services satisfactorily performed in accordance with the
16 negotiated Task Order to the date of termination, a total amount which bears the
17 same ratio to the total maximum fee otherwise payable under the Task Order as
18 the services actually bear to the total services necessary for performance of the
19 Task Order.
20

21 17. Basic Services of CONSULTANT

22 The scope of services associated with the performance of any specific Task Order under
23 this Agreement shall be expressly defined and agreed upon prior to the approval of the
24 Task Order by the Project Manager. Any changes to the approved scope of services must
25 be authorized by the Project Manager, and shall be made in writing.
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1 A. Right to Preliminary Review

2 All work prepared by CONSULTANT shall be subject to the approval of the
3 Project Manager. CONSULTANT shall allow Project Manager to inspect and
4 review CONSULTANT'S work in progress at any reasonable time. All reports,
5 working papers, and similar work products prepared for submission in the course
6 of providing services under this Agreement shall be submitted to the Project
7 Manager in draft form. In the event that Project Manager, in his or her sole
8 discretion, determines the formally submitted work product to be inadequate,
9 CONSULTANT may be required to revise and resubmit the work at no
10 additional cost to DISTRICT. Should CONSULTANT fail to make requested
11 corrections in a timely manner, such corrections may be made by DISTRICT,
12 and the cost thereof charged to CONSULTANT. The responsibility for accuracy
13 and completeness of such items remains solely that of CONSULTANT. Neither
14 DISTRICT'S review or approval shall give rise to any liability or responsibility
15 on the part of DISTRICT, or waive any of DISTRICT'S rights, or relieve
16 CONSULTANT of its professional responsibilities or obligations under this
17 Agreement.
18

19
20 B. Progress Reports

21 Attached with CONSULTANT'S periodic invoice(s), CONSULTANT shall
22 submit a Progress Report indicating the project status in relation to the approved
23 Project Schedule and, as DISTRICT deems necessary, an updated Project
24 Schedule for review and approval. Failure to submit the Progress Report or
25 updated Project Schedule shall be cause for DISTRICT to withhold payment of
26 CONSULTANT'S invoice.
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18. INDEPENDENT CONTRACTOR

1 CONSULTANT and the agents and employees of CONSULTANT, shall act at all times
2 in an independent capacity during the term of this Agreement and in the performance of
3 the services to be rendered hereunder and shall not act as or shall not be and shall not in
4 any manner be considered to be employees or agents of DISTRICT.
5

6 19. SUBCONTRACTING

7 A list of sub-consultants (Sub-consultants), as identified by the CONSULTANT, is
8 attached hereto as Attachment "C". CONSULTANT may, at CONSULTANT'S own
9 expense, retain or employ Sub-consultants from Attachment "C" to accomplish certain
10 portions of the work covered by this Agreement.
11

12 Should one or more of the Sub-consultants, as identified in Attachment "C", become
13 unavailable, CONSULTANT may substitute other sub-consultants of equal or greater
14 competence upon written approval by DISTRICT. In the event that DISTRICT and
15 CONSULTANT cannot agree as to the substitution of the sub-consultant, DISTRICT
16 may terminate the Task Order, pursuant to the applicable provisions of this Agreement.
17

18 In the event CONSULTANT subcontracts any portion of CONSULTANT'S duties under
19 this Agreement, CONSULTANT shall require its Sub-consultants to comply with the
20 terms of this Agreement in the same manner as required of CONSULTANT. The fact
21 that CONSULTANT employs Sub-consultants not in his regular employ shall not relieve
22 CONSULTANT of any responsibility regarding the adequacy of the Sub-consultant's
23 work performed or services provided pursuant to this Agreement.
24

25 20. CHANGES TO TASK ORDER SCOPE OF SERVICES

26 CONSULTANT shall not perform any additional work or services outside the scope of
27 an approved Task Order without the prior written approval of the Project Manager. If at
28

1 any time during the performance of an approved Task Order, CONSULTANT believes
2 that it is necessary to include certain work or services which are not clearly covered
3 under the scope of an approved Task Order, CONSULTANT shall immediately notify
4 the Project Manager in writing of CONSULTANT'S assertion that the work is out of
5 scope. Said notification by CONSULTANT to the Project Manager shall not in any way
6 be construed as proving that the work or services in question are outside the scope of the
7 Task Order. The Project Manager must approve or reject CONSULTANT'S assertion in
8 writing. In the event the Project Manager determines that CONSULTANT is correct, the
9 additional work or services shall be authorized by a new or revised Task Order that
10 covers the new scope, cost and schedule. In the event that such notification is not given
11 or if the Project Manager is not afforded an opportunity to negotiate the appropriate fee
12 for such additional services prior to CONSULTANT'S commencement of such
13 additional services, then CONSULTANT shall be deemed to have agreed to perform the
14 work or services without any additional compensation and to have accepted sole
15 responsibility for the performance of said work or services. Extra work done or services
16 performed without a new or revised Task Order from the Project Manager shall be
17 considered unauthorized and shall not be paid for by DISTRICT.

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20 At any time during the performance of an approved Task Order, DISTRICT may request
21 that CONSULTANT perform extra services. Any work which is determined by
22 DISTRICT to be necessary for the proper completion of the approved Task Order, but
23 which neither CONSULTANT nor DISTRICT reasonably anticipated would be
24 necessary at the time the scope of services for the assigned Task Order was approved,
25 must be authorized by the Project Manager by a new or revised Task Order.
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1 At any time during the performance of the Task Order, the Project Manager, upon
 2 providing five (5) days written notice to the CONSULTANT, may delete services and
 3 the associated fees from the Task Order. In the event DISTRICT requests deletion of
 4 services from the Task Order, DISTRICT shall make payment for all services
 5 satisfactorily performed in accordance with the negotiated Task Order up to the effective
 6 date of deletion; the amount of the payment shall be prorated to the total services
 7 necessary for completion of the Task Order. No work product for the deleted services
 8 shall be provided to DISTRICT.

9 21. DISPUTES

10 A. In the event CONSULTANT considers any work demanded of CONSULTANT
 11 to be outside the requirements of this Agreement, or if CONSULTANT considers
 12 any order, instruction or decision of DISTRICT to be unfair, CONSULTANT
 13 shall promptly, upon receipt of such order, instruction or decision, ask for a
 14 written confirmation of the same whereupon CONSULTANT shall proceed
 15 without delay to perform the work or to conform to the order, instruction, or
 16 decision. However, if CONSULTANT finds such order, instruction or decision
 17 unsatisfactory, CONSULTANT shall, within twenty-one (21) calendar days after
 18 receipt of same, file a written protest with DISTRICT stating clearly and in detail
 19 its objections and reasons therefor. Except for such protests or objections as are
 20 made of record in the manner specified and within the time stated herein, and
 21 except for such instances where the basis of a protest could not reasonably have
 22 been foreseen by CONSULTANT within the time limit specified for protest,
 23 CONSULTANT hereby waives all grounds for protests or objections to orders,
 24 instruction, or decisions of DISTRICT and hereby agrees that, as to all matters
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not included in such protests, the orders, instructions and decisions of DISTRICT will be limited to matters properly falling within DISTRICT'S authority.

B. Any controversy or claim arising out of or relating to this Agreement which cannot be resolved by mutual agreement may be settled by arbitration, provided that the parties hereto mutually agree to submit to arbitration.

C. Neither the pendency of a dispute nor its consideration by arbitration shall excuse CONSULTANT from full and timely performance in accordance with the terms of this Agreement.

22. ASSIGNMENT

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

23. 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.

24. 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.

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

7 25. WAIVER

8 Any waiver by DISTRICT of any breach of any one or more of the terms of this
9 Agreement shall not be construed to be a waiver of any subsequent or other breach of the
10 same or any other term thereof. Failure on the part of DISTRICT to require exact, full
11 and complete compliance with any terms of this Agreement shall not be construed as in
12 any manner changing the terms hereof, or estopping DISTRICT from enforcement
13 hereof.
14

15 26. NON-DISCRIMINATION

16 In the performance of the terms of this Agreement, CONSULTANT shall not engage in
17 nor permit others he may employ to engage in discrimination in the employment of
18 persons because of the race, color, national origin or ancestry, religion, physical
19 handicap, disability as defined by the Americans with Disabilities Act (ADA), medical
20 condition, marital status or sex of such persons, in accordance with the provision of
21 California Labor Code Section 1735.
22

23 27. NON-APPROPRIATION OF FUNDS

24 It is mutually agreed and understood that the obligation(s) of DISTRICT are limited by
25 and contingent upon the availability of DISTRICT funds for the reimbursement of
26 CONSULTANT'S fees. In the event that such funds are not forthcoming for any reason,
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1 DISTRICT shall immediately notify CONSULTANT in writing. This Agreement shall
2 be deemed terminated and have no further force and effect immediately upon receipt of
3 DISTRICT'S notification by CONSULTANT. In the event of such termination,
4 CONSULTANT shall be entitled to reimbursement of its costs in accordance with
5 Section 5 (COMPENSATION).

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

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7/26/2011
(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By: [Signature]
WARREN D. WILLIAMS
General Manager-Chief Engineer

By: [Signature]
MARION ASHLEY, Chairman
Riverside County Flood Control and Water
Conservation District Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

By: [Signature] 7-6-11
MARSHA L. VICTOR
Principal Deputy County Counsel

By: [Signature]
Deputy

(SEAL)

TRC

By: [Signature]
ROBERT PETERSEN
Environmental Sector Director

Agreement for Consulting Services
Project Specific
06/22/11
SEM:blj

ATTACHMENT "A"

SCOPE OF SERVICES

CONSULTANT may be asked to perform one or more of the following types of services as specifically directed in Task Orders issued to CONSULTANT:

1. Prepare a Cultural Resources Report that addresses all potential issues related to archaeological, traditional and built environment resources in accordance with applicable Federal, State and local laws and regulations regarding cultural resources in the environmental review and/or regulatory permitting process including, but not limited to Section 106 of the National Historic Preservation Act.
2. Prepare a Paleontological Resources assessment that addresses all potential issues related to paleontological resources in accordance with applicable Federal, State and local laws and regulations in the environmental review and/or regulatory permitting process.
3. Prepare a Biological Resources Assessment that addresses all potential biological issues and concerns for the project area, including, but not limited to:
 - Reconnaissance surveys, habitat assessments, and focused surveys for sensitive or listed plant and wildlife species.
 - Federal and State Jurisdictional Area Delineation.
 - Designated Critical Habitat Areas with Federal Endangered Species Act (FESA).
 - Applicable Habitat Conservation Plans consistency assessment (i.e. Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), Coachella Valley MSHCP and Tribal Habitat Conservation Plan (HCP)).
4. Prepare a Jurisdictional Area Delineation Report and Impact Analysis, including significant nexus evaluation, that addresses all potential issues related to "Waters of the U.S." and wetlands (Clean Water Act), "Waters of the State" and wetlands (Porter-Cologne Water Quality Control Act), and areas under the jurisdiction of the California Department of Fish and Game Code (Section 1600 et seq.).
5. Prepare a native Habitat Mitigation and Monitoring Plan (HMMP).
6. Implement a HMMP.
7. Prepare a Preliminary Environmental Assessment Report (PEAR) for proposed District projects. The PEAR identifies potential environmental concerns (biological, cultural, historical, paleontological, jurisdictional, geological, or regulatory permitting, etc.) that could pose significant hurdles to a project based on preliminary design data. A PEAR may be needed at the early stage of a project to ensure that project alternatives (e.g., types of facility, facility size, alignment, etc.) are fully evaluated by the District.
8. Prepare as appropriate a separate or joint California Environmental Quality Act (CEQA) Initial Study and/or National Environmental Policy Act (NEPA) Environmental Assessment, if applicable, including but not limited to technical appendices, exhibits, and mitigation and monitoring plan to determine if the project may have a significant impact on the environment.
9. Prepare as appropriate a CEQA Negative Declaration, Mitigated Negative Declaration,

and Notice of Determination.

10. Prepare as appropriate a separate or joint CEQA Draft Environmental Impact Report (DEIR)/Final Environmental Impact Report (FEIR) and/or NEPA Draft Environmental Impact Statement (DEIS)/Final Environmental Impact Statement (FEIS) including, but not limited to technical appendices, exhibits, finding of any significance, mitigation, and monitoring plan to avoid or reduce potentially significant adverse impacts.
11. Prepare written responses to comments received during the CEQA and/or NEPA process.
12. Make presentations as needed to the public, government agencies, or others related to project review and its associated environmental documents.
13. Participate in public hearings and meetings as necessary.
14. Provide technical assistance and participate in permit negotiation as needed for the District to secure all necessary regulatory permits (e.g. FESA/CESA Incidental Take Permit, Department of Fish and Game Consistency Determination, Section 404 Individual/Nationwide Permit, 401 Water Quality Certification, 1602 Streambed Alteration Agreement, Waste Discharge Requirements, etc.) for flood control projects.
15. Conduct protocol level pre-construction biological surveys and provide written reports summarizing survey results.
16. Provide biological monitoring and reporting services.
17. Provide cultural and/or paleontological resources monitoring and reporting services.
18. Prepare a MSHCP/HCP consistency assessment that demonstrates project compliance with all applicable provisions of the appropriate habitat conservation plans (i.e. Western Riverside County MSHCP, Coachella Valley MSHCP and Tribal HCP).
19. Provide Hazardous Materials report to determine the presence/absence of any hazardous materials in accordance with the California Government Code Section 65962.5.
20. Provide a Determination of Biological Equivalent or Superior Preservation (DBESP) report in accordance with Section 6.1.2 of the Western Riverside County MSHCP for impacts to Riparian/Riverine Area/Vernal Pools which would be submitted for review to the U.S. Fish and Wildlife Service and the California Department of Fish and Game.

ATTACHMENT "B"

TASK ORDER APPROVAL FORM

CONSULTANT: _____

PROJECT NAME: _____

The Scope of Services for _____, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference, shall constitute an approved Task Order pursuant to the Agreement between the DISTRICT and CONSULTANT dated _____ ("AGREEMENT"). CONSULTANT agrees to perform the services described in Exhibit "A" within the time set forth in the Project Schedule as described in Exhibit "B" attached hereto and incorporated herein, for a fee amount of \$_____, unless otherwise modified by the DISTRICT'S Project Manager in a subsequent Task Order Approval Form. All charges shall be consistent with the Compensation/Fee Rate Schedule which is attached as Exhibit "C" and incorporated herein by this reference.

Performance of the services shall be subject to the terms and conditions contained in the AGREEMENT.

Dated this _____ day of _____
(To be filled in by General Manager-Chief Engineer)

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

By: _____

WARREN D. WILLIAMS
General Manager-Chief Engineer

CONSULTANT

By: _____

Printed Name and Title

ATTACHMENT "C"

List of Sub-Consultants

- Daly and Associates
- Cadre Environmental
- Bloom Biological
- RBF Consultants

CONSULTING SERVICES AGREEMENT

1 RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION
2 DISTRICT, hereinafter called "DISTRICT", and LSA, hereinafter called "CONSULTANT",
3 hereby agree as follows:
4

5 1. PROJECT

6 CONSULTANT shall provide on-call environmental and regulatory support services in
7 accordance with applicable federal, state, and local laws and regulations as requested by
8 DISTRICT.

9 2. SCOPE OF SERVICES

10 As requested by DISTRICT, CONSULTANT shall provide Project Specific
11 Environmental/Regulatory Professional Services as described on Attachment "A" for
12 DISTRICT projects on an "on-call" basis. During the term of this Agreement, the
13 CONSULTANT may be invited to submit proposals for some of the various services
14 listed in Attachment "A" as requested by DISTRICT and be assigned subsequent Task
15 Orders, the form of which is Attachment "B" hereto. CONSULTANT understands and
16 expressly agrees that the execution of this Agreement by CONSULTANT and/or the
17 submission of any proposal to furnish services does not guarantee the assignment or
18 approval of any subsequent Task Order(s).
19

20 3. PERSONNEL21 A. Project Manager

22 For each Task Order, the DISTRICT shall designate a representative who shall
23 act as the DISTRICT'S Project Manager ("Project Manager"). The Project
24 Manager shall have authority to act on behalf of DISTRICT for all purposes
25 under this Task Order. DISTRICT shall provide written notice to
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1 CONSULTANT of any change in Project Manager assignment for a given Task
2 Order.

3 B. CONSULTANT'S Representative

4 CONSULTANT shall appoint a designated Representative for each assigned
5 Task Order who shall be responsible for coordinating all aspects of the assigned
6 Task Order. CONSULTANT'S Representative shall be available to DISTRICT'S
7 Project Manager at reasonable times. CONSULTANT may appoint another
8 person as Representative upon written notice to DISTRICT.

9 C. Substitution of Key Personnel

10 At the time of Task Order approval, CONSULTANT shall identify its Key
11 Personnel who will perform each assigned Task Order to the DISTRICT'S
12 Project Manager. Should one or more of the identified Key Personnel become
13 unavailable, CONSULTANT may substitute other personnel of equal or greater
14 competence upon written approval by DISTRICT. In the event that DISTRICT
15 and CONSULTANT cannot agree as to the substitution of the Key Personnel,
16 DISTRICT may terminate the Task Order, pursuant to the applicable provisions
17 of this Agreement.
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20 4. TERM

21 The term of this Agreement shall become effective on the date the Agreement is
22 executed by DISTRICT'S Board of Supervisors, and shall remain in effect through the
23 later of:

- 24 A. Three (3) years from the date of the Board of Supervisors approval; or
25 B. The required date for completion of an assigned Task Order, provided that such
26 Task Order was approved prior to expiration date stipulated in 4.A., above.
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5. COMPENSATION

1 CONSULTANT shall receive compensation for all services satisfactorily performed
2 under this Agreement in accordance with the terms of the approved Task Order(s). The
3 total amount to be paid to CONSULTANT for the performance of all Task Orders
4 approved pursuant to this Agreement shall not exceed seven hundred fifty thousand
5 dollars (\$750,000), or two hundred fifty thousand dollars (\$250,000) in a single fiscal
6 year.
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8 6. PAYMENTS

9 Progress payments shall be made in accordance with the Compensation/Fee Rate
10 Schedule attached to the approved Task Order. Progress payments shall be processed no
11 more than once per month. Upon satisfactory performance of CONSULTANT'S
12 services pursuant to an approved Task Order, DISTRICT shall pay CONSULTANT
13 within forty-five (45) days after DISTRICT'S receipt of CONSULTANT'S appropriate
14 invoices. CONSULTANT shall keep employee and expense records according to
15 customary accounting methods and such records shall, upon request, be available for
16 inspection by DISTRICT to verify the invoices of CONSULTANT. All invoices shall
17 itemize charges to conform to the Compensation/Fee Rate Schedule negotiated for the
18 task order. DISTRICT shall notify CONSULTANT of any disputed amounts on invoice
19 within thirty (30) days of receipt.
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22 7. PROJECT PERFORMANCE

23 A. Commencement of Services

24 CONSULTANT shall commence performance of the services for each Task
25 Order upon receipt of the DISTRICT'S approved Task Order.
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B. Time of Completion

1 Time is of the essence in the performance of this Agreement. CONSULTANT
2 shall complete services in accordance with the schedule(s) set forth in the
3 approved Task Order(s).
4

- 5 8. LICENSES – CONSULTANT, its employees, agents, contractors and subcontractors
6 shall possess appropriate federal and/or state permits and maintain professional licenses
7 required by the applicable Federal, State and local regulations at all times while
8 performing services under this Agreement.

9 9. STANDARD OF CARE

10 While performing the services, CONSULTANT shall exercise the reasonable
11 professional care and skill customarily exercised by reputable members of
12 CONSULTANT'S profession practicing in the State of California, and shall use
13 reasonable diligence and best judgment while exercising CONSULTANT'S professional
14 skill and expertise. By executing this Agreement, CONSULTANT represents and
15 maintains that CONSULTANT has the necessary experience and expertise to skillfully
16 perform all services, duties and obligations required by this Agreement and to fully and
17 adequately complete each approved Task Order.
18

19 10. ERRORS AND OMISSIONS

20 In the event CONSULTANT'S reports or work products contain any errors or omissions
21 that cause the DISTRICT to incur additional expense beyond what would have otherwise
22 resulted if there were no errors or omissions in CONSULTANT'S reports or work
23 products, such additional expense shall be borne solely by CONSULTANT.
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11. PERMITS AND RIGHTS OF ENTRY

1 DISTRICT shall obtain all rights of entry as may be required to allow CONSULTANT
 2 to perform the proposed consulting services within and upon privately-owned property.
 3 All permits and rights of entry as may be required from any and all affected public
 4 entities shall be obtained by CONSULTANT. Sufficient evidence of having obtained
 5 such permits and/or rights of entry shall be furnished to DISTRICT by CONSULTANT,
 6 prior to initiation of work. CONSULTANT will prosecute the work in such a manner as
 7 to minimize public inconvenience and possible hazard, and will restore the streets and
 8 other work areas to their original condition and former usefulness as soon as practicable.
 9 CONSULTANT shall be responsible for the protection of public and private property
 10 adjacent to the work and shall exercise due caution to avoid damage to such property.
 11

12. NOTICES

14 Any and all notices sent or required to be sent to the parties of this Agreement will be
 15 mailed by first class mail, postage prepaid, to the following addresses:

16 RIVERSIDE COUNTY FLOOD CONTROL	LSA
17 AND WATER CONSERVATION DISTRICT	1500 Iowa Avenue, Suite 200
18 1995 Market Street	Riverside, CA 92507
19 Riverside, CA 92501	Attn: Lynn Calvert-Hayes
20 Attn: Regulatory/ERS	

13. REQUIRED INSURANCE

21 Without limiting or diminishing the CONSULTANT'S obligation to indemnify or hold
 22 DISTRICT harmless, CONSULTANT shall procure and maintain or cause to be
 23 maintained, at its sole cost and expense, the following insurance coverages during the
 24 term of this Agreement:
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A. Workers' Compensation

If CONSULTANT has employees as defined by the State of California, CONSULTANT shall maintain Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employer's Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. Policy shall be endorsed to waive subrogation in favor of DISTRICT and, if applicable, to provide a Borrowed Servant/Alternate Employer endorsement.

B. Commercial General Liability

Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, completed operations, personal and advertising injury covering claims which may arise from or out of CONSULTANT'S performance of its obligations hereunder. Policy shall name Riverside County Flood Control and Water Conservation District, the County of Riverside, special districts, their respective directors, officers, Board of Supervisors, elected officials, employees, agents or representatives as additional insureds. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the occurrence limit.

C. Vehicle Liability

If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, CONSULTANT shall maintain liability insurance for all owned, non-owned or hired vehicles in an amount not less than \$1,000,000 per

1 occurrence combined single limit. If such insurance contains a general aggregate
2 limit, it shall apply separately to this Agreement or be no less than two (2) times
3 the occurrence limit. If CONSULTANT does not own vehicles, CONSULTANT
4 shall maintain coverage for non-owned or hired vehicles in an amount not less
5 than \$1,000,000 per occurrence combined single limit. Such non-owned or hired
6 coverage may be included on the Commercial General Liability policy. Policy
7 shall name Riverside County Flood Control and Water Conservation District, the
8 County of Riverside, special districts, their respective directors, officers, Board
9 of Supervisors, elected officials, employees, agents or representatives as
10 additional insureds.

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12 D. Professional Liability

13 CONSULTANT shall maintain Professional Liability Insurance providing
14 coverage for CONSULTANT'S performance of work included within this
15 Agreement, with a limit of liability of not less than \$1,000,000 per occurrence
16 and \$2,000,000 annual aggregate. If CONSULTANT'S Professional Liability
17 Insurance is written on a claims made basis rather than an occurrence basis, such
18 insurance shall continue through the term of this Agreement and CONSULTANT
19 shall purchase at his sole expense either: 1) an Extended Reporting Endorsement
20 (also known as Tail Coverage); or 2) Prior Dates Coverage from a new insurer
21 with a date retroactive to the date of, or prior to, the inception of this Agreement;
22 or 3) demonstrate through Certificates of Insurance that CONSULTANT has
23 maintained continuous coverage with the same or original insurer. Coverage
24 provided under items: 1), 2) or 3) will continue as long as the law allows.
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E. General Insurance Provisions – All Lines

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1. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A.M. BEST rating of not less than an A: VIII (A: 8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for the specific insurer and only for one policy term.
 2. CONSULTANT'S insurance carrier(s) must declare its insurance deductibles or self-insured retentions. If such deductibles or self-insured retentions exceed \$500,000 per occurrence such deductibles and/or retentions shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of deductibles or self-insured retentions which are deemed unacceptable to the DISTRICT, at the election of the County's Risk Manager, CONSULTANT'S carriers shall either: 1) reduce or eliminate such deductibles or self-insured retentions with respect to this Agreement with DISTRICT, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, defense costs and expenses.
 3. CONSULTANT shall cause their insurance carrier(s) to furnish DISTRICT with: 1) a properly executed original certificate(s) of insurance and original certified copies of endorsements effecting coverage as required herein; or 2) if requested to do so orally or in writing by the County Risk Manager, provide original certified copies of policies

1 including all endorsements and all attachments thereto, showing such
2 insurance is in full force and effect. Further, said certificate(s) and
3 policies of insurance shall contain the covenant that the insurance
4 carrier(s) shall provide no less than thirty (30) days written notice be
5 given to DISTRICT prior to any material modification or cancellation of
6 such insurance. In the event of a material modification or cancellation of
7 coverage, this Agreement shall terminate forthwith, unless DISTRICT
8 receives, prior to such effective date, another properly executed original
9 certificate of insurance and original copies of endorsements or original
10 certified policies, including all endorsements and attachments thereto,
11 evidencing coverages and the insurance required herein is in full force
12 and effect. Individual(s) authorized by the insurance carrier to do so on
13 its behalf shall sign the original endorsements for each policy and the
14 certificate of insurance.

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16 CONSULTANT shall not commence operations until DISTRICT has
17 been furnished with original certificate(s) of insurance and original
18 certified copies of endorsements or policies of insurance including all
19 endorsements and any and all other attachments as required in this
20 Section.
21

- 22 4. It is understood and agreed by the parties hereto and the
23 CONSULTANT'S insurance company(s), that the certificate(s) of
24 insurance and policies shall so covenant and shall be construed as primary
25 insurance, and the DISTRICT'S insurance and/or deductibles and/or self-
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insured retentions or self-insured programs shall not be construed as contributory.

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5. If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or there is a material change in the equipment to be used in the performance of the scope of work which will add additional exposures (such as the use of aircraft, watercraft, cranes, etc.); or the term of this Agreement, including any extensions thereof, exceeds five (5) years, the County reserves the right to adjust the types of insurance required under this Agreement and the monetary limits of liability for the insurance coverage's currently required herein, if, in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONSULTANT has become inadequate.

6. CONSULTANT shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.

7. The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to DISTRICT.

8. CONSULTANT agrees to notify DISTRICT of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

14. INDEMNIFICATION

CONSULTANT shall indemnify and hold harmless DISTRICT (including its directors, 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

1 its officers, employees, subcontractors and agents) actual or alleged negligent, reckless
2 or willful misconduct acts or omissions related to this Agreement, performance under
3 this Agreement, or failure to comply with the requirements of this Agreement, including
4 but not limited to: (a) property damage; (b) bodily injury or death; or (c) any other
5 element of any kind or nature whatsoever.

6 CONSULTANT shall defend, at its sole expense, including all costs and fees (including
7 but not limited to attorney fees, cost of investigation, defense and settlements or awards),
8 DISTRICT (including its directors, officers, Board of Supervisors, elected and appointed
9 officials, employees, agents and representatives) in any claim, proceeding or action for
10 which indemnification is required.
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12 With respect to any of CONSULTANT'S indemnification requirements,
13 CONSULTANT shall, at its sole cost, have the right to use counsel of their own choice
14 and shall have the right to adjust, settle, or compromise any such claim, proceeding or
15 action without the prior consent of DISTRICT; provided, however, that such adjustment,
16 settlement or compromise in no manner whatsoever limits or circumscribes
17 CONSULTANT'S indemnification obligations to DISTRICT.
18

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

22 The specified insurance limits required in this Agreement shall in no way limit or
23 circumscribe CONSULTANT'S obligations to indemnify and hold harmless DISTRICT
24 from third party claims.
25

26 In the event there is conflict between this section and California Civil Code Section
27 2782, this section shall be interpreted to comply with Civil Code 2782. Such
28

1 interpretation shall not relieve the CONSULTANT from indemnifying DISTRICT
 2 (including its directors, officers, Board of Supervisors, elected and appointed officials,
 3 employees, agents and representatives) or the County of Riverside to the fullest extent
 4 allowed by law.

5 15. WORK PRODUCT

6 CONSULTANT shall provide all report(s) as set forth in the approved Task Order(s).
 7 All drawings, logs and reports shall be and remain the sole property of DISTRICT.
 8 CONSULTANT shall not publish or transfer any material produced or resulting from
 9 activities supported by this Agreement without the written consent of the General
 10 Manager-Chief Engineer of DISTRICT. If any such material is subject to copyright or
 11 trademark, the parties agree that the right to any and all copyright and/or trademark in
 12 and to the material is expressly reserved to DISTRICT. If any such material is
 13 copyrighted, the parties hereto understand and agree that DISTRICT reserves a royalty-
 14 free, non-exclusive, and irrevocable license to reproduce, publish, and use such material,
 15 in whole or in part, and to authorize others to do so, provided written credit is given the
 16 author.
 17

18
 19 16. TERMINATION

20 At any time during the term of this Agreement, DISTRICT may:

21 A. Agreement

- 22 1) Terminate this Agreement without cause upon providing CONSULTANT
 23 thirty (30) days written notice stating the extent and effective date of
 24 termination; or
 25
 26 2) Upon five (5) days written notice, terminate this Agreement for
 27 CONSULTANT default, if CONSULTANT refuses or fails to comply
 28

1 with the provisions of this Agreement or fails to make progress so as to
2 endanger performance and does not cure such failure within a reasonable
3 period of time. In the event of such termination, the DISTRICT may
4 proceed with the work in a manner deemed proper to DISTRICT.

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

12 In the event DISTRICT terminates this Agreement, DISTRICT shall make
13 payment for all services performed in accordance with this Agreement to the date
14 of termination, a total amount which bears the same ratio to the total maximum
15 fee otherwise payable under this Agreement as the services actually bear to the
16 total services necessary for performance of this Agreement. Notwithstanding any
17 of the other provision of this Agreement, CONSULTANT rights under this
18 Agreement shall terminate (except for fees accrued prior to the date of
19 termination) upon dishonesty, or a willful or material breach of this Agreement
20 by CONSULTANT; or in the event of CONSULTANT'S unwillingness or
21 inability for any reason whatsoever to perform the duties hereunder; or if the
22 Agreement is terminated pursuant to Section 26 (NON-DISCRIMINATION). In
23 such event, CONSULTANT shall not be entitled to any further compensation
24 under this Agreement. The rights and remedies of DISTRICT provided in this
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1 section shall not be exclusive and are in addition to any other rights and remedies
2 provided by law or under this Agreement.

3 B. Approved Task Order

4 Terminate an approved Task Order or portion thereof without cause upon
5 providing CONSULTANT fourteen (14) days written notice stating the extent
6 and effective date of termination. In the event DISTRICT issues a Notice of
7 Termination for an approved Task Order, CONSULTANT shall: i) stop all work
8 under the Task Order 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
10 directed by DISTRICT, any equipment, data, reports or other documents which,
11 if the Task Order had been completed, would have been required to be furnished
12 to DISTRICT.

13
14 In the event DISTRICT terminates an approved Task Order, DISTRICT shall
15 make payment for all services satisfactorily performed in accordance with the
16 negotiated Task Order to the date of termination, a total amount which bears the
17 same ratio to the total maximum fee otherwise payable under the Task Order as
18 the services actually bear to the total services necessary for performance of the
19 Task Order.
20

21 17. Basic Services of CONSULTANT

22 The scope of services associated with the performance of any specific Task Order under
23 this Agreement shall be expressly defined and agreed upon prior to the approval of the
24 Task Order by the Project Manager. Any changes to the approved scope of services must
25 be authorized by the Project Manager, and shall be made in writing.
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A. Right to Preliminary Review

1 All work prepared by CONSULTANT shall be subject to the approval of the
2 Project Manager. CONSULTANT shall allow Project Manager to inspect and
3 review CONSULTANT'S work in progress at any reasonable time. All reports,
4 working papers, and similar work products prepared for submission in the course
5 of providing services under this Agreement shall be submitted to the Project
6 Manager in draft form. In the event that Project Manager, in his or her sole
7 discretion, determines the formally submitted work product to be inadequate,
8 CONSULTANT may be required to revise and resubmit the work at no
9 additional cost to DISTRICT. Should CONSULTANT fail to make requested
10 corrections in a timely manner, such corrections may be made by DISTRICT,
11 and the cost thereof charged to CONSULTANT. The responsibility for accuracy
12 and completeness of such items remains solely that of CONSULTANT. Neither
13 DISTRICT'S review or approval shall give rise to any liability or responsibility
14 on the part of DISTRICT, or waive any of DISTRICT'S rights, or relieve
15 CONSULTANT of its professional responsibilities or obligations under this
16 Agreement.
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20 B. Progress Reports

21 Attached with CONSULTANT'S periodic invoice(s), CONSULTANT shall
22 submit a Progress Report indicating the project status in relation to the approved
23 Project Schedule and, as DISTRICT deems necessary, an updated Project
24 Schedule for review and approval. Failure to submit the Progress Report or
25 updated Project Schedule shall be cause for DISTRICT to withhold payment of
26 CONSULTANT'S invoice.
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18. INDEPENDENT CONTRACTOR

1 CONSULTANT and the agents and employees of CONSULTANT, shall act at all times
2 in an independent capacity during the term of this Agreement and in the performance of
3 the services to be rendered hereunder and shall not act as or shall not be and shall not in
4 any manner be considered to be employees or agents of DISTRICT.
5

6 19. SUBCONTRACTING

7 A list of sub-consultants (Sub-consultants), as identified by the CONSULTANT, is
8 attached hereto as Attachment "C". CONSULTANT may, at CONSULTANT'S own
9 expense, retain or employ Sub-consultants from Attachment "C" to accomplish certain
10 portions of the work covered by this Agreement.

11 Should one or more of the Sub-consultants, as identified in Attachment "C", become
12 unavailable, CONSULTANT may substitute other sub-consultants of equal or greater
13 competence upon written approval by DISTRICT. In the event that DISTRICT and
14 CONSULTANT cannot agree as to the substitution of the sub-consultant, DISTRICT
15 may terminate the Task Order, pursuant to the applicable provisions of this Agreement.

16 In the event CONSULTANT subcontracts any portion of CONSULTANT'S duties under
17 this Agreement, CONSULTANT shall require its Sub-consultants to comply with the
18 terms of this Agreement in the same manner as required of CONSULTANT. The fact
19 that CONSULTANT employs Sub-consultants not in his regular employ shall not relieve
20 CONSULTANT of any responsibility regarding the adequacy of the Sub-consultant's
21 work performed or services provided pursuant to this Agreement.
22

23 20. CHANGES TO TASK ORDER SCOPE OF SERVICES

24 CONSULTANT shall not perform any additional work or services outside the scope of
25 an approved Task Order without the prior written approval of the Project Manager. If at
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1 any time during the performance of an approved Task Order, CONSULTANT believes
2 that it is necessary to include certain work or services which are not clearly covered
3 under the scope of an approved Task Order, CONSULTANT shall immediately notify
4 the Project Manager in writing of CONSULTANT'S assertion that the work is out of
5 scope. Said notification by CONSULTANT to the Project Manager shall not in any way
6 be construed as proving that the work or services in question are outside the scope of the
7 Task Order. The Project Manager must approve or reject CONSULTANT'S assertion in
8 writing. In the event the Project Manager determines that CONSULTANT is correct, the
9 additional work or services shall be authorized by a new or revised Task Order that
10 covers the new scope, cost and schedule. In the event that such notification is not given
11 or if the Project Manager is not afforded an opportunity to negotiate the appropriate fee
12 for such additional services prior to CONSULTANT'S commencement of such
13 additional services, then CONSULTANT shall be deemed to have agreed to perform the
14 work or services without any additional compensation and to have accepted sole
15 responsibility for the performance of said work or services. Extra work done or services
16 performed without a new or revised Task Order from the Project Manager shall be
17 considered unauthorized and shall not be paid for by DISTRICT.

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19
20 At any time during the performance of an approved Task Order, DISTRICT may request
21 that CONSULTANT perform extra services. Any work which is determined by
22 DISTRICT to be necessary for the proper completion of the approved Task Order, but
23 which neither CONSULTANT nor DISTRICT reasonably anticipated would be
24 necessary at the time the scope of services for the assigned Task Order was approved,
25 must be authorized by the Project Manager by a new or revised Task Order.
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1 At any time during the performance of the Task Order, the Project Manager, upon
2 providing five (5) days written notice to the CONSULTANT, may delete services and
3 the associated fees from the Task Order. In the event DISTRICT requests deletion of
4 services from the Task Order, DISTRICT shall make payment for all services
5 satisfactorily performed in accordance with the negotiated Task Order up to the effective
6 date of deletion; the amount of the payment shall be prorated to the total services
7 necessary for completion of the Task Order. No work product for the deleted services
8 shall be provided to DISTRICT.

9 21. DISPUTES

10 A. In the event CONSULTANT considers any work demanded of CONSULTANT
11 to be outside the requirements of this Agreement, or if CONSULTANT considers
12 any order, instruction or decision of DISTRICT to be unfair, CONSULTANT
13 shall promptly, upon receipt of such order, instruction or decision, ask for a
14 written confirmation of the same whereupon CONSULTANT shall proceed
15 without delay to perform the work or to conform to the order, instruction, or
16 decision. However, if CONSULTANT finds such order, instruction or decision
17 unsatisfactory, CONSULTANT shall, within twenty-one (21) calendar days after
18 receipt of same, file a written protest with DISTRICT stating clearly and in detail
19 its objections and reasons therefor. Except for such protests or objections as are
20 made of record in the manner specified and within the time stated herein, and
21 except for such instances where the basis of a protest could not reasonably have
22 been foreseen by CONSULTANT within the time limit specified for protest,
23 CONSULTANT hereby waives all grounds for protests or objections to orders,
24 instruction, or decisions of DISTRICT and hereby agrees that, as to all matters
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not included in such protests, the orders, instructions and decisions of DISTRICT will be limited to matters properly falling within DISTRICT'S authority.

B. Any controversy or claim arising out of or relating to this Agreement which cannot be resolved by mutual agreement may be settled by arbitration, provided that the parties hereto mutually agree to submit to arbitration.

C. Neither the pendency of a dispute nor its consideration by arbitration shall excuse CONSULTANT from full and timely performance in accordance with the terms of this Agreement.

22. ASSIGNMENT

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

23. 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.

24. 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.

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

7 25. WAIVER

8 Any waiver by DISTRICT of any breach of any one or more of the terms of this
9 Agreement shall not be construed to be a waiver of any subsequent or other breach of the
10 same or any other term thereof. Failure on the part of DISTRICT to require exact, full
11 and complete compliance with any terms of this Agreement shall not be construed as in
12 any manner changing the terms hereof, or estopping DISTRICT from enforcement
13 hereof.
14

15 26. NON-DISCRIMINATION

16 In the performance of the terms of this Agreement, CONSULTANT shall not engage in
17 nor permit others he may employ to engage in discrimination in the employment of
18 persons because of the race, color, national origin or ancestry, religion, physical
19 handicap, disability as defined by the Americans with Disabilities Act (ADA), medical
20 condition, marital status or sex of such persons, in accordance with the provision of
21 California Labor Code Section 1735.
22

23 27. NON-APPROPRIATION OF FUNDS

24 It is mutually agreed and understood that the obligation(s) of DISTRICT are limited by
25 and contingent upon the availability of DISTRICT funds for the reimbursement of
26 CONSULTANT'S fees. In the event that such funds are not forthcoming for any reason,
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1 DISTRICT shall immediately notify CONSULTANT in writing. This Agreement shall
2 be deemed terminated and have no further force and effect immediately upon receipt of
3 DISTRICT'S notification by CONSULTANT. In the event of such termination,
4 CONSULTANT shall be entitled to reimbursement of its costs in accordance with
5 Section 5 (COMPENSATION).

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

7/29/2011

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

By: Warren D. Williams
WARREN D. WILLIAMS
General Manager-Chief Engineer

By: Marion Ashley
MARION ASHLEY, Chairman
Riverside County Flood Control and Water Conservation District Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

By: Marsha L. Victor 6/30/11
MARSHA L. VICTOR
Principal Deputy County Counsel

By: Morraine Canova
Deputy

(SEAL)

LSA

By: Robert H. McCann 7/5/11
ROBERT H. MCCANN
President

(NOTARY)

Agreement for Consulting Services
Project Specific
06/22/11
SEM:blj

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Orange

On 7/5/11 before me, Teresita De La Cruz
Date Here Insert Name and Title of the Officer

personally appeared Robert H. McCann
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Teresita De La Cruz
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

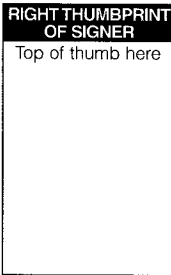
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

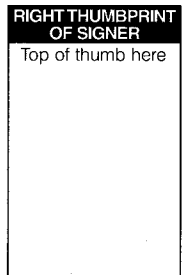
Signer Is Representing: _____



Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____



ATTACHMENT "A"

SCOPE OF SERVICES

CONSULTANT may be asked to perform one or more of the following types of services as specifically directed in Task Orders issued to CONSULTANT:

1. Prepare a Cultural Resources Report that addresses all potential issues related to archaeological, traditional and built environment resources in accordance with applicable Federal, State and local laws and regulations regarding cultural resources in the environmental review and/or regulatory permitting process including, but not limited to Section 106 of the National Historic Preservation Act.
2. Prepare a Paleontological Resources assessment that addresses all potential issues related to paleontological resources in accordance with applicable Federal, State and local laws and regulations in the environmental review and/or regulatory permitting process.
3. Prepare a Biological Resources Assessment that addresses all potential biological issues and concerns for the project area, including, but not limited to:
 - Reconnaissance surveys, habitat assessments, and focused surveys for sensitive or listed plant and wildlife species.
 - Federal and State Jurisdictional Area Delineation.
 - Designated Critical Habitat Areas with Federal Endangered Species Act (FESA).
 - Applicable Habitat Conservation Plans consistency assessment (i.e. Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), Coachella Valley MSHCP and Tribal Habitat Conservation Plan (HCP)).
4. Prepare a Jurisdictional Area Delineation Report and Impact Analysis, including significant nexus evaluation, that addresses all potential issues related to "Waters of the U.S." and wetlands (Clean Water Act), "Waters of the State" and wetlands (Porter-Cologne Water Quality Control Act), and areas under the jurisdiction of the California Department of Fish and Game Code (Section 1600 et seq.).
5. Prepare a native Habitat Mitigation and Monitoring Plan (HMMP).
6. Implement a HMMP.
7. Prepare a Preliminary Environmental Assessment Report (PEAR) for proposed District projects. The PEAR identifies potential environmental concerns (biological, cultural, historical, paleontological, jurisdictional, geological, or regulatory permitting, etc.) that could pose significant hurdles to a project based on preliminary design data. A PEAR may be needed at the early stage of a project to ensure that project alternatives (e.g., types of facility, facility size, alignment, etc.) are fully evaluated by the District.
8. Prepare as appropriate a separate or joint California Environmental Quality Act (CEQA) Initial Study and/or National Environmental Policy Act (NEPA) Environmental Assessment, if applicable, including but not limited to technical appendices, exhibits, and mitigation and monitoring plan to determine if the project may have a significant impact on the environment.
9. Prepare as appropriate a CEQA Negative Declaration, Mitigated Negative Declaration,

and Notice of Determination.

10. Prepare as appropriate a separate or joint CEQA Draft Environmental Impact Report (DEIR)/Final Environmental Impact Report (FEIR) and/or NEPA Draft Environmental Impact Statement (DEIS)/Final Environmental Impact Statement (FEIS) including, but not limited to technical appendices, exhibits, finding of any significance, mitigation, and monitoring plan to avoid or reduce potentially significant adverse impacts.
11. Prepare written responses to comments received during the CEQA and/or NEPA process.
12. Make presentations as needed to the public, government agencies, or others related to project review and its associated environmental documents.
13. Participate in public hearings and meetings as necessary.
14. Provide technical assistance and participate in permit negotiation as needed for the District to secure all necessary regulatory permits (e.g. FESA/CESA Incidental Take Permit, Department of Fish and Game Consistency Determination, Section 404 Individual/Nationwide Permit, 401 Water Quality Certification, 1602 Streambed Alteration Agreement, Waste Discharge Requirements, etc.) for flood control projects.
15. Conduct protocol level pre-construction biological surveys and provide written reports summarizing survey results.
16. Provide biological monitoring and reporting services.
17. Provide cultural and/or paleontological resources monitoring and reporting services.
18. Prepare a MSHCP/HCP consistency assessment that demonstrates project compliance with all applicable provisions of the appropriate habitat conservation plans (i.e. Western Riverside County MSHCP, Coachella Valley MSHCP and Tribal HCP).
19. Provide Hazardous Materials report to determine the presence/absence of any hazardous materials in accordance with the California Government Code Section 65962.5.
20. Provide a Determination of Biological Equivalent or Superior Preservation (DBESP) report in accordance with Section 6.1.2 of the Western Riverside County MSHCP for impacts to Riparian/Riverine Area/Vernal Pools which would be submitted for review to the U.S. Fish and Wildlife Service and the California Department of Fish and Game.

ATTACHMENT "B"

TASK ORDER APPROVAL FORM

CONSULTANT: _____

PROJECT NAME: _____

The Scope of Services for _____, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference, shall constitute an approved Task Order pursuant to the Agreement between the DISTRICT and CONSULTANT dated _____ ("AGREEMENT"). CONSULTANT agrees to perform the services described in Exhibit "A" within the time set forth in the Project Schedule as described in Exhibit "B" attached hereto and incorporated herein, for a fee amount of \$_____, unless otherwise modified by the DISTRICT'S Project Manager in a subsequent Task Order Approval Form. All charges shall be consistent with the Compensation/Fee Rate Schedule which is attached as Exhibit "C" and incorporated herein by this reference.

Performance of the services shall be subject to the terms and conditions contained in the AGREEMENT.

Dated this _____ day of _____
(To be filled in by General Manager-Chief Engineer)

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

By: _____
WARREN D. WILLIAMS
General Manager-Chief Engineer

CONSULTANT

By: _____
Printed Name and Title

ATTACHMENT "C"

List of Sub-Consultants

- Ninyo & Moore

CONSULTING SERVICES AGREEMENT

1 RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION
2 DISTRICT, hereinafter called "DISTRICT", and AECOM, hereinafter called
3 "CONSULTANT", hereby agree as follows:
4

5 1. PROJECT

6 CONSULTANT shall provide on-call environmental and regulatory support services in
7 accordance with applicable federal, state, and local laws and regulations as requested by
8 DISTRICT.

9 2. SCOPE OF SERVICES

10 As requested by DISTRICT, CONSULTANT shall provide Project Specific
11 Environmental/Regulatory Professional Services as described on Attachment "A" for
12 DISTRICT projects on an "on-call" basis. During the term of this Agreement, the
13 CONSULTANT may be invited to submit proposals for some of the various services
14 listed in Attachment "A" as requested by DISTRICT and be assigned subsequent Task
15 Orders, the form of which is Attachment "B" hereto. CONSULTANT understands and
16 expressly agrees that the execution of this Agreement by CONSULTANT and/or the
17 submission of any proposal to furnish services does not guarantee the assignment or
18 approval of any subsequent Task Order(s).
19
20

21 3. PERSONNEL

22 A. Project Manager

23 For each Task Order, the DISTRICT shall designate a representative who shall
24 act as the DISTRICT'S Project Manager ("Project Manager"). The Project
25 Manager shall have authority to act on behalf of DISTRICT for all purposes
26 under this Task Order. DISTRICT shall provide written notice to
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CONSULTANT of any change in Project Manager assignment for a given Task Order.

1
2 B. CONSULTANT'S Representative

3
4 CONSULTANT shall appoint a designated Representative for each assigned
5 Task Order who shall be responsible for coordinating all aspects of the assigned
6 Task Order. CONSULTANT'S Representative shall be available to DISTRICT'S
7 Project Manager at reasonable times. CONSULTANT may appoint another
8 person as Representative upon written notice to DISTRICT.

9 C. Substitution of Key Personnel

10 At the time of Task Order approval, CONSULTANT shall identify its Key
11 Personnel who will perform each assigned Task Order to the DISTRICT'S
12 Project Manager. Should one or more of the identified Key Personnel become
13 unavailable, CONSULTANT may substitute other personnel of equal or greater
14 competence upon written approval by DISTRICT. In the event that DISTRICT
15 and CONSULTANT cannot agree as to the substitution of the Key Personnel,
16 DISTRICT may terminate the Task Order, pursuant to the applicable provisions
17 of this Agreement.
18
19

20 4. TERM

21 The term of this Agreement shall become effective on the date the Agreement is
22 executed by DISTRICT'S Board of Supervisors, and shall remain in effect through the
23 later of:

- 24 A. Three (3) years from the date of the Board of Supervisors approval; or
25
26 B. The required date for completion of an assigned Task Order, provided that such
27 Task Order was approved prior to expiration date stipulated in 4.A., above.
28

5. COMPENSATION

1 CONSULTANT shall receive compensation for all services satisfactorily performed
2 under this Agreement in accordance with the terms of the approved Task Order(s). The
3 total amount to be paid to CONSULTANT for the performance of all Task Orders
4 approved pursuant to this Agreement shall not exceed seven hundred fifty thousand
5 dollars (\$750,000), or two hundred fifty thousand dollars (\$250,000) in a single fiscal
6 year.
7

8 6. PAYMENTS

9 Progress payments shall be made in accordance with the Compensation/Fee Rate
10 Schedule attached to the approved Task Order. Progress payments shall be processed no
11 more than once per month. Upon satisfactory performance of CONSULTANT'S
12 services pursuant to an approved Task Order, DISTRICT shall pay CONSULTANT
13 within forty-five (45) days after DISTRICT'S receipt of CONSULTANT'S appropriate
14 invoices. CONSULTANT shall keep employee and expense records according to
15 customary accounting methods and such records shall, upon request, be available for
16 inspection by DISTRICT to verify the invoices of CONSULTANT. All invoices shall
17 itemize charges to conform to the Compensation/Fee Rate Schedule negotiated for the
18 task order. DISTRICT shall notify CONSULTANT of any disputed amounts on invoice
19 within thirty (30) days of receipt.
20
21

22 7. PROJECT PERFORMANCE

23 A. Commencement of Services

24 CONSULTANT shall commence performance of the services for each Task
25 Order upon receipt of the DISTRICT'S approved Task Order.
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B. Time of Completion

1 Time is of the essence in the performance of this Agreement. CONSULTANT
2 shall complete services in accordance with the schedule(s) set forth in the
3 approved Task Order(s).
4

- 5 8. LICENSES – CONSULTANT, its employees, agents, contractors and subcontractors
6 shall possess appropriate federal and/or state permits and maintain professional licenses
7 required by the applicable Federal, State and local regulations at all times while
8 performing services under this Agreement.

9 9. STANDARD OF CARE

10 While performing the services, CONSULTANT shall exercise the reasonable
11 professional care and skill customarily exercised by reputable members of
12 CONSULTANT'S profession practicing in the State of California, and shall use
13 reasonable diligence and best judgment while exercising CONSULTANT'S professional
14 skill and expertise. By executing this Agreement, CONSULTANT represents and
15 maintains that CONSULTANT has the necessary experience and expertise to skillfully
16 perform all services, duties and obligations required by this Agreement and to fully and
17 adequately complete each approved Task Order.
18

19 10. ERRORS AND OMISSIONS

20 In the event CONSULTANT'S reports or work products contain any errors or omissions
21 that cause the DISTRICT to incur additional expense beyond what would have otherwise
22 resulted if there were no errors or omissions in CONSULTANT'S reports or work
23 products, such additional expense shall be borne solely by CONSULTANT.
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11. PERMITS AND RIGHTS OF ENTRY

1 DISTRICT shall obtain all rights of entry as may be required to allow CONSULTANT
 2 to perform the proposed consulting services within and upon privately-owned property.
 3 All permits and rights of entry as may be required from any and all affected public
 4 entities shall be obtained by CONSULTANT. Sufficient evidence of having obtained
 5 such permits and/or rights of entry shall be furnished to DISTRICT by CONSULTANT,
 6 prior to initiation of work. CONSULTANT will prosecute the work in such a manner as
 7 to minimize public inconvenience and possible hazard, and will restore the streets and
 8 other work areas to their original condition and former usefulness as soon as practicable.
 9 CONSULTANT shall be responsible for the protection of public and private property
 10 adjacent to the work and shall exercise due caution to avoid damage to such property.
 11
 12

13. NOTICES

14 Any and all notices sent or required to be sent to the parties of this Agreement will be
 15 mailed by first class mail, postage prepaid, to the following addresses:

16 RIVERSIDE COUNTY FLOOD CONTROL	AECOM
17 AND WATER CONSERVATION DISTRICT	999 Town and Country Road
18 1995 Market Street	Orange, CA 92868
19 Riverside, CA 92501	Attn: Michael Benner
20 Attn: Regulatory/ERS	

21. REQUIRED INSURANCE

21 Without limiting or diminishing the CONSULTANT'S obligation to indemnify or hold
 22 DISTRICT harmless, CONSULTANT shall procure and maintain or cause to be
 23 maintained, at its sole cost and expense, the following insurance coverages during the
 24 term of this Agreement:
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A. Workers' Compensation

If CONSULTANT has employees as defined by the State of California, CONSULTANT shall maintain Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employer's Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. Policy shall be endorsed to waive subrogation in favor of DISTRICT and, if applicable, to provide a Borrowed Servant/Alternate Employer endorsement.

B. Commercial General Liability

Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, completed operations, personal and advertising injury covering claims which may arise from or out of CONSULTANT'S performance of its obligations hereunder. Policy shall name Riverside County Flood Control and Water Conservation District, the County of Riverside, special districts, their respective directors, officers, Board of Supervisors, elected officials, employees, agents or representatives as additional insureds. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the occurrence limit.

C. Vehicle Liability

If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, CONSULTANT shall maintain liability insurance for all owned, non-owned or hired vehicles in an amount not less than \$1,000,000 per

1 occurrence combined single limit. If such insurance contains a general aggregate
 2 limit, it shall apply separately to this Agreement or be no less than two (2) times
 3 the occurrence limit. If CONSULTANT does not own vehicles, CONSULTANT
 4 shall maintain coverage for non-owned or hired vehicles in an amount not less
 5 than \$1,000,000 per occurrence combined single limit. Such non-owned or hired
 6 coverage may be included on the Commercial General Liability policy. Policy
 7 shall name Riverside County Flood Control and Water Conservation District, the
 8 County of Riverside, special districts, their respective directors, officers, Board
 9 of Supervisors, elected officials, employees, agents or representatives as
 10 additional insureds.

11 D. Professional Liability

12 CONSULTANT shall maintain Professional Liability Insurance providing
 13 coverage for CONSULTANT'S performance of work included within this
 14 Agreement, with a limit of liability of not less than \$1,000,000 per occurrence
 15 and \$2,000,000 annual aggregate. If CONSULTANT'S Professional Liability
 16 Insurance is written on a claims made basis rather than an occurrence basis, such
 17 insurance shall continue through the term of this Agreement and CONSULTANT
 18 shall purchase at his sole expense either: 1) an Extended Reporting Endorsement
 19 (also known as Tail Coverage); or 2) Prior Dates Coverage from a new insurer
 20 with a date retroactive to the date of, or prior to, the inception of this Agreement;
 21 or 3) demonstrate through Certificates of Insurance that CONSULTANT has
 22 maintained continuous coverage with the same or original insurer. Coverage
 23 provided under items: 1), 2) or 3) will continue as long as the law allows.
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E. General Insurance Provisions – All Lines

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1. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A.M. BEST rating of not less than an A: VIII (A: 8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for the specific insurer and only for one policy term.
 2. CONSULTANT'S insurance carrier(s) must declare its insurance deductibles or self-insured retentions. If such deductibles or self-insured retentions exceed \$500,000 per occurrence such deductibles and/or retentions shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of deductibles or self-insured retentions which are deemed unacceptable to the DISTRICT, at the election of the County's Risk Manager, CONSULTANT'S carriers shall either: 1) reduce or eliminate such deductibles or self-insured retentions with respect to this Agreement with DISTRICT, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, defense costs and expenses.
 3. CONSULTANT shall cause their insurance carrier(s) to furnish DISTRICT with: 1) a properly executed original certificate(s) of insurance and original certified copies of endorsements effecting coverage as required herein; or 2) if requested to do so orally or in writing by the County Risk Manager, provide original certified copies of policies

1 including all endorsements and all attachments thereto, showing such
2 insurance is in full force and effect. Further, said certificate(s) and
3 policies of insurance shall contain the covenant that the insurance
4 carrier(s) shall provide no less than thirty (30) days written notice be
5 given to DISTRICT prior to any material modification or cancellation of
6 such insurance. In the event of a material modification or cancellation of
7 coverage, this Agreement shall terminate forthwith, unless DISTRICT
8 receives, prior to such effective date, another properly executed original
9 certificate of insurance and original copies of endorsements or original
10 certified policies, including all endorsements and attachments thereto,
11 evidencing coverages and the insurance required herein is in full force
12 and effect. Individual(s) authorized by the insurance carrier to do so on
13 its behalf shall sign the original endorsements for each policy and the
14 certificate of insurance.

15
16 CONSULTANT shall not commence operations until DISTRICT has
17 been furnished with original certificate(s) of insurance and original
18 certified copies of endorsements or policies of insurance including all
19 endorsements and any and all other attachments as required in this
20 Section.
21

- 22 4. It is understood and agreed by the parties hereto and the
23 CONSULTANT'S insurance company(s), that the certificate(s) of
24 insurance and policies shall so covenant and shall be construed as primary
25 insurance, and the DISTRICT'S insurance and/or deductibles and/or self-
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insured retentions or self-insured programs shall not be construed as contributory.

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3 5. If, during the term of this Agreement or any extension thereof, there is a
4 material change in the scope of services; or there is a material change in
5 the equipment to be used in the performance of the scope of work which
6 will add additional exposures (such as the use of aircraft, watercraft,
7 cranes, etc.); or the term of this Agreement, including any extensions
8 thereof, exceeds five (5) years, the County reserves the right to adjust the
9 types of insurance required under this Agreement and the monetary limits
10 of liability for the insurance coverage's currently required herein, if, in the
11 County Risk Manager's reasonable judgment, the amount or type of
12 insurance carried by the CONSULTANT has become inadequate.

13
14 6. CONSULTANT shall pass down the insurance obligations contained
15 herein to all tiers of subcontractors working under this Agreement.

16
17 7. The insurance requirements contained in this Agreement may be met with
18 a program(s) of self-insurance acceptable to DISTRICT.

19
20 8. CONSULTANT agrees to notify DISTRICT of any claim by a third party
21 or any incident or event that may give rise to a claim arising from the
22 performance of this Agreement.

23 14. INDEMNIFICATION

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

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

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

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

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

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26 In the event there is conflict between this section and California Civil Code Section
27 2782, this section shall be interpreted to comply with Civil Code 2782. Such
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1 interpretation shall not relieve the CONSULTANT from indemnifying DISTRICT
2 (including its directors, officers, Board of Supervisors, elected and appointed officials,
3 employees, agents and representatives) or the County of Riverside to the fullest extent
4 allowed by law.

5 15. WORK PRODUCT

6 CONSULTANT shall provide all report(s) as set forth in the approved Task Order(s).
7 All drawings, logs and reports shall be and remain the sole property of DISTRICT.
8 CONSULTANT shall not publish or transfer any material produced or resulting from
9 activities supported by this Agreement without the written consent of the General
10 Manager-Chief Engineer of DISTRICT. If any such material is subject to copyright or
11 trademark, the parties agree that the right to any and all copyright and/or trademark in
12 and to the material is expressly reserved to DISTRICT. If any such material is
13 copyrighted, the parties hereto understand and agree that DISTRICT reserves a royalty-
14 free, non-exclusive, and irrevocable license to reproduce, publish, and use such material,
15 in whole or in part, and to authorize others to do so, provided written credit is given the
16 author.
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18 16. TERMINATION

19 At any time during the term of this Agreement, DISTRICT may:
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21 A. Agreement

- 22 1) Terminate this Agreement without cause upon providing CONSULTANT
23 thirty (30) days written notice stating the extent and effective date of
24 termination; or
25 2) Upon five (5) days written notice, terminate this Agreement for
26 CONSULTANT default, if CONSULTANT refuses or fails to comply
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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, the DISTRICT may proceed with the work in a 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 provision 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 26 (NON-DISCRIMINATION). In such event, CONSULTANT shall not be entitled to any further compensation under this Agreement. The rights and remedies of DISTRICT provided in this

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

3 B. Approved Task Order

4 Terminate an approved Task Order or portion thereof without cause upon
5 providing CONSULTANT fourteen (14) days written notice stating the extent
6 and effective date of termination. In the event DISTRICT issues a Notice of
7 Termination for an approved Task Order, CONSULTANT shall: i) stop all work
8 under the Task Order 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
10 directed by DISTRICT, any equipment, data, reports or other documents which,
11 if the Task Order had been completed, would have been required to be furnished
12 to DISTRICT.

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14 In the event DISTRICT terminates an approved Task Order, DISTRICT shall
15 make payment for all services satisfactorily performed in accordance with the
16 negotiated Task Order to the date of termination, a total amount which bears the
17 same ratio to the total maximum fee otherwise payable under the Task Order as
18 the services actually bear to the total services necessary for performance of the
19 Task Order.
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21 17. Basic Services of CONSULTANT

22 The scope of services associated with the performance of any specific Task Order under
23 this Agreement shall be expressly defined and agreed upon prior to the approval of the
24 Task Order by the Project Manager. Any changes to the approved scope of services must
25 be authorized by the Project Manager, and shall be made in writing.
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1 A. Right to Preliminary Review

2 All work prepared by CONSULTANT shall be subject to the approval of the
3 Project Manager. CONSULTANT shall allow Project Manager to inspect and
4 review CONSULTANT'S work in progress at any reasonable time. All reports,
5 working papers, and similar work products prepared for submission in the course
6 of providing services under this Agreement shall be submitted to the Project
7 Manager in draft form. In the event that Project Manager, in his or her sole
8 discretion, determines the formally submitted work product to be inadequate,
9 CONSULTANT may be required to revise and resubmit the work at no
10 additional cost to DISTRICT. Should CONSULTANT fail to make requested
11 corrections in a timely manner, such corrections may be made by DISTRICT,
12 and the cost thereof charged to CONSULTANT. The responsibility for accuracy
13 and completeness of such items remains solely that of CONSULTANT. Neither
14 DISTRICT'S review or approval shall give rise to any liability or responsibility
15 on the part of DISTRICT, or waive any of DISTRICT'S rights, or relieve
16 CONSULTANT of its professional responsibilities or obligations under this
17 Agreement.
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19 B. Progress Reports

20 Attached with CONSULTANT'S periodic invoice(s), CONSULTANT shall
21 submit a Progress Report indicating the project status in relation to the approved
22 Project Schedule and, as DISTRICT deems necessary, an updated Project
23 Schedule for review and approval. Failure to submit the Progress Report or
24 updated Project Schedule shall be cause for DISTRICT to withhold payment of
25 CONSULTANT'S invoice.
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18. INDEPENDENT CONTRACTOR

1 CONSULTANT and the agents and employees of CONSULTANT, shall act at all times
2 in an independent capacity during the term of this Agreement and in the performance of
3 the services to be rendered hereunder and shall not act as or shall not be and shall not in
4 any manner be considered to be employees or agents of DISTRICT.
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6 19. SUBCONTRACTING

7 A list of sub-consultants (Sub-consultants), as identified by the CONSULTANT, is
8 attached hereto as Attachment "C". CONSULTANT may, at CONSULTANT'S own
9 expense, retain or employ Sub-consultants from Attachment "C" to accomplish certain
10 portions of the work covered by this Agreement.
11

12 Should one or more of the Sub-consultants, as identified in Attachment "C", become
13 unavailable, CONSULTANT may substitute other sub-consultants of equal or greater
14 competence upon written approval by DISTRICT. In the event that DISTRICT and
15 CONSULTANT cannot agree as to the substitution of the sub-consultant, DISTRICT
16 may terminate the Task Order, pursuant to the applicable provisions of this Agreement.
17

18 In the event CONSULTANT subcontracts any portion of CONSULTANT'S duties under
19 this Agreement, CONSULTANT shall require its Sub-consultants to comply with the
20 terms of this Agreement in the same manner as required of CONSULTANT. The fact
21 that CONSULTANT employs Sub-consultants not in his regular employ shall not relieve
22 CONSULTANT of any responsibility regarding the adequacy of the Sub-consultant's
23 work performed or services provided pursuant to this Agreement.
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25 20. CHANGES TO TASK ORDER SCOPE OF SERVICES

26 CONSULTANT shall not perform any additional work or services outside the scope of
27 an approved Task Order without the prior written approval of the Project Manager. If at
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1 any time during the performance of an approved Task Order, CONSULTANT believes
2 that it is necessary to include certain work or services which are not clearly covered
3 under the scope of an approved Task Order, CONSULTANT shall immediately notify
4 the Project Manager in writing of CONSULTANT'S assertion that the work is out of
5 scope. Said notification by CONSULTANT to the Project Manager shall not in any way
6 be construed as proving that the work or services in question are outside the scope of the
7 Task Order. The Project Manager must approve or reject CONSULTANT'S assertion in
8 writing. In the event the Project Manager determines that CONSULTANT is correct, the
9 additional work or services shall be authorized by a new or revised Task Order that
10 covers the new scope, cost and schedule. In the event that such notification is not given
11 or if the Project Manager is not afforded an opportunity to negotiate the appropriate fee
12 for such additional services prior to CONSULTANT'S commencement of such
13 additional services, then CONSULTANT shall be deemed to have agreed to perform the
14 work or services without any additional compensation and to have accepted sole
15 responsibility for the performance of said work or services. Extra work done or services
16 performed without a new or revised Task Order from the Project Manager shall be
17 considered unauthorized and shall not be paid for by DISTRICT.

20 At any time during the performance of an approved Task Order, DISTRICT may request
21 that CONSULTANT perform extra services. Any work which is determined by
22 DISTRICT to be necessary for the proper completion of the approved Task Order, but
23 which neither CONSULTANT nor DISTRICT reasonably anticipated would be
24 necessary at the time the scope of services for the assigned Task Order was approved,
25 must be authorized by the Project Manager by a new or revised Task Order.
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1 At any time during the performance of the Task Order, the Project Manager, upon
2 providing five (5) days written notice to the CONSULTANT, may delete services and
3 the associated fees from the Task Order. In the event DISTRICT requests deletion of
4 services from the Task Order, DISTRICT shall make payment for all services
5 satisfactorily performed in accordance with the negotiated Task Order up to the effective
6 date of deletion; the amount of the payment shall be prorated to the total services
7 necessary for completion of the Task Order. No work product for the deleted services
8 shall be provided to DISTRICT.

9
10 21. DISPUTES

11 A. In the event CONSULTANT considers any work demanded of CONSULTANT
12 to be outside the requirements of this Agreement, or if CONSULTANT considers
13 any order, instruction or decision of DISTRICT to be unfair, CONSULTANT
14 shall promptly, upon receipt of such order, instruction or decision, ask for a
15 written confirmation of the same whereupon CONSULTANT shall proceed
16 without delay to perform the work or to conform to the order, instruction, or
17 decision. However, if CONSULTANT finds such order, instruction or decision
18 unsatisfactory, CONSULTANT shall, within twenty-one (21) calendar days after
19 receipt of same, file a written protest with DISTRICT stating clearly and in detail
20 its objections and reasons therefor. Except for such protests or objections as are
21 made of record in the manner specified and within the time stated herein, and
22 except for such instances where the basis of a protest could not reasonably have
23 been foreseen by CONSULTANT within the time limit specified for protest,
24 CONSULTANT hereby waives all grounds for protests or objections to orders,
25 instruction, or decisions of DISTRICT and hereby agrees that, as to all matters
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not included in such protests, the orders, instructions and decisions of DISTRICT will be limited to matters properly falling within DISTRICT'S authority.

B. Any controversy or claim arising out of or relating to this Agreement which cannot be resolved by mutual agreement may be settled by arbitration, provided that the parties hereto mutually agree to submit to arbitration.

C. Neither the pendency of a dispute nor its consideration by arbitration shall excuse CONSULTANT from full and timely performance in accordance with the terms of this Agreement.

22. ASSIGNMENT

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

23. 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.

24. 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.

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

7 25. WAIVER

8 Any waiver by DISTRICT of any breach of any one or more of the terms of this
9 Agreement shall not be construed to be a waiver of any subsequent or other breach of the
10 same or any other term thereof. Failure on the part of DISTRICT to require exact, full
11 and complete compliance with any terms of this Agreement shall not be construed as in
12 any manner changing the terms hereof, or estopping DISTRICT from enforcement
13 hereof.
14

15 26. NON-DISCRIMINATION

16 In the performance of the terms of this Agreement, CONSULTANT shall not engage in
17 nor permit others he may employ to engage in discrimination in the employment of
18 persons because of the race, color, national origin or ancestry, religion, physical
19 handicap, disability as defined by the Americans with Disabilities Act (ADA), medical
20 condition, marital status or sex of such persons, in accordance with the provision of
21 California Labor Code Section 1735.
22

23 27. NON-APPROPRIATION OF FUNDS

24 It is mutually agreed and understood that the obligation(s) of DISTRICT are limited by
25 and contingent upon the availability of DISTRICT funds for the reimbursement of
26 CONSULTANT'S fees. In the event that such funds are not forthcoming for any reason,
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1 DISTRICT shall immediately notify CONSULTANT in writing. This Agreement shall
2 be deemed terminated and have no further force and effect immediately upon receipt of
3 DISTRICT'S notification by CONSULTANT. In the event of such termination,
4 CONSULTANT shall be entitled to reimbursement of its costs in accordance with
5 Section 5 (COMPENSATION).

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

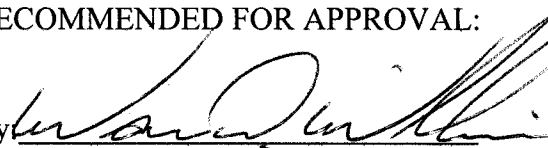
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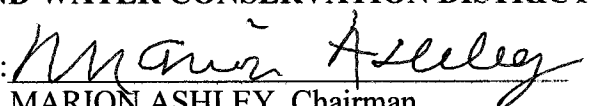
7/26/2011

(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

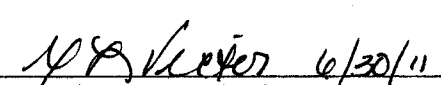
By: 
MARION ASHLEY, Chairman
Riverside County Flood Control and Water
Conservation District Board of Supervisors

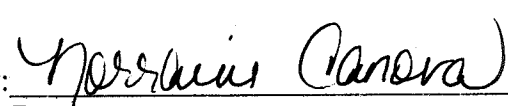
APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

By:  6/30/11
MARSHA L. VICTOR
Principal Deputy County Counsel

By: 
Deputy

(SEAL)

AECOM

By: 
JOEL B. FARRIER
Vice President

(NOTARY)

Agreement for Consulting Services
Project Specific
06/22/11
SEM:mcv:blj

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Orange }

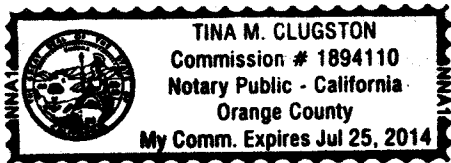
On July 6, 2011 before me, Tina M. Clugston, Notary Public,
Date Here Insert Name and Title of the Officer

personally appeared Joel Barnett Farmer
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Place Notary Seal Above

Signature Tina M. Clugston
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document Riverside County Flood Control & Water Conservation District

Title or Type of Document: Agreement for Consulting Services

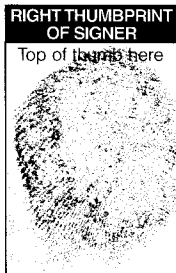
Document Date: None Number of Pages: 22 + 4 Attachments

Signer(s) Other Than Named Above: Warren D. Williams, Marion Ashley, Marsha Victor
Deputy?

Capacity(ies) Claimed by Signer(s)

Signer's Name: Joel Barnett Farmer

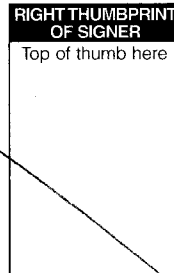
- Individual
- Corporate Officer — Title(s): Vice President
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: AECOM

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

ATTACHMENT "A"

SCOPE OF SERVICES

CONSULTANT may be asked to perform one or more of the following types of services as specifically directed in Task Orders issued to CONSULTANT:

1. Prepare a Cultural Resources Report that addresses all potential issues related to archaeological, traditional and built environment resources in accordance with applicable Federal, State and local laws and regulations regarding cultural resources in the environmental review and/or regulatory permitting process including, but not limited to Section 106 of the National Historic Preservation Act.
2. Prepare a Paleontological Resources assessment that addresses all potential issues related to paleontological resources in accordance with applicable Federal, State and local laws and regulations in the environmental review and/or regulatory permitting process.
3. Prepare a Biological Resources Assessment that addresses all potential biological issues and concerns for the project area, including, but not limited to:
 - Reconnaissance surveys, habitat assessments, and focused surveys for sensitive or listed plant and wildlife species.
 - Federal and State Jurisdictional Area Delineation.
 - Designated Critical Habitat Areas with Federal Endangered Species Act (FESA).
 - Applicable Habitat Conservation Plans consistency assessment (i.e. Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), Coachella Valley MSHCP and Tribal Habitat Conservation Plan (HCP)).
4. Prepare a Jurisdictional Area Delineation Report and Impact Analysis, including significant nexus evaluation, that addresses all potential issues related to "Waters of the U.S." and wetlands (Clean Water Act), "Waters of the State" and wetlands (Porter-Cologne Water Quality Control Act), and areas under the jurisdiction of the California Department of Fish and Game Code (Section 1600 et seq.).
5. Prepare a native Habitat Mitigation and Monitoring Plan (HMMP).
6. Implement a HMMP.
7. Prepare a Preliminary Environmental Assessment Report (PEAR) for proposed District projects. The PEAR identifies potential environmental concerns (biological, cultural, historical, paleontological, jurisdictional, geological, or regulatory permitting, etc.) that could pose significant hurdles to a project based on preliminary design data. A PEAR may be needed at the early stage of a project to ensure that project alternatives (e.g., types of facility, facility size, alignment, etc.) are fully evaluated by the District.
8. Prepare as appropriate a separate or joint California Environmental Quality Act (CEQA) Initial Study and/or National Environmental Policy Act (NEPA) Environmental Assessment, if applicable, including but not limited to technical appendices, exhibits, and mitigation and monitoring plan to determine if the project may have a significant impact on the environment.
9. Prepare as appropriate a CEQA Negative Declaration, Mitigated Negative Declaration,

and Notice of Determination.

10. Prepare as appropriate a separate or joint CEQA Draft Environmental Impact Report (DEIR)/Final Environmental Impact Report (FEIR) and/or NEPA Draft Environmental Impact Statement (DEIS)/Final Environmental Impact Statement (FEIS) including, but not limited to technical appendices, exhibits, finding of any significance, mitigation, and monitoring plan to avoid or reduce potentially significant adverse impacts.
11. Prepare written responses to comments received during the CEQA and/or NEPA process.
12. Make presentations as needed to the public, government agencies, or others related to project review and its associated environmental documents.
13. Participate in public hearings and meetings as necessary.
14. Provide technical assistance and participate in permit negotiation as needed for the District to secure all necessary regulatory permits (e.g. FESA/CESA Incidental Take Permit, Department of Fish and Game Consistency Determination, Section 404 Individual/Nationwide Permit, 401 Water Quality Certification, 1602 Streambed Alteration Agreement, Waste Discharge Requirements, etc.) for flood control projects.
15. Conduct protocol level pre-construction biological surveys and provide written reports summarizing survey results.
16. Provide biological monitoring and reporting services.
17. Provide cultural and/or paleontological resources monitoring and reporting services.
18. Prepare a MSHCP/HCP consistency assessment that demonstrates project compliance with all applicable provisions of the appropriate habitat conservation plans (i.e. Western Riverside County MSHCP, Coachella Valley MSHCP and Tribal HCP).
19. Provide Hazardous Materials report to determine the presence/absence of any hazardous materials in accordance with the California Government Code Section 65962.5.
20. Provide a Determination of Biological Equivalent or Superior Preservation (DBESP) report in accordance with Section 6.1.2 of the Western Riverside County MSHCP for impacts to Riparian/Riverine Area/Vernal Pools which would be submitted for review to the U.S. Fish and Wildlife Service and the California Department of Fish and Game.

ATTACHMENT "B"

TASK ORDER APPROVAL FORM

CONSULTANT: _____

PROJECT NAME: _____

The Scope of Services for _____, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference, shall constitute an approved Task Order pursuant to the Agreement between the DISTRICT and CONSULTANT dated _____ ("AGREEMENT"). CONSULTANT agrees to perform the services described in Exhibit "A" within the time set forth in the Project Schedule as described in Exhibit "B" attached hereto and incorporated herein, for a fee amount of \$_____, unless otherwise modified by the DISTRICT'S Project Manager in a subsequent Task Order Approval Form. All charges shall be consistent with the Compensation/Fee Rate Schedule which is attached as Exhibit "C" and incorporated herein by this reference.

Performance of the services shall be subject to the terms and conditions contained in the AGREEMENT.

Dated this _____ day of _____
(To be filled in by General Manager-Chief Engineer)

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

By: _____
WARREN D. WILLIAMS
General Manager-Chief Engineer

CONSULTANT

By: _____
Printed Name and Title

ATTACHMENT "C"

List of Sub-Consultants

- CValdo Corporation
- SJM Biological Consultants
- SWCA Environmental Consultants

CONSULTING SERVICES AGREEMENT

1
2 RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION
3 DISTRICT, hereinafter called "DISTRICT", and AMEC, hereinafter called "CONSULTANT",
4 hereby agree as follows:

5 1. PROJECT

6 CONSULTANT shall provide on-call environmental and regulatory support services in
7 accordance with applicable federal, state, and local laws and regulations as requested by
8 DISTRICT.

9
10 2. SCOPE OF SERVICES

11 As requested by DISTRICT, CONSULTANT shall provide Project Specific
12 Environmental/Regulatory Professional Services as described on Attachment "A" for
13 DISTRICT projects on an "on-call" basis. During the term of this Agreement, the
14 CONSULTANT may be invited to submit proposals for some of the various services
15 listed in Attachment "A" as requested by DISTRICT and be assigned subsequent Task
16 Orders, the form of which is Attachment "B" hereto. CONSULTANT understands and
17 expressly agrees that the execution of this Agreement by CONSULTANT and/or the
18 submission of any proposal to furnish services does not guarantee the assignment or
19 approval of any subsequent Task Order(s).

20
21 3. PERSONNEL22 A. Project Manager

23 For each Task Order, the DISTRICT shall designate a representative who shall
24 act as the DISTRICT'S Project Manager ("Project Manager"). The Project
25 Manager shall have authority to act on behalf of DISTRICT for all purposes
26 under this Task Order. DISTRICT shall provide written notice to
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1 CONSULTANT of any change in Project Manager assignment for a given Task
2 Order.

3 B. CONSULTANT'S Representative

4 CONSULTANT shall appoint a designated Representative for each assigned
5 Task Order who shall be responsible for coordinating all aspects of the assigned
6 Task Order. CONSULTANT'S Representative shall be available to DISTRICT'S
7 Project Manager at reasonable times. CONSULTANT may appoint another
8 person as Representative upon written notice to DISTRICT.
9

10 C. Substitution of Key Personnel

11 At the time of Task Order approval, CONSULTANT shall identify its Key
12 Personnel who will perform each assigned Task Order to the DISTRICT'S
13 Project Manager. Should one or more of the identified Key Personnel become
14 unavailable, CONSULTANT may substitute other personnel of equal or greater
15 competence upon written approval by DISTRICT. In the event that DISTRICT
16 and CONSULTANT cannot agree as to the substitution of the Key Personnel,
17 DISTRICT may terminate the Task Order, pursuant to the applicable provisions
18 of this Agreement.
19

20 4. TERM

21 The term of this Agreement shall become effective on the date the Agreement is
22 executed by DISTRICT'S Board of Supervisors, and shall remain in effect through the
23 later of:
24

- 25 A. Three (3) years from the date of the Board of Supervisors approval; or
26 B. The required date for completion of an assigned Task Order, provided that such
27 Task Order was approved prior to expiration date stipulated in 4.A., above.
28

1 5. COMPENSATION

2 CONSULTANT shall receive compensation for all services satisfactorily performed
3 under this Agreement in accordance with the terms of the approved Task Order(s). The
4 total amount to be paid to CONSULTANT for the performance of all Task Orders
5 approved pursuant to this Agreement shall not exceed seven hundred fifty thousand
6 dollars (\$750,000), or two hundred fifty thousand dollars (\$250,000) in a single fiscal
7 year.

8
9 6. PAYMENTS

10 Progress payments shall be made in accordance with the Compensation/Fee Rate
11 Schedule attached to the approved Task Order. Progress payments shall be processed no
12 more than once per month. Upon satisfactory performance of CONSULTANT'S
13 services pursuant to an approved Task Order, DISTRICT shall pay CONSULTANT
14 within forty-five (45) days after DISTRICT'S receipt of CONSULTANT'S appropriate
15 invoices. CONSULTANT shall keep employee and expense records according to
16 customary accounting methods and such records shall, upon request, be available for
17 inspection by DISTRICT to verify the invoices of CONSULTANT. All invoices shall
18 itemize charges to conform to the Compensation/Fee Rate Schedule negotiated for the
19 task order. DISTRICT shall notify CONSULTANT of any disputed amounts on invoice
20 within thirty (30) days of receipt.

21
22 7. PROJECT PERFORMANCE

23 A. Commencement of Services

24 CONSULTANT shall commence performance of the services for each Task
25 Order upon receipt of the DISTRICT'S approved Task Order.
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1 B. Time of Completion

2 Time is of the essence in the performance of this Agreement. CONSULTANT
3 shall complete services in accordance with the schedule(s) set forth in the
4 approved Task Order(s).

- 5 8. LICENSES – CONSULTANT, its employees, agents, contractors and subcontractors
6 shall possess appropriate federal and/or state permits and maintain professional licenses
7 required by the applicable Federal, State and local regulations at all times while
8 performing services under this Agreement.

9
10 9. STANDARD OF CARE

11 While performing the services, CONSULTANT shall exercise the reasonable
12 professional care and skill customarily exercised by reputable members of
13 CONSULTANT'S profession practicing in the State of California, and shall use
14 reasonable diligence and best judgment while exercising CONSULTANT'S professional
15 skill and expertise. By executing this Agreement, CONSULTANT represents and
16 maintains that CONSULTANT has the necessary experience and expertise to skillfully
17 perform all services, duties and obligations required by this Agreement and to fully and
18 adequately complete each approved Task Order.

19
20 10. ERRORS AND OMISSIONS

21 In the event CONSULTANT'S reports or work products contain any errors or omissions
22 that cause the DISTRICT to incur additional expense beyond what would have otherwise
23 resulted if there were no errors or omissions in CONSULTANT'S reports or work
24 products, such additional expense shall be borne solely by CONSULTANT.
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11. PERMITS AND RIGHTS OF ENTRY

DISTRICT shall obtain all rights of entry as may be required to allow CONSULTANT to perform the proposed consulting services within and upon privately-owned property. All permits and rights of entry as may be required from any and all affected public entities shall be obtained by CONSULTANT. Sufficient evidence of having obtained such permits and/or rights of entry shall be furnished to DISTRICT by CONSULTANT, prior to initiation of work. CONSULTANT will prosecute the work in such a manner as to minimize public inconvenience and possible hazard, and will restore the streets and other work areas to their original condition and former usefulness as soon as practicable. CONSULTANT shall be responsible for the protection of public and private property adjacent to the work and shall exercise due caution to avoid damage to such property.

12. NOTICES

Any and all notices sent or required to be sent to the parties of this Agreement will be mailed by first class mail, postage prepaid, to the following addresses:

RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT 1995 Market Street Riverside, CA 92501 Attn: Regulatory/ERS	AMEC 3120 Chicago Avenue Riverside, CA 92507 Attn: Wes Speake
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13. REQUIRED INSURANCE

Without limiting or diminishing the CONSULTANT'S obligation to indemnify or hold DISTRICT harmless, CONSULTANT shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverages during the term of this Agreement:

1 A. Workers' Compensation

2 If CONSULTANT has employees as defined by the State of California,
3 CONSULTANT shall maintain Workers' Compensation Insurance (Coverage A)
4 as prescribed by the laws of the State of California. Policy shall include
5 Employer's Liability (Coverage B) including Occupational Disease with limits
6 not less than \$1,000,000 per person per accident. Policy shall be endorsed to
7 waive subrogation in favor of DISTRICT and, if applicable, to provide a
8 Borrowed Servant/Alternate Employer endorsement.
9

10 B. Commercial General Liability

11 Commercial General Liability insurance coverage, including but not limited to,
12 premises liability, contractual liability, completed operations, personal and
13 advertising injury covering claims which may arise from or out of
14 CONSULTANT'S performance of its obligations hereunder. Policy shall name
15 Riverside County Flood Control and Water Conservation District, the County of
16 Riverside, special districts, their respective directors, officers, Board of
17 Supervisors, elected officials, employees, agents or representatives as additional
18 insureds. Policy's limit of liability shall not be less than \$1,000,000 per
19 occurrence combined single limit. If such insurance contains a general aggregate
20 limit, it shall apply separately to this Agreement or be no less than two (2) times
21 the occurrence limit.
22

23 C. Vehicle Liability

24 If vehicles or mobile equipment are used in the performance of the obligations
25 under this Agreement, CONSULTANT shall maintain liability insurance for all
26 owned, non-owned or hired vehicles in an amount not less than \$1,000,000 per
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1 occurrence combined single limit. If such insurance contains a general aggregate
2 limit, it shall apply separately to this Agreement or be no less than two (2) times
3 the occurrence limit. If CONSULTANT does not own vehicles, CONSULTANT
4 shall maintain coverage for non-owned or hired vehicles in an amount not less
5 than \$1,000,000 per occurrence combined single limit. Such non-owned or hired
6 coverage may be included on the Commercial General Liability policy. Policy
7 shall name Riverside County Flood Control and Water Conservation District, the
8 County of Riverside, special districts, their respective directors, officers, Board
9 of Supervisors, elected officials, employees, agents or representatives as
10 additional insureds.
11

12 D. Professional Liability

13 CONSULTANT shall maintain Professional Liability Insurance providing
14 coverage for CONSULTANT'S performance of work included within this
15 Agreement, with a limit of liability of not less than \$1,000,000 per occurrence
16 and \$2,000,000 annual aggregate. If CONSULTANT'S Professional Liability
17 Insurance is written on a claims made basis rather than an occurrence basis, such
18 insurance shall continue through the term of this Agreement and CONSULTANT
19 shall purchase at his sole expense either: 1) an Extended Reporting Endorsement
20 (also known as Tail Coverage); or 2) Prior Dates Coverage from a new insurer
21 with a date retroactive to the date of, or prior to, the inception of this Agreement;
22 or 3) demonstrate through Certificates of Insurance that CONSULTANT has
23 maintained continuous coverage with the same or original insurer. Coverage
24 provided under items: 1), 2) or 3) will continue as long as the law allows.
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E. General Insurance Provisions – All Lines

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1. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A.M. BEST rating of not less than an A: VIII (A: 8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for the specific insurer and only for one policy term.
2. CONSULTANT'S insurance carrier(s) must declare its insurance deductibles or self-insured retentions. If such deductibles or self-insured retentions exceed \$500,000 per occurrence such deductibles and/or retentions shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of deductibles or self-insured retentions which are deemed unacceptable to the DISTRICT, at the election of the County's Risk Manager, CONSULTANT'S carriers shall either: 1) reduce or eliminate such deductibles or self-insured retentions with respect to this Agreement with DISTRICT, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, defense costs and expenses.
3. CONSULTANT shall cause their insurance carrier(s) to furnish DISTRICT with: 1) a properly executed original certificate(s) of insurance and original certified copies of endorsements effecting coverage as required herein; or 2) if requested to do so orally or in writing by the County Risk Manager, provide original certified copies of policies

1 including all endorsements and all attachments thereto, showing such
2 insurance is in full force and effect. Further, said certificate(s) and
3 policies of insurance shall contain the covenant that the insurance
4 carrier(s) shall provide no less than thirty (30) days written notice be
5 given to DISTRICT prior to any material modification or cancellation of
6 such insurance. In the event of a material modification or cancellation of
7 coverage, this Agreement shall terminate forthwith, unless DISTRICT
8 receives, prior to such effective date, another properly executed original
9 certificate of insurance and original copies of endorsements or original
10 certified policies, including all endorsements and attachments thereto,
11 evidencing coverages and the insurance required herein is in full force
12 and effect. Individual(s) authorized by the insurance carrier to do so on
13 its behalf shall sign the original endorsements for each policy and the
14 certificate of insurance.

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17 CONSULTANT shall not commence operations until DISTRICT has
18 been furnished with original certificate(s) of insurance and original
19 certified copies of endorsements or policies of insurance including all
20 endorsements and any and all other attachments as required in this
21 Section.

- 22
23 4. It is understood and agreed by the parties hereto and the
24 CONSULTANT'S insurance company(s), that the certificate(s) of
25 insurance and policies shall so covenant and shall be construed as primary
26 insurance, and the DISTRICT'S insurance and/or deductibles and/or self-

insured retentions or self-insured programs shall not be construed as contributory.

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5. If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or there is a material change in the equipment to be used in the performance of the scope of work which will add additional exposures (such as the use of aircraft, watercraft, cranes, etc.); or the term of this Agreement, including any extensions thereof, exceeds five (5) years, the County reserves the right to adjust the types of insurance required under this Agreement and the monetary limits of liability for the insurance coverage's currently required herein, if, in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONSULTANT has become inadequate.

6. CONSULTANT shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.

7. The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to DISTRICT.

8. CONSULTANT agrees to notify DISTRICT of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

14. INDEMNIFICATION

CONSULTANT shall indemnify and hold harmless DISTRICT (including its directors, 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

1 its officers, employees, subcontractors and agents) actual or alleged negligent, reckless
2 or willful misconduct acts or omissions related to this Agreement, performance under
3 this Agreement, or failure to comply with the requirements of this Agreement, including
4 but not limited to: (a) property damage; (b) bodily injury or death; or (c) any other
5 element of any kind or nature whatsoever.

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

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

19 CONSULTANT'S indemnification obligations shall be satisfied when CONSULTANT
20 has provided to DISTRICT the appropriate form of dismissal (or similar document)
21 relieving DISTRICT from any liability for the claim, proceeding or action involved.
22

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

26 In the event there is conflict between this section and California Civil Code Section
27 2782, this section shall be interpreted to comply with Civil Code 2782. Such
28

1 interpretation shall not relieve the CONSULTANT from indemnifying DISTRICT
2 (including its directors, officers, Board of Supervisors, elected and appointed officials,
3 employees, agents and representatives) or the County of Riverside to the fullest extent
4 allowed by law.

5 15. WORK PRODUCT

6 CONSULTANT shall provide all report(s) as set forth in the approved Task Order(s).
7 All drawings, logs and reports shall be and remain the sole property of DISTRICT.
8 CONSULTANT shall not publish or transfer any material produced or resulting from
9 activities supported by this Agreement without the written consent of the General
10 Manager-Chief Engineer of DISTRICT. If any such material is subject to copyright or
11 trademark, the parties agree that the right to any and all copyright and/or trademark in
12 and to the material is expressly reserved to DISTRICT. If any such material is
13 copyrighted, the parties hereto understand and agree that DISTRICT reserves a royalty-
14 free, non-exclusive, and irrevocable license to reproduce, publish, and use such material,
15 in whole or in part, and to authorize others to do so, provided written credit is given the
16 author.
17
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19 16. TERMINATION

20 At any time during the term of this Agreement, DISTRICT may:

21 A. Agreement

- 22 1) Terminate this Agreement without cause upon providing CONSULTANT
23 thirty (30) days written notice stating the extent and effective date of
24 termination; or
25
26 2) Upon five (5) days written notice, terminate this Agreement for
27 CONSULTANT default, if CONSULTANT refuses or fails to comply
28

1 with the provisions of this Agreement or fails to make progress so as to
2 endanger performance and does not cure such failure within a reasonable
3 period of time. In the event of such termination, the DISTRICT may
4 proceed with the work in a manner deemed proper to DISTRICT.

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

12 In the event DISTRICT terminates this Agreement, DISTRICT shall make
13 payment for all services performed in accordance with this Agreement to the date
14 of termination, a total amount which bears the same ratio to the total maximum
15 fee otherwise payable under this Agreement as the services actually bear to the
16 total services necessary for performance of this Agreement. Notwithstanding any
17 of the other provision of this Agreement, CONSULTANT rights under this
18 Agreement shall terminate (except for fees accrued prior to the date of
19 termination) upon dishonesty, or a willful or material breach of this Agreement
20 by CONSULTANT; or in the event of CONSULTANT'S unwillingness or
21 inability for any reason whatsoever to perform the duties hereunder; or if the
22 Agreement is terminated pursuant to Section 26 (NON-DISCRIMINATION). In
23 such event, CONSULTANT shall not be entitled to any further compensation
24 under this Agreement. The rights and remedies of DISTRICT provided in this
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1 section shall not be exclusive and are in addition to any other rights and remedies
2 provided by law or under this Agreement.

3 B. Approved Task Order

4 Terminate an approved Task Order or portion thereof without cause upon
5 providing CONSULTANT fourteen (14) days written notice stating the extent
6 and effective date of termination. In the event DISTRICT issues a Notice of
7 Termination for an approved Task Order, CONSULTANT shall: i) stop all work
8 under the Task Order 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
10 directed by DISTRICT, any equipment, data, reports or other documents which,
11 if the Task Order had been completed, would have been required to be furnished
12 to DISTRICT.
13

14 In the event DISTRICT terminates an approved Task Order, DISTRICT shall
15 make payment for all services satisfactorily performed in accordance with the
16 negotiated Task Order to the date of termination, a total amount which bears the
17 same ratio to the total maximum fee otherwise payable under the Task Order as
18 the services actually bear to the total services necessary for performance of the
19 Task Order.
20

21 17. Basic Services of CONSULTANT

22 The scope of services associated with the performance of any specific Task Order under
23 this Agreement shall be expressly defined and agreed upon prior to the approval of the
24 Task Order by the Project Manager. Any changes to the approved scope of services must
25 be authorized by the Project Manager, and shall be made in writing.
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1 A. Right to Preliminary Review

2 All work prepared by CONSULTANT shall be subject to the approval of the
3 Project Manager. CONSULTANT shall allow Project Manager to inspect and
4 review CONSULTANT'S work in progress at any reasonable time. All reports,
5 working papers, and similar work products prepared for submission in the course
6 of providing services under this Agreement shall be submitted to the Project
7 Manager in draft form. In the event that Project Manager, in his or her sole
8 discretion, determines the formally submitted work product to be inadequate,
9 CONSULTANT may be required to revise and resubmit the work at no
10 additional cost to DISTRICT. Should CONSULTANT fail to make requested
11 corrections in a timely manner, such corrections may be made by DISTRICT,
12 and the cost thereof charged to CONSULTANT. The responsibility for accuracy
13 and completeness of such items remains solely that of CONSULTANT. Neither
14 DISTRICT'S review or approval shall give rise to any liability or responsibility
15 on the part of DISTRICT, or waive any of DISTRICT'S rights, or relieve
16 CONSULTANT of its professional responsibilities or obligations under this
17 Agreement.

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20 B. Progress Reports

21 Attached with CONSULTANT'S periodic invoice(s), CONSULTANT shall
22 submit a Progress Report indicating the project status in relation to the approved
23 Project Schedule and, as DISTRICT deems necessary, an updated Project
24 Schedule for review and approval. Failure to submit the Progress Report or
25 updated Project Schedule shall be cause for DISTRICT to withhold payment of
26 CONSULTANT'S invoice.
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18. 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 to be employees or agents of DISTRICT.

19. SUBCONTRACTING

A list of sub-consultants (Sub-consultants), as identified by the CONSULTANT, is attached hereto as Attachment "C". CONSULTANT may, at CONSULTANT'S own expense, retain or employ Sub-consultants from Attachment "C" to accomplish certain portions of the work covered by this Agreement.

Should one or more of the Sub-consultants, as identified in Attachment "C", become unavailable, CONSULTANT may substitute other sub-consultants of equal or greater competence upon written approval by DISTRICT. In the event that DISTRICT and CONSULTANT cannot agree as to the substitution of the sub-consultant, DISTRICT may terminate the Task Order, pursuant to the applicable provisions of this Agreement.

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

20. CHANGES TO TASK ORDER SCOPE OF SERVICES

CONSULTANT shall not perform any additional work or services outside the scope of an approved Task Order without the prior written approval of the Project Manager. If at

1 any time during the performance of an approved Task Order, CONSULTANT believes
2 that it is necessary to include certain work or services which are not clearly covered
3 under the scope of an approved Task Order, CONSULTANT shall immediately notify
4 the Project Manager in writing of CONSULTANT'S assertion that the work is out of
5 scope. Said notification by CONSULTANT to the Project Manager shall not in any way
6 be construed as proving that the work or services in question are outside the scope of the
7 Task Order. The Project Manager must approve or reject CONSULTANT'S assertion in
8 writing. In the event the Project Manager determines that CONSULTANT is correct, the
9 additional work or services shall be authorized by a new or revised Task Order that
10 covers the new scope, cost and schedule. In the event that such notification is not given
11 or if the Project Manager is not afforded an opportunity to negotiate the appropriate fee
12 for such additional services prior to CONSULTANT'S commencement of such
13 additional services, then CONSULTANT shall be deemed to have agreed to perform the
14 work or services without any additional compensation and to have accepted sole
15 responsibility for the performance of said work or services. Extra work done or services
16 performed without a new or revised Task Order from the Project Manager shall be
17 considered unauthorized and shall not be paid for by DISTRICT.

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20 At any time during the performance of an approved Task Order, DISTRICT may request
21 that CONSULTANT perform extra services. Any work which is determined by
22 DISTRICT to be necessary for the proper completion of the approved Task Order, but
23 which neither CONSULTANT nor DISTRICT reasonably anticipated would be
24 necessary at the time the scope of services for the assigned Task Order was approved,
25 must be authorized by the Project Manager by a new or revised Task Order.
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1 At any time during the performance of the Task Order, the Project Manager, upon
2 providing five (5) days written notice to the CONSULTANT, may delete services and
3 the associated fees from the Task Order. In the event DISTRICT requests deletion of
4 services from the Task Order, DISTRICT shall make payment for all services
5 satisfactorily performed in accordance with the negotiated Task Order up to the effective
6 date of deletion; the amount of the payment shall be prorated to the total services
7 necessary for completion of the Task Order. No work product for the deleted services
8 shall be provided to DISTRICT.
9

10 21. DISPUTES

11 A. In the event CONSULTANT considers any work demanded of CONSULTANT
12 to be outside the requirements of this Agreement, or if CONSULTANT considers
13 any order, instruction or decision of DISTRICT to be unfair, CONSULTANT
14 shall promptly, upon receipt of such order, instruction or decision, ask for a
15 written confirmation of the same whereupon CONSULTANT shall proceed
16 without delay to perform the work or to conform to the order, instruction, or
17 decision. However, if CONSULTANT finds such order, instruction or decision
18 unsatisfactory, CONSULTANT shall, within twenty-one (21) calendar days after
19 receipt of same, file a written protest with DISTRICT stating clearly and in detail
20 its objections and reasons therefor. Except for such protests or objections as are
21 made of record in the manner specified and within the time stated herein, and
22 except for such instances where the basis of a protest could not reasonably have
23 been foreseen by CONSULTANT within the time limit specified for protest,
24 CONSULTANT hereby waives all grounds for protests or objections to orders,
25 instruction, or decisions of DISTRICT and hereby agrees that, as to all matters
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not included in such protests, the orders, instructions and decisions of DISTRICT will be limited to matters properly falling within DISTRICT'S authority.

B. Any controversy or claim arising out of or relating to this Agreement which cannot be resolved by mutual agreement may be settled by arbitration, provided that the parties hereto mutually agree to submit to arbitration.

C. Neither the pendency of a dispute nor its consideration by arbitration shall excuse CONSULTANT from full and timely performance in accordance with the terms of this Agreement.

22. ASSIGNMENT

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

23. 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.

24. 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.

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

7 25. WAIVER

8 Any waiver by DISTRICT of any breach of any one or more of the terms of this
9 Agreement shall not be construed to be a waiver of any subsequent or other breach of the
10 same or any other term thereof. Failure on the part of DISTRICT to require exact, full
11 and complete compliance with any terms of this Agreement shall not be construed as in
12 any manner changing the terms hereof, or estopping DISTRICT from enforcement
13 hereof.
14

15 26. NON-DISCRIMINATION

16 In the performance of the terms of this Agreement, CONSULTANT shall not engage in
17 nor permit others he may employ to engage in discrimination in the employment of
18 persons because of the race, color, national origin or ancestry, religion, physical
19 handicap, disability as defined by the Americans with Disabilities Act (ADA), medical
20 condition, marital status or sex of such persons, in accordance with the provision of
21 California Labor Code Section 1735.
22

23 27. NON-APPROPRIATION OF FUNDS

24 It is mutually agreed and understood that the obligation(s) of DISTRICT are limited by
25 and contingent upon the availability of DISTRICT funds for the reimbursement of
26 CONSULTANT'S fees. In the event that such funds are not forthcoming for any reason,
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DISTRICT shall immediately notify CONSULTANT in writing. This Agreement shall be deemed terminated and have no further force and effect immediately upon receipt of DISTRICT'S notification by CONSULTANT. In the event of such termination, CONSULTANT shall be entitled to reimbursement of its costs in accordance with Section 5 (COMPENSATION).

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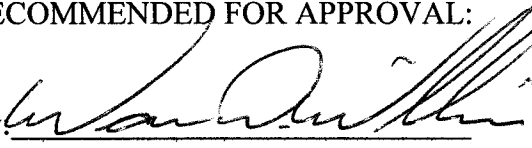
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on

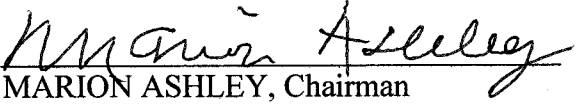
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7/26/2011
(to be filled in by Clerk of the Board)

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:

PAMELA J. WALLS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

By:  6/27/11
MARSHA L. VICTOR
Principal Deputy County Counsel

By: 
Deputy

(SEAL)

AMEC

By: 
WES SPEAKE
Business Unit Manager

(NOTARY)

Agreement for Consulting Services
Project Specific
06/22/11
SEM:mcv:blj

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Riverside }

On 07-05-11 before me, Christian M. Gil Notary Public,
Date Here Insert Name and Title of the Officer

personally appeared Wes Johnathan Speake
Name(s) of Signer(s)



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: [Handwritten Signature]
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____ N/A Signer's Name: _____

Corporate Officer — Title(s): _____ Corporate Officer — Title(s): _____

Individual Individual

Partner — Limited General Partner — Limited General

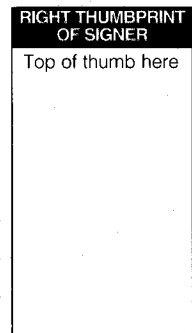
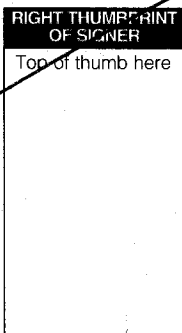
Attorney in Fact Attorney in Fact

Trustee Trustee

Guardian or Conservator Guardian or Conservator

Other: _____ Other: _____

Signer Is Representing: _____



ATTACHMENT "A"

SCOPE OF SERVICES

CONSULTANT may be asked to perform one or more of the following types of services as specifically directed in Task Orders issued to CONSULTANT:

1. Prepare a Cultural Resources Report that addresses all potential issues related to archaeological, traditional and built environment resources in accordance with applicable Federal, State and local laws and regulations regarding cultural resources in the environmental review and/or regulatory permitting process including, but not limited to Section 106 of the National Historic Preservation Act.
2. Prepare a Paleontological Resources assessment that addresses all potential issues related to paleontological resources in accordance with applicable Federal, State and local laws and regulations in the environmental review and/or regulatory permitting process.
3. Prepare a Biological Resources Assessment that addresses all potential biological issues and concerns for the project area, including, but not limited to:
 - Reconnaissance surveys, habitat assessments, and focused surveys for sensitive or listed plant and wildlife species.
 - Federal and State Jurisdictional Area Delineation.
 - Designated Critical Habitat Areas with Federal Endangered Species Act (FESA).
 - Applicable Habitat Conservation Plans consistency assessment (i.e. Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), Coachella Valley MSHCP and Tribal Habitat Conservation Plan (HCP)).
4. Prepare a Jurisdictional Area Delineation Report and Impact Analysis, including significant nexus evaluation, that addresses all potential issues related to "Waters of the U.S." and wetlands (Clean Water Act), "Waters of the State" and wetlands (Porter-Cologne Water Quality Control Act), and areas under the jurisdiction of the California Department of Fish and Game Code (Section 1600 et seq.).
5. Prepare a native Habitat Mitigation and Monitoring Plan (HMMP).
6. Implement a HMMP.
7. Prepare a Preliminary Environmental Assessment Report (PEAR) for proposed District projects. The PEAR identifies potential environmental concerns (biological, cultural, historical, paleontological, jurisdictional, geological, or regulatory permitting, etc.) that could pose significant hurdles to a project based on preliminary design data. A PEAR may be needed at the early stage of a project to ensure that project alternatives (e.g., types of facility, facility size, alignment, etc.) are fully evaluated by the District.
8. Prepare as appropriate a separate or joint California Environmental Quality Act (CEQA) Initial Study and/or National Environmental Policy Act (NEPA) Environmental Assessment, if applicable, including but not limited to technical appendices, exhibits, and mitigation and monitoring plan to determine if the project may have a significant impact on the environment.
9. Prepare as appropriate a CEQA Negative Declaration, Mitigated Negative Declaration,

and Notice of Determination.

10. Prepare as appropriate a separate or joint CEQA Draft Environmental Impact Report (DEIR)/Final Environmental Impact Report (FEIR) and/or NEPA Draft Environmental Impact Statement (DEIS)/Final Environmental Impact Statement (FEIS) including, but not limited to technical appendices, exhibits, finding of any significance, mitigation, and monitoring plan to avoid or reduce potentially significant adverse impacts.
11. Prepare written responses to comments received during the CEQA and/or NEPA process.
12. Make presentations as needed to the public, government agencies, or others related to project review and its associated environmental documents.
13. Participate in public hearings and meetings as necessary.
14. Provide technical assistance and participate in permit negotiation as needed for the District to secure all necessary regulatory permits (e.g. FESA/CESA Incidental Take Permit, Department of Fish and Game Consistency Determination, Section 404 Individual/Nationwide Permit, 401 Water Quality Certification, 1602 Streambed Alteration Agreement, Waste Discharge Requirements, etc.) for flood control projects.
15. Conduct protocol level pre-construction biological surveys and provide written reports summarizing survey results.
16. Provide biological monitoring and reporting services.
17. Provide cultural and/or paleontological resources monitoring and reporting services.
18. Prepare a MSHCP/HCP consistency assessment that demonstrates project compliance with all applicable provisions of the appropriate habitat conservation plans (i.e. Western Riverside County MSHCP, Coachella Valley MSHCP and Tribal HCP).
19. Provide Hazardous Materials report to determine the presence/absence of any hazardous materials in accordance with the California Government Code Section 65962.5.
20. Provide a Determination of Biological Equivalent or Superior Preservation (DBESP) report in accordance with Section 6.1.2 of the Western Riverside County MSHCP for impacts to Riparian/Riverine Area/Vernal Pools which would be submitted for review to the U.S. Fish and Wildlife Service and the California Department of Fish and Game.

ATTACHMENT "B"

TASK ORDER APPROVAL FORM

CONSULTANT: _____

PROJECT NAME: _____

The Scope of Services for _____, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference, shall constitute an approved Task Order pursuant to the Agreement between the DISTRICT and CONSULTANT dated _____ ("AGREEMENT"). CONSULTANT agrees to perform the services described in Exhibit "A" within the time set forth in the Project Schedule as described in Exhibit "B" attached hereto and incorporated herein, for a fee amount of \$_____, unless otherwise modified by the DISTRICT'S Project Manager in a subsequent Task Order Approval Form. All charges shall be consistent with the Compensation/Fee Rate Schedule which is attached as Exhibit "C" and incorporated herein by this reference.

Performance of the services shall be subject to the terms and conditions contained in the AGREEMENT.

Dated this _____ day of _____
(To be filled in by General Manager-Chief Engineer)

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

By: _____
WARREN D. WILLIAMS
General Manager-Chief Engineer

CONSULTANT

By: _____
Printed Name and Title

ATTACHMENT "C"

List of Sub-Consultants

- CRM Tech

CONSULTING SERVICES AGREEMENT

1 RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT,
2 hereinafter called "DISTRICT", and JONES & STOKES ASSOCIATES, INC., a wholly owned
3 subsidiary of ICF Consulting Group, Inc., hereinafter called "CONSULTANT", hereby agree as
4 follows:
5

6 1. PROJECT

7 CONSULTANT shall provide on-call environmental and regulatory support services in
8 accordance with applicable federal, state, and local laws and regulations as requested by
9 DISTRICT.
10

11 2. SCOPE OF SERVICES

12 As requested by DISTRICT, CONSULTANT shall provide Project Specific
13 Environmental/Regulatory Professional Services as described on Attachment "A" for
14 DISTRICT projects on an "on-call" basis. During the term of this Agreement, the
15 CONSULTANT may be invited to submit proposals for some of the various services
16 listed in Attachment "A" as requested by DISTRICT and be assigned subsequent Task
17 Orders, the form of which is Attachment "B" hereto. CONSULTANT understands and
18 expressly agrees that the execution of this Agreement by CONSULTANT and/or the
19 submission of any proposal to furnish services does not guarantee the assignment or
20 approval of any subsequent Task Order(s).
21

22 3. PERSONNEL

23 A. Project Manager

24 For each Task Order, the DISTRICT shall designate a representative who shall
25 act as the DISTRICT'S Project Manager ("Project Manager"). The Project
26 Manager shall have authority to act on behalf of DISTRICT for all purposes
27 under this Task Order. DISTRICT shall provide written notice to
28

1 CONSULTANT of any change in Project Manager assignment for a given Task
2 Order.

3 B. CONSULTANT'S Representative

4 CONSULTANT shall appoint a designated Representative for each assigned
5 Task Order who shall be responsible for coordinating all aspects of the assigned
6 Task Order. CONSULTANT'S Representative shall be available to DISTRICT'S
7 Project Manager at reasonable times. CONSULTANT may appoint another
8 person as Representative upon written notice to DISTRICT.
9

10 C. Substitution of Key Personnel

11 At the time of Task Order approval, CONSULTANT shall identify its Key
12 Personnel who will perform each assigned Task Order to the DISTRICT'S
13 Project Manager. Should one or more of the identified Key Personnel become
14 unavailable, CONSULTANT may substitute other personnel of equal or greater
15 competence upon written approval by DISTRICT. In the event that DISTRICT
16 and CONSULTANT cannot agree as to the substitution of the Key Personnel,
17 DISTRICT may terminate the Task Order, pursuant to the applicable provisions
18 of this Agreement.
19

20 4. TERM

21 The term of this Agreement shall become effective on the date the Agreement is
22 executed by DISTRICT'S Board of Supervisors, and shall remain in effect through the
23 later of:
24

- 25 A. Three (3) years from the date of the Board of Supervisors approval; or
26 B. The required date for completion of an assigned Task Order, provided that such
27 Task Order was approved prior to expiration date stipulated in 4.A., above.
28

1 5. COMPENSATION

2 CONSULTANT shall receive compensation for all services satisfactorily performed
3 under this Agreement in accordance with the terms of the approved Task Order(s). The
4 total amount to be paid to CONSULTANT for the performance of all Task Orders
5 approved pursuant to this Agreement shall not exceed seven hundred fifty thousand
6 dollars (\$750,000), or two hundred fifty thousand dollars (\$250,000) in a single fiscal
7 year.

8
9 6. PAYMENTS

10 Progress payments shall be made in accordance with the Compensation/Fee Rate
11 Schedule attached to the approved Task Order. Progress payments shall be processed no
12 more than once per month. Upon satisfactory performance of CONSULTANT'S
13 services pursuant to an approved Task Order, DISTRICT shall pay CONSULTANT
14 within forty-five (45) days after DISTRICT'S receipt of CONSULTANT'S appropriate
15 invoices. CONSULTANT shall keep employee and expense records according to
16 customary accounting methods and such records shall, upon request, be available for
17 inspection by DISTRICT to verify the invoices of CONSULTANT. All invoices shall
18 itemize charges to conform to the Compensation/Fee Rate Schedule negotiated for the
19 task order. DISTRICT shall notify CONSULTANT of any disputed amounts on invoice
20 within thirty (30) days of receipt.

21
22
23 7. PROJECT PERFORMANCE

24 A. Commencement of Services

25 CONSULTANT shall commence performance of the services for each Task
26 Order upon receipt of the DISTRICT'S approved Task Order.

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1 B. Time of Completion

2 Time is of the essence in the performance of this Agreement. CONSULTANT
3 shall complete services in accordance with the schedule(s) set forth in the
4 approved Task Order(s).

- 5 8. LICENSES – CONSULTANT, its employees, agents, contractors and subcontractors
6 shall possess appropriate federal and/or state permits and maintain professional licenses
7 required by the applicable Federal, State and local regulations at all times while
8 performing services under this Agreement.

9
10 9. STANDARD OF CARE

11 While performing the services, CONSULTANT shall exercise the reasonable
12 professional care and skill customarily exercised by reputable members of
13 CONSULTANT'S profession practicing in the State of California, and shall use
14 reasonable diligence and best judgment while exercising CONSULTANT'S professional
15 skill and expertise. By executing this Agreement, CONSULTANT represents and
16 maintains that CONSULTANT has the necessary experience and expertise to skillfully
17 perform all services, duties and obligations required by this Agreement and to fully and
18 adequately complete each approved Task Order.

19
20 10. ERRORS AND OMISSIONS

21 In the event CONSULTANT'S reports or work products contain any errors or omissions
22 that cause the DISTRICT to incur additional expense beyond what would have otherwise
23 resulted if there were no errors or omissions in CONSULTANT'S reports or work
24 products, such additional expense shall be borne solely by CONSULTANT.
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11. PERMITS AND RIGHTS OF ENTRY

1 DISTRICT shall obtain all rights of entry as may be required to allow CONSULTANT
2 to perform the proposed consulting services within and upon privately-owned property.
3 All permits and rights of entry as may be required from any and all affected public
4 entities shall be obtained by CONSULTANT. Sufficient evidence of having obtained
5 such permits and/or rights of entry shall be furnished to DISTRICT by CONSULTANT,
6 prior to initiation of work. CONSULTANT will prosecute the work in such a manner as
7 to minimize public inconvenience and possible hazard, and will restore the streets and
8 other work areas to their original condition and former usefulness as soon as practicable.
9 CONSULTANT shall be responsible for the protection of public and private property
10 adjacent to the work and shall exercise due caution to avoid damage to such property.
11

12. NOTICES

14 Any and all notices sent or required to be sent to the parties of this Agreement will be
15 mailed by first class mail, postage prepaid, to the following addresses:

17 RIVERSIDE COUNTY FLOOD CONTROL
18 AND WATER CONSERVATION DISTRICT
19 1995 Market Street
Riverside, CA 92501
Attn: Regulatory/ERS

ICF INTERNATIONAL
3550 Vine Street, Suite 100
Riverside, CA 92507
Attn: Tony DeJulio

13. REQUIRED INSURANCE

21 Without limiting or diminishing the CONSULTANT'S obligation to indemnify or hold
22 DISTRICT harmless, CONSULTANT shall procure and maintain or cause to be
23 maintained, at its sole cost and expense, the following insurance coverages during the
24 term of this Agreement:
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1 A. Workers' Compensation

2 If CONSULTANT has employees as defined by the State of California,
3 CONSULTANT shall maintain Workers' Compensation Insurance (Coverage A)
4 as prescribed by the laws of the State of California. Policy shall include
5 Employer's Liability (Coverage B) including Occupational Disease with limits
6 not less than \$1,000,000 per person per accident. Policy shall be endorsed to
7 waive subrogation in favor of DISTRICT and, if applicable, to provide a
8 Borrowed Servant/Alternate Employer endorsement.
9

10 B. Commercial General Liability

11 Commercial General Liability insurance coverage, including but not limited to,
12 premises liability, contractual liability, completed operations, personal and
13 advertising injury covering claims which may arise from or out of
14 CONSULTANT'S performance of its obligations hereunder. Policy shall name
15 Riverside County Flood Control and Water Conservation District, the County of
16 Riverside, special districts, their respective directors, officers, Board of
17 Supervisors, elected officials, employees, agents or representatives as additional
18 insureds. Policy's limit of liability shall not be less than \$1,000,000 per
19 occurrence combined single limit. If such insurance contains a general aggregate
20 limit, it shall apply separately to this Agreement or be no less than two (2) times
21 the occurrence limit.
22

23 C. Vehicle Liability

24 If vehicles or mobile equipment are used in the performance of the obligations
25 under this Agreement, CONSULTANT shall maintain liability insurance for all
26 owned, non-owned or hired vehicles in an amount not less than \$1,000,000 per
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1 occurrence combined single limit. If such insurance contains a general aggregate
2 limit, it shall apply separately to this Agreement or be no less than two (2) times
3 the occurrence limit. If CONSULTANT does not own vehicles, CONSULTANT
4 shall maintain coverage for non-owned or hired vehicles in an amount not less
5 than \$1,000,000 per occurrence combined single limit. Such non-owned or hired
6 coverage may be included on the Commercial General Liability policy. Policy
7 shall name Riverside County Flood Control and Water Conservation District, the
8 County of Riverside, special districts, their respective directors, officers, Board
9 of Supervisors, elected officials, employees, agents or representatives as
10 additional insureds.
11

12 D. Professional Liability

13 CONSULTANT shall maintain Professional Liability Insurance providing
14 coverage for CONSULTANT'S performance of work included within this
15 Agreement, with a limit of liability of not less than \$1,000,000 per occurrence
16 and \$2,000,000 annual aggregate. If CONSULTANT'S Professional Liability
17 Insurance is written on a claims made basis rather than an occurrence basis, such
18 insurance shall continue through the term of this Agreement and CONSULTANT
19 shall purchase at his sole expense either: 1) an Extended Reporting Endorsement
20 (also known as Tail Coverage); or 2) Prior Dates Coverage from a new insurer
21 with a date retroactive to the date of, or prior to, the inception of this Agreement;
22 or 3) demonstrate through Certificates of Insurance that CONSULTANT has
23 maintained continuous coverage with the same or original insurer. Coverage
24 provided under items: 1), 2) or 3) will continue as long as the law allows.
25
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E. General Insurance Provisions – All Lines

1. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A.M. BEST rating of not less than an A: VIII (A: 8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for the specific insurer and only for one policy term.
2. CONSULTANT'S insurance carrier(s) must declare its insurance deductibles or self-insured retentions. If such deductibles or self-insured retentions exceed \$500,000 per occurrence such deductibles and/or retentions shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of deductibles or self-insured retentions which are deemed unacceptable to the DISTRICT, at the election of the County's Risk Manager, CONSULTANT'S carriers shall either: 1) reduce or eliminate such deductibles or self-insured retentions with respect to this Agreement with DISTRICT, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, defense costs and expenses.
3. CONSULTANT shall cause their insurance carrier(s) to furnish DISTRICT with: 1) a properly executed original certificate(s) of insurance and original certified copies of endorsements effecting coverage as required herein; or 2) if requested to do so orally or in writing by the County Risk Manager, provide original certified copies of policies

1 including all endorsements and all attachments thereto, showing such
2 insurance is in full force and effect. Further, said certificate(s) and
3 policies of insurance shall contain the covenant that the insurance
4 carrier(s) shall provide no less than thirty (30) days written notice be
5 given to DISTRICT prior to any material modification or cancellation of
6 such insurance. In the event of a material modification or cancellation of
7 coverage, this Agreement shall terminate forthwith, unless DISTRICT
8 receives, prior to such effective date, another properly executed original
9 certificate of insurance and original copies of endorsements or original
10 certified policies, including all endorsements and attachments thereto,
11 evidencing coverages and the insurance required herein is in full force
12 and effect. Individual(s) authorized by the insurance carrier to do so on
13 its behalf shall sign the original endorsements for each policy and the
14 certificate of insurance.

15
16
17 CONSULTANT shall not commence operations until DISTRICT has
18 been furnished with original certificate(s) of insurance and original
19 certified copies of endorsements or policies of insurance including all
20 endorsements and any and all other attachments as required in this
21 Section.

- 22
23 4. It is understood and agreed by the parties hereto and the
24 CONSULTANT'S insurance company(s), that the certificate(s) of
25 insurance and policies shall so covenant and shall be construed as primary
26 insurance, and the DISTRICT'S insurance and/or deductibles and/or self-

1 insured retentions or self-insured programs shall not be construed as
2 contributory.

3 5. If, during the term of this Agreement or any extension thereof, there is a
4 material change in the scope of services; or there is a material change in
5 the equipment to be used in the performance of the scope of work which
6 will add additional exposures (such as the use of aircraft, watercraft,
7 cranes, etc.); or the term of this Agreement, including any extensions
8 thereof, exceeds five (5) years, the County reserves the right to adjust the
9 types of insurance required under this Agreement and the monetary limits
10 of liability for the insurance coverage's currently required herein, if, in the
11 County Risk Manager's reasonable judgment, the amount or type of
12 insurance carried by the CONSULTANT has become inadequate.

14 6. CONSULTANT shall pass down the insurance obligations contained
15 herein to all tiers of subcontractors working under this Agreement.

17 7. The insurance requirements contained in this Agreement may be met with
18 a program(s) of self-insurance acceptable to DISTRICT.

19 8. CONSULTANT agrees to notify DISTRICT of any claim by a third party
20 or any incident or event that may give rise to a claim arising from the
21 performance of this Agreement.

22 14. INDEMNIFICATION

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

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

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

19 CONSULTANT'S indemnification obligations shall be satisfied when CONSULTANT
20 has provided to DISTRICT the appropriate form of dismissal (or similar document)
21 relieving DISTRICT from any liability for the claim, proceeding or action involved.
22

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

26 In the event there is conflict between this section and California Civil Code Section
27 2782, this section shall be interpreted to comply with Civil Code 2782. Such
28

1 interpretation shall not relieve the CONSULTANT from indemnifying DISTRICT
 2 (including its directors, officers, Board of Supervisors, elected and appointed officials,
 3 employees, agents and representatives) or the County of Riverside to the fullest extent
 4 allowed by law.

5 15. WORK PRODUCT

6 CONSULTANT shall provide all report(s) as set forth in the approved Task Order(s).
 7 All drawings, logs and reports shall be and remain the sole property of DISTRICT.
 8 CONSULTANT shall not publish or transfer any material produced or resulting from
 9 activities supported by this Agreement without the written consent of the General
 10 Manager-Chief Engineer of DISTRICT. If any such material is subject to copyright or
 11 trademark, the parties agree that the right to any and all copyright and/or trademark in
 12 and to the material is expressly reserved to DISTRICT. If any such material is
 13 copyrighted, the parties hereto understand and agree that DISTRICT reserves a royalty-
 14 free, non-exclusive, and irrevocable license to reproduce, publish, and use such material,
 15 in whole or in part, and to authorize others to do so, provided written credit is given the
 16 author.
 17
 18

19 16. TERMINATION

20 At any time during the term of this Agreement, DISTRICT may:

21 A. Agreement

- 22 1) Terminate this Agreement without cause upon providing CONSULTANT
 23 thirty (30) days written notice stating the extent and effective date of
 24 termination; or
 25
 26 2) Upon five (5) days written notice, terminate this Agreement for
 27 CONSULTANT default, if CONSULTANT refuses or fails to comply
 28

1 with the provisions of this Agreement or fails to make progress so as to
2 endanger performance and does not cure such failure within a reasonable
3 period of time. In the event of such termination, the DISTRICT may
4 proceed with the work in a manner deemed proper to DISTRICT.

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

12 In the event DISTRICT terminates this Agreement, DISTRICT shall make
13 payment for all services performed in accordance with this Agreement to the date
14 of termination, a total amount which bears the same ratio to the total maximum
15 fee otherwise payable under this Agreement as the services actually bear to the
16 total services necessary for performance of this Agreement. Notwithstanding any
17 of the other provision of this Agreement, CONSULTANT rights under this
18 Agreement shall terminate (except for fees accrued prior to the date of
19 termination) upon dishonesty, or a willful or material breach of this Agreement
20 by CONSULTANT; or in the event of CONSULTANT'S unwillingness or
21 inability for any reason whatsoever to perform the duties hereunder; or if the
22 Agreement is terminated pursuant to Section 26 (NON-DISCRIMINATION). In
23 such event, CONSULTANT shall not be entitled to any further compensation
24 under this Agreement. The rights and remedies of DISTRICT provided in this
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1 section shall not be exclusive and are in addition to any other rights and remedies
2 provided by law or under this Agreement.

3 B. Approved Task Order

4 Terminate an approved Task Order or portion thereof without cause upon
5 providing CONSULTANT fourteen (14) days written notice stating the extent
6 and effective date of termination. In the event DISTRICT issues a Notice of
7 Termination for an approved Task Order, CONSULTANT shall: i) stop all work
8 under the Task Order 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
10 directed by DISTRICT, any equipment, data, reports or other documents which,
11 if the Task Order had been completed, would have been required to be furnished
12 to DISTRICT.
13

14 In the event DISTRICT terminates an approved Task Order, DISTRICT shall
15 make payment for all services satisfactorily performed in accordance with the
16 negotiated Task Order to the date of termination, a total amount which bears the
17 same ratio to the total maximum fee otherwise payable under the Task Order as
18 the services actually bear to the total services necessary for performance of the
19 Task Order.
20

21
22 17. Basic Services of CONSULTANT

23 The scope of services associated with the performance of any specific Task Order under
24 this Agreement shall be expressly defined and agreed upon prior to the approval of the
25 Task Order by the Project Manager. Any changes to the approved scope of services must
26 be authorized by the Project Manager, and shall be made in writing.
27
28

1 A. Right to Preliminary Review

2 All work prepared by CONSULTANT shall be subject to the approval of the
3 Project Manager. CONSULTANT shall allow Project Manager to inspect and
4 review CONSULTANT'S work in progress at any reasonable time. All reports,
5 working papers, and similar work products prepared for submission in the course
6 of providing services under this Agreement shall be submitted to the Project
7 Manager in draft form. In the event that Project Manager, in his or her sole
8 discretion, determines the formally submitted work product to be inadequate,
9 CONSULTANT may be required to revise and resubmit the work at no
10 additional cost to DISTRICT. Should CONSULTANT fail to make requested
11 corrections in a timely manner, such corrections may be made by DISTRICT,
12 and the cost thereof charged to CONSULTANT. The responsibility for accuracy
13 and completeness of such items remains solely that of CONSULTANT. Neither
14 DISTRICT'S review or approval shall give rise to any liability or responsibility
15 on the part of DISTRICT, or waive any of DISTRICT'S rights, or relieve
16 CONSULTANT of its professional responsibilities or obligations under this
17 Agreement.

18 B. Progress Reports

19 Attached with CONSULTANT'S periodic invoice(s), CONSULTANT shall
20 submit a Progress Report indicating the project status in relation to the approved
21 Project Schedule and, as DISTRICT deems necessary, an updated Project
22 Schedule for review and approval. Failure to submit the Progress Report or
23 updated Project Schedule shall be cause for DISTRICT to withhold payment of
24 CONSULTANT'S invoice.

1 18. INDEPENDENT CONTRACTOR

2 CONSULTANT and the agents and employees of CONSULTANT, shall act at all times
3 in an independent capacity during the term of this Agreement and in the performance of
4 the services to be rendered hereunder and shall not act as or shall not be and shall not in
5 any manner be considered to be employees or agents of DISTRICT.

6 19. SUBCONTRACTING

7 A list of sub-consultants (Sub-consultants), as identified by the CONSULTANT, is
8 attached hereto as Attachment "C". CONSULTANT may, at CONSULTANT'S own
9 expense, retain or employ Sub-consultants from Attachment "C" to accomplish certain
10 portions of the work covered by this Agreement.

11 Should one or more of the Sub-consultants, as identified in Attachment "C", become
12 unavailable, CONSULTANT may substitute other sub-consultants of equal or greater
13 competence upon written approval by DISTRICT. In the event that DISTRICT and
14 CONSULTANT cannot agree as to the substitution of the sub-consultant, DISTRICT
15 may terminate the Task Order, pursuant to the applicable provisions of this Agreement.

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

22 20. CHANGES TO TASK ORDER SCOPE OF SERVICES

23 CONSULTANT shall not perform any additional work or services outside the scope of
24 an approved Task Order without the prior written approval of the Project Manager. If at
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1 any time during the performance of an approved Task Order, CONSULTANT believes
2 that it is necessary to include certain work or services which are not clearly covered
3 under the scope of an approved Task Order, CONSULTANT shall immediately notify
4 the Project Manager in writing of CONSULTANT'S assertion that the work is out of
5 scope. Said notification by CONSULTANT to the Project Manager shall not in any way
6 be construed as proving that the work or services in question are outside the scope of the
7 Task Order. The Project Manager must approve or reject CONSULTANT'S assertion in
8 writing. In the event the Project Manager determines that CONSULTANT is correct, the
9 additional work or services shall be authorized by a new or revised Task Order that
10 covers the new scope, cost and schedule. In the event that such notification is not given
11 or if the Project Manager is not afforded an opportunity to negotiate the appropriate fee
12 for such additional services prior to CONSULTANT'S commencement of such
13 additional services, then CONSULTANT shall be deemed to have agreed to perform the
14 work or services without any additional compensation and to have accepted sole
15 responsibility for the performance of said work or services. Extra work done or services
16 performed without a new or revised Task Order from the Project Manager shall be
17 considered unauthorized and shall not be paid for by DISTRICT.

18 At any time during the performance of an approved Task Order, DISTRICT may request
19 that CONSULTANT perform extra services. Any work which is determined by
20 DISTRICT to be necessary for the proper completion of the approved Task Order, but
21 which neither CONSULTANT nor DISTRICT reasonably anticipated would be
22 necessary at the time the scope of services for the assigned Task Order was approved,
23 must be authorized by the Project Manager by a new or revised Task Order.
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1 At any time during the performance of the Task Order, the Project Manager, upon
2 providing five (5) days written notice to the CONSULTANT, may delete services and
3 the associated fees from the Task Order. In the event DISTRICT requests deletion of
4 services from the Task Order, DISTRICT shall make payment for all services
5 satisfactorily performed in accordance with the negotiated Task Order up to the effective
6 date of deletion; the amount of the payment shall be prorated to the total services
7 necessary for completion of the Task Order. No work product for the deleted services
8 shall be provided to DISTRICT.
9

10 21. DISPUTES

11 A. In the event CONSULTANT considers any work demanded of CONSULTANT
12 to be outside the requirements of this Agreement, or if CONSULTANT considers
13 any order, instruction or decision of DISTRICT to be unfair, CONSULTANT
14 shall promptly, upon receipt of such order, instruction or decision, ask for a
15 written confirmation of the same whereupon CONSULTANT shall proceed
16 without delay to perform the work or to conform to the order, instruction, or
17 decision. However, if CONSULTANT finds such order, instruction or decision
18 unsatisfactory, CONSULTANT shall, within twenty-one (21) calendar days after
19 receipt of same, file a written protest with DISTRICT stating clearly and in detail
20 its objections and reasons therefor. Except for such protests or objections as are
21 made of record in the manner specified and within the time stated herein, and
22 except for such instances where the basis of a protest could not reasonably have
23 been foreseen by CONSULTANT within the time limit specified for protest,
24 CONSULTANT hereby waives all grounds for protests or objections to orders,
25 instruction, or decisions of DISTRICT and hereby agrees that, as to all matters
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1 not included in such protests, the orders, instructions and decisions of DISTRICT
2 will be limited to matters properly falling within DISTRICT'S authority.

3 B. Any controversy or claim arising out of or relating to this Agreement which
4 cannot be resolved by mutual agreement may be settled by arbitration, provided
5 that the parties hereto mutually agree to submit to arbitration.

6
7 C. Neither the pendency of a dispute nor its consideration by arbitration shall excuse
8 CONSULTANT from full and timely performance in accordance with the terms
9 of this Agreement.

10 22. ASSIGNMENT

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

13
14 23. CONFLICT OF INTEREST

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

21
22 24. JURISDICTION/LAW/SEVERABILITY

23 This Agreement is to be construed in accordance with the laws of the State of California.
24 If any provision of this Agreement is held by a court of competent jurisdiction to be
25 invalid, void or unenforceable, the remaining provisions shall be declared severable and
26 shall be given full force and effect to the extent possible.
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1 Any legal action, in law or equity related to the performance or interpretation of this
2 Agreement shall be filed only in the Superior Court for the State of California located in
3 Riverside, California, and the parties waive any provision of law providing for a change
4 of venue to another location. Prior to the filing of any legal action, the parties shall be
5 obligated to attend a mediation session with a neutral mediator to try to resolve the
6 dispute.

7
8 25. WAIVER

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

15
16 26. NON-DISCRIMINATION

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

23
24 27. NON-APPROPRIATION OF FUNDS

25 It is mutually agreed and understood that the obligation(s) of DISTRICT are limited by
26 and contingent upon the availability of DISTRICT funds for the reimbursement of
27 CONSULTANT'S fees. In the event that such funds are not forthcoming for any reason,
28

1 DISTRICT shall immediately notify CONSULTANT in writing. This Agreement shall
2 be deemed terminated and have no further force and effect immediately upon receipt of
3 DISTRICT'S notification by CONSULTANT. In the event of such termination,
4 CONSULTANT shall be entitled to reimbursement of its costs in accordance with
5 Section 5 (COMPENSATION).

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

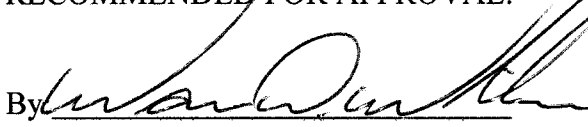
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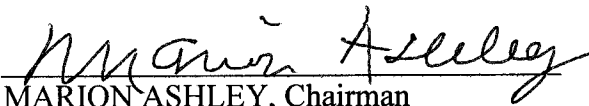
7/26/2011

(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

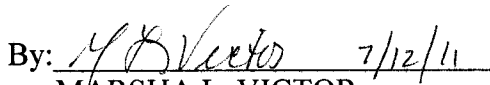
By: 
MARION ASHLEY, Chairman
Riverside County Flood Control and Water
Conservation District Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS
County Counsel


KECIA HARPER-IHEM
Clerk of the Board

By:  7/12/11
MARSHA L. VICTOR
Principal Deputy County Counsel

By: 
Deputy

(SEAL)

JONES & STOKES ASSOCIATES, INC.,
a wholly owned subsidiary of ICF Consulting
Group, Inc.

By: 
CHARLES E. SMITH
Vice President

Agreement for Consulting Services
Project Specific
06/22/11

ATTACHMENT "A"

SCOPE OF SERVICES

CONSULTANT may be asked to perform one or more of the following types of services as specifically directed in Task Orders issued to CONSULTANT:

1. Prepare a Cultural Resources Report that addresses all potential issues related to archaeological, traditional and built environment resources in accordance with applicable Federal, State and local laws and regulations regarding cultural resources in the environmental review and/or regulatory permitting process including, but not limited to Section 106 of the National Historic Preservation Act.
2. Prepare a Paleontological Resources assessment that addresses all potential issues related to paleontological resources in accordance with applicable Federal, State and local laws and regulations in the environmental review and/or regulatory permitting process.
3. Prepare a Biological Resources Assessment that addresses all potential biological issues and concerns for the project area, including, but not limited to:
 - Reconnaissance surveys, habitat assessments, and focused surveys for sensitive or listed plant and wildlife species.
 - Federal and State Jurisdictional Area Delineation.
 - Designated Critical Habitat Areas with Federal Endangered Species Act (FESA).
 - Applicable Habitat Conservation Plans consistency assessment (i.e. Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), Coachella Valley MSHCP and Tribal Habitat Conservation Plan (HCP)).
4. Prepare a Jurisdictional Area Delineation Report and Impact Analysis, including significant nexus evaluation, that addresses all potential issues related to "Waters of the U.S." and wetlands (Clean Water Act), "Waters of the State" and wetlands (Porter-Cologne Water Quality Control Act), and areas under the jurisdiction of the California Department of Fish and Game Code (Section 1600 et seq.).
5. Prepare a native Habitat Mitigation and Monitoring Plan (HMMP).
6. Implement a HMMP.
7. Prepare a Preliminary Environmental Assessment Report (PEAR) for proposed District projects. The PEAR identifies potential environmental concerns (biological, cultural, historical, paleontological, jurisdictional, geological, or regulatory permitting, etc.) that could pose significant hurdles to a project based on preliminary design data. A PEAR may be needed at the early stage of a project to ensure that project alternatives (e.g., types of facility, facility size, alignment, etc.) are fully evaluated by the District.
8. Prepare as appropriate a separate or joint California Environmental Quality Act (CEQA) Initial Study and/or National Environmental Policy Act (NEPA) Environmental Assessment, if applicable, including but not limited to technical appendices, exhibits, and mitigation and monitoring plan to determine if the project may have a significant impact on the environment.
9. Prepare as appropriate a CEQA Negative Declaration, Mitigated Negative Declaration,

and Notice of Determination.

10. Prepare as appropriate a separate or joint CEQA Draft Environmental Impact Report (DEIR)/Final Environmental Impact Report (FEIR) and/or NEPA Draft Environmental Impact Statement (DEIS)/Final Environmental Impact Statement (FEIS) including, but not limited to technical appendices, exhibits, finding of any significance, mitigation, and monitoring plan to avoid or reduce potentially significant adverse impacts.
11. Prepare written responses to comments received during the CEQA and/or NEPA process.
12. Make presentations as needed to the public, government agencies, or others related to project review and its associated environmental documents.
13. Participate in public hearings and meetings as necessary.
14. Provide technical assistance and participate in permit negotiation as needed for the District to secure all necessary regulatory permits (e.g. FESA/CESA Incidental Take Permit, Department of Fish and Game Consistency Determination, Section 404 Individual/Nationwide Permit, 401 Water Quality Certification, 1602 Streambed Alteration Agreement, Waste Discharge Requirements, etc.) for flood control projects.
15. Conduct protocol level pre-construction biological surveys and provide written reports summarizing survey results.
16. Provide biological monitoring and reporting services.
17. Provide cultural and/or paleontological resources monitoring and reporting services.
18. Prepare a MSHCP/HCP consistency assessment that demonstrates project compliance with all applicable provisions of the appropriate habitat conservation plans (i.e. Western Riverside County MSHCP, Coachella Valley MSHCP and Tribal HCP).
19. Provide Hazardous Materials report to determine the presence/absence of any hazardous materials in accordance with the California Government Code Section 65962.5.
20. Provide a Determination of Biological Equivalent or Superior Preservation (DBESP) report in accordance with Section 6.1.2 of the Western Riverside County MSHCP for impacts to Riparian/Riverine Area/Vernal Pools which would be submitted for review to the U.S. Fish and Wildlife Service and the California Department of Fish and Game.

ATTACHMENT "B"

TASK ORDER APPROVAL FORM

CONSULTANT: _____

PROJECT NAME: _____

The Scope of Services for _____, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference, shall constitute an approved Task Order pursuant to the Agreement between the DISTRICT and CONSULTANT dated _____ ("AGREEMENT"). CONSULTANT agrees to perform the services described in Exhibit "A" within the time set forth in the Project Schedule as described in Exhibit "B" attached hereto and incorporated herein, for a fee amount of \$ _____, unless otherwise modified by the DISTRICT'S Project Manager in a subsequent Task Order Approval Form. All charges shall be consistent with the Compensation/Fee Rate Schedule which is attached as Exhibit "C" and incorporated herein by this reference.

Performance of the services shall be subject to the terms and conditions contained in the AGREEMENT.

Dated this _____ day of _____
(To be filled in by General Manager-Chief Engineer)

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

By: _____
WARREN D. WILLIAMS
General Manager-Chief Engineer

CONSULTANT

By: _____
Printed Name and Title

ATTACHMENT "C"

List of Sub-Consultants

- Glenn Lukos Associates
- AMEC
- CRM Tech
- CHJ, Inc.

CONSULTING SERVICES AGREEMENT

1 RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION
2 DISTRICT, hereinafter called "DISTRICT", and RBF CONSULTING, hereinafter called
3 "CONSULTANT", hereby agree as follows:
4

5 1. PROJECT

6 CONSULTANT shall provide on-call environmental and regulatory support services in
7 accordance with applicable federal, state, and local laws and regulations as requested by
8 DISTRICT.

9 2. SCOPE OF SERVICES

10 As requested by DISTRICT, CONSULTANT shall provide Project Specific
11 Environmental/Regulatory Professional Services as described on Attachment "A" for
12 DISTRICT projects on an "on-call" basis. During the term of this Agreement, the
13 CONSULTANT may be invited to submit proposals for some of the various services
14 listed in Attachment "A" as requested by DISTRICT and be assigned subsequent Task
15 Orders, the form of which is Attachment "B" hereto. CONSULTANT understands and
16 expressly agrees that the execution of this Agreement by CONSULTANT and/or the
17 submission of any proposal to furnish services does not guarantee the assignment or
18 approval of any subsequent Task Order(s).
19

20 3. PERSONNEL21 A. Project Manager

22 For each Task Order, the DISTRICT shall designate a representative who shall
23 act as the DISTRICT'S Project Manager ("Project Manager"). The Project
24 Manager shall have authority to act on behalf of DISTRICT for all purposes
25 under this Task Order. DISTRICT shall provide written notice to
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CONSULTANT of any change in Project Manager assignment for a given Task Order.

B. CONSULTANT'S Representative

CONSULTANT shall appoint a designated Representative for each assigned Task Order who shall be responsible for coordinating all aspects of the assigned Task Order. CONSULTANT'S Representative shall be available to DISTRICT'S Project Manager at reasonable times. CONSULTANT may appoint another person as Representative upon written notice to DISTRICT.

C. Substitution of Key Personnel

At the time of Task Order approval, CONSULTANT shall identify its Key Personnel who will perform each assigned Task Order to the DISTRICT'S Project Manager. Should one or more of the identified Key Personnel become unavailable, CONSULTANT may substitute other personnel of equal or greater competence upon written approval by DISTRICT. In the event that DISTRICT and CONSULTANT cannot agree as to the substitution of the Key Personnel, DISTRICT may terminate the Task Order, pursuant to the applicable provisions of this Agreement.

4. TERM

The term of this Agreement shall become effective on the date the Agreement is executed by DISTRICT'S Board of Supervisors, and shall remain in effect through the later of:

- A. Three (3) years from the date of the Board of Supervisors approval; or
- B. The required date for completion of an assigned Task Order, provided that such Task Order was approved prior to expiration date stipulated in 4.A., above.

5. COMPENSATION

1 CONSULTANT shall receive compensation for all services satisfactorily performed
2 under this Agreement in accordance with the terms of the approved Task Order(s). The
3 total amount to be paid to CONSULTANT for the performance of all Task Orders
4 approved pursuant to this Agreement shall not exceed seven hundred fifty thousand
5 dollars (\$750,000), or two hundred fifty thousand dollars (\$250,000) in a single fiscal
6 year.
7

8 6. PAYMENTS

9 Progress payments shall be made in accordance with the Compensation/Fee Rate
10 Schedule attached to the approved Task Order. Progress payments shall be processed no
11 more than once per month. Upon satisfactory performance of CONSULTANT'S
12 services pursuant to an approved Task Order, DISTRICT shall pay CONSULTANT
13 within forty-five (45) days after DISTRICT'S receipt of CONSULTANT'S appropriate
14 invoices. CONSULTANT shall keep employee and expense records according to
15 customary accounting methods and such records shall, upon request, be available for
16 inspection by DISTRICT to verify the invoices of CONSULTANT. All invoices shall
17 itemize charges to conform to the Compensation/Fee Rate Schedule negotiated for the
18 task order. DISTRICT shall notify CONSULTANT of any disputed amounts on invoice
19 within thirty (30) days of receipt.
20
21

22 7. PROJECT PERFORMANCE

23 A. Commencement of Services

24 CONSULTANT shall commence performance of the services for each Task
25 Order upon receipt of the DISTRICT'S approved Task Order.
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B. Time of Completion

1 Time is of the essence in the performance of this Agreement. CONSULTANT
2 shall complete services in accordance with the schedule(s) set forth in the
3 approved Task Order(s).
4

- 5 8. LICENSES – CONSULTANT, its employees, agents, contractors and subcontractors
6 shall possess appropriate federal and/or state permits and maintain professional licenses
7 required by the applicable Federal, State and local regulations at all times while
8 performing services under this Agreement.

9 9. STANDARD OF CARE

10 While performing the services, CONSULTANT shall exercise the reasonable
11 professional care and skill customarily exercised by reputable members of
12 CONSULTANT'S profession practicing in the State of California, and shall use
13 reasonable diligence and best judgment while exercising CONSULTANT'S professional
14 skill and expertise. By executing this Agreement, CONSULTANT represents and
15 maintains that CONSULTANT has the necessary experience and expertise to skillfully
16 perform all services, duties and obligations required by this Agreement and to fully and
17 adequately complete each approved Task Order.
18

19
20 10. ERRORS AND OMISSIONS

21 In the event CONSULTANT'S reports or work products contain any errors or omissions
22 that cause the DISTRICT to incur additional expense beyond what would have otherwise
23 resulted if there were no errors or omissions in CONSULTANT'S reports or work
24 products, such additional expense shall be borne solely by CONSULTANT.
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11. PERMITS AND RIGHTS OF ENTRY

1 DISTRICT shall obtain all rights of entry as may be required to allow CONSULTANT
 2 to perform the proposed consulting services within and upon privately-owned property.
 3 All permits and rights of entry as may be required from any and all affected public
 4 entities shall be obtained by CONSULTANT. Sufficient evidence of having obtained
 5 such permits and/or rights of entry shall be furnished to DISTRICT by CONSULTANT,
 6 prior to initiation of work. CONSULTANT will prosecute the work in such a manner as
 7 to minimize public inconvenience and possible hazard, and will restore the streets and
 8 other work areas to their original condition and former usefulness as soon as practicable.
 9 CONSULTANT shall be responsible for the protection of public and private property
 10 adjacent to the work and shall exercise due caution to avoid damage to such property.
 11
 12

13 12. NOTICES

14 Any and all notices sent or required to be sent to the parties of this Agreement will be
 15 mailed by first class mail, postage prepaid, to the following addresses:

16 RIVERSIDE COUNTY FLOOD CONTROL	RBF CONSULTING
17 AND WATER CONSERVATION DISTRICT	40810 County Center Dr., Suite 100
18 1995 Market Street	Temecula, CA 92591
19 Riverside, CA 92501	Attn: John Gifford
20 Attn: Regulatory/ERS	

21 13. REQUIRED INSURANCE

22 Without limiting or diminishing the CONSULTANT'S obligation to indemnify or hold
 23 DISTRICT harmless, CONSULTANT shall procure and maintain or cause to be
 24 maintained, at its sole cost and expense, the following insurance coverages during the
 25 term of this Agreement:
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A. Workers' Compensation

If CONSULTANT has employees as defined by the State of California, CONSULTANT shall maintain Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employer's Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. Policy shall be endorsed to waive subrogation in favor of DISTRICT and, if applicable, to provide a Borrowed Servant/Alternate Employer endorsement.

B. Commercial General Liability

Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, completed operations, personal and advertising injury covering claims which may arise from or out of CONSULTANT'S performance of its obligations hereunder. Policy shall name Riverside County Flood Control and Water Conservation District, the County of Riverside, special districts, their respective directors, officers, Board of Supervisors, elected officials, employees, agents or representatives as additional insureds. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the occurrence limit.

C. Vehicle Liability

If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, CONSULTANT shall maintain liability insurance for all owned, non-owned or hired vehicles in an amount not less than \$1,000,000 per

1 occurrence combined single limit. If such insurance contains a general aggregate
2 limit, it shall apply separately to this Agreement or be no less than two (2) times
3 the occurrence limit. If CONSULTANT does not own vehicles, CONSULTANT
4 shall maintain coverage for non-owned or hired vehicles in an amount not less
5 than \$1,000,000 per occurrence combined single limit. Such non-owned or hired
6 coverage may be included on the Commercial General Liability policy. Policy
7 shall name Riverside County Flood Control and Water Conservation District, the
8 County of Riverside, special districts, their respective directors, officers, Board
9 of Supervisors, elected officials, employees, agents or representatives as
10 additional insureds.

11 D. Professional Liability

12 CONSULTANT shall maintain Professional Liability Insurance providing
13 coverage for CONSULTANT'S performance of work included within this
14 Agreement, with a limit of liability of not less than \$1,000,000 per occurrence
15 and \$2,000,000 annual aggregate. If CONSULTANT'S Professional Liability
16 Insurance is written on a claims made basis rather than an occurrence basis, such
17 insurance shall continue through the term of this Agreement and CONSULTANT
18 shall purchase at his sole expense either: 1) an Extended Reporting Endorsement
19 (also known as Tail Coverage); or 2) Prior Dates Coverage from a new insurer
20 with a date retroactive to the date of, or prior to, the inception of this Agreement;
21 or 3) demonstrate through Certificates of Insurance that CONSULTANT has
22 maintained continuous coverage with the same or original insurer. Coverage
23 provided under items: 1), 2) or 3) will continue as long as the law allows.
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E. General Insurance Provisions – All Lines

1. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A.M. BEST rating of not less than an A: VIII (A: 8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for the specific insurer and only for one policy term.
2. CONSULTANT'S insurance carrier(s) must declare its insurance deductibles or self-insured retentions. If such deductibles or self-insured retentions exceed \$500,000 per occurrence such deductibles and/or retentions shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of deductibles or self-insured retentions which are deemed unacceptable to the DISTRICT, at the election of the County's Risk Manager, CONSULTANT'S carriers shall either: 1) reduce or eliminate such deductibles or self-insured retentions with respect to this Agreement with DISTRICT, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, defense costs and expenses.
3. CONSULTANT shall cause their insurance carrier(s) to furnish DISTRICT with: 1) a properly executed original certificate(s) of insurance and original certified copies of endorsements effecting coverage as required herein; or 2) if requested to do so orally or in writing by the County Risk Manager, provide original certified copies of policies

1 including all endorsements and all attachments thereto, showing such
2 insurance is in full force and effect. Further, said certificate(s) and
3 policies of insurance shall contain the covenant that the insurance
4 carrier(s) shall provide no less than thirty (30) days written notice be
5 given to DISTRICT prior to any material modification or cancellation of
6 such insurance. In the event of a material modification or cancellation of
7 coverage, this Agreement shall terminate forthwith, unless DISTRICT
8 receives, prior to such effective date, another properly executed original
9 certificate of insurance and original copies of endorsements or original
10 certified policies, including all endorsements and attachments thereto,
11 evidencing coverages and the insurance required herein is in full force
12 and effect. Individual(s) authorized by the insurance carrier to do so on
13 its behalf shall sign the original endorsements for each policy and the
14 certificate of insurance.
15

16 CONSULTANT shall not commence operations until DISTRICT has
17 been furnished with original certificate(s) of insurance and original
18 certified copies of endorsements or policies of insurance including all
19 endorsements and any and all other attachments as required in this
20 Section.
21

- 22 4. It is understood and agreed by the parties hereto and the
23 CONSULTANT'S insurance company(s), that the certificate(s) of
24 insurance and policies shall so covenant and shall be construed as primary
25 insurance, and the DISTRICT'S insurance and/or deductibles and/or self-
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insured retentions or self-insured programs shall not be construed as contributory.

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3 5. If, during the term of this Agreement or any extension thereof, there is a
4 material change in the scope of services; or there is a material change in
5 the equipment to be used in the performance of the scope of work which
6 will add additional exposures (such as the use of aircraft, watercraft,
7 cranes, etc.); or the term of this Agreement, including any extensions
8 thereof, exceeds five (5) years, the County reserves the right to adjust the
9 types of insurance required under this Agreement and the monetary limits
10 of liability for the insurance coverage's currently required herein, if, in the
11 County Risk Manager's reasonable judgment, the amount or type of
12 insurance carried by the CONSULTANT has become inadequate.

14 6. CONSULTANT shall pass down the insurance obligations contained
15 herein to all tiers of subcontractors working under this Agreement.

16 7. The insurance requirements contained in this Agreement may be met with
17 a program(s) of self-insurance acceptable to DISTRICT.

18 8. CONSULTANT agrees to notify DISTRICT of any claim by a third party
19 or any incident or event that may give rise to a claim arising from the
20 performance of this Agreement.
21

22 14. INDEMNIFICATION

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

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

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

17
18 CONSULTANT'S indemnification obligations shall be satisfied when CONSULTANT
19 has provided to DISTRICT the appropriate form of dismissal (or similar document)
20 relieving DISTRICT from any liability for the claim, proceeding or action involved.

21
22 The specified insurance limits required in this Agreement shall in no way limit or
23 circumscribe CONSULTANT'S obligations to indemnify and hold harmless DISTRICT
24 from third party claims.

25
26 In the event there is conflict between this section and California Civil Code Section
27 2782, this section shall be interpreted to comply with Civil Code 2782. Such
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1 interpretation shall not relieve the CONSULTANT from indemnifying DISTRICT
2 (including its directors, officers, Board of Supervisors, elected and appointed officials,
3 employees, agents and representatives) or the County of Riverside to the fullest extent
4 allowed by law.

5 15. WORK PRODUCT

6 CONSULTANT shall provide all report(s) as set forth in the approved Task Order(s).
7 All drawings, logs and reports shall be and remain the sole property of DISTRICT.
8 CONSULTANT shall not publish or transfer any material produced or resulting from
9 activities supported by this Agreement without the written consent of the General
10 Manager-Chief Engineer of DISTRICT. If any such material is subject to copyright or
11 trademark, the parties agree that the right to any and all copyright and/or trademark in
12 and to the material is expressly reserved to DISTRICT. If any such material is
13 copyrighted, the parties hereto understand and agree that DISTRICT reserves a royalty-
14 free, non-exclusive, and irrevocable license to reproduce, publish, and use such material,
15 in whole or in part, and to authorize others to do so, provided written credit is given the
16 author.
17

18 16. TERMINATION

19 At any time during the term of this Agreement, DISTRICT may:
20

21 A. Agreement

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

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

11 In the event DISTRICT terminates this Agreement, DISTRICT shall make
12 payment for all services performed in accordance with this Agreement to the date
13 of termination, a total amount which bears the same ratio to the total maximum
14 fee otherwise payable under this Agreement as the services actually bear to the
15 total services necessary for performance of this Agreement. Notwithstanding any
16 of the other provision of this Agreement, CONSULTANT rights under this
17 Agreement shall terminate (except for fees accrued prior to the date of
18 termination) upon dishonesty, or a willful or material breach of this Agreement
19 by CONSULTANT; or in the event of CONSULTANT'S unwillingness or
20 inability for any reason whatsoever to perform the duties hereunder; or if the
21 Agreement is terminated pursuant to Section 26 (NON-DISCRIMINATION). In
22 such event, CONSULTANT shall not be entitled to any further compensation
23 under this Agreement. The rights and remedies of DISTRICT provided in this
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1 section shall not be exclusive and are in addition to any other rights and remedies
2 provided by law or under this Agreement.

3 B. Approved Task Order

4 Terminate an approved Task Order or portion thereof without cause upon
5 providing CONSULTANT fourteen (14) days written notice stating the extent
6 and effective date of termination. In the event DISTRICT issues a Notice of
7 Termination for an approved Task Order, CONSULTANT shall: i) stop all work
8 under the Task Order 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
10 directed by DISTRICT, any equipment, data, reports or other documents which,
11 if the Task Order had been completed, would have been required to be furnished
12 to DISTRICT.
13

14 In the event DISTRICT terminates an approved Task Order, DISTRICT shall
15 make payment for all services satisfactorily performed in accordance with the
16 negotiated Task Order to the date of termination, a total amount which bears the
17 same ratio to the total maximum fee otherwise payable under the Task Order as
18 the services actually bear to the total services necessary for performance of the
19 Task Order.
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21 17. Basic Services of CONSULTANT

22 The scope of services associated with the performance of any specific Task Order under
23 this Agreement shall be expressly defined and agreed upon prior to the approval of the
24 Task Order by the Project Manager. Any changes to the approved scope of services must
25 be authorized by the Project Manager, and shall be made in writing.
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A. Right to Preliminary Review

1 All work prepared by CONSULTANT shall be subject to the approval of the
2 Project Manager. CONSULTANT shall allow Project Manager to inspect and
3 review CONSULTANT'S work in progress at any reasonable time. All reports,
4 working papers, and similar work products prepared for submission in the course
5 of providing services under this Agreement shall be submitted to the Project
6 Manager in draft form. In the event that Project Manager, in his or her sole
7 discretion, determines the formally submitted work product to be inadequate,
8 CONSULTANT may be required to revise and resubmit the work at no
9 additional cost to DISTRICT. Should CONSULTANT fail to make requested
10 corrections in a timely manner, such corrections may be made by DISTRICT,
11 and the cost thereof charged to CONSULTANT. The responsibility for accuracy
12 and completeness of such items remains solely that of CONSULTANT. Neither
13 DISTRICT'S review or approval shall give rise to any liability or responsibility
14 on the part of DISTRICT, or waive any of DISTRICT'S rights, or relieve
15 CONSULTANT of its professional responsibilities or obligations under this
16 Agreement.
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20 B. Progress Reports

21 Attached with CONSULTANT'S periodic invoice(s), CONSULTANT shall
22 submit a Progress Report indicating the project status in relation to the approved
23 Project Schedule and, as DISTRICT deems necessary, an updated Project
24 Schedule for review and approval. Failure to submit the Progress Report or
25 updated Project Schedule shall be cause for DISTRICT to withhold payment of
26 CONSULTANT'S invoice.
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18. INDEPENDENT CONTRACTOR

1 CONSULTANT and the agents and employees of CONSULTANT, shall act at all times
2 in an independent capacity during the term of this Agreement and in the performance of
3 the services to be rendered hereunder and shall not act as or shall not be and shall not in
4 any manner be considered to be employees or agents of DISTRICT.
5

6 19. SUBCONTRACTING

7 A list of sub-consultants (Sub-consultants), as identified by the CONSULTANT, is
8 attached hereto as Attachment "C". CONSULTANT may, at CONSULTANT'S own
9 expense, retain or employ Sub-consultants from Attachment "C" to accomplish certain
10 portions of the work covered by this Agreement.

11 Should one or more of the Sub-consultants, as identified in Attachment "C", become
12 unavailable, CONSULTANT may substitute other sub-consultants of equal or greater
13 competence upon written approval by DISTRICT. In the event that DISTRICT and
14 CONSULTANT cannot agree as to the substitution of the sub-consultant, DISTRICT
15 may terminate the Task Order, pursuant to the applicable provisions of this Agreement.
16

17 In the event CONSULTANT subcontracts any portion of CONSULTANT'S duties under
18 this Agreement, CONSULTANT shall require its Sub-consultants to comply with the
19 terms of this Agreement in the same manner as required of CONSULTANT. The fact
20 that CONSULTANT employs Sub-consultants not in his regular employ shall not relieve
21 CONSULTANT of any responsibility regarding the adequacy of the Sub-consultant's
22 work performed or services provided pursuant to this Agreement.
23

24 20. CHANGES TO TASK ORDER SCOPE OF SERVICES

25 CONSULTANT shall not perform any additional work or services outside the scope of
26 an approved Task Order without the prior written approval of the Project Manager. If at
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1 any time during the performance of an approved Task Order, CONSULTANT believes
2 that it is necessary to include certain work or services which are not clearly covered
3 under the scope of an approved Task Order, CONSULTANT shall immediately notify
4 the Project Manager in writing of CONSULTANT'S assertion that the work is out of
5 scope. Said notification by CONSULTANT to the Project Manager shall not in any way
6 be construed as proving that the work or services in question are outside the scope of the
7 Task Order. The Project Manager must approve or reject CONSULTANT'S assertion in
8 writing. In the event the Project Manager determines that CONSULTANT is correct, the
9 additional work or services shall be authorized by a new or revised Task Order that
10 covers the new scope, cost and schedule. In the event that such notification is not given
11 or if the Project Manager is not afforded an opportunity to negotiate the appropriate fee
12 for such additional services prior to CONSULTANT'S commencement of such
13 additional services, then CONSULTANT shall be deemed to have agreed to perform the
14 work or services without any additional compensation and to have accepted sole
15 responsibility for the performance of said work or services. Extra work done or services
16 performed without a new or revised Task Order from the Project Manager shall be
17 considered unauthorized and shall not be paid for by DISTRICT.

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20 At any time during the performance of an approved Task Order, DISTRICT may request
21 that CONSULTANT perform extra services. Any work which is determined by
22 DISTRICT to be necessary for the proper completion of the approved Task Order, but
23 which neither CONSULTANT nor DISTRICT reasonably anticipated would be
24 necessary at the time the scope of services for the assigned Task Order was approved,
25 must be authorized by the Project Manager by a new or revised Task Order.
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1 At any time during the performance of the Task Order, the Project Manager, upon
2 providing five (5) days written notice to the CONSULTANT, may delete services and
3 the associated fees from the Task Order. In the event DISTRICT requests deletion of
4 services from the Task Order, DISTRICT shall make payment for all services
5 satisfactorily performed in accordance with the negotiated Task Order up to the effective
6 date of deletion; the amount of the payment shall be prorated to the total services
7 necessary for completion of the Task Order. No work product for the deleted services
8 shall be provided to DISTRICT.

9 21. DISPUTES

10 A. In the event CONSULTANT considers any work demanded of CONSULTANT
11 to be outside the requirements of this Agreement, or if CONSULTANT considers
12 any order, instruction or decision of DISTRICT to be unfair, CONSULTANT
13 shall promptly, upon receipt of such order, instruction or decision, ask for a
14 written confirmation of the same whereupon CONSULTANT shall proceed
15 without delay to perform the work or to conform to the order, instruction, or
16 decision. However, if CONSULTANT finds such order, instruction or decision
17 unsatisfactory, CONSULTANT shall, within twenty-one (21) calendar days after
18 receipt of same, file a written protest with DISTRICT stating clearly and in detail
19 its objections and reasons therefor. Except for such protests or objections as are
20 made of record in the manner specified and within the time stated herein, and
21 except for such instances where the basis of a protest could not reasonably have
22 been foreseen by CONSULTANT within the time limit specified for protest,
23 CONSULTANT hereby waives all grounds for protests or objections to orders,
24 instruction, or decisions of DISTRICT and hereby agrees that, as to all matters
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not included in such protests, the orders, instructions and decisions of DISTRICT will be limited to matters properly falling within DISTRICT'S authority.

B. Any controversy or claim arising out of or relating to this Agreement which cannot be resolved by mutual agreement may be settled by arbitration, provided that the parties hereto mutually agree to submit to arbitration.

C. Neither the pendency of a dispute nor its consideration by arbitration shall excuse CONSULTANT from full and timely performance in accordance with the terms of this Agreement.

22. ASSIGNMENT

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

23. 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.

24. 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.

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

7 25. WAIVER

8 Any waiver by DISTRICT of any breach of any one or more of the terms of this
9 Agreement shall not be construed to be a waiver of any subsequent or other breach of the
10 same or any other term thereof. Failure on the part of DISTRICT to require exact, full
11 and complete compliance with any terms of this Agreement shall not be construed as in
12 any manner changing the terms hereof, or estopping DISTRICT from enforcement
13 hereof.
14

15 26. NON-DISCRIMINATION

16 In the performance of the terms of this Agreement, CONSULTANT shall not engage in
17 nor permit others he may employ to engage in discrimination in the employment of
18 persons because of the race, color, national origin or ancestry, religion, physical
19 handicap, disability as defined by the Americans with Disabilities Act (ADA), medical
20 condition, marital status or sex of such persons, in accordance with the provision of
21 California Labor Code Section 1735.
22

23 27. NON-APPROPRIATION OF FUNDS

24 It is mutually agreed and understood that the obligation(s) of DISTRICT are limited by
25 and contingent upon the availability of DISTRICT funds for the reimbursement of
26 CONSULTANT'S fees. In the event that such funds are not forthcoming for any reason,
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1 DISTRICT shall immediately notify CONSULTANT in writing. This Agreement shall
2 be deemed terminated and have no further force and effect immediately upon receipt of
3 DISTRICT'S notification by CONSULTANT. In the event of such termination,
4 CONSULTANT shall be entitled to reimbursement of its costs in accordance with
5 Section 5 (COMPENSATION).

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

7/26/2011

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By: Warren D. Williams
WARREN D. WILLIAMS
General Manager-Chief Engineer

By: Marion Ashley
MARION ASHLEY, Chairman
Riverside County Flood Control and Water
Conservation District Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

By: Marsha L. Victor 6/27/11
MARSHA L. VICTOR
Principal Deputy County Counsel

By: Norvain Canova
Deputy

(SEAL)

RBF CONSULTING

By: John Gifford
JOHN GIFFORD
Vice President

Agreement for Consulting Services
Project Specific
06/22/11
SEM:blj

ATTACHMENT "A"

SCOPE OF SERVICES

CONSULTANT may be asked to perform one or more of the following types of services as specifically directed in Task Orders issued to CONSULTANT:

1. Prepare a Cultural Resources Report that addresses all potential issues related to archaeological, traditional and built environment resources in accordance with applicable Federal, State and local laws and regulations regarding cultural resources in the environmental review and/or regulatory permitting process including, but not limited to Section 106 of the National Historic Preservation Act.
2. Prepare a Paleontological Resources assessment that addresses all potential issues related to paleontological resources in accordance with applicable Federal, State and local laws and regulations in the environmental review and/or regulatory permitting process.
3. Prepare a Biological Resources Assessment that addresses all potential biological issues and concerns for the project area, including, but not limited to:
 - Reconnaissance surveys, habitat assessments, and focused surveys for sensitive or listed plant and wildlife species.
 - Federal and State Jurisdictional Area Delineation.
 - Designated Critical Habitat Areas with Federal Endangered Species Act (FESA).
 - Applicable Habitat Conservation Plans consistency assessment (i.e. Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), Coachella Valley MSHCP and Tribal Habitat Conservation Plan (HCP)).
4. Prepare a Jurisdictional Area Delineation Report and Impact Analysis, including significant nexus evaluation, that addresses all potential issues related to "Waters of the U.S." and wetlands (Clean Water Act), "Waters of the State" and wetlands (Porter-Cologne Water Quality Control Act), and areas under the jurisdiction of the California Department of Fish and Game Code (Section 1600 et seq.).
5. Prepare a native Habitat Mitigation and Monitoring Plan (HMMP).
6. Implement a HMMP.
7. Prepare a Preliminary Environmental Assessment Report (PEAR) for proposed District projects. The PEAR identifies potential environmental concerns (biological, cultural, historical, paleontological, jurisdictional, geological, or regulatory permitting, etc.) that could pose significant hurdles to a project based on preliminary design data. A PEAR may be needed at the early stage of a project to ensure that project alternatives (e.g., types of facility, facility size, alignment, etc.) are fully evaluated by the District.
8. Prepare as appropriate a separate or joint California Environmental Quality Act (CEQA) Initial Study and/or National Environmental Policy Act (NEPA) Environmental Assessment, if applicable, including but not limited to technical appendices, exhibits, and mitigation and monitoring plan to determine if the project may have a significant impact on the environment.
9. Prepare as appropriate a CEQA Negative Declaration, Mitigated Negative Declaration,

and Notice of Determination.

10. Prepare as appropriate a separate or joint CEQA Draft Environmental Impact Report (DEIR)/Final Environmental Impact Report (FEIR) and/or NEPA Draft Environmental Impact Statement (DEIS)/Final Environmental Impact Statement (FEIS) including, but not limited to technical appendices, exhibits, finding of any significance, mitigation, and monitoring plan to avoid or reduce potentially significant adverse impacts.
11. Prepare written responses to comments received during the CEQA and/or NEPA process.
12. Make presentations as needed to the public, government agencies, or others related to project review and its associated environmental documents.
13. Participate in public hearings and meetings as necessary.
14. Provide technical assistance and participate in permit negotiation as needed for the District to secure all necessary regulatory permits (e.g. FESA/CESA Incidental Take Permit, Department of Fish and Game Consistency Determination, Section 404 Individual/Nationwide Permit, 401 Water Quality Certification, 1602 Streambed Alteration Agreement, Waste Discharge Requirements, etc.) for flood control projects.
15. Conduct protocol level pre-construction biological surveys and provide written reports summarizing survey results.
16. Provide biological monitoring and reporting services.
17. Provide cultural and/or paleontological resources monitoring and reporting services.
18. Prepare a MSHCP/HCP consistency assessment that demonstrates project compliance with all applicable provisions of the appropriate habitat conservation plans (i.e. Western Riverside County MSHCP, Coachella Valley MSHCP and Tribal HCP).
19. Provide Hazardous Materials report to determine the presence/absence of any hazardous materials in accordance with the California Government Code Section 65962.5.
20. Provide a Determination of Biological Equivalent or Superior Preservation (DBESP) report in accordance with Section 6.1.2 of the Western Riverside County MSHCP for impacts to Riparian/Riverine Area/Vernal Pools which would be submitted for review to the U.S. Fish and Wildlife Service and the California Department of Fish and Game.

ATTACHMENT "B"

TASK ORDER APPROVAL FORM

CONSULTANT: _____

PROJECT NAME: _____

The Scope of Services for _____, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference, shall constitute an approved Task Order pursuant to the Agreement between the DISTRICT and CONSULTANT dated _____ ("AGREEMENT"). CONSULTANT agrees to perform the services described in Exhibit "A" within the time set forth in the Project Schedule as described in Exhibit "B" attached hereto and incorporated herein, for a fee amount of \$_____, unless otherwise modified by the DISTRICT'S Project Manager in a subsequent Task Order Approval Form. All charges shall be consistent with the Compensation/Fee Rate Schedule which is attached as Exhibit "C" and incorporated herein by this reference.

Performance of the services shall be subject to the terms and conditions contained in the AGREEMENT.

Dated this _____ day of _____
(To be filled in by General Manager-Chief Engineer)

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

By: _____
WARREN D. WILLIAMS
General Manager-Chief Engineer

CONSULTANT

By: _____
Printed Name and Title

ATTACHMENT "C"

List of Sub-Consultants

- Kleinfelder
- CRM Tech
- Tom Dodson & Associates

CONSULTING SERVICES AGREEMENT

1 RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION
2 DISTRICT, hereinafter called "DISTRICT", and MICHAEL BRANDMAN ASSOCIATES,
3 hereinafter called "CONSULTANT", hereby agree as follows:
4

5 1. PROJECT

6 CONSULTANT shall provide on-call environmental and regulatory support services in
7 accordance with applicable federal, state, and local laws and regulations as requested by
8 DISTRICT.
9

10 2. SCOPE OF SERVICES

11 As requested by DISTRICT, CONSULTANT shall provide Project Specific
12 Environmental/Regulatory Professional Services as described on Attachment "A" for
13 DISTRICT projects on an "on-call" basis. During the term of this Agreement, the
14 CONSULTANT may be invited to submit proposals for some of the various services
15 listed in Attachment "A" as requested by DISTRICT and be assigned subsequent Task
16 Orders, the form of which is Attachment "B" hereto. CONSULTANT understands and
17 expressly agrees that the execution of this Agreement by CONSULTANT and/or the
18 submission of any proposal to furnish services does not guarantee the assignment or
19 approval of any subsequent Task Order(s).
20

21 3. PERSONNEL

22 A. Project Manager

23 For each Task Order, the DISTRICT shall designate a representative who shall
24 act as the DISTRICT'S Project Manager ("Project Manager"). The Project
25 Manager shall have authority to act on behalf of DISTRICT for all purposes
26 under this Task Order. DISTRICT shall provide written notice to
27
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1 CONSULTANT of any change in Project Manager assignment for a given Task
2 Order.

3 B. CONSULTANT'S Representative

4 CONSULTANT shall appoint a designated Representative for each assigned
5 Task Order who shall be responsible for coordinating all aspects of the assigned
6 Task Order. CONSULTANT'S Representative shall be available to DISTRICT'S
7 Project Manager at reasonable times. CONSULTANT may appoint another
8 person as Representative upon written notice to DISTRICT.
9

10 C. Substitution of Key Personnel

11 At the time of Task Order approval, CONSULTANT shall identify its Key
12 Personnel who will perform each assigned Task Order to the DISTRICT'S
13 Project Manager. Should one or more of the identified Key Personnel become
14 unavailable, CONSULTANT may substitute other personnel of equal or greater
15 competence upon written approval by DISTRICT. In the event that DISTRICT
16 and CONSULTANT cannot agree as to the substitution of the Key Personnel,
17 DISTRICT may terminate the Task Order, pursuant to the applicable provisions
18 of this Agreement.
19

20 4. TERM

21 The term of this Agreement shall become effective on the date the Agreement is
22 executed by DISTRICT'S Board of Supervisors, and shall remain in effect through the
23 later of:

- 24
- 25 A. Three (3) years from the date of the Board of Supervisors approval; or
 - 26 B. The required date for completion of an assigned Task Order, provided that such
27 Task Order was approved prior to expiration date stipulated in 4.A., above.
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1 5. COMPENSATION

2 CONSULTANT shall receive compensation for all services satisfactorily performed
3 under this Agreement in accordance with the terms of the approved Task Order(s). The
4 total amount to be paid to CONSULTANT for the performance of all Task Orders
5 approved pursuant to this Agreement shall not exceed seven hundred fifty thousand
6 dollars (\$750,000), or two hundred fifty thousand dollars (\$250,000) in a single fiscal
7 year.

8 6. PAYMENTS

9 Progress payments shall be made in accordance with the Compensation/Fee Rate
10 Schedule attached to the approved Task Order. Progress payments shall be processed no
11 more than once per month. Upon satisfactory performance of CONSULTANT'S
12 services pursuant to an approved Task Order, DISTRICT shall pay CONSULTANT
13 within forty-five (45) days after DISTRICT'S receipt of CONSULTANT'S appropriate
14 invoices. CONSULTANT shall keep employee and expense records according to
15 customary accounting methods and such records shall, upon request, be available for
16 inspection by DISTRICT to verify the invoices of CONSULTANT. All invoices shall
17 itemize charges to conform to the Compensation/Fee Rate Schedule negotiated for the
18 task order. DISTRICT shall notify CONSULTANT of any disputed amounts on invoice
19 within thirty (30) days of receipt.

20 7. PROJECT PERFORMANCE

21 A. Commencement of Services

22 CONSULTANT shall commence performance of the services for each Task
23 Order upon receipt of the DISTRICT'S approved Task Order.
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1 B. Time of Completion

2 Time is of the essence in the performance of this Agreement. CONSULTANT
3 shall complete services in accordance with the schedule(s) set forth in the
4 approved Task Order(s).

5 8. LICENSES – CONSULTANT, its employees, agents, contractors and subcontractors
6 shall possess appropriate federal and/or state permits and maintain professional licenses
7 required by the applicable Federal, State and local regulations at all times while
8 performing services under this Agreement.

9
10 9. STANDARD OF CARE

11 While performing the services, CONSULTANT shall exercise the reasonable
12 professional care and skill customarily exercised by reputable members of
13 CONSULTANT'S profession practicing in the State of California, and shall use
14 reasonable diligence and best judgment while exercising CONSULTANT'S professional
15 skill and expertise. By executing this Agreement, CONSULTANT represents and
16 maintains that CONSULTANT has the necessary experience and expertise to skillfully
17 perform all services, duties and obligations required by this Agreement and to fully and
18 adequately complete each approved Task Order.
19

20 10. ERRORS AND OMISSIONS

21 In the event CONSULTANT'S reports or work products contain any errors or omissions
22 that cause the DISTRICT to incur additional expense beyond what would have otherwise
23 resulted if there were no errors or omissions in CONSULTANT'S reports or work
24 products, such additional expense shall be borne solely by CONSULTANT.
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11. PERMITS AND RIGHTS OF ENTRY

DISTRICT shall obtain all rights of entry as may be required to allow CONSULTANT to perform the proposed consulting services within and upon privately-owned property. All permits and rights of entry as may be required from any and all affected public entities shall be obtained by CONSULTANT. Sufficient evidence of having obtained such permits and/or rights of entry shall be furnished to DISTRICT by CONSULTANT, prior to initiation of work. CONSULTANT will prosecute the work in such a manner as to minimize public inconvenience and possible hazard, and will restore the streets and other work areas to their original condition and former usefulness as soon as practicable. CONSULTANT shall be responsible for the protection of public and private property adjacent to the work and shall exercise due caution to avoid damage to such property.

12. NOTICES

Any and all notices sent or required to be sent to the parties of this Agreement will be mailed by first class mail, postage prepaid, to the following addresses:

RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT
1995 Market Street
Riverside, CA 92501
Attn: Regulatory/ERS

MICHAEL BRANDMAN
ASSOCIATES
621 E. Carnegie Drive, Suite 100
San Bernardino, CA 92408
Attn: Thomas Holm

13. REQUIRED INSURANCE

Without limiting or diminishing the CONSULTANT'S obligation to indemnify or hold DISTRICT harmless, CONSULTANT shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverages during the term of this Agreement:

1 A. Workers' Compensation

2 If CONSULTANT has employees as defined by the State of California,
3 CONSULTANT shall maintain Workers' Compensation Insurance (Coverage A)
4 as prescribed by the laws of the State of California. Policy shall include
5 Employer's Liability (Coverage B) including Occupational Disease with limits
6 not less than \$1,000,000 per person per accident. Policy shall be endorsed to
7 waive subrogation in favor of DISTRICT and, if applicable, to provide a
8 Borrowed Servant/Alternate Employer endorsement.
9

10 B. Commercial General Liability

11 Commercial General Liability insurance coverage, including but not limited to,
12 premises liability, contractual liability, completed operations, personal and
13 advertising injury covering claims which may arise from or out of
14 CONSULTANT'S performance of its obligations hereunder. Policy shall name
15 Riverside County Flood Control and Water Conservation District, the County of
16 Riverside, special districts, their respective directors, officers, Board of
17 Supervisors, elected officials, employees, agents or representatives as additional
18 insureds. Policy's limit of liability shall not be less than \$1,000,000 per
19 occurrence combined single limit. If such insurance contains a general aggregate
20 limit, it shall apply separately to this Agreement or be no less than two (2) times
21 the occurrence limit.
22

23 C. Vehicle Liability

24 If vehicles or mobile equipment are used in the performance of the obligations
25 under this Agreement, CONSULTANT shall maintain liability insurance for all
26 owned, non-owned or hired vehicles in an amount not less than \$1,000,000 per
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1 occurrence combined single limit. If such insurance contains a general aggregate
2 limit, it shall apply separately to this Agreement or be no less than two (2) times
3 the occurrence limit. If CONSULTANT does not own vehicles, CONSULTANT
4 shall maintain coverage for non-owned or hired vehicles in an amount not less
5 than \$1,000,000 per occurrence combined single limit. Such non-owned or hired
6 coverage may be included on the Commercial General Liability policy. Policy
7 shall name Riverside County Flood Control and Water Conservation District, the
8 County of Riverside, special districts, their respective directors, officers, Board
9 of Supervisors, elected officials, employees, agents or representatives as
10 additional insureds.
11

12 D. Professional Liability

13 CONSULTANT shall maintain Professional Liability Insurance providing
14 coverage for CONSULTANT'S performance of work included within this
15 Agreement, with a limit of liability of not less than \$1,000,000 per occurrence
16 and \$2,000,000 annual aggregate. If CONSULTANT'S Professional Liability
17 Insurance is written on a claims made basis rather than an occurrence basis, such
18 insurance shall continue through the term of this Agreement and CONSULTANT
19 shall purchase at his sole expense either: 1) an Extended Reporting Endorsement
20 (also known as Tail Coverage); or 2) Prior Dates Coverage from a new insurer
21 with a date retroactive to the date of, or prior to, the inception of this Agreement;
22 or 3) demonstrate through Certificates of Insurance that CONSULTANT has
23 maintained continuous coverage with the same or original insurer. Coverage
24 provided under items: 1), 2) or 3) will continue as long as the law allows.
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E. General Insurance Provisions – All Lines

1. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A.M. BEST rating of not less than an A: VIII (A: 8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for the specific insurer and only for one policy term.
2. CONSULTANT'S insurance carrier(s) must declare its insurance deductibles or self-insured retentions. If such deductibles or self-insured retentions exceed \$500,000 per occurrence such deductibles and/or retentions shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of deductibles or self-insured retentions which are deemed unacceptable to the DISTRICT, at the election of the County's Risk Manager, CONSULTANT'S carriers shall either: 1) reduce or eliminate such deductibles or self-insured retentions with respect to this Agreement with DISTRICT, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, defense costs and expenses.
3. CONSULTANT shall cause their insurance carrier(s) to furnish DISTRICT with: 1) a properly executed original certificate(s) of insurance and original certified copies of endorsements effecting coverage as required herein; or 2) if requested to do so orally or in writing by the County Risk Manager, provide original certified copies of policies

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including all endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said certificate(s) and policies of insurance shall contain the covenant that the insurance carrier(s) shall provide no less than thirty (30) days written notice be given to DISTRICT prior to any material modification or cancellation of such insurance. In the event of a material modification or cancellation of coverage, this Agreement shall terminate forthwith, unless DISTRICT receives, prior to such effective date, another properly executed original certificate of insurance and original copies of endorsements or original certified policies, including all endorsements and attachments thereto, evidencing coverages and the insurance required herein is in full force and effect. Individual(s) authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the certificate of insurance.

CONSULTANT shall not commence operations until DISTRICT has been furnished with original certificate(s) of insurance and original certified copies of endorsements or policies of insurance including all endorsements and any and all other attachments as required in this Section.

- 4. It is understood and agreed by the parties hereto and the CONSULTANT'S insurance company(s), that the certificate(s) of insurance and policies shall so covenant and shall be construed as primary insurance, and the DISTRICT'S insurance and/or deductibles and/or self-

insured retentions or self-insured programs shall not be construed as contributory.

5. If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or there is a material change in the equipment to be used in the performance of the scope of work which will add additional exposures (such as the use of aircraft, watercraft, cranes, etc.); or the term of this Agreement, including any extensions thereof, exceeds five (5) years, the County reserves the right to adjust the types of insurance required under this Agreement and the monetary limits of liability for the insurance coverage's currently required herein, if, in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONSULTANT has become inadequate.

6. CONSULTANT shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.

7. The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to DISTRICT.

8. CONSULTANT agrees to notify DISTRICT of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

14. INDEMNIFICATION

CONSULTANT shall indemnify and hold harmless DISTRICT (including its directors, 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

1 its officers, employees, subcontractors and agents) actual or alleged negligent, reckless
2 or willful misconduct acts or omissions related to this Agreement, performance under
3 this Agreement, or failure to comply with the requirements of this Agreement, including
4 but not limited to: (a) property damage; (b) bodily injury or death; or (c) any other
5 element of any kind or nature whatsoever.

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

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

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

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

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26 In the event there is conflict between this section and California Civil Code Section
27 2782, this section shall be interpreted to comply with Civil Code 2782. Such
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1 interpretation shall not relieve the CONSULTANT from indemnifying DISTRICT
 2 (including its directors, officers, Board of Supervisors, elected and appointed officials,
 3 employees, agents and representatives) or the County of Riverside to the fullest extent
 4 allowed by law.

5 15. WORK PRODUCT

6 CONSULTANT shall provide all report(s) as set forth in the approved Task Order(s).
 7 All drawings, logs and reports shall be and remain the sole property of DISTRICT.
 8 CONSULTANT shall not publish or transfer any material produced or resulting from
 9 activities supported by this Agreement without the written consent of the General
 10 Manager-Chief Engineer of DISTRICT. If any such material is subject to copyright or
 11 trademark, the parties agree that the right to any and all copyright and/or trademark in
 12 and to the material is expressly reserved to DISTRICT. If any such material is
 13 copyrighted, the parties hereto understand and agree that DISTRICT reserves a royalty-
 14 free, non-exclusive, and irrevocable license to reproduce, publish, and use such material,
 15 in whole or in part, and to authorize others to do so, provided written credit is given the
 16 author.
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19 16. TERMINATION

20 At any time during the term of this Agreement, DISTRICT may:

21 A. Agreement

- 22 1) Terminate this Agreement without cause upon providing CONSULTANT
 23 thirty (30) days written notice stating the extent and effective date of
 24 termination; or
 25
 26 2) Upon five (5) days written notice, terminate this Agreement for
 27 CONSULTANT default, if CONSULTANT refuses or fails to comply
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1 with the provisions of this Agreement or fails to make progress so as to
2 endanger performance and does not cure such failure within a reasonable
3 period of time. In the event of such termination, the DISTRICT may
4 proceed with the work in a manner deemed proper to DISTRICT.

5 In the event DISTRICT issues a Notice of Termination, CONSULTANT shall: i)
6 stop all work under this Agreement on the date specified in the Notice of
7 Termination; and ii) transfer to DISTRICT and deliver in the manner, and to the
8 extent, if any, as directed by DISTRICT, any equipment, data or reports which, if
9 the Agreement had been completed, would have been required to be furnished to
10 DISTRICT.
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12 In the event DISTRICT terminates this Agreement, DISTRICT shall make
13 payment for all services performed in accordance with this Agreement to the date
14 of termination, a total amount which bears the same ratio to the total maximum
15 fee otherwise payable under this Agreement as the services actually bear to the
16 total services necessary for performance of this Agreement. Notwithstanding any
17 of the other provision of this Agreement, CONSULTANT rights under this
18 Agreement shall terminate (except for fees accrued prior to the date of
19 termination) upon dishonesty, or a willful or material breach of this Agreement
20 by CONSULTANT; or in the event of CONSULTANT'S unwillingness or
21 inability for any reason whatsoever to perform the duties hereunder; or if the
22 Agreement is terminated pursuant to Section 26 (NON-DISCRIMINATION). In
23 such event, CONSULTANT shall not be entitled to any further compensation
24 under this Agreement. The rights and remedies of DISTRICT provided in this
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1 section shall not be exclusive and are in addition to any other rights and remedies
2 provided by law or under this Agreement.

3 B. Approved Task Order

4 Terminate an approved Task Order or portion thereof without cause upon
5 providing CONSULTANT fourteen (14) days written notice stating the extent
6 and effective date of termination. In the event DISTRICT issues a Notice of
7 Termination for an approved Task Order, CONSULTANT shall: i) stop all work
8 under the Task Order 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
10 directed by DISTRICT, any equipment, data, reports or other documents which,
11 if the Task Order had been completed, would have been required to be furnished
12 to DISTRICT.
13

14 In the event DISTRICT terminates an approved Task Order, DISTRICT shall
15 make payment for all services satisfactorily performed in accordance with the
16 negotiated Task Order to the date of termination, a total amount which bears the
17 same ratio to the total maximum fee otherwise payable under the Task Order as
18 the services actually bear to the total services necessary for performance of the
19 Task Order.
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21 17. Basic Services of CONSULTANT

22 The scope of services associated with the performance of any specific Task Order under
23 this Agreement shall be expressly defined and agreed upon prior to the approval of the
24 Task Order by the Project Manager. Any changes to the approved scope of services must
25 be authorized by the Project Manager, and shall be made in writing.
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1 A. Right to Preliminary Review

2 All work prepared by CONSULTANT shall be subject to the approval of the
3 Project Manager. CONSULTANT shall allow Project Manager to inspect and
4 review CONSULTANT'S work in progress at any reasonable time. All reports,
5 working papers, and similar work products prepared for submission in the course
6 of providing services under this Agreement shall be submitted to the Project
7 Manager in draft form. In the event that Project Manager, in his or her sole
8 discretion, determines the formally submitted work product to be inadequate,
9 CONSULTANT may be required to revise and resubmit the work at no
10 additional cost to DISTRICT. Should CONSULTANT fail to make requested
11 corrections in a timely manner, such corrections may be made by DISTRICT,
12 and the cost thereof charged to CONSULTANT. The responsibility for accuracy
13 and completeness of such items remains solely that of CONSULTANT. Neither
14 DISTRICT'S review or approval shall give rise to any liability or responsibility
15 on the part of DISTRICT, or waive any of DISTRICT'S rights, or relieve
16 CONSULTANT of its professional responsibilities or obligations under this
17 Agreement.

18 B. Progress Reports

19 Attached with CONSULTANT'S periodic invoice(s), CONSULTANT shall
20 submit a Progress Report indicating the project status in relation to the approved
21 Project Schedule and, as DISTRICT deems necessary, an updated Project
22 Schedule for review and approval. Failure to submit the Progress Report or
23 updated Project Schedule shall be cause for DISTRICT to withhold payment of
24 CONSULTANT'S invoice.

18. INDEPENDENT CONTRACTOR

1
2 CONSULTANT and the agents and employees of CONSULTANT, shall act at all times
3 in an independent capacity during the term of this Agreement and in the performance of
4 the services to be rendered hereunder and shall not act as or shall not be and shall not in
5 any manner be considered to be employees or agents of DISTRICT.

6 19. SUBCONTRACTING

7 A list of sub-consultants (Sub-consultants), as identified by the CONSULTANT, is
8 attached hereto as Attachment "C". CONSULTANT may, at CONSULTANT'S own
9 expense, retain or employ Sub-consultants from Attachment "C" to accomplish certain
10 portions of the work covered by this Agreement.

11
12 Should one or more of the Sub-consultants, as identified in Attachment "C", become
13 unavailable, CONSULTANT may substitute other sub-consultants of equal or greater
14 competence upon written approval by DISTRICT. In the event that DISTRICT and
15 CONSULTANT cannot agree as to the substitution of the sub-consultant, DISTRICT
16 may terminate the Task Order, pursuant to the applicable provisions of this Agreement.

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

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25 20. CHANGES TO TASK ORDER SCOPE OF SERVICES

26 CONSULTANT shall not perform any additional work or services outside the scope of
27 an approved Task Order without the prior written approval of the Project Manager. If at
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1 any time during the performance of an approved Task Order, CONSULTANT believes
2 that it is necessary to include certain work or services which are not clearly covered
3 under the scope of an approved Task Order, CONSULTANT shall immediately notify
4 the Project Manager in writing of CONSULTANT'S assertion that the work is out of
5 scope. Said notification by CONSULTANT to the Project Manager shall not in any way
6 be construed as proving that the work or services in question are outside the scope of the
7 Task Order. The Project Manager must approve or reject CONSULTANT'S assertion in
8 writing. In the event the Project Manager determines that CONSULTANT is correct, the
9 additional work or services shall be authorized by a new or revised Task Order that
10 covers the new scope, cost and schedule. In the event that such notification is not given
11 or if the Project Manager is not afforded an opportunity to negotiate the appropriate fee
12 for such additional services prior to CONSULTANT'S commencement of such
13 additional services, then CONSULTANT shall be deemed to have agreed to perform the
14 work or services without any additional compensation and to have accepted sole
15 responsibility for the performance of said work or services. Extra work done or services
16 performed without a new or revised Task Order from the Project Manager shall be
17 considered unauthorized and shall not be paid for by DISTRICT.

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20 At any time during the performance of an approved Task Order, DISTRICT may request
21 that CONSULTANT perform extra services. Any work which is determined by
22 DISTRICT to be necessary for the proper completion of the approved Task Order, but
23 which neither CONSULTANT nor DISTRICT reasonably anticipated would be
24 necessary at the time the scope of services for the assigned Task Order was approved,
25 must be authorized by the Project Manager by a new or revised Task Order.
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1 At any time during the performance of the Task Order, the Project Manager, upon
2 providing five (5) days written notice to the CONSULTANT, may delete services and
3 the associated fees from the Task Order. In the event DISTRICT requests deletion of
4 services from the Task Order, DISTRICT shall make payment for all services
5 satisfactorily performed in accordance with the negotiated Task Order up to the effective
6 date of deletion; the amount of the payment shall be prorated to the total services
7 necessary for completion of the Task Order. No work product for the deleted services
8 shall be provided to DISTRICT.
9

10 21. DISPUTES

11 A. In the event CONSULTANT considers any work demanded of CONSULTANT
12 to be outside the requirements of this Agreement, or if CONSULTANT considers
13 any order, instruction or decision of DISTRICT to be unfair, CONSULTANT
14 shall promptly, upon receipt of such order, instruction or decision, ask for a
15 written confirmation of the same whereupon CONSULTANT shall proceed
16 without delay to perform the work or to conform to the order, instruction, or
17 decision. However, if CONSULTANT finds such order, instruction or decision
18 unsatisfactory, CONSULTANT shall, within twenty-one (21) calendar days after
19 receipt of same, file a written protest with DISTRICT stating clearly and in detail
20 its objections and reasons therefor. Except for such protests or objections as are
21 made of record in the manner specified and within the time stated herein, and
22 except for such instances where the basis of a protest could not reasonably have
23 been foreseen by CONSULTANT within the time limit specified for protest,
24 CONSULTANT hereby waives all grounds for protests or objections to orders,
25 instruction, or decisions of DISTRICT and hereby agrees that, as to all matters
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not included in such protests, the orders, instructions and decisions of DISTRICT will be limited to matters properly falling within DISTRICT'S authority.

B. Any controversy or claim arising out of or relating to this Agreement which cannot be resolved by mutual agreement may be settled by arbitration, provided that the parties hereto mutually agree to submit to arbitration.

C. Neither the pendency of a dispute nor its consideration by arbitration shall excuse CONSULTANT from full and timely performance in accordance with the terms of this Agreement.

22. ASSIGNMENT

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

23. 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.

24. 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.

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

7 25. WAIVER

8 Any waiver by DISTRICT of any breach of any one or more of the terms of this
9 Agreement shall not be construed to be a waiver of any subsequent or other breach of the
10 same or any other term thereof. Failure on the part of DISTRICT to require exact, full
11 and complete compliance with any terms of this Agreement shall not be construed as in
12 any manner changing the terms hereof, or estopping DISTRICT from enforcement
13 hereof.
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15 26. NON-DISCRIMINATION

16 In the performance of the terms of this Agreement, CONSULTANT shall not engage in
17 nor permit others he may employ to engage in discrimination in the employment of
18 persons because of the race, color, national origin or ancestry, religion, physical
19 handicap, disability as defined by the Americans with Disabilities Act (ADA), medical
20 condition, marital status or sex of such persons, in accordance with the provision of
21 California Labor Code Section 1735.
22

23 27. NON-APPROPRIATION OF FUNDS

24 It is mutually agreed and understood that the obligation(s) of DISTRICT are limited by
25 and contingent upon the availability of DISTRICT funds for the reimbursement of
26 CONSULTANT'S fees. In the event that such funds are not forthcoming for any reason,
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1 DISTRICT shall immediately notify CONSULTANT in writing. This Agreement shall
2 be deemed terminated and have no further force and effect immediately upon receipt of
3 DISTRICT'S notification by CONSULTANT. In the event of such termination,
4 CONSULTANT shall be entitled to reimbursement of its costs in accordance with
5 Section 5 (COMPENSATION).

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


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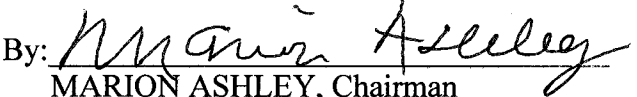
7/26/2011

(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

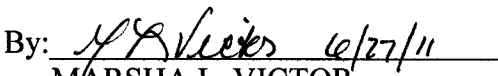
By: 
MARION ASHLEY, Chairman
Riverside County Flood Control and Water
Conservation District Board of Supervisors

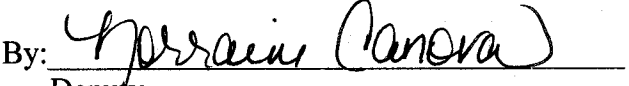
APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS
County Counsel


KECIA HARPER-IHEM
Clerk of the Board

By:  6/27/11
MARSHA L. VICTOR
Principal Deputy County Counsel

By: 
Deputy

(SEAL)

MICHAEL BRANDMAN ASSOCIATES

By: 
THOMAS HOLM
Vice President

(NOTARY)

*see attached loose
certificate*

Agreement for Consulting Services
Project Specific
06/22/11
SEM:blj

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Bernardino }

On June 30, 2011 before me, Kina Winters, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Thomas Helm
Name(s) of Signer(s)

personally known to me

(or proved to me on the basis of satisfactory evidence)

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Place Notary Seal Above

Signature [Handwritten Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

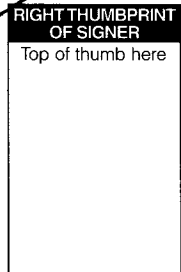
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

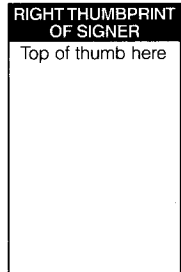
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

ATTACHMENT "A"

SCOPE OF SERVICES

CONSULTANT may be asked to perform one or more of the following types of services as specifically directed in Task Orders issued to CONSULTANT:

1. Prepare a Cultural Resources Report that addresses all potential issues related to archaeological, traditional and built environment resources in accordance with applicable Federal, State and local laws and regulations regarding cultural resources in the environmental review and/or regulatory permitting process including, but not limited to Section 106 of the National Historic Preservation Act.
2. Prepare a Paleontological Resources assessment that addresses all potential issues related to paleontological resources in accordance with applicable Federal, State and local laws and regulations in the environmental review and/or regulatory permitting process.
3. Prepare a Biological Resources Assessment that addresses all potential biological issues and concerns for the project area, including, but not limited to:
 - Reconnaissance surveys, habitat assessments, and focused surveys for sensitive or listed plant and wildlife species.
 - Federal and State Jurisdictional Area Delineation.
 - Designated Critical Habitat Areas with Federal Endangered Species Act (FESA).
 - Applicable Habitat Conservation Plans consistency assessment (i.e. Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), Coachella Valley MSHCP and Tribal Habitat Conservation Plan (HCP)).
4. Prepare a Jurisdictional Area Delineation Report and Impact Analysis, including significant nexus evaluation, that addresses all potential issues related to "Waters of the U.S." and wetlands (Clean Water Act), "Waters of the State" and wetlands (Porter-Cologne Water Quality Control Act), and areas under the jurisdiction of the California Department of Fish and Game Code (Section 1600 et seq.).
5. Prepare a native Habitat Mitigation and Monitoring Plan (HMMP).
6. Implement a HMMP.
7. Prepare a Preliminary Environmental Assessment Report (PEAR) for proposed District projects. The PEAR identifies potential environmental concerns (biological, cultural, historical, paleontological, jurisdictional, geological, or regulatory permitting, etc.) that could pose significant hurdles to a project based on preliminary design data. A PEAR may be needed at the early stage of a project to ensure that project alternatives (e.g., types of facility, facility size, alignment, etc.) are fully evaluated by the District.
8. Prepare as appropriate a separate or joint California Environmental Quality Act (CEQA) Initial Study and/or National Environmental Policy Act (NEPA) Environmental Assessment, if applicable, including but not limited to technical appendices, exhibits, and mitigation and monitoring plan to determine if the project may have a significant impact on the environment.
9. Prepare as appropriate a CEQA Negative Declaration, Mitigated Negative Declaration,

and Notice of Determination.

10. Prepare as appropriate a separate or joint CEQA Draft Environmental Impact Report (DEIR)/Final Environmental Impact Report (FEIR) and/or NEPA Draft Environmental Impact Statement (DEIS)/Final Environmental Impact Statement (FEIS) including, but not limited to technical appendices, exhibits, finding of any significance, mitigation, and monitoring plan to avoid or reduce potentially significant adverse impacts.
11. Prepare written responses to comments received during the CEQA and/or NEPA process.
12. Make presentations as needed to the public, government agencies, or others related to project review and its associated environmental documents.
13. Participate in public hearings and meetings as necessary.
14. Provide technical assistance and participate in permit negotiation as needed for the District to secure all necessary regulatory permits (e.g. FESA/CESA Incidental Take Permit, Department of Fish and Game Consistency Determination, Section 404 Individual/Nationwide Permit, 401 Water Quality Certification, 1602 Streambed Alteration Agreement, Waste Discharge Requirements, etc.) for flood control projects.
15. Conduct protocol level pre-construction biological surveys and provide written reports summarizing survey results.
16. Provide biological monitoring and reporting services.
17. Provide cultural and/or paleontological resources monitoring and reporting services.
18. Prepare a MSHCP/HCP consistency assessment that demonstrates project compliance with all applicable provisions of the appropriate habitat conservation plans (i.e. Western Riverside County MSHCP, Coachella Valley MSHCP and Tribal HCP).
19. Provide Hazardous Materials report to determine the presence/absence of any hazardous materials in accordance with the California Government Code Section 65962.5.
20. Provide a Determination of Biological Equivalent or Superior Preservation (DBESP) report in accordance with Section 6.1.2 of the Western Riverside County MSHCP for impacts to Riparian/Riverine Area/Vernal Pools which would be submitted for review to the U.S. Fish and Wildlife Service and the California Department of Fish and Game.

ATTACHMENT "B"

TASK ORDER APPROVAL FORM

CONSULTANT: _____

PROJECT NAME: _____

The Scope of Services for _____, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference, shall constitute an approved Task Order pursuant to the Agreement between the DISTRICT and CONSULTANT dated _____ ("AGREEMENT"). CONSULTANT agrees to perform the services described in Exhibit "A" within the time set forth in the Project Schedule as described in Exhibit "B" attached hereto and incorporated herein, for a fee amount of \$ _____, unless otherwise modified by the DISTRICT'S Project Manager in a subsequent Task Order Approval Form. All charges shall be consistent with the Compensation/Fee Rate Schedule which is attached as Exhibit "C" and incorporated herein by this reference.

Performance of the services shall be subject to the terms and conditions contained in the AGREEMENT.

Dated this _____ day of _____
(To be filled in by General Manager-Chief Engineer)

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

By: _____
WARREN D. WILLIAMS
General Manager-Chief Engineer

CONSULTANT

By: _____
Printed Name and Title

ATTACHMENT "C"

List of Sub-Consultants

- None

ACKNOWLEDGMENT

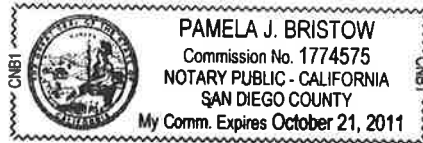
State of California
County of SAN DIEGO } ss.

On JULY 6, 2011 before me, PAMELA J. BRISTOW, Notary Public, personally appeared FRANK DUDEK, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Pamela J. Bristow
Signature



(seal)