

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

607B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE: August 16, 2011

SUBJECT: National Pollutant Discharge Elimination System (NPDES) Professional Services Lists

RECOMMENDED MOTION:

- 1. Approve the 'Tier 1 NPDES Support and Ancillary Professional Services list' of Professional Services providers (Attachment "A") for use on an as-needed basis with negotiated fees not to exceed \$100,000 per project in accordance with Board Policy H-7; and

Continued on Page 2.

BACKGROUND:

See Pages 2 and 3.

FINANCIAL:

See Page 3.

Steve Thomas

FOR WARREN D. WILLIAMS General Manager-Chief Engineer

Table with 3 columns: FINANCIAL DATA, Current F.Y. District/County Cost, Annual Net District Cost, In Current Year Budget, Budget Adjustment, For Fiscal Year.

SOURCE OF FUNDS:

- 25180 947540 525440 NPDES Whitewater Assessment
25190 947560 525440 NPDES Santa Ana Assessment
25200 947580 525440 NPDES Santa Margarita Assessment

Table with 2 columns: Positions To Be Deleted Per A-30, Requires 4/5 Vote.

C.E.O. RECOMMENDATION:

APPROVE

County Executive Office Signature

BY: Alex Gann Alex Gann

MINUTES OF THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT

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

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: August 16, 2011
xc: Flood

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

Prev. Agn. Ref.:

District: All

Agenda Number:

11.14

ATTACHMENTS FILED WITH THE CLERK OF THE BOARD

FORM APPROVED COUNTY COUNSEL BY: [Signature] DATE: 8/1/11

Dep't Recomm.: [ ] Policy [ ] Consent [ ] Per Exec. Ofc.: [ ] Policy [ ] Consent [ ]

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

**SUBJECT:** National Pollutant Discharge Elimination System (NPDES)  
Professional Services Lists

**SUBMITTAL DATE:** August 16, 2011  
**Page 2**

**RECOMMENDED MOTION:**

2. Approve the 'Tier 2 Project Specific National Pollutant Discharge Elimination System Professional Services list' of Professional Services providers (Attachment "B") for use on an as-needed basis, with a limit of \$750,000 over three years and a cap of \$250,000 per year, for a period of three years from the date of execution; and
3. Approve the Consulting Services Agreements for the 'Tier 2' Professional Services providers; and
4. Authorize the General Manager-Chief Engineer to issue Approved Task Orders to 'Tier 2' Professional Services Providers, pursuant to the Master Consulting Services Agreements.

**BACKGROUND:**

The purpose of the Prequalification for Tier 1 NPDES Support and Ancillary Professional Services list (On-Call list) and Tier 2 Project Specific National Pollutant Discharge Elimination System Professional Services list (Project Specific list) is to provide expedited access to specialized technical expertise necessary to support the District's ongoing NPDES Compliance Programs.

To expedite the implementation of the District's NPDES Compliance Program 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 three 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 June 7, 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 and Desert Sun on June 7, 2011. The Request for Qualifications was made available to the public on the District's website from June 7, 2011 through June 30, 2011.

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

- Municipal Separate Storm Sewer System Program Support;
- Total Maximum Daily Load and Basin Plan Planning Support;
- Monitoring Program Support; and
- Laboratory Analysis capabilities.

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

The Tier 1 NPDES 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 budget 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)

Tier 1 National Pollutant Discharge Elimination System Support and  
Ancillary Professional Services

**AEI-CASC Engineering**

**AMEC E&I**

**Brown and Caldwell**

**CDM**

**E.S. Babcock**

**HDR Engineering , Inc.**

**Larry Walker and Associates**

**Nautilus Environmental**

**RBF Consulting**

**Tetra Tech**

**URS**

**Watearth**

**ATTACHMENT "A"**

PRE-QUALIFIED LIST OF CONSULTANTS FOR SERVICES UP TO \$750,000 OVER THREE YEARS,  
WITH A CAP OF \$250,000 PER YEAR (Per Board's Approval)

Tier 2 Project Specific National Pollutant Discharge Elimination System Professional Services

**AEI-CASC Engineering**

**AMEC E&I**

**Brown and Caldwell**

**CDM**

**HDR**

**RBF Consulting**

**Tetra Tech**

**URS**

**Weston**

**ATTACHMENT "B"**

CONSULTING SERVICES AGREEMENT

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

5 1. PROJECT

6 CONSULTANT shall provide on-call National Pollutant Discharge Elimination System  
7 (NPDES) support services in accordance with applicable federal, state, and local laws  
8 and regulations as requested by DISTRICT.  
9

10 2. SCOPE OF SERVICES

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

20 3. PERSONNEL

21 A. Project Manager

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

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

6. PAYMENTS

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

7. PROJECT PERFORMANCE

A. Commencement of Services

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



B. Time of Completion

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

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

9. STANDARD OF CARE

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

10. ERRORS AND OMISSIONS

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

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: Watershed Protection Division

BROWN AND CALDWELL  
 9665 Chesapeake Drive, Suite 201  
 San Diego, CA 92123  
 Attn: Lisa Skutecki

20 13. REQUIRED INSURANCE

21 CONSULTANT shall not commence operations until DISTRICT has been furnished  
 22 with original certificate(s) of insurance and original certified copies of endorsements or  
 23 policies of insurance including all endorsements and any and all other attachments as  
 24 required in this Section.  
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26 Without limiting or diminishing the CONSULTANT'S obligation to indemnify or hold  
 27 DISTRICT harmless, CONSULTANT shall procure and maintain or cause to be  
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maintained, at its sole cost and expense, the following insurance coverages during the term of this Agreement:

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.

1 C. Vehicle Liability

2 If vehicles or mobile equipment are used in the performance of the obligations  
3 under this Agreement, CONSULTANT shall maintain liability insurance for all  
4 owned, non-owned or hired vehicles in an amount not less than \$1,000,000 per  
5 occurrence combined single limit. If such insurance contains a general aggregate  
6 limit, it shall apply separately to this Agreement or be no less than two (2) times  
7 the occurrence limit. If CONSULTANT does not own vehicles, CONSULTANT  
8 shall maintain coverage for non-owned or hired vehicles in an amount not less  
9 than \$1,000,000 per occurrence combined single limit. Such non-owned or hired  
10 coverage may be included on the Commercial General Liability policy. Policy  
11 shall name Riverside County Flood Control and Water Conservation District, the  
12 County of Riverside, special districts, their respective directors, officers, Board  
13 of Supervisors, elected officials, employees, agents or representatives as  
14 additional insureds.  
15

16 D. Professional Liability

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

4 E. General Insurance Provisions – All Lines

- 5 a. Any insurance carrier providing insurance coverage hereunder shall be  
6 admitted to the State of California and have an A.M. BEST rating of not  
7 less than an A: VIII (A: 8) unless such requirements are waived, in  
8 writing, by the County Risk Manager. If the County's Risk Manager  
9 waives a requirement for a particular insurer such waiver is only valid for  
10 the specific insurer and only for one policy term.
- 11
- 12 b. CONSULTANT'S insurance carrier(s) must declare its insurance  
13 deductibles or self-insured retentions. If such deductibles or self-insured  
14 retentions exceed \$500,000 per occurrence such deductibles and/or  
15 retentions shall have the prior written consent of the County Risk  
16 Manager before the commencement of operations under this Agreement.  
17 Upon notification of deductibles or self-insured retentions which are  
18 deemed unacceptable to the DISTRICT, at the election of the County's  
19 Risk Manager, CONSULTANT'S carriers shall either: 1) reduce or  
20 eliminate such deductibles or self-insured retentions with respect to this  
21 Agreement with DISTRICT, or 2) procure a bond which guarantees  
22 payment of losses and related investigations, claims administration,  
23 defense costs and expenses.
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- 25 c. CONSULTANT shall cause their insurance carrier(s) to furnish  
26 DISTRICT with: 1) a properly executed original certificate(s) of  
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1 insurance and original certified copies of endorsements effecting  
2 coverage as required herein; or 2) if requested to do so orally or in writing  
3 by the County Risk Manager, provide original certified copies of policies  
4 including all endorsements and all attachments thereto, showing such  
5 insurance is in full force and effect. Further, said certificate(s) and  
6 policies of insurance shall contain the covenant that the insurance  
7 carrier(s) shall provide no less than thirty (30) days written notice be  
8 given to DISTRICT prior to any material modification or cancellation of  
9 such insurance. In the event of a material modification or cancellation of  
10 coverage, this Agreement shall terminate forthwith, unless DISTRICT  
11 receives, prior to such effective date, another properly executed original  
12 certificate of insurance and original copies of endorsements or original  
13 certified policies, including all endorsements and attachments thereto,  
14 evidencing coverages and the insurance required herein is in full force  
15 and effect. Individual(s) authorized by the insurance carrier to do so on  
16 its behalf shall sign the original endorsements for each policy and the  
17 certificate of insurance.  
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- 20 d. It is understood and agreed by the parties hereto and the  
21 CONSULTANT'S insurance company(s), that the certificate(s) of  
22 insurance and policies shall so covenant and shall be construed as primary  
23 insurance, and the DISTRICT'S insurance and/or deductibles and/or self-  
24 insured retentions or self-insured programs shall not be construed as  
25 contributory.  
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e. 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.

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

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

h. 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 its officers, employees, subcontractors and agents) actual or alleged negligent, reckless or willful misconduct acts or omissions related to this Agreement, performance under

1 this Agreement, or failure to comply with the requirements of this Agreement, including  
2 but not limited to: (a) property damage; (b) bodily injury or death; or (c) any other  
3 element of any kind or nature whatsoever.

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

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

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

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

23  
24 In the event there is conflict between this section and California Civil Code Section  
25 2782, this section shall be interpreted to comply with California Civil Code 2782. Such  
26 interpretation shall not relieve the CONSULTANT from indemnifying DISTRICT  
27 (including its directors, officers, Board of Supervisors, elected and appointed officials,  
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employees, agents and representatives) or the County of Riverside to the fullest extent allowed by law.

15. WORK PRODUCT

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

16. TERMINATION

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

A. Agreement

- 1) Terminate this Agreement without cause upon providing CONSULTANT thirty (30) days written notice stating the extent and effective date of termination; or
- 2) Upon five (5) days written notice, terminate this Agreement for CONSULTANT default, if CONSULTANT refuses or fails to comply with the provisions of this Agreement or fails to make progress so as to endanger performance and does not cure such failure within a reasonable

1 period of time. In the event of such termination, the DISTRICT may  
2 proceed with the work in a manner deemed proper to DISTRICT.

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

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

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

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

25 A. Right to Preliminary Review

26 All work prepared by CONSULTANT shall be subject to the approval of the  
27 Project Manager. CONSULTANT shall allow Project Manager to inspect and  
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1 review CONSULTANT'S work in progress at any reasonable time. All reports,  
2 working papers, and similar work products prepared for submission in the course  
3 of providing services under this Agreement shall be submitted to the Project  
4 Manager in draft form. In the event that Project Manager, in his or her sole  
5 discretion, determines the formally submitted work product to be inadequate,  
6 CONSULTANT may be required to revise and resubmit the work at no  
7 additional cost to DISTRICT. Should CONSULTANT fail to make requested  
8 corrections in a timely manner, such corrections may be made by DISTRICT,  
9 and the cost thereof charged to CONSULTANT. The responsibility for accuracy  
10 and completeness of such items remains solely that of CONSULTANT. Neither  
11 DISTRICT'S review nor approval shall give rise to any liability or responsibility  
12 on the part of DISTRICT, or waive any of DISTRICT'S rights, or relieve  
13 CONSULTANT of its professional responsibilities or obligations under this  
14 Agreement.  
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16  
17 B. Progress Reports

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

25 18. INDEPENDENT CONTRACTOR

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

3 19. SUBCONTRACTING

4 CONSULTANT may, at CONSULTANT'S own expense, retain or employ sub-  
5 consultants to accomplish certain portions of the work covered by this Agreement.  
6 However, except as specifically provided in the Compensation/Fee Rate Schedule  
7 attached to the approved Task Order or as expressly identified in this Agreement, no  
8 portion of the services pertinent to this Agreement shall be subcontracted without prior  
9 written approval and authorization by DISTRICT.

10  
11 Should one or more of the sub-consultants, as identified in the Compensation/Fee Rate  
12 Schedule attached to the approved Task Order or as expressly identified in this  
13 Agreement, become unavailable, CONSULTANT may substitute other sub-consultants  
14 of equal or greater competence upon written approval by DISTRICT. In the event that  
15 DISTRICT and CONSULTANT cannot agree as to the substitution of the sub-  
16 consultant, DISTRICT may terminate the Task Order, pursuant to the applicable  
17 provisions of this Agreement.

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

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

At any time during the performance of an approved Task Order, DISTRICT may request that CONSULTANT perform extra services. Any work which is determined by DISTRICT to be necessary for the proper completion of the approved Task Order, but which neither CONSULTANT nor DISTRICT reasonably anticipated would be

1 necessary at the time the scope of services for the assigned Task Order was approved,  
2 must be authorized by the Project Manager by a new or revised Task Order.

3 At any time during the performance of the Task Order, the Project Manager, upon  
4 providing five (5) days written notice to the CONSULTANT, may delete services and  
5 the associated fees from the Task Order. In the event DISTRICT requests deletion of  
6 services from the Task Order, DISTRICT shall make payment for all services  
7 satisfactorily performed in accordance with the negotiated Task Order up to the effective  
8 date of deletion; the amount of the payment shall be prorated to the total services  
9 necessary for completion of the Task Order. No work product for the deleted services  
10 shall be provided to DISTRICT.  
11

12 21. DISPUTES

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

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

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

12 22. ASSIGNMENT

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

15  
16 23. CONFLICT OF INTEREST

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

23  
24 24. JURISDICTION/LAW/SEVERABILITY

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

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

9 25. WAIVER

10 Any waiver by DISTRICT of any breach of any one or more of the terms of this  
11 Agreement shall not be construed to be a waiver of any subsequent or other breach of the  
12 same or any other term thereof. Failure on the part of DISTRICT to require exact, full  
13 and complete compliance with any terms of this Agreement shall not be construed as in  
14 any manner changing the terms hereof, or estopping DISTRICT from enforcement  
15 hereof.  
16

17 26. NON-DISCRIMINATION

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

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It is mutually agreed and understood that the obligation(s) of DISTRICT are limited by and contingent upon the availability of DISTRICT funds for the reimbursement of CONSULTANT'S fees. In the event that such funds are not forthcoming for any reason, DISTRICT shall immediately notify CONSULTANT in writing. This Agreement shall be deemed terminated and have no further force and effect immediately 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

AUG 16 2011

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By: Steve Thomas  
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  
By: [Signature]  
NEAL KIPNIS  
Deputy County Counsel

KECIA HARPER-IHEM  
Clerk of the Board  
By: [Signature]  
Deputy


(SEAL)

Consulting Services Agreement  
07/19/11  
TT:blj

1 **BROWN AND CALDWELL**

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4 By:  FOR MGD

MARK DAMIKOLAS

Vice President

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24 Consulting Services Agreement

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## ATTACHMENT "A"

## SCOPE OF SERVICES

**Based on CONSULTANT qualifications, CONSULTANT may be asked to perform one or more of the following types of NPDES support services as specifically directed in Task Orders issued to CONSULTANT:**

- A. Municipal Separate Storm Sewer System (MS4) Program Support. Tasks may include general NPDES program regulatory support, permit negotiation support, compliance program development and implementation, program assessment and reporting, training and outreach, program funding facilitation and other related activities.
- B. TMDL / Basin Planning support. Tasks may include assisting with basin planning efforts, TMDL development, TMDL compliance program development/implementation, BMP or watersheds modeling and assessment efforts and other related activities.
- C. Monitoring Program Support. Tasks may include monitoring program design, program reporting and assessment, monitoring special studies, field data collection and other related activities.
- D. Laboratory Analysis. Tasks may include assessment of aqueous, sedimentary or other using chemical analyses, bacteriological analyses, toxicological analyses, biological analyses, genetic analyses, and other related activities.
- E. Other tasks as assigned. From time to time the District may require other tasks not explicitly identified above to be performed to facilitate its role as Principal Permittee for the NPDES MS4 permit programs, to facilitate compliance with the District's own NPDES requirements or to respond to water quality related regulatory orders and/or violations issued by the United States Environmental Protection Agency, Regional Water Quality Control Boards or other regulatory agencies.

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

**BROWN AND CALDWELL**

By: \_\_\_\_\_  
MARK DAMIKOLAS  
Vice President

CONSULTING SERVICES AGREEMENT

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

5 1. PROJECT

6 CONSULTANT shall provide on-call National Pollutant Discharge Elimination System  
7 (NPDES) support services in accordance with applicable federal, state, and local laws  
8 and regulations as requested by DISTRICT.  
9

10 2. SCOPE OF SERVICES

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

20 3. PERSONNEL

21 A. Project Manager

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

WESTON SOLUTIONS, INC.  
 2433 Impala Drive  
 Carlsbad, CA 92010  
 Attn: Nancy Gardiner

20 13. REQUIRED INSURANCE

21 CONSULTANT shall not commence operations until DISTRICT has been furnished  
 22 with original certificate(s) of insurance and original certified copies of endorsements or  
 23 policies of insurance including all endorsements and any and all other attachments as  
 24 required in this Section.  
 25

26 Without limiting or diminishing the CONSULTANT'S obligation to indemnify or hold  
 27 DISTRICT harmless, CONSULTANT shall procure and maintain or cause to be  
 28

1 maintained, at its sole cost and expense, the following insurance coverages during the  
2 term of this Agreement:

3 A. Workers' Compensation

4 If CONSULTANT has employees as defined by the State of California,  
5 CONSULTANT shall maintain Workers' Compensation Insurance (Coverage A)  
6 as prescribed by the laws of the State of California. Policy shall include  
7 Employer's Liability (Coverage B) including Occupational Disease with limits  
8 not less than \$1,000,000 per person per accident. Policy shall be endorsed to  
9 waive subrogation in favor of DISTRICT and, if applicable, to provide a  
10 Borrowed Servant/Alternate Employer endorsement.  
11

12 B. Commercial General Liability

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

2 If vehicles or mobile equipment are used in the performance of the obligations  
3 under this Agreement, CONSULTANT shall maintain liability insurance for all  
4 owned, non-owned or hired vehicles in an amount not less than \$1,000,000 per  
5 occurrence combined single limit. If such insurance contains a general aggregate  
6 limit, it shall apply separately to this Agreement or be no less than two (2) times  
7 the occurrence limit. If CONSULTANT does not own vehicles, CONSULTANT  
8 shall maintain coverage for non-owned or hired vehicles in an amount not less  
9 than \$1,000,000 per occurrence combined single limit. Such non-owned or hired  
10 coverage may be included on the Commercial General Liability policy. Policy  
11 shall name Riverside County Flood Control and Water Conservation District, the  
12 County of Riverside, special districts, their respective directors, officers, Board  
13 of Supervisors, elected officials, employees, agents or representatives as  
14 additional insureds.  
15

16 D. Professional Liability

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

4 E. General Insurance Provisions – All Lines

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

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

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26 c. CONSULTANT shall cause their insurance carrier(s) to furnish  
27 DISTRICT with: 1) a properly executed original certificate(s) of  
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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 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.

d. 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.

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- e. 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.
- f. CONSULTANT shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.
- g. The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to DISTRICT.
- h. 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 its officers, employees, subcontractors and agents) actual or alleged negligent, reckless or willful misconduct acts or omissions related to this Agreement, performance under



1 this Agreement, or failure to comply with the requirements of this Agreement, including  
2 but not limited to: (a) property damage; (b) bodily injury or death; or (c) any other  
3 element of any kind or nature whatsoever.

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

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

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

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

21 In the event there is conflict between this section and California Civil Code Section  
22 2782, this section shall be interpreted to comply with California Civil Code 2782. Such  
23 interpretation shall not relieve CONSULTANT from indemnifying DISTRICT  
24 (including its directors, officers, Board of Supervisors, elected and appointed officials,  
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1 employees, agents and representatives) or the County of Riverside to the fullest extent  
2 allowed by law.

3 15. WORK PRODUCT

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

16 16. TERMINATION

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

18 A. Agreement

- 19
- 20 1) Terminate this Agreement without cause upon providing CONSULTANT  
21 thirty (30) days written notice stating the extent and effective date of  
22 termination; or  
23
- 24 2) Upon five (5) days written notice, terminate this Agreement for  
25 CONSULTANT default, if CONSULTANT refuses or fails to comply  
26 with the provisions of this Agreement or fails to make progress so as to  
27 endanger performance and does not cure such failure within a reasonable  
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1 period of time. In the event of such termination, DISTRICT may proceed  
2 with the work in a manner deemed proper to DISTRICT.

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

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

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

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

17          17.   Basic Services of CONSULTANT

18          The scope of services associated with the performance of any specific Task Order under  
19          this Agreement shall be expressly defined and agreed upon prior to the approval of the  
20          Task Order by the Project Manager. Any changes to the approved scope of services must  
21          be authorized by the Project Manager, and shall be made in writing.

22          A.    Right to Preliminary Review

23          All work prepared by CONSULTANT shall be subject to the approval of the  
24          Project Manager. CONSULTANT shall allow Project Manager to inspect and  
25          Project Manager. CONSULTANT shall allow Project Manager to inspect and  
26          Project Manager. CONSULTANT shall allow Project Manager to inspect and  
27          Project Manager. CONSULTANT shall allow Project Manager to inspect and  
28          Project Manager. CONSULTANT shall allow Project Manager to inspect and

1 review CONSULTANT'S work in progress at any reasonable time. All reports,  
2 working papers, and similar work products prepared for submission in the course  
3 of providing services under this Agreement shall be submitted to the Project  
4 Manager in draft form. In the event that Project Manager, in his or her sole  
5 discretion, determines the formally submitted work product to be inadequate,  
6 CONSULTANT may be required to revise and resubmit the work at no  
7 additional cost to DISTRICT. Should CONSULTANT fail to make requested  
8 corrections in a timely manner, such corrections may be made by DISTRICT,  
9 and the cost thereof charged to CONSULTANT. The responsibility for accuracy  
10 and completeness of such items remains solely that of CONSULTANT. Neither  
11 DISTRICT'S review nor approval shall give rise to any liability or responsibility  
12 on the part of DISTRICT, or waive any of DISTRICT'S rights, or relieve  
13 CONSULTANT of its professional responsibilities or obligations under this  
14 Agreement.  
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16 **B. Progress Reports**

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

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

3 19. SUBCONTRACTING

4 CONSULTANT may, at CONSULTANT'S own expense, retain or employ sub-  
5 consultants to accomplish certain portions of the work covered by this Agreement.  
6 However, except as specifically provided in the Compensation/Fee Rate Schedule  
7 attached to the approved Task Order or as expressly identified in this Agreement, no  
8 portion of the services pertinent to this Agreement shall be subcontracted without prior  
9 written approval and authorization by DISTRICT.  
10

11 Should one or more of the sub-consultants, as identified in the Compensation/Fee Rate  
12 Schedule attached to the approved Task Order or as expressly identified in this  
13 Agreement, become unavailable, CONSULTANT may substitute other sub-consultants  
14 of equal or greater competence upon written approval by DISTRICT. In the event that  
15 DISTRICT and CONSULTANT cannot agree as to the substitution of the sub-  
16 consultant, DISTRICT may terminate the Task Order, pursuant to the applicable  
17 provisions of this Agreement.  
18

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

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

At any time during the performance of an approved Task Order, DISTRICT may request that CONSULTANT perform extra services. Any work which is determined by DISTRICT to be necessary for the proper completion of the approved Task Order, but which neither CONSULTANT nor DISTRICT reasonably anticipated would be

1 necessary at the time the scope of services for the assigned Task Order was approved,  
2 must be authorized by the Project Manager by a new or revised Task Order.

3 At any time during the performance of the Task Order, the Project Manager, upon  
4 providing five (5) days written notice to the CONSULTANT, may delete services and  
5 the associated fees from the Task Order. In the event DISTRICT requests deletion of  
6 services from the Task Order, DISTRICT shall make payment for all services  
7 satisfactorily performed in accordance with the negotiated Task Order up to the effective  
8 date of deletion; the amount of the payment shall be prorated to the total services  
9 necessary for completion of the Task Order. No work product for the deleted services  
10 shall be provided to DISTRICT.  
11

12 21. DISPUTES

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

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

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

12 22. ASSIGNMENT

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

15  
16 23. CONFLICT OF INTEREST

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

23  
24 24. JURISDICTION/LAW/SEVERABILITY

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

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

9  
10 25. WAIVER

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

17  
18 26. NON-DISCRIMINATION

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

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It is mutually agreed and understood that the obligation(s) of DISTRICT are limited by and contingent upon the availability of DISTRICT funds for the reimbursement of CONSULTANT'S fees. In the event that such funds are not forthcoming for any reason, DISTRICT shall immediately notify CONSULTANT in writing. This Agreement shall be deemed terminated and have no further force and effect immediately 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).

//  
//

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

2 AUG 16 2011

3 (to be filled in by Clerk of the Board)

4 RECOMMENDED FOR APPROVAL:

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

5  
6 By: Steve Thomas  
7 ~~For~~ WARREN D. WILLIAMS  
8 General Manager-Chief Engineer

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

9  
10 APPROVED AS TO FORM:

ATTEST:

11 PAMELA J. WALLS  
12 County Counsel  
13  
14 By: [Signature]  
15 NEAL KIPNIS  
Deputy County Counsel

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KECIA HARPER-IHEM  
Clerk of the Board  
By: [Signature]  
Deputy

(SEAL)

Consulting Services Agreement  
07/19/11  
TT:blj

AUG 16 2011 11.14

WESTON SOLUTIONS, INC.

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By: *Nancy E. Gardiner*  
 NANCY GARDINER  
 Client Service Manager, Sr. Project Manager

PLEASE SEE ATTACHED  
 CALIFORNIA CERTIFICATE  
 DAVID CARNONA  
 NOTARY PUBLIC  
 07/22/11

Consulting Services Agreement  
 07/19/11  
 TT:blj

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

CIVIL CODE § 1189

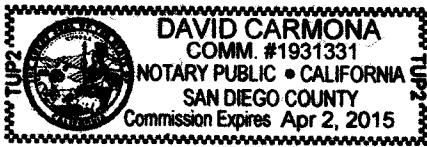
State of California

County of SAN DIEGO

On 07/22/11 before me, DAVID CARMONA, NOTARY PUBLIC  
Date Here Insert Name and Title of the Officer

personally appeared NANCY GARDNER  
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 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: WESTERN SOLUTIONS INC. CONSULTING SERVICES AGREEMENT

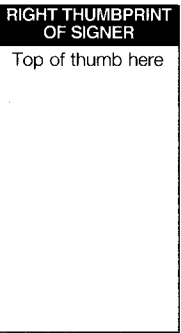
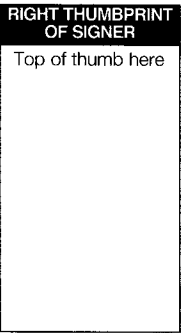
Document Date: 07/22/11 Number of Pages: TWENTY-THREE

Signer(s) Other Than Named Above: NONE

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_ Signer's Name: \_\_\_\_\_

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



Signer Is Representing: \_\_\_\_\_ Signer Is Representing: \_\_\_\_\_

## ATTACHMENT "A"

## SCOPE OF SERVICES

**Based on CONSULTANT qualifications, CONSULTANT may be asked to perform one or more of the following types of NPDES support services as specifically directed in Task Orders issued to CONSULTANT:**

- A. Municipal Separate Storm Sewer System (MS4) Program Support. Tasks may include general NPDES program regulatory support, permit negotiation support, compliance program development and implementation, program assessment and reporting, training and outreach, program funding facilitation and other related activities.
- B. TMDL / Basin Planning support. Tasks may include assisting with basin planning efforts, TMDL development, TMDL compliance program development/implementation, BMP or watersheds modeling and assessment efforts and other related activities.
- C. Monitoring Program Support. Tasks may include monitoring program design, program reporting and assessment, monitoring special studies, field data collection and other related activities.
- D. Laboratory Analysis. Tasks may include assessment of aqueous, sedimentary or other using chemical analyses, bacteriological analyses, toxicological analyses, biological analyses, genetic analyses, and other related activities.
- E. Other tasks as assigned. From time to time the District may require other tasks not explicitly identified above to be performed to facilitate its role as Principal Permittee for the NPDES MS4 permit programs, to facilitate compliance with the District's own NPDES requirements or to respond to water quality related regulatory orders and/or violations issued by the United States Environmental Protection Agency, Regional Water Quality Control Boards or other regulatory agencies.

## 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

**WESTON SOLUTIONS, INC.**

By: \_\_\_\_\_  
NANCY GARDINER  
Client Service Manager, Sr. Project Manager



CONSULTING SERVICES AGREEMENT

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

5 1. PROJECT

6 CONSULTANT shall provide on-call National Pollutant Discharge Elimination System  
7 (NPDES) support services in accordance with applicable federal, state, and local laws  
8 and regulations as requested by DISTRICT.

9 2. SCOPE OF SERVICES

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

19 3. PERSONNEL20 A. Project Manager

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

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5. COMPENSATION

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

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6. PAYMENTS

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

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7. PROJECT PERFORMANCE

A. Commencement of Services

CONSULTANT shall commence performance of the services for each Task 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.  
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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	AEI-CASC ENGINEERING, INC.
17 AND WATER CONSERVATION DISTRICT	937 S. Via Lata, Suite 500
18 1995 Market Street	Colton, CA 92324
19 Riverside, CA 92501	Attn: Rick Sidor
Attn: Watershed Protection Division	

20 13. REQUIRED INSURANCE

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

25 Without limiting or diminishing the CONSULTANT'S obligation to indemnify or hold  
 26 DISTRICT harmless, CONSULTANT shall procure and maintain or cause to be  
 27

1 maintained, at its sole cost and expense, the following insurance coverages during the  
2 term of this Agreement:

3 A. Workers' Compensation

4 If CONSULTANT has employees as defined by the State of California,  
5 CONSULTANT shall maintain Workers' Compensation Insurance (Coverage A)  
6 as prescribed by the laws of the State of California. Policy shall include  
7 Employer's Liability (Coverage B) including Occupational Disease with limits  
8 not less than \$1,000,000 per person per accident. Policy shall be endorsed to  
9 waive subrogation in favor of DISTRICT and, if applicable, to provide a  
10 Borrowed Servant/Alternate Employer endorsement.  
11

12 B. Commercial General Liability

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

2 If vehicles or mobile equipment are used in the performance of the obligations  
3 under this Agreement, CONSULTANT shall maintain liability insurance for all  
4 owned, non-owned or hired vehicles in an amount not less than \$1,000,000 per  
5 occurrence combined single limit. If such insurance contains a general aggregate  
6 limit, it shall apply separately to this Agreement or be no less than two (2) times  
7 the occurrence limit. If CONSULTANT does not own vehicles, CONSULTANT  
8 shall maintain coverage for non-owned or hired vehicles in an amount not less  
9 than \$1,000,000 per occurrence combined single limit. Such non-owned or hired  
10 coverage may be included on the Commercial General Liability policy. Policy  
11 shall name Riverside County Flood Control and Water Conservation District, the  
12 County of Riverside, special districts, their respective directors, officers, Board  
13 of Supervisors, elected officials, employees, agents or representatives as  
14 additional insureds.  
15

16 D. Professional Liability

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

4 E. General Insurance Provisions – All Lines

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

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

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26 c. CONSULTANT shall cause their insurance carrier(s) to furnish  
27 DISTRICT with: 1) a properly executed original certificate(s) of  
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1 insurance and original certified copies of endorsements effecting  
2 coverage as required herein; or 2) if requested to do so orally or in writing  
3 by the County Risk Manager, provide original certified copies of policies  
4 including all endorsements and all attachments thereto, showing such  
5 insurance is in full force and effect. Further, said certificate(s) and  
6 policies of insurance shall contain the covenant that the insurance  
7 carrier(s) shall provide no less than thirty (30) days written notice be  
8 given to DISTRICT prior to any material modification or cancellation of  
9 such insurance. In the event of a material modification or cancellation of  
10 coverage, this Agreement shall terminate forthwith, unless DISTRICT  
11 receives, prior to such effective date, another properly executed original  
12 certificate of insurance and original copies of endorsements or original  
13 certified policies, including all endorsements and attachments thereto,  
14 evidencing coverages and the insurance required herein is in full force  
15 and effect. Individual(s) authorized by the insurance carrier to do so on  
16 its behalf shall sign the original endorsements for each policy and the  
17 certificate of insurance.  
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- 20 d. It is understood and agreed by the parties hereto and the  
21 CONSULTANT'S insurance company(s), that the certificate(s) of  
22 insurance and policies shall so covenant and shall be construed as primary  
23 insurance, and the DISTRICT'S insurance and/or deductibles and/or self-  
24 insured retentions or self-insured programs shall not be construed as  
25 contributory.  
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- 1 e. If, during the term of this Agreement or any extension thereof, there is a  
2 material change in the scope of services; or there is a material change in  
3 the equipment to be used in the performance of the scope of work which  
4 will add additional exposures (such as the use of aircraft, watercraft,  
5 cranes, etc.); or the term of this Agreement, including any extensions  
6 thereof, exceeds five (5) years, the County reserves the right to adjust the  
7 types of insurance required under this Agreement and the monetary limits  
8 of liability for the insurance coverage's currently required herein, if, in the  
9 County Risk Manager's reasonable judgment, the amount or type of  
10 insurance carried by the CONSULTANT has become inadequate.
- 11 f. CONSULTANT shall pass down the insurance obligations contained  
12 herein to all tiers of subcontractors working under this Agreement.
- 13 g. The insurance requirements contained in this Agreement may be met with  
14 a program(s) of self-insurance acceptable to DISTRICT.
- 15 h. CONSULTANT agrees to notify DISTRICT of any claim by a third party  
16 or any incident or event that may give rise to a claim arising from the  
17 performance of this Agreement.  
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20 14. INDEMNIFICATION

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

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

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

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

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

23 In the event there is conflict between this section and California Civil Code Section  
24 2782, this section shall be interpreted to comply with California Civil Code 2782. Such  
25 interpretation shall not relieve the CONSULTANT from indemnifying DISTRICT  
26 (including its directors, officers, Board of Supervisors, elected and appointed officials,  
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employees, agents and representatives) or the County of Riverside to the fullest extent allowed by law.

15. WORK PRODUCT

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

16. TERMINATION

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

A. Agreement

- 1) Terminate this Agreement without cause upon providing CONSULTANT thirty (30) days written notice stating the extent and effective date of termination; or
- 2) Upon five (5) days written notice, terminate this Agreement for CONSULTANT default, if CONSULTANT refuses or fails to comply with the provisions of this Agreement or fails to make progress so as to endanger performance and does not cure such failure within a reasonable

1 period of time. In the event of such termination, the DISTRICT may  
2 proceed with the work in a manner deemed proper to DISTRICT.

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

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

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

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

17. Basic Services of CONSULTANT

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

A. Right to Preliminary Review

All work prepared by CONSULTANT shall be subject to the approval of the Project Manager. CONSULTANT shall allow Project Manager to inspect and

1 review CONSULTANT'S work in progress at any reasonable time. All reports,  
2 working papers, and similar work products prepared for submission in the course  
3 of providing services under this Agreement shall be submitted to the Project  
4 Manager in draft form. In the event that Project Manager, in his or her sole  
5 discretion, determines the formally submitted work product to be inadequate,  
6 CONSULTANT may be required to revise and resubmit the work at no  
7 additional cost to DISTRICT. Should CONSULTANT fail to make requested  
8 corrections in a timely manner, such corrections may be made by DISTRICT,  
9 and the cost thereof charged to CONSULTANT. The responsibility for accuracy  
10 and completeness of such items remains solely that of CONSULTANT. Neither  
11 DISTRICT'S review nor approval shall give rise to any liability or responsibility  
12 on the part of DISTRICT, or waive any of DISTRICT'S rights, or relieve  
13 CONSULTANT of its professional responsibilities or obligations under this  
14 Agreement.  
15

16 B. Progress Reports

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

24 18. INDEPENDENT CONTRACTOR

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

3 19. SUBCONTRACTING

4 CONSULTANT may, at CONSULTANT'S own expense, retain or employ sub-  
5 consultants to accomplish certain portions of the work covered by this Agreement.  
6 However, except as specifically provided in the Compensation/Fee Rate Schedule  
7 attached to the approved Task Order or as expressly identified in this Agreement, no  
8 portion of the services pertinent to this Agreement shall be subcontracted without prior  
9 written approval and authorization by DISTRICT.

10  
11 Should one or more of the sub-consultants, as identified in the Compensation/Fee Rate  
12 Schedule attached to the approved Task Order or as expressly identified in this  
13 Agreement, become unavailable, CONSULTANT may substitute other sub-consultants  
14 of equal or greater competence upon written approval by DISTRICT. In the event that  
15 DISTRICT and CONSULTANT cannot agree as to the substitution of the sub-  
16 consultant, DISTRICT may terminate the Task Order, pursuant to the applicable  
17 provisions of this Agreement.

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

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

At any time during the performance of an approved Task Order, DISTRICT may request that CONSULTANT perform extra services. Any work which is determined by DISTRICT to be necessary for the proper completion of the approved Task Order, but which neither CONSULTANT nor DISTRICT reasonably anticipated would be

1 necessary at the time the scope of services for the assigned Task Order was approved,  
2 must be authorized by the Project Manager by a new or revised Task Order.

3 At any time during the performance of the Task Order, the Project Manager, upon  
4 providing five (5) days written notice to the CONSULTANT, may delete services and  
5 the associated fees from the Task Order. In the event DISTRICT requests deletion of  
6 services from the Task Order, DISTRICT shall make payment for all services  
7 satisfactorily performed in accordance with the negotiated Task Order up to the effective  
8 date of deletion; the amount of the payment shall be prorated to the total services  
9 necessary for completion of the Task Order. No work product for the deleted services  
10 shall be provided to DISTRICT.  
11

12 21. DISPUTES

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

5 B. Any controversy or claim arising out of or relating to this Agreement which  
6 cannot be resolved by mutual agreement may be settled by arbitration, provided  
7 that the parties hereto mutually agree to submit to arbitration.  
8

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

12 22. ASSIGNMENT

13 Neither this Agreement nor any part thereof shall be assigned by CONSULTANT  
14 without the prior written consent of DISTRICT.  
15

16 23. CONFLICT OF INTEREST

17 CONSULTANT covenants that it presently has no interest, including but not limited to,  
18 other projects or independent contracts, and shall not acquire any such interest, direct or  
19 indirect, which would conflict in any manner or degree with the performance of services  
20 required to be performed under this Agreement. CONSULTANT further covenants that  
21 in the performance of this Agreement, no person having any such interest shall be  
22 employed or retained by it under this Agreement.  
23

24 24. JURISDICTION/LAW/SEVERABILITY

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

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

9  
10 25. WAIVER

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

17  
18 26. NON-DISCRIMINATION

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

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It is mutually agreed and understood that the obligation(s) of DISTRICT are limited by and contingent upon the availability of DISTRICT funds for the reimbursement of CONSULTANT'S fees. In the event that such funds are not forthcoming for any reason, DISTRICT shall immediately notify CONSULTANT in writing. This Agreement shall be deemed terminated and have no further force and effect immediately 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

AUG 16 2011

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By: Steve Thomas  
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  
By: [Signature]  
NEAL KIPNIS  
Deputy County Counsel

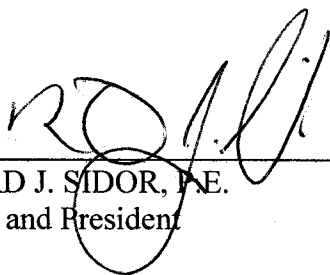
KECIA HARPER-IHEM  
Clerk of the Board  
By: [Signature]  
Deputy

(SEAL)

Consulting Services Agreement  
07/19/11  
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**AEI-CASC ENGINEERING, INC.**



By: \_\_\_\_\_  
RICHARD J. SIDOR, P.E.  
Principal and President

Consulting Services Agreement  
07/19/11  
TT:blj

## ATTACHMENT "A"

## SCOPE OF SERVICES

**Based on CONSULTANT qualifications, CONSULTANT may be asked to perform one or more of the following types of NPDES support services as specifically directed in Task Orders issued to CONSULTANT:**

- A. Municipal Separate Storm Sewer System (MS4) Program Support. Tasks may include general NPDES program regulatory support, permit negotiation support, compliance program development and implementation, program assessment and reporting, training and outreach, program funding facilitation and other related activities.
- B. TMDL / Basin Planning support. Tasks may include assisting with basin planning efforts, TMDL development, TMDL compliance program development/implementation, BMP or watersheds modeling and assessment efforts and other related activities.
- C. Monitoring Program Support. Tasks may include monitoring program design, program reporting and assessment, monitoring special studies, field data collection and other related activities.
- D. Laboratory Analysis. Tasks may include assessment of aqueous, sedimentary or other using chemical analyses, bacteriological analyses, toxicological analyses, biological analyses, genetic analyses, and other related activities.
- E. Other tasks as assigned. From time to time the District may require other tasks not explicitly identified above to be performed to facilitate its role as Principal Permittee for the NPDES MS4 permit programs, to facilitate compliance with the District's own NPDES requirements or to respond to water quality related regulatory orders and/or violations issued by the United States Environmental Protection Agency, Regional Water Quality Control Boards or other regulatory agencies.



## 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

**AEI-CASC ENGINEERING, INC.**

By: \_\_\_\_\_  
RICHARD J. SIDOR, P.E.  
Principal and President

CONSULTING SERVICES AGREEMENT

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

5 1. PROJECT

6 CONSULTANT shall provide on-call National Pollutant Discharge Elimination System  
7 (NPDES) support services in accordance with applicable federal, state, and local laws  
8 and regulations as requested by DISTRICT.  
9

10 2. SCOPE OF SERVICES

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

20 3. PERSONNEL

21 A. Project Manager

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

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

6. PAYMENTS

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

7. PROJECT PERFORMANCE

A. Commencement of Services

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

B. Time of Completion

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

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

9. STANDARD OF CARE

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

10. ERRORS AND OMISSIONS

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

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: Watershed Protection Division	HDR ENGINEERING, INC. 3230 El Camino Real, Suite 200 Irvine, CA 92602 Attn: Bill Flores
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13. REQUIRED 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.

Without limiting or diminishing the CONSULTANT'S obligation to indemnify or hold DISTRICT harmless, CONSULTANT shall procure and maintain or cause to be

1 maintained, at its sole cost and expense, the following insurance coverages during the  
2 term of this Agreement:

3 A. Workers' Compensation

4 If CONSULTANT has employees as defined by the State of California,  
5 CONSULTANT shall maintain Workers' Compensation Insurance (Coverage A)  
6 as prescribed by the laws of the State of California. Policy shall include  
7 Employer's Liability (Coverage B) including Occupational Disease with limits  
8 not less than \$1,000,000 per person per accident. Policy shall be endorsed to  
9 waive subrogation in favor of DISTRICT and, if applicable, to provide a  
10 Borrowed Servant/Alternate Employer endorsement.  
11

12 B. Commercial General Liability

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

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2 If vehicles or mobile equipment are used in the performance of the obligations  
3 under this Agreement, CONSULTANT shall maintain liability insurance for all  
4 owned, non-owned or hired vehicles in an amount not less than \$1,000,000 per  
5 occurrence combined single limit. If such insurance contains a general aggregate  
6 limit, it shall apply separately to this Agreement or be no less than two (2) times  
7 the occurrence limit. If CONSULTANT does not own vehicles, CONSULTANT  
8 shall maintain coverage for non-owned or hired vehicles in an amount not less  
9 than \$1,000,000 per occurrence combined single limit. Such non-owned or hired  
10 coverage may be included on the Commercial General Liability policy. Policy  
11 shall name Riverside County Flood Control and Water Conservation District, the  
12 County of Riverside, special districts, their respective directors, officers, Board  
13 of Supervisors, elected officials, employees, agents or representatives as  
14 additional insureds.  
15

16 D. Professional Liability

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

4 E. General Insurance Provisions – All Lines

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

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

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26 c. CONSULTANT shall cause their insurance carrier(s) to furnish  
27 DISTRICT with: 1) a properly executed original certificate(s) of  
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1 insurance and original certified copies of endorsements effecting  
2 coverage as required herein; or 2) if requested to do so orally or in writing  
3 by the County Risk Manager, provide original certified copies of policies  
4 including all endorsements and all attachments thereto, showing such  
5 insurance is in full force and effect. Further, said certificate(s) and  
6 policies of insurance shall contain the covenant that the insurance  
7 carrier(s) shall provide no less than thirty (30) days written notice be  
8 given to DISTRICT prior to any material modification or cancellation of  
9 such insurance. In the event of a material modification or cancellation of  
10 coverage, this Agreement shall terminate forthwith, unless DISTRICT  
11 receives, prior to such effective date, another properly executed original  
12 certificate of insurance and original copies of endorsements or original  
13 certified policies, including all endorsements and attachments thereto,  
14 evidencing coverages and the insurance required herein is in full force  
15 and effect. Individual(s) authorized by the insurance carrier to do so on  
16 its behalf shall sign the original endorsements for each policy and the  
17 certificate of insurance.  
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- 20 d. It is understood and agreed by the parties hereto and the  
21 CONSULTANT'S insurance company(s), that the certificate(s) of  
22 insurance and policies shall so covenant and shall be construed as primary  
23 insurance, and the DISTRICT'S insurance and/or deductibles and/or self-  
24 insured retentions or self-insured programs shall not be construed as  
25 contributory.  
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- 1           e.     If, during the term of this Agreement or any extension thereof, there is a  
2           material change in the scope of services; or there is a material change in  
3           the equipment to be used in the performance of the scope of work which  
4           will add additional exposures (such as the use of aircraft, watercraft,  
5           cranes, etc.); or the term of this Agreement, including any extensions  
6           thereof, exceeds five (5) years, the County reserves the right to adjust the  
7           types of insurance required under this Agreement and the monetary limits  
8           of liability for the insurance coverage's currently required herein, if, in the  
9           County Risk Manager's reasonable judgment, the amount or type of  
10          insurance carried by the CONSULTANT has become inadequate.
- 11          f.     CONSULTANT shall pass down the insurance obligations contained  
12          herein to all tiers of subcontractors working under this Agreement.
- 13          g.     The insurance requirements contained in this Agreement may be met with  
14          a program(s) of self-insurance acceptable to DISTRICT.
- 15          h.     CONSULTANT agrees to notify DISTRICT of any claim by a third party  
16          or any incident or event that may give rise to a claim arising from the  
17          performance of this Agreement.

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20   14.   INDEMNIFICATION

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

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

9 With respect to any of CONSULTANT'S indemnification requirements,  
10 CONSULTANT shall, at its sole cost, have the right to use counsel of their own choice  
11 and shall have the right to adjust, settle, or compromise any such claim, proceeding or  
12 action without the prior consent of DISTRICT; provided, however, that such adjustment,  
13 settlement or compromise in no manner whatsoever limits or circumscribes  
14 CONSULTANT'S indemnification obligations to DISTRICT.  
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16 CONSULTANT'S indemnification obligations shall be satisfied when CONSULTANT  
17 has provided to DISTRICT the appropriate form of dismissal (or similar document)  
18 relieving DISTRICT from any liability for the claim, proceeding or action involved.  
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20 The specified insurance limits required in this Agreement shall in no way limit or  
21 circumscribe CONSULTANT'S obligations to indemnify and hold harmless DISTRICT  
22 from third party claims.

23 In the event there is conflict between this section and California Civil Code Section  
24 2782, this section shall be interpreted to comply with California Civil Code 2782. Such  
25 interpretation shall not relieve the CONSULTANT from indemnifying DISTRICT  
26 (including its directors, officers, Board of Supervisors, elected and appointed officials,  
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1 employees, agents and representatives) or the County of Riverside to the fullest extent  
2 allowed by law.

3 15. WORK PRODUCT

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

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16 16. TERMINATION

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

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19 A. Agreement

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

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

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

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

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

26 All work prepared by CONSULTANT shall be subject to the approval of the  
 27 Project Manager. CONSULTANT shall allow Project Manager to inspect and  
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review CONSULTANT'S work in progress at any reasonable time. All reports, working papers, and similar work products prepared for submission in the course of providing services under this Agreement shall be submitted to the Project Manager in draft form. In the event that Project Manager, in his or her sole discretion, determines the formally submitted work product to be inadequate, CONSULTANT may be required to revise and resubmit the work at no additional cost to DISTRICT. Should CONSULTANT fail to make requested corrections in a timely manner, such corrections may be made by DISTRICT, and the cost thereof charged to CONSULTANT. The responsibility for accuracy and completeness of such items remains solely that of CONSULTANT. Neither DISTRICT'S review nor approval shall give rise to any liability or responsibility on the part of DISTRICT, or waive any of DISTRICT'S rights, or relieve CONSULTANT of its professional responsibilities or obligations under this Agreement.

B. Progress Reports

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

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



1 the services to be rendered hereunder and shall not act as or shall not be and shall not in  
2 any manner be considered to be employees or agents of DISTRICT.

3 19. SUBCONTRACTING

4 CONSULTANT may, at CONSULTANT'S own expense, retain or employ sub-  
5 consultants to accomplish certain portions of the work covered by this Agreement.  
6 However, except as specifically provided in the Compensation/Fee Rate Schedule  
7 attached to the approved Task Order or as expressly identified in this Agreement, no  
8 portion of the services pertinent to this Agreement shall be subcontracted without prior  
9 written approval and authorization by DISTRICT.

10  
11 Should one or more of the sub-consultants, as identified in the Compensation/Fee Rate  
12 Schedule attached to the approved Task Order or as expressly identified in this  
13 Agreement, become unavailable, CONSULTANT may substitute other sub-consultants  
14 of equal or greater competence upon written approval by DISTRICT. In the event that  
15 DISTRICT and CONSULTANT cannot agree as to the substitution of the sub-  
16 consultant, DISTRICT may terminate the Task Order, pursuant to the applicable  
17 provisions of this Agreement.

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

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

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At any time during the performance of an approved Task Order, DISTRICT may request that CONSULTANT perform extra services. Any work which is determined by DISTRICT to be necessary for the proper completion of the approved Task Order, but which neither CONSULTANT nor DISTRICT reasonably anticipated would be

1 necessary at the time the scope of services for the assigned Task Order was approved,  
2 must be authorized by the Project Manager by a new or revised Task Order.

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

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

1 invalid, void or unenforceable, the remaining provisions shall be declared severable and  
2 shall be given full force and effect to the extent possible.

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

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10 25. WAIVER

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

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18 26. NON-DISCRIMINATION

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

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It is mutually agreed and understood that the obligation(s) of DISTRICT are limited by and contingent upon the availability of DISTRICT funds for the reimbursement of CONSULTANT'S fees. In the event that such funds are not forthcoming for any reason, DISTRICT shall immediately notify CONSULTANT in writing. This Agreement shall be deemed terminated and have no further force and effect immediately 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

AUG 16 2011

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By: Steve Thomas  
~~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: Neal Kipnis  
NEAL KIPNIS  
Deputy County Counsel

By: Karen Burgeton  
Deputy

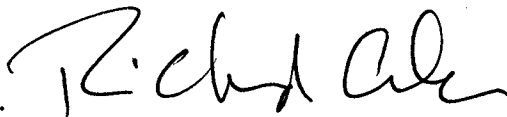
(SEAL)

Consulting Services Agreement  
07/19/11  
TT:blj

AUG 16 2011 11.14

HDR ENGINEERING, INC.

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By:   
RICHARD COLES  
Vice President

Consulting Services Agreement  
07/19/11  
TT:blj



## ATTACHMENT "A"

## SCOPE OF SERVICES

**Based on CONSULTANT qualifications, CONSULTANT may be asked to perform one or more of the following types of NPDES support services as specifically directed in Task Orders issued to CONSULTANT:**

- A. Municipal Separate Storm Sewer System (MS4) Program Support. Tasks may include general NPDES program regulatory support, permit negotiation support, compliance program development and implementation, program assessment and reporting, training and outreach, program funding facilitation and other related activities.
- B. TMDL / Basin Planning support. Tasks may include assisting with basin planning efforts, TMDL development, TMDL compliance program development/implementation, BMP or watersheds modeling and assessment efforts and other related activities.
- C. Monitoring Program Support. Tasks may include monitoring program design, program reporting and assessment, monitoring special studies, field data collection and other related activities.
- D. Laboratory Analysis. Tasks may include assessment of aqueous, sedimentary or other using chemical analyses, bacteriological analyses, toxicological analyses, biological analyses, genetic analyses, and other related activities.
- E. Other tasks as assigned. From time to time the District may require other tasks not explicitly identified above to be performed to facilitate its role as Principal Permittee for the NPDES MS4 permit programs, to facilitate compliance with the District's own NPDES requirements or to respond to water quality related regulatory orders and/or violations issued by the United States Environmental Protection Agency, Regional Water Quality Control Boards or other regulatory agencies.

## 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

**HDR ENGINEERING, INC.**

By: \_\_\_\_\_  
RICHARD COLES  
Vice President

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 National Pollutant Discharge Elimination System  
7 (NPDES) support services in accordance with applicable federal, state, and local laws  
8 and regulations as requested by DISTRICT.  
9

10 2. SCOPE OF SERVICES

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

20 3. PERSONNEL

21 A. Project Manager

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

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

6. PAYMENTS

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

7. PROJECT PERFORMANCE

A. Commencement of Services

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

B. Time of Completion

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

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

9. STANDARD OF CARE

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

10. ERRORS AND OMISSIONS

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

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	RBF CONSULTING
17 AND WATER CONSERVATION DISTRICT	14725 Alton Parkway
18 1995 Market Street	Irvine, CA 92618
19 Riverside, CA 92501	Attn: Daniel Apt
Attn: Watershed Protection Division	

13. REQUIRED INSURANCE

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

26 Without limiting or diminishing CONSULTANT'S obligation to indemnify or hold  
 27 DISTRICT harmless, CONSULTANT shall procure and maintain or cause to be  
 28

1 maintained, at its sole cost and expense, the following insurance coverages during the  
2 term of this Agreement:

3 A. Workers' Compensation

4 If CONSULTANT has employees as defined by the State of California,  
5 CONSULTANT shall maintain Workers' Compensation Insurance (Coverage A)  
6 as prescribed by the laws of the State of California. Policy shall include  
7 Employer's Liability (Coverage B) including Occupational Disease with limits  
8 not less than \$1,000,000 per person per accident. Policy shall be endorsed to  
9 waive subrogation in favor of DISTRICT and, if applicable, to provide a  
10 Borrowed Servant/Alternate Employer endorsement.  
11

12 B. Commercial General Liability

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

1 If vehicles or mobile equipment are used in the performance of the obligations  
2 under this Agreement, CONSULTANT shall maintain liability insurance for all  
3 owned, non-owned or hired vehicles in an amount not less than \$1,000,000 per  
4 occurrence combined single limit. If such insurance contains a general aggregate  
5 limit, it shall apply separately to this Agreement or be no less than two (2) times  
6 the occurrence limit. If CONSULTANT does not own vehicles, CONSULTANT  
7 shall maintain coverage for non-owned or hired vehicles in an amount not less  
8 than \$1,000,000 per occurrence combined single limit. Such non-owned or hired  
9 coverage may be included on the Commercial General Liability policy. Policy  
10 shall name Riverside County Flood Control and Water Conservation District, the  
11 County of Riverside, special districts, their respective directors, officers, Board  
12 of Supervisors, elected officials, employees, agents or representatives as  
13 additional insureds.  
14

16 D. Professional Liability

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

4 E. General Insurance Provisions – All Lines

- 5 a. Any insurance carrier providing insurance coverage hereunder shall be  
6 admitted to the State of California and have an A.M. BEST rating of not  
7 less than an A: VIII (A: 8) unless such requirements are waived, in  
8 writing, by the County Risk Manager. If the County's Risk Manager  
9 waives a requirement for a particular insurer such waiver is only valid for  
10 the specific insurer and only for one policy term.
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- 12 b. CONSULTANT'S insurance carrier(s) must declare its insurance  
13 deductibles or self-insured retentions. If such deductibles or self-insured  
14 retentions exceed \$500,000 per occurrence such deductibles and/or  
15 retentions shall have the prior written consent of the County Risk  
16 Manager before the commencement of operations under this Agreement.  
17 Upon notification of deductibles or self-insured retentions which are  
18 deemed unacceptable to DISTRICT, at the election of the County's Risk  
19 Manager, CONSULTANT'S carriers shall either: 1) reduce or eliminate  
20 such deductibles or self-insured retentions with respect to this Agreement  
21 with DISTRICT, or 2) procure a bond which guarantees payment of  
22 losses and related investigations, claims administration, defense costs and  
23 expenses.
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- 26 c. CONSULTANT shall cause their insurance carrier(s) to furnish  
27 DISTRICT with: 1) a properly executed original certificate(s) of  
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1 insurance and original certified copies of endorsements effecting  
2 coverage as required herein; or 2) if requested to do so orally or in writing  
3 by the County Risk Manager, provide original certified copies of policies  
4 including all endorsements and all attachments thereto, showing such  
5 insurance is in full force and effect. Further, said certificate(s) and  
6 policies of insurance shall contain the covenant that the insurance  
7 carrier(s) shall provide no less than thirty (30) days written notice be  
8 given to DISTRICT prior to any material modification or cancellation of  
9 such insurance. In the event of a material modification or cancellation of  
10 coverage, this Agreement shall terminate forthwith, unless DISTRICT  
11 receives, prior to such effective date, another properly executed original  
12 certificate of insurance and original copies of endorsements or original  
13 certified policies, including all endorsements and attachments thereto,  
14 evidencing coverages and the insurance required herein is in full force  
15 and effect. Individual(s) authorized by the insurance carrier to do so on  
16 its behalf shall sign the original endorsements for each policy and the  
17 certificate of insurance.  
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- 20 d. It is understood and agreed by the parties hereto and CONSULTANT'S  
21 insurance company(s), that the certificate(s) of insurance and policies  
22 shall so covenant and shall be construed as primary insurance, and  
23 DISTRICT'S insurance and/or deductibles and/or self-insured retentions  
24 or self-insured programs shall not be construed as contributory.  
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26 e. If, during the term of this Agreement or any extension thereof, there is a  
27 material change in the scope of services; or there is a material change in  
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1 the equipment to be used in the performance of the scope of work which  
2 will add additional exposures (such as the use of aircraft, watercraft,  
3 cranes, etc.); or the term of this Agreement, including any extensions  
4 thereof, exceeds five (5) years, the County reserves the right to adjust the  
5 types of insurance required under this Agreement and the monetary limits  
6 of liability for the insurance coverage's currently required herein, if, in the  
7 County Risk Manager's reasonable judgment, the amount or type of  
8 insurance carried by the CONSULTANT has become inadequate.

- 9
- 10 f. CONSULTANT shall pass down the insurance obligations contained
- 11 herein to all tiers of subcontractors working under this Agreement.
- 12 g. The insurance requirements contained in this Agreement may be met with
- 13 a program(s) of self-insurance acceptable to DISTRICT.
- 14 h. CONSULTANT agrees to notify DISTRICT of any claim by a third party
- 15 or any incident or event that may give rise to a claim arising from the
- 16 performance of this Agreement.
- 17

18 14. INDEMNIFICATION

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

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

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

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

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

22 In the event there is conflict between this section and California Civil Code Section  
23 2782, this section shall be interpreted to comply with California Civil Code 2782. Such  
24 interpretation shall not relieve the CONSULTANT from indemnifying DISTRICT  
25 (including its directors, officers, Board of Supervisors, elected and appointed officials,  
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employees, agents and representatives) or the County of Riverside to the fullest extent allowed by law.

15. WORK PRODUCT

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

16. TERMINATION

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

A. Agreement

- 1) Terminate this Agreement without cause upon providing CONSULTANT thirty (30) days written notice stating the extent and effective date of termination; or
- 2) Upon five (5) days written notice, terminate this Agreement for CONSULTANT default, if CONSULTANT refuses or fails to comply with the provisions of this Agreement or fails to make progress so as to endanger performance and does not cure such failure within a reasonable

1 period of time. In the event of such termination, the DISTRICT may  
2 proceed with the work in a manner deemed proper to DISTRICT.

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

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

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

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

17. Basic Services of CONSULTANT

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

A. Right to Preliminary Review

All work prepared by CONSULTANT shall be subject to the approval of the Project Manager. CONSULTANT shall allow Project Manager to inspect and



1 review CONSULTANT'S work in progress at any reasonable time. All reports,  
2 working papers, and similar work products prepared for submission in the course  
3 of providing services under this Agreement shall be submitted to the Project  
4 Manager in draft form. In the event that Project Manager, in his or her sole  
5 discretion, determines the formally submitted work product to be inadequate,  
6 CONSULTANT may be required to revise and resubmit the work at no  
7 additional cost to DISTRICT. Should CONSULTANT fail to make requested  
8 corrections in a timely manner, such corrections may be made by DISTRICT,  
9 and the cost thereof charged to CONSULTANT. The responsibility for accuracy  
10 and completeness of such items remains solely that of CONSULTANT. Neither  
11 DISTRICT'S review nor approval shall give rise to any liability or responsibility  
12 on the part of DISTRICT, or waive any of DISTRICT'S rights, or relieve  
13 CONSULTANT of its professional responsibilities or obligations under this  
14 Agreement.  
15

16 B. Progress Reports

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

24 18. INDEPENDENT CONTRACTOR

25 CONSULTANT and the agents and employees of CONSULTANT, shall act at all times  
26 in an independent capacity during the term of this Agreement and in the performance of  
27  
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1 the services to be rendered hereunder and shall not act as or shall not be and shall not in  
2 any manner be considered to be employees or agents of DISTRICT.

3 19. SUBCONTRACTING

4 CONSULTANT may, at CONSULTANT'S own expense, retain or employ sub-  
5 consultants to accomplish certain portions of the work covered by this Agreement.  
6 However, except as specifically provided in the Compensation/Fee Rate Schedule  
7 attached to the approved Task Order or as expressly identified in this Agreement, no  
8 portion of the services pertinent to this Agreement shall be subcontracted without prior  
9 written approval and authorization by DISTRICT.  
10

11 Should one or more of the sub-consultants, as identified in the Compensation/Fee Rate  
12 Schedule attached to the approved Task Order or as expressly identified in this  
13 Agreement, become unavailable, CONSULTANT may substitute other sub-consultants  
14 of equal or greater competence upon written approval by DISTRICT. In the event that  
15 DISTRICT and CONSULTANT cannot agree as to the substitution of the sub-  
16 consultant, DISTRICT may terminate the Task Order, pursuant to the applicable  
17 provisions of this Agreement.  
18

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

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

At any time during the performance of an approved Task Order, DISTRICT may request that CONSULTANT perform extra services. Any work which is determined by DISTRICT to be necessary for the proper completion of the approved Task Order, but which neither CONSULTANT nor DISTRICT reasonably anticipated would be

1 necessary at the time the scope of services for the assigned Task Order was approved,  
2 must be authorized by the Project Manager by a new or revised Task Order.

3 At any time during the performance of the Task Order, the Project Manager, upon  
4 providing five (5) days written notice to the CONSULTANT, may delete services and  
5 the associated fees from the Task Order. In the event DISTRICT requests deletion of  
6 services from the Task Order, DISTRICT shall make payment for all services  
7 satisfactorily performed in accordance with the negotiated Task Order up to the effective  
8 date of deletion; the amount of the payment shall be prorated to the total services  
9 necessary for completion of the Task Order. No work product for the deleted services  
10 shall be provided to DISTRICT.  
11

12 21. DISPUTES

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

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

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

12 22. ASSIGNMENT

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

15  
16 23. CONFLICT OF INTEREST

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

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24 24. JURISDICTION/LAW/SEVERABILITY

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

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

25. WAIVER

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

26. NON-DISCRIMINATION

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

27. NON-APPROPRIATION OF FUNDS

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It is mutually agreed and understood that the obligation(s) of DISTRICT are limited by and contingent upon the availability of DISTRICT funds for the reimbursement of CONSULTANT'S fees. In the event that such funds are not forthcoming for any reason, DISTRICT shall immediately notify CONSULTANT in writing. This Agreement shall be deemed terminated and have no further force and effect immediately 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

AUG 16 2011

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By: Steve Thomas  
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  
By: Pamela J. Walls  
NEAL KIPNIS  
Deputy County Counsel

KECIA HARPER-IHEM  
Clerk of the Board  
By: Kecia Harper-Ihem  
Deputy

(SEAL)

Consulting Services Agreement  
07/19/11  
TT:blj



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**RBF CONSULTING**

By: Anna Y. Lantin  
ANNA Y. LANTIN  
Senior Vice President

Consulting Services Agreement  
07/19/11  
TT:blj

## ATTACHMENT "A"

## SCOPE OF SERVICES

**Based on CONSULTANT qualifications, CONSULTANT may be asked to perform one or more of the following types of NPDES support services as specifically directed in Task Orders issued to CONSULTANT:**

- A. Municipal Separate Storm Sewer System (MS4) Program Support. Tasks may include general NPDES program regulatory support, permit negotiation support, compliance program development and implementation, program assessment and reporting, training and outreach, program funding facilitation and other related activities.
- B. TMDL / Basin Planning support. Tasks may include assisting with basin planning efforts, TMDL development, TMDL compliance program development/implementation, BMP or watersheds modeling and assessment efforts and other related activities.
- C. Monitoring Program Support. Tasks may include monitoring program design, program reporting and assessment, monitoring special studies, field data collection and other related activities.
- D. Laboratory Analysis. Tasks may include assessment of aqueous, sedimentary or other using chemical analyses, bacteriological analyses, toxicological analyses, biological analyses, genetic analyses, and other related activities.
- E. Other tasks as assigned. From time to time the District may require other tasks not explicitly identified above to be performed to facilitate its role as Principal Permittee for the NPDES MS4 permit programs, to facilitate compliance with the District's own NPDES requirements or to respond to water quality related regulatory orders and/or violations issued by the United States Environmental Protection Agency, Regional Water Quality Control Boards or other regulatory agencies.

## 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

**RBF CONSULTING**

By: \_\_\_\_\_  
ANNA Y. LANTIN  
Senior Vice President

CONSULTING SERVICES AGREEMENT

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

5 1. PROJECT

6 CONSULTANT shall provide on-call National Pollutant Discharge Elimination System  
7 (NPDES) support services in accordance with applicable federal, state, and local laws  
8 and regulations as requested by DISTRICT.  
9

10 2. SCOPE OF SERVICES

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

20 3. PERSONNEL21 A. Project Manager

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

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

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8 C. Substitution of Key Personnel

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

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18 4. TERM

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

- 22 A. Three (3) years from the date of the Board of Supervisors approval; or  
23 B. The required date for completion of an assigned Task Order, provided that such  
24 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

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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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 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: Watershed Protection Division	CAMP DRESSER & McKEE, INC. 9220 Cleveland Avenue, Suite 100 Rancho Cucamonga, CA 91730 Attn: Richard Meyerhoff
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13. REQUIRED 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.

Without limiting or diminishing the CONSULTANT'S obligation to indemnify or hold DISTRICT harmless, CONSULTANT shall procure and maintain or cause to be



1 maintained, at its sole cost and expense, the following insurance coverages during the  
2 term of this Agreement:

3 A. Workers' Compensation

4 If CONSULTANT has employees as defined by the State of California,  
5 CONSULTANT shall maintain Workers' Compensation Insurance (Coverage A)  
6 as prescribed by the laws of the State of California. Policy shall include  
7 Employer's Liability (Coverage B) including Occupational Disease with limits  
8 not less than \$1,000,000 per person per accident. Policy shall be endorsed to  
9 waive subrogation in favor of DISTRICT and, if applicable, to provide a  
10 Borrowed Servant/Alternate Employer endorsement.  
11

12 B. Commercial General Liability

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

2 If vehicles or mobile equipment are used in the performance of the obligations  
3 under this Agreement, CONSULTANT shall maintain liability insurance for all  
4 owned, non-owned or hired vehicles in an amount not less than \$1,000,000 per  
5 occurrence combined single limit. If such insurance contains a general aggregate  
6 limit, it shall apply separately to this Agreement or be no less than two (2) times  
7 the occurrence limit. If CONSULTANT does not own vehicles, CONSULTANT  
8 shall maintain coverage for non-owned or hired vehicles in an amount not less  
9 than \$1,000,000 per occurrence combined single limit. Such non-owned or hired  
10 coverage may be included on the Commercial General Liability policy. Policy  
11 shall name Riverside County Flood Control and Water Conservation District, the  
12 County of Riverside, special districts, their respective directors, officers, Board  
13 of Supervisors, elected officials, employees, agents or representatives as  
14 additional insureds.  
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16  
17 D. Professional Liability

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

4 E. General Insurance Provisions – All Lines

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

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

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

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20 d. It is understood and agreed by the parties hereto and the  
21 CONSULTANT'S insurance company(s), that the certificate(s) of  
22 insurance and policies shall so covenant and shall be construed as primary  
23 insurance, and the DISTRICT'S insurance and/or deductibles and/or self-  
24 insured retentions or self-insured programs shall not be construed as  
25 contributory.  
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- 1 e. If, during the term of this Agreement or any extension thereof, there is a  
2 material change in the scope of services; or there is a material change in  
3 the equipment to be used in the performance of the scope of work which  
4 will add additional exposures (such as the use of aircraft, watercraft,  
5 cranes, etc.); or the term of this Agreement, including any extensions  
6 thereof, exceeds five (5) years, the County reserves the right to adjust the  
7 types of insurance required under this Agreement and the monetary limits  
8 of liability for the insurance coverage's currently required herein, if, in the  
9 County Risk Manager's reasonable judgment, the amount or type of  
10 insurance carried by the CONSULTANT has become inadequate.
- 11
- 12 f. CONSULTANT shall pass down the insurance obligations contained  
13 herein to all tiers of subcontractors working under this Agreement.
- 14
- 15 g. The insurance requirements contained in this Agreement may be met with  
16 a program(s) of self-insurance acceptable to DISTRICT.
- 17
- 18 h. 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 14. INDEMNIFICATION

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

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

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

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

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

In the event there is conflict between this section and California Civil Code Section 2782, this section shall be interpreted to comply with California Civil Code 2782. Such interpretation shall not relieve CONSULTANT from indemnifying DISTRICT (including its directors, officers, Board of Supervisors, elected and appointed officials,

1 employees, agents and representatives) or the County of Riverside to the fullest extent  
2 allowed by law.

3 15. WORK PRODUCT

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

16  
17 16. TERMINATION

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

19 A. Agreement

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

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

9  
10 In the event DISTRICT terminates this Agreement, DISTRICT shall make  
11 payment for all services performed in accordance with this Agreement to the date  
12 of termination, a total amount which bears the same ratio to the total maximum  
13 fee otherwise payable under this Agreement as the services actually bear to the  
14 total services necessary for performance of this Agreement. Notwithstanding any  
15 of the other provision of this Agreement, CONSULTANT rights under this  
16 Agreement shall terminate (except for fees accrued prior to the date of  
17 termination) upon dishonesty, or a willful or material breach of this Agreement  
18 by CONSULTANT; or in the event of CONSULTANT'S unwillingness or  
19 inability for any reason whatsoever to perform the duties hereunder; or if the  
20 Agreement is terminated pursuant to Section 26 (NON-DISCRIMINATION). In  
21 such event, CONSULTANT shall not be entitled to any further compensation  
22 under this Agreement. The rights and remedies of DISTRICT provided in this  
23 section shall not be exclusive and are in addition to any other rights and remedies  
24 provided by law or under this Agreement.  
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1           B.     Approved Task Order

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

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

17          17.    Basic Services of CONSULTANT

18          The scope of services associated with the performance of any specific Task Order under  
19          this Agreement shall be expressly defined and agreed upon prior to the approval of the  
20          Task Order by the Project Manager. Any changes to the approved scope of services must  
21          be authorized by the Project Manager, and shall be made in writing.

22          A.     Right to Preliminary Review

23          All work prepared by CONSULTANT shall be subject to the approval of the  
24          Project Manager. CONSULTANT shall allow Project Manager to inspect and  
25          26          27          28

1 review CONSULTANT'S work in progress at any reasonable time. All reports,  
2 working papers, and similar work products prepared for submission in the course  
3 of providing services under this Agreement shall be submitted to the Project  
4 Manager in draft form. In the event that Project Manager, in his or her sole  
5 discretion, determines the formally submitted work product to be inadequate,  
6 CONSULTANT may be required to revise and resubmit the work at no  
7 additional cost to DISTRICT. Should CONSULTANT fail to make requested  
8 corrections in a timely manner, such corrections may be made by DISTRICT,  
9 and the cost thereof charged to CONSULTANT. The responsibility for accuracy  
10 and completeness of such items remains solely that of CONSULTANT. Neither  
11 DISTRICT'S review nor approval shall give rise to any liability or responsibility  
12 on the part of DISTRICT, or waive any of DISTRICT'S rights, or relieve  
13 CONSULTANT of its professional responsibilities or obligations under this  
14 Agreement.  
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17 B. Progress Reports

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

25 18. INDEPENDENT CONTRACTOR

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

3 19. SUBCONTRACTING

4 CONSULTANT may, at CONSULTANT'S own expense, retain or employ sub-  
5 consultants to accomplish certain portions of the work covered by this Agreement.  
6 However, except as specifically provided in the Compensation/Fee Rate Schedule  
7 attached to the approved Task Order or as expressly identified in this Agreement, no  
8 portion of the services pertinent to this Agreement shall be subcontracted without prior  
9 written approval and authorization by DISTRICT.  
10

11 Should one or more of the sub-consultants, as identified in the Compensation/Fee Rate  
12 Schedule attached to the approved Task Order or as expressly identified in this  
13 Agreement, become unavailable, CONSULTANT may substitute other sub-consultants  
14 of equal or greater competence upon written approval by DISTRICT. In the event that  
15 DISTRICT and CONSULTANT cannot agree as to the substitution of the sub-  
16 consultant, DISTRICT may terminate the Task Order, pursuant to the applicable  
17 provisions of this Agreement.  
18

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

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

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

3 At any time during the performance of the Task Order, the Project Manager, upon  
4 providing five (5) days written notice to the CONSULTANT, may delete services and  
5 the associated fees from the Task Order. In the event DISTRICT requests deletion of  
6 services from the Task Order, DISTRICT shall make payment for all services  
7 satisfactorily performed in accordance with the negotiated Task Order up to the effective  
8 date of deletion; the amount of the payment shall be prorated to the total services  
9 necessary for completion of the Task Order. No work product for the deleted services  
10 shall be provided to DISTRICT.  
11

12 21. DISPUTES

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

1 invalid, void or unenforceable, the remaining provisions shall be declared severable and  
2 shall be given full force and effect to the extent possible.

3 Any legal action, in law or equity related to the performance or interpretation of this  
4 Agreement shall be filed only in the Superior Court for the State of California located in  
5 Riverside, California, and the parties waive any provision of law providing for a change  
6 of venue to another location. Prior to the filing of any legal action, the parties shall be  
7 obligated to attend a mediation session with a neutral mediator to try to resolve the  
8 dispute.  
9

10 25. WAIVER

11 Any waiver by DISTRICT of any breach of any one or more of the terms of this  
12 Agreement shall not be construed to be a waiver of any subsequent or other breach of the  
13 same or any other term thereof. Failure on the part of DISTRICT to require exact, full  
14 and complete compliance with any terms of this Agreement shall not be construed as in  
15 any manner changing the terms hereof, or estopping DISTRICT from enforcement  
16 hereof.  
17

18 26. NON-DISCRIMINATION

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

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

AUG 16 2011  
(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By: Steve Thomas  
~~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  
By: Neal Kipnis  
NEAL KIPNIS  
Deputy County Counsel


KECIA HARPER-IHEM  
Clerk of the Board  
By: Kecia Harper-Ihem  
Deputy

(SEAL)

Consulting Services Agreement  
07/19/11  
TT:blj

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CAMP DRESSER & McKEE, INC.

By:   
ROBERT MATTHEWS  
Senior Vice President

Consulting Services Agreement  
07/19/11  
TT:blj

## ATTACHMENT "A"

## SCOPE OF SERVICES

**Based on CONSULTANT qualifications, CONSULTANT may be asked to perform one or more of the following types of NPDES support services as specifically directed in Task Orders issued to CONSULTANT:**

- A. Municipal Separate Storm Sewer System (MS4) Program Support. Tasks may include general NPDES program regulatory support, permit negotiation support, compliance program development and implementation, program assessment and reporting, training and outreach, program funding facilitation and other related activities.
- B. TMDL / Basin Planning support. Tasks may include assisting with basin planning efforts, TMDL development, TMDL compliance program development/implementation, BMP or watersheds modeling and assessment efforts and other related activities.
- C. Monitoring Program Support. Tasks may include monitoring program design, program reporting and assessment, monitoring special studies, field data collection and other related activities.
- D. Laboratory Analysis. Tasks may include assessment of aqueous, sedimentary or other using chemical analyses, bacteriological analyses, toxicological analyses, biological analyses, genetic analyses, and other related activities.
- E. Other tasks as assigned. From time to time the District may require other tasks not explicitly identified above to be performed to facilitate its role as Principal Permittee for the NPDES MS4 permit programs, to facilitate compliance with the District's own NPDES requirements or to respond to water quality related regulatory orders and/or violations issued by the United States Environmental Protection Agency, Regional Water Quality Control Boards or other regulatory agencies.

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

**CAMP DRESSER & McKEE, INC.**

By: \_\_\_\_\_  
ROBERT MATTHEWS  
Senior Vice President

CONSULTING SERVICES AGREEMENT

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

5 1. PROJECT

6 CONSULTANT shall provide on-call National Pollutant Discharge Elimination System  
7 (NPDES) support services in accordance with applicable federal, state, and local laws  
8 and regulations as requested by DISTRICT.  
9

10 2. SCOPE OF SERVICES

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

20 3. PERSONNEL

21 A. Project Manager

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

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

7           C.     Substitution of Key Personnel

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

16                   4.     TERM

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

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

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

6. PAYMENTS

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

7. PROJECT PERFORMANCE

A. Commencement of Services

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

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B. Time of Completion

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

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

9. STANDARD OF CARE

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

10. ERRORS AND OMISSIONS

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



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	TETRA TECH, INC.
17 AND WATER CONSERVATION DISTRICT	9444 Balboa Ave., Suite 215
18 1995 Market Street	San Diego, CA 92123
19 Riverside, CA 92501	Attn: Stephen Carter
20 Attn: Watershed Protection Division	

13. REQUIRED INSURANCE

21 CONSULTANT shall not commence operations until DISTRICT has been furnished  
 22 with original certificate(s) of insurance and original certified copies of endorsements or  
 23 policies of insurance including all endorsements and any and all other attachments as  
 24 required in this Section.  
 25

26 Without limiting or diminishing the CONSULTANT'S obligation to indemnify or hold  
 27 DISTRICT harmless, CONSULTANT shall procure and maintain or cause to be  
 28

1 maintained, at its sole cost and expense, the following insurance coverages during the  
2 term of this Agreement:

3 A. Workers' Compensation

4 If CONSULTANT has employees as defined by the State of California,  
5 CONSULTANT shall maintain Workers' Compensation Insurance (Coverage A)  
6 as prescribed by the laws of the State of California. Policy shall include  
7 Employer's Liability (Coverage B) including Occupational Disease with limits  
8 not less than \$1,000,000 per person per accident. Policy shall be endorsed to  
9 waive subrogation in favor of DISTRICT and, if applicable, to provide a  
10 Borrowed Servant/Alternate Employer endorsement.  
11

12 B. Commercial General Liability

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

2 If vehicles or mobile equipment are used in the performance of the obligations  
3 under this Agreement, CONSULTANT shall maintain liability insurance for all  
4 owned, non-owned or hired vehicles in an amount not less than \$1,000,000 per  
5 occurrence combined single limit. If such insurance contains a general aggregate  
6 limit, it shall apply separately to this Agreement or be no less than two (2) times  
7 the occurrence limit. If CONSULTANT does not own vehicles, CONSULTANT  
8 shall maintain coverage for non-owned or hired vehicles in an amount not less  
9 than \$1,000,000 per occurrence combined single limit. Such non-owned or hired  
10 coverage may be included on the Commercial General Liability policy. Policy  
11 shall name Riverside County Flood Control and Water Conservation District, the  
12 County of Riverside, special districts, their respective directors, officers, Board  
13 of Supervisors, elected officials, employees, agents or representatives as  
14 additional insureds.  
15

16 D. Professional Liability

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

4 E. General Insurance Provisions – All Lines

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

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

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26 c. CONSULTANT shall cause their insurance carrier(s) to furnish  
27 DISTRICT with: 1) a properly executed original certificate(s) of  
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1 insurance and original certified copies of endorsements effecting  
2 coverage as required herein; or 2) if requested to do so orally or in writing  
3 by the County Risk Manager, provide original certified copies of policies  
4 including all endorsements and all attachments thereto, showing such  
5 insurance is in full force and effect. Further, said certificate(s) and  
6 policies of insurance shall contain the covenant that the insurance  
7 carrier(s) shall provide no less than thirty (30) days written notice be  
8 given to DISTRICT prior to any material modification or cancellation of  
9 such insurance. In the event of a material modification or cancellation of  
10 coverage, this Agreement shall terminate forthwith, unless DISTRICT  
11 receives, prior to such effective date, another properly executed original  
12 certificate of insurance and original copies of endorsements or original  
13 certified policies, including all endorsements and attachments thereto,  
14 evidencing coverages and the insurance required herein is in full force  
15 and effect. Individual(s) authorized by the insurance carrier to do so on  
16 its behalf shall sign the original endorsements for each policy and the  
17 certificate of insurance.  
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- 20 d. It is understood and agreed by the parties hereto and CONSULTANT'S  
21 insurance company(s), that the certificate(s) of insurance and policies  
22 shall so covenant and shall be construed as primary insurance, and the  
23 DISTRICT'S insurance and/or deductibles and/or self-insured retentions  
24 or self-insured programs shall not be construed as contributory.  
25  
26 e. If, during the term of this Agreement or any extension thereof, there is a  
27 material change in the scope of services; or there is a material change in  
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1 the equipment to be used in the performance of the scope of work which  
 2 will add additional exposures (such as the use of aircraft, watercraft,  
 3 cranes, etc.); or the term of this Agreement, including any extensions  
 4 thereof, exceeds five (5) years, the County reserves the right to adjust the  
 5 types of insurance required under this Agreement and the monetary limits  
 6 of liability for the insurance coverage's currently required herein, if, in the  
 7 County Risk Manager's reasonable judgment, the amount or type of  
 8 insurance carried by CONSULTANT has become inadequate.

- 9
- 10 f. CONSULTANT shall pass down the insurance obligations contained  
 11 herein to all tiers of subcontractors working under this Agreement.
- 12 g. The insurance requirements contained in this Agreement may be met with  
 13 a program(s) of self-insurance acceptable to DISTRICT.
- 14 h. CONSULTANT agrees to notify DISTRICT of any claim by a third party  
 15 or any incident or event that may give rise to a claim arising from the  
 16 performance of this Agreement.

17

18 14. INDEMNIFICATION

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

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

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

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

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

22 In the event there is conflict between this section and California Civil Code Section  
23 2782, this section shall be interpreted to comply with California Civil Code 2782. Such  
24 interpretation shall not relieve CONSULTANT from indemnifying DISTRICT  
25 (including its directors, officers, Board of Supervisors, elected and appointed officials,  
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1 employees, agents and representatives) or the County of Riverside to the fullest extent  
2 allowed by law.

3 15. WORK PRODUCT

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

16 16. TERMINATION

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

18 A. Agreement

- 19
- 20 1) Terminate this Agreement without cause upon providing CONSULTANT  
21 thirty (30) days written notice stating the extent and effective date of  
22 termination; or
  - 23 2) Upon five (5) days written notice, terminate this Agreement for  
24 CONSULTANT default, if CONSULTANT refuses or fails to comply  
25 with the provisions of this Agreement or fails to make progress so as to  
26 endanger performance and does not cure such failure within a reasonable  
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1 period of time. In the event of such termination, DISTRICT may proceed  
2 with the work in a manner deemed proper to DISTRICT.

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

9  
10 In the event DISTRICT terminates this Agreement, DISTRICT shall make  
11 payment for all services performed in accordance with this Agreement to the date  
12 of termination, a total amount which bears the same ratio to the total maximum  
13 fee otherwise payable under this Agreement as the services actually bear to the  
14 total services necessary for performance of this Agreement. Notwithstanding any  
15 of the other provision of this Agreement, CONSULTANT rights under this  
16 Agreement shall terminate (except for fees accrued prior to the date of  
17 termination) upon dishonesty, or a willful or material breach of this Agreement  
18 by CONSULTANT; or in the event of CONSULTANT'S unwillingness or  
19 inability for any reason whatsoever to perform the duties hereunder; or if the  
20 Agreement is terminated pursuant to Section 26 (NON-DISCRIMINATION). In  
21 such event, CONSULTANT shall not be entitled to any further compensation  
22 under this Agreement. The rights and remedies of DISTRICT provided in this  
23 section shall not be exclusive and are in addition to any other rights and remedies  
24 provided by law or under this Agreement.  
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1           B.     Approved Task Order

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

11  
12          In the event DISTRICT terminates an approved Task Order, DISTRICT shall  
13          make payment for all services satisfactorily performed in accordance with the  
14          negotiated Task Order to the date of termination, a total amount which bears the  
15          same ratio to the total maximum fee otherwise payable under the Task Order as  
16          the services actually bear to the total services necessary for performance of the  
17          Task Order.  
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19       17.    Basic Services of CONSULTANT

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

25       A.     Right to Preliminary Review

26          All work prepared by CONSULTANT shall be subject to the approval of the  
27          Project Manager. CONSULTANT shall allow Project Manager to inspect and  
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1 review CONSULTANT'S work in progress at any reasonable time. All reports,  
2 working papers, and similar work products prepared for submission in the course  
3 of providing services under this Agreement shall be submitted to the Project  
4 Manager in draft form. In the event that Project Manager, in his or her sole  
5 discretion, determines the formally submitted work product to be inadequate,  
6 CONSULTANT may be required to revise and resubmit the work at no  
7 additional cost to DISTRICT. Should CONSULTANT fail to make requested  
8 corrections in a timely manner, such corrections may be made by DISTRICT,  
9 and the cost thereof charged to CONSULTANT. The responsibility for accuracy  
10 and completeness of such items remains solely that of CONSULTANT. Neither  
11 DISTRICT'S review nor approval shall give rise to any liability or responsibility  
12 on the part of DISTRICT, or waive any of DISTRICT'S rights, or relieve  
13 CONSULTANT of its professional responsibilities or obligations under this  
14 Agreement.  
15

16 B. Progress Reports

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

24 18. INDEPENDENT CONTRACTOR

25 CONSULTANT and the agents and employees of CONSULTANT, shall act at all times  
26 in an independent capacity during the term of this Agreement and in the performance of  
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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

CONSULTANT may, at CONSULTANT'S own expense, retain or employ sub-consultants to accomplish certain portions of the work covered by this Agreement. However, except as specifically provided in the Compensation/Fee Rate Schedule attached to the approved Task Order or as expressly identified in this Agreement, no portion of the services pertinent to this Agreement shall be subcontracted without prior written approval and authorization by DISTRICT.

Should one or more of the sub-consultants, as identified in the Compensation/Fee Rate Schedule attached to the approved Task Order or as expressly identified in this Agreement, 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

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

At any time during the performance of an approved Task Order, DISTRICT may request that CONSULTANT perform extra services. Any work which is determined by DISTRICT to be necessary for the proper completion of the approved Task Order, but which neither CONSULTANT nor DISTRICT reasonably anticipated would be

1 necessary at the time the scope of services for the assigned Task Order was approved,  
2 must be authorized by the Project Manager by a new or revised Task Order.

3 At any time during the performance of the Task Order, the Project Manager, upon  
4 providing five (5) days written notice to the CONSULTANT, may delete services and  
5 the associated fees from the Task Order. In the event DISTRICT requests deletion of  
6 services from the Task Order, DISTRICT shall make payment for all services  
7 satisfactorily performed in accordance with the negotiated Task Order up to the effective  
8 date of deletion; the amount of the payment shall be prorated to the total services  
9 necessary for completion of the Task Order. No work product for the deleted services  
10 shall be provided to DISTRICT.  
11

12 21. DISPUTES

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

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

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

12 22. ASSIGNMENT

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

15  
16 23. CONFLICT OF INTEREST

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

23  
24 24. JURISDICTION/LAW/SEVERABILITY

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

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

9  
10 25. WAIVER

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

17  
18 26. NON-DISCRIMINATION

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

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It is mutually agreed and understood that the obligation(s) of DISTRICT are limited by and contingent upon the availability of DISTRICT funds for the reimbursement of CONSULTANT'S fees. In the event that such funds are not forthcoming for any reason, DISTRICT shall immediately notify CONSULTANT in writing. This Agreement shall be deemed terminated and have no further force and effect immediately 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

AUG 16 2011

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By: *Steve Thomas*  
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  
By: *Pamela Walls*  
NEAL KIPNIS  
Deputy County Counsel

KECIA HARPER-IHEM  
Clerk of the Board  
By: *Kecia Harper-Ihem*  
Deputy

(SEAL)

Consulting Services Agreement  
07/19/11  
TT:blj

1 **TETRA TECH, INC.**

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4 By:   
STEPHEN CARTER  
5 Director

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26 Consulting Services Agreement  
07/19/11

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## ATTACHMENT "A"

## SCOPE OF SERVICES

**Based on CONSULTANT qualifications, CONSULTANT may be asked to perform one or more of the following types of NPDES support services as specifically directed in Task Orders issued to CONSULTANT:**

- A. Municipal Separate Storm Sewer System (MS4) Program Support. Tasks may include general NPDES program regulatory support, permit negotiation support, compliance program development and implementation, program assessment and reporting, training and outreach, program funding facilitation and other related activities.
- B. TMDL / Basin Planning support. Tasks may include assisting with basin planning efforts, TMDL development, TMDL compliance program development/implementation, BMP or watersheds modeling and assessment efforts and other related activities.
- C. Monitoring Program Support. Tasks may include monitoring program design, program reporting and assessment, monitoring special studies, field data collection and other related activities.
- D. Laboratory Analysis. Tasks may include assessment of aqueous, sedimentary or other using chemical analyses, bacteriological analyses, toxicological analyses, biological analyses, genetic analyses, and other related activities.
- E. Other tasks as assigned. From time to time the District may require other tasks not explicitly identified above to be performed to facilitate its role as Principal Permittee for the NPDES MS4 permit programs, to facilitate compliance with the District's own NPDES requirements or to respond to water quality related regulatory orders and/or violations issued by the United States Environmental Protection Agency, Regional Water Quality Control Boards or other regulatory agencies.

## ATTACHMENT "B"

## TASK ORDER APPROVAL FORM

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3 CONSULTANT: \_\_\_\_\_

4 PROJECT NAME: \_\_\_\_\_

5  
6 The Scope of Services for \_\_\_\_\_, a copy of which is attached hereto as Exhibit "A"  
7 and incorporated herein by this reference, shall constitute an approved Task Order pursuant to  
8 the Agreement between the DISTRICT and CONSULTANT dated \_\_\_\_\_  
9 ("AGREEMENT"). CONSULTANT agrees to perform the services described in Exhibit "A"  
10 within the time set forth in the Project Schedule as described in Exhibit "B" attached hereto and  
11 incorporated herein, for a fee amount of \$ \_\_\_\_\_, unless otherwise modified by the  
12 DISTRICT'S Project Manager in a subsequent Task Order Approval Form. All charges shall be  
13 consistent with the Compensation/Fee Rate Schedule which is attached as Exhibit "C" and  
14 incorporated herein by this reference.

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

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

18  
19 **RIVERSIDE COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT**

20  
21 By: \_\_\_\_\_  
22 WARREN D. WILLIAMS  
23 General Manager-Chief Engineer

24 **TETRA TECH, INC.**

25  
26  
27 By: \_\_\_\_\_  
28 STEPHEN CARTER  
Director

CONSULTING SERVICES AGREEMENT

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RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, hereinafter called "DISTRICT", and AMEC E&I, INC., hereinafter called "CONSULTANT", hereby agree as follows:

1. PROJECT

CONSULTANT shall provide on-call National Pollutant Discharge Elimination System (NPDES) support services in accordance with applicable federal, state, and local laws and regulations as requested by DISTRICT.

2. SCOPE OF SERVICES

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

3. PERSONNEL

A. Project Manager

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

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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21 7. PROJECT PERFORMANCE

22 A. Commencement of Services

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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

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: Watershed Protection Division	AMEC E&I, INC. 9177 Sky Park Court San Diego, CA 92123 Attn: Matt Rich
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13. REQUIRED 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.

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:

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.

1 C. Vehicle Liability

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

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

4 E. General Insurance Provisions – All Lines

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

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

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26 c. CONSULTANT shall cause their insurance carrier(s) to furnish  
27 DISTRICT with: 1) a properly executed original certificate(s) of  
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1 insurance and original certified copies of endorsements effecting  
2 coverage as required herein; or 2) if requested to do so orally or in writing  
3 by the County Risk Manager, provide original certified copies of policies  
4 including all endorsements and all attachments thereto, showing such  
5 insurance is in full force and effect. Further, said certificate(s) and  
6 policies of insurance shall contain the covenant that the insurance  
7 carrier(s) shall provide no less than thirty (30) days written notice be  
8 given to DISTRICT prior to any material modification or cancellation of  
9 such insurance. In the event of a material modification or cancellation of  
10 coverage, this Agreement shall terminate forthwith, unless DISTRICT  
11 receives, prior to such effective date, another properly executed original  
12 certificate of insurance and original copies of endorsements or original  
13 certified policies, including all endorsements and attachments thereto,  
14 evidencing coverages and the insurance required herein is in full force  
15 and effect. Individual(s) authorized by the insurance carrier to do so on  
16 its behalf shall sign the original endorsements for each policy and the  
17 certificate of insurance.  
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- 20 d. It is understood and agreed by the parties hereto and the  
21 CONSULTANT'S insurance company(s), that the certificate(s) of  
22 insurance and policies shall so covenant and shall be construed as primary  
23 insurance, and the DISTRICT'S insurance and/or deductibles and/or self-  
24 insured retentions or self-insured programs shall not be construed as  
25 contributory.  
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- 1 e. If, during the term of this Agreement or any extension thereof, there is a  
2 material change in the scope of services; or there is a material change in  
3 the equipment to be used in the performance of the scope of work which  
4 will add additional exposures (such as the use of aircraft, watercraft,  
5 cranes, etc.); or the term of this Agreement, including any extensions  
6 thereof, exceeds five (5) years, the County reserves the right to adjust the  
7 types of insurance required under this Agreement and the monetary limits  
8 of liability for the insurance coverage's currently required herein, if, in the  
9 County Risk Manager's reasonable judgment, the amount or type of  
10 insurance carried by the CONSULTANT has become inadequate.
- 11 f. CONSULTANT shall pass down the insurance obligations contained  
12 herein to all tiers of subcontractors working under this Agreement.
- 13 g. The insurance requirements contained in this Agreement may be met with  
14 a program(s) of self-insurance acceptable to DISTRICT.
- 15 h. CONSULTANT agrees to notify DISTRICT of any claim by a third party  
16 or any incident or event that may give rise to a claim arising from the  
17 performance of this Agreement.  
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20 14. INDEMNIFICATION

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

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

9  
10 With respect to any of CONSULTANT'S indemnification requirements,  
11 CONSULTANT shall, at its sole cost, have the right to use counsel of their own choice  
12 and shall have the right to adjust, settle, or compromise any such claim, proceeding or  
13 action without the prior consent of DISTRICT; provided, however, that such adjustment,  
14 settlement or compromise in no manner whatsoever limits or circumscribes  
15 CONSULTANT'S indemnification obligations to DISTRICT.

16  
17 CONSULTANT'S indemnification obligations shall be satisfied when CONSULTANT  
18 has provided to DISTRICT the appropriate form of dismissal (or similar document)  
19 relieving DISTRICT from any liability for the claim, proceeding or action involved.

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

23  
24 In the event there is conflict between this section and California Civil Code Section  
25 2782, this section shall be interpreted to comply with California Civil Code 2782. Such  
26 interpretation shall not relieve the CONSULTANT from indemnifying DISTRICT  
27 (including its directors, officers, Board of Supervisors, elected and appointed officials,  
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1 employees, agents and representatives) or the County of Riverside to the fullest extent  
2 allowed by law.

3 15. WORK PRODUCT

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

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

18 A. Agreement

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- 20 1) Terminate this Agreement without cause upon providing CONSULTANT  
21 thirty (30) days written notice stating the extent and effective date of  
22 termination; or
  - 23 2) Upon five (5) days written notice, terminate this Agreement for  
24 CONSULTANT default, if CONSULTANT refuses or fails to comply  
25 with the provisions of this Agreement or fails to make progress so as to  
26 endanger performance and does not cure such failure within a reasonable  
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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 section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

1           B.     Approved Task Order

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

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

17          17.    Basic Services of CONSULTANT

18          The scope of services associated with the performance of any specific Task Order under  
19          this Agreement shall be expressly defined and agreed upon prior to the approval of the  
20          Task Order by the Project Manager. Any changes to the approved scope of services must  
21          be authorized by the Project Manager, and shall be made in writing.

22          A.     Right to Preliminary Review

23          All work prepared by CONSULTANT shall be subject to the approval of the  
24          Project Manager. CONSULTANT shall allow Project Manager to inspect and  
25          26          27          28

1 review CONSULTANT'S work in progress at any reasonable time. All reports,  
2 working papers, and similar work products prepared for submission in the course  
3 of providing services under this Agreement shall be submitted to the Project  
4 Manager in draft form. In the event that Project Manager, in his or her sole  
5 discretion, determines the formally submitted work product to be inadequate,  
6 CONSULTANT may be required to revise and resubmit the work at no  
7 additional cost to DISTRICT. Should CONSULTANT fail to make requested  
8 corrections in a timely manner, such corrections may be made by DISTRICT,  
9 and the cost thereof charged to CONSULTANT. The responsibility for accuracy  
10 and completeness of such items remains solely that of CONSULTANT. Neither  
11 DISTRICT'S review nor approval shall give rise to any liability or responsibility  
12 on the part of DISTRICT, or waive any of DISTRICT'S rights, or relieve  
13 CONSULTANT of its professional responsibilities or obligations under this  
14 Agreement.  
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17 B. Progress Reports

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

25 18. INDEPENDENT CONTRACTOR

26 CONSULTANT and the agents and employees of CONSULTANT, shall act at all times  
27 in an independent capacity during the term of this Agreement and in the performance of  
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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.

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19. SUBCONTRACTING

CONSULTANT may, at CONSULTANT'S own expense, retain or employ sub-consultants to accomplish certain portions of the work covered by this Agreement. However, except as specifically provided in the Compensation/Fee Rate Schedule attached to the approved Task Order or as expressly identified in this Agreement, no portion of the services pertinent to this Agreement shall be subcontracted without prior written approval and authorization by DISTRICT.

Should one or more of the sub-consultants, as identified in the Compensation/Fee Rate Schedule attached to the approved Task Order or as expressly identified in this Agreement, 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

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

At any time during the performance of an approved Task Order, DISTRICT may request that CONSULTANT perform extra services. Any work which is determined by DISTRICT to be necessary for the proper completion of the approved Task Order, but which neither CONSULTANT nor DISTRICT reasonably anticipated would be

1 necessary at the time the scope of services for the assigned Task Order was approved,  
2 must be authorized by the Project Manager by a new or revised Task Order.

3 At any time during the performance of the Task Order, the Project Manager, upon  
4 providing five (5) days written notice to the CONSULTANT, may delete services and  
5 the associated fees from the Task Order. In the event DISTRICT requests deletion of  
6 services from the Task Order, DISTRICT shall make payment for all services  
7 satisfactorily performed in accordance with the negotiated Task Order up to the effective  
8 date of deletion; the amount of the payment shall be prorated to the total services  
9 necessary for completion of the Task Order. No work product for the deleted services  
10 shall be provided to DISTRICT.  
11

12 21. DISPUTES

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



1 invalid, void or unenforceable, the remaining provisions shall be declared severable and  
2 shall be given full force and effect to the extent possible.

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

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10 25. WAIVER

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

17  
18 26. NON-DISCRIMINATION

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

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2 It is mutually agreed and understood that the obligation(s) of DISTRICT are limited by  
3 and contingent upon the availability of DISTRICT funds for the reimbursement of  
4 CONSULTANT'S fees. In the event that such funds are not forthcoming for any reason,  
5 DISTRICT shall immediately notify CONSULTANT in writing. This Agreement shall  
6 be deemed terminated and have no further force and effect immediately upon receipt of  
7 DISTRICT'S notification by CONSULTANT. In the event of such termination,  
8 CONSULTANT shall be entitled to reimbursement of its costs in accordance with  
9 Section 5 (COMPENSATION).  
10

11 //

12 //

1 IN WITNESS WHEREOF, the parties hereto have executed this Agreement on  
2 AUG 16 2011

3 (to be filled in by Clerk of the Board)

4 RECOMMENDED FOR APPROVAL:

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

5  
6 By: Steve Thomas  
7 ~~For~~ WARREN D. WILLIAMS  
8 General Manager-Chief Engineer

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

9  
10 APPROVED AS TO FORM:

ATTEST:

11 PAMELA J. WALLS  
12 County Counsel

KECIA HARPER-IHEM  
Clerk of the Board

13  
14 By: Neal Kipnis  
15 NEAL KIPNIS  
16 Deputy County Counsel

By: Karen Bergeron  
Deputy

(SEAL)

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26 Consulting Services Agreement  
27 07/19/11  
28 TT:bjj

1 AMEC E&I, INC.

2

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4 By:  \_\_\_\_\_  
5 MATTHEW RICH  
6 Project Manager

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25 Consulting Services Agreement

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## ATTACHMENT "A"

## SCOPE OF SERVICES

**Based on CONSULTANT qualifications, CONSULTANT may be asked to perform one or more of the following types of NPDES support services as specifically directed in Task Orders issued to CONSULTANT:**

- A. Municipal Separate Storm Sewer System (MS4) Program Support. Tasks may include general NPDES program regulatory support, permit negotiation support, compliance program development and implementation, program assessment and reporting, training and outreach, program funding facilitation and other related activities.
- B. TMDL / Basin Planning support. Tasks may include assisting with basin planning efforts, TMDL development, TMDL compliance program development/implementation, BMP or watersheds modeling and assessment efforts and other related activities.
- C. Monitoring Program Support. Tasks may include monitoring program design, program reporting and assessment, monitoring special studies, field data collection and other related activities.
- D. Laboratory Analysis. Tasks may include assessment of aqueous, sedimentary or other using chemical analyses, bacteriological analyses, toxicological analyses, biological analyses, genetic analyses, and other related activities.
- E. Other tasks as assigned. From time to time the District may require other tasks not explicitly identified above to be performed to facilitate its role as Principal Permittee for the NPDES MS4 permit programs, to facilitate compliance with the District's own NPDES requirements or to respond to water quality related regulatory orders and/or violations issued by the United States Environmental Protection Agency, Regional Water Quality Control Boards or other regulatory agencies.

## 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

**AMEC E&I, INC.**

By: \_\_\_\_\_  
MATTHEW R. RICH  
Project Manager

CONSULTING SERVICES AGREEMENT

1  
2 RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION  
3 DISTRICT, hereinafter called "DISTRICT", and URS CORPORATION, a Nevada corporation,  
4 doing business as URS CORPORATION AMERICAS, hereinafter called "CONSULTANT",  
5 hereby agree as follows:

6 1. PROJECT

7  
8 CONSULTANT shall provide on-call National Pollutant Discharge Elimination System  
9 (NPDES) support services in accordance with applicable federal, state, and local laws  
10 and regulations as requested by DISTRICT.

11 2. SCOPE OF SERVICES

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

21 3. PERSONNEL22 A. Project Manager

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



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 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

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

17 RIVERSIDE COUNTY FLOOD CONTROL  
 18 AND WATER CONSERVATION DISTRICT  
 19 1995 Market Street  
 Riverside, CA 92501  
 Attn: Watershed Protection Division

URS CORPORATION  
 2020 E. First Street, Suite 400  
 Santa Ana, CA 92705  
 Attn: Robert Collacott

20 13. REQUIRED INSURANCE

21 CONSULTANT shall not commence operations until DISTRICT has been furnished  
 22 with original certificate(s) of insurance and original certified copies of endorsements or  
 23 policies of insurance including all endorsements and any and all other attachments as  
 24 required in this Section.  
 25

26 Without limiting or diminishing CONSULTANT'S obligation to indemnify or hold  
 27 DISTRICT harmless, CONSULTANT shall procure and maintain or cause to be  
 28

1 maintained, at its sole cost and expense, the following insurance coverages during the  
2 term of this Agreement:

3 A. Workers' Compensation

4 If CONSULTANT has employees as defined by the State of California,  
5 CONSULTANT shall maintain Workers' Compensation Insurance (Coverage A)  
6 as prescribed by the laws of the State of California. Policy shall include  
7 Employer's Liability (Coverage B) including Occupational Disease with limits  
8 not less than \$1,000,000 per person per accident. Policy shall be endorsed to  
9 waive subrogation in favor of DISTRICT and, if applicable, to provide a  
10 Borrowed Servant/Alternate Employer endorsement.  
11

12 B. Commercial General Liability

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

2 If vehicles or mobile equipment are used in the performance of the obligations  
3 under this Agreement, CONSULTANT shall maintain liability insurance for all  
4 owned, non-owned or hired vehicles in an amount not less than \$1,000,000 per  
5 occurrence combined single limit. If such insurance contains a general aggregate  
6 limit, it shall apply separately to this Agreement or be no less than two (2) times  
7 the occurrence limit. If CONSULTANT does not own vehicles, CONSULTANT  
8 shall maintain coverage for non-owned or hired vehicles in an amount not less  
9 than \$1,000,000 per occurrence combined single limit. Such non-owned or hired  
10 coverage may be included on the Commercial General Liability policy. Policy  
11 shall name Riverside County Flood Control and Water Conservation District, the  
12 County of Riverside, special districts, their respective directors, officers, Board  
13 of Supervisors, elected officials, employees, agents or representatives as  
14 additional insureds.  
15

16  
17 D. Professional Liability

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

4 E. General Insurance Provisions – All Lines

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

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

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

- 20 d. It is understood and agreed by the parties hereto and CONSULTANT'S  
21 insurance company(s), that the certificate(s) of insurance and policies  
22 shall so covenant and shall be construed as primary insurance, and  
23 DISTRICT'S insurance and/or deductibles and/or self-insured retentions  
24 or self-insured programs shall not be construed as contributory.
- 26 e. If, during the term of this Agreement or any extension thereof, there is a  
27 material change in the scope of services; or there is a material change in  
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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.

- f. CONSULTANT shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.
- g. The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to DISTRICT.
- h. 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 its officers, employees, subcontractors and agents) actual or alleged negligent, reckless or willful misconduct acts or omissions related to this Agreement, performance under this Agreement, or failure to comply with the requirements of this Agreement, including



1 but not limited to: (a) property damage; (b) bodily injury or death; or (c) any other  
2 element of any kind or nature whatsoever.

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

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

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

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

23 In the event there is conflict between this section and California Civil Code Section  
24 2782, this section shall be interpreted to comply with California Civil Code 2782. Such  
25 interpretation shall not relieve the CONSULTANT from indemnifying DISTRICT  
26 (including its directors, officers, Board of Supervisors, elected and appointed officials,  
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1 employees, agents and representatives) or the County of Riverside to the fullest extent  
2 allowed by law.

3 15. WORK PRODUCT

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

16  
17 16. TERMINATION

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

19 A. Agreement

- 20 1) Terminate this Agreement without cause upon providing CONSULTANT  
21 thirty (30) days written notice stating the extent and effective date of  
22 termination; or  
23  
24 2) Upon five (5) days written notice, terminate this Agreement for  
25 CONSULTANT default, if CONSULTANT refuses or fails to comply  
26 with the provisions of this Agreement or fails to make progress so as to  
27 endanger performance and does not cure such failure within a reasonable  
28

1 period of time. In the event of such termination, DISTRICT may proceed  
2 with the work in a manner deemed proper to DISTRICT.

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

9  
10 In the event DISTRICT terminates this Agreement, DISTRICT shall make  
11 payment for all services performed in accordance with this Agreement to the date  
12 of termination, a total amount which bears the same ratio to the total maximum  
13 fee otherwise payable under this Agreement as the services actually bear to the  
14 total services necessary for performance of this Agreement. Notwithstanding any  
15 of the other provision of this Agreement, CONSULTANT rights under this  
16 Agreement shall terminate (except for fees accrued prior to the date of  
17 termination) upon dishonesty, or a willful or material breach of this Agreement  
18 by CONSULTANT; or in the event of CONSULTANT'S unwillingness or  
19 inability for any reason whatsoever to perform the duties hereunder; or if the  
20 Agreement is terminated pursuant to Section 26 (NON-DISCRIMINATION). In  
21 such event, CONSULTANT shall not be entitled to any further compensation  
22 under this Agreement. The rights and remedies of DISTRICT provided in this  
23 section shall not be exclusive and are in addition to any other rights and remedies  
24 provided by law or under this Agreement.  
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1 B. Approved Task Order

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

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

19 17. Basic Services of CONSULTANT

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

25 A. Right to Preliminary Review

26 All work prepared by CONSULTANT shall be subject to the approval of the  
27 Project Manager. CONSULTANT shall allow Project Manager to inspect and  
28

1 review CONSULTANT'S work in progress at any reasonable time. All reports,  
2 working papers, and similar work products prepared for submission in the course  
3 of providing services under this Agreement shall be submitted to the Project  
4 Manager in draft form. In the event that Project Manager, in his or her sole  
5 discretion, determines the formally submitted work product to be inadequate,  
6 CONSULTANT may be required to revise and resubmit the work at no  
7 additional cost to DISTRICT. Should CONSULTANT fail to make requested  
8 corrections in a timely manner, such corrections may be made by DISTRICT,  
9 and the cost thereof charged to CONSULTANT. The responsibility for accuracy  
10 and completeness of such items remains solely that of CONSULTANT. Neither  
11 DISTRICT'S review nor approval shall give rise to any liability or responsibility  
12 on the part of DISTRICT, or waive any of DISTRICT'S rights, or relieve  
13 CONSULTANT of its professional responsibilities or obligations under this  
14 Agreement.  
15

16  
17 B. Progress Reports

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

25 18. INDEPENDENT CONTRACTOR

26 CONSULTANT and the agents and employees of CONSULTANT, shall act at all times  
27 in an independent capacity during the term of this Agreement and in the performance of  
28

1 the services to be rendered hereunder and shall not act as or shall not be and shall not in  
2 any manner be considered to be employees or agents of DISTRICT.

3 19. SUBCONTRACTING

4 CONSULTANT may, at CONSULTANT'S own expense, retain or employ sub-  
5 consultants to accomplish certain portions of the work covered by this Agreement.  
6 However, except as specifically provided in the Compensation/Fee Rate Schedule  
7 attached to the approved Task Order or as expressly identified in this Agreement, no  
8 portion of the services pertinent to this Agreement shall be subcontracted without prior  
9 written approval and authorization by DISTRICT.

10 Should one or more of the sub-consultants, as identified in the Compensation/Fee Rate  
11 Schedule attached to the approved Task Order or as expressly identified in this  
12 Agreement, become unavailable, CONSULTANT may substitute other sub-consultants  
13 of equal or greater competence upon written approval by DISTRICT. In the event that  
14 DISTRICT and CONSULTANT cannot agree as to the substitution of the sub-  
15 consultant, DISTRICT may terminate the Task Order, pursuant to the applicable  
16 provisions of this Agreement.

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.  
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1 20. CHANGES TO TASK ORDER SCOPE OF SERVICES

2 CONSULTANT shall not perform any additional work or services outside the scope of  
3 an approved Task Order without the prior written approval of the Project Manager. If at  
4 any time during the performance of an approved Task Order, CONSULTANT believes  
5 that it is necessary to include certain work or services which are not clearly covered  
6 under the scope of an approved Task Order, CONSULTANT shall immediately notify  
7 the Project Manager in writing of CONSULTANT'S assertion that the work is out of  
8 scope. Said notification by CONSULTANT to the Project Manager shall not in any way  
9 be construed as proving that the work or services in question are outside the scope of the  
10 Task Order. The Project Manager must approve or reject CONSULTANT'S assertion in  
11 writing. In the event the Project Manager determines that CONSULTANT is correct, the  
12 additional work or services shall be authorized by a new or revised Task Order that  
13 covers the new scope, cost and schedule. In the event that such notification is not given  
14 or if the Project Manager is not afforded an opportunity to negotiate the appropriate fee  
15 for such additional services prior to CONSULTANT'S commencement of such  
16 additional services, then CONSULTANT shall be deemed to have agreed to perform the  
17 work or services without any additional compensation and to have accepted sole  
18 responsibility for the performance of said work or services. Extra work done or services  
19 performed without a new or revised Task Order from the Project Manager shall be  
20 considered unauthorized and shall not be paid for by DISTRICT.  
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24 At any time during the performance of an approved Task Order, DISTRICT may request  
25 that CONSULTANT perform extra services. Any work which is determined by  
26 DISTRICT to be necessary for the proper completion of the approved Task Order, but  
27 which neither CONSULTANT nor DISTRICT reasonably anticipated would be  
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1 necessary at the time the scope of services for the assigned Task Order was approved,  
2 must be authorized by the Project Manager by a new or revised Task Order.

3 At any time during the performance of the Task Order, the Project Manager, upon  
4 providing five (5) days written notice to the CONSULTANT, may delete services and  
5 the associated fees from the Task Order. In the event DISTRICT requests deletion of  
6 services from the Task Order, DISTRICT shall make payment for all services  
7 satisfactorily performed in accordance with the negotiated Task Order up to the effective  
8 date of deletion; the amount of the payment shall be prorated to the total services  
9 necessary for completion of the Task Order. No work product for the deleted services  
10 shall be provided to DISTRICT.  
11

12 21. DISPUTES

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

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invalid, void or unenforceable, the remaining provisions shall be declared severable and shall be given full force and effect to the extent possible.

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

25. WAIVER

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

26. NON-DISCRIMINATION

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

1 27. NON-APPROPRIATION OF FUNDS

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

2 AUG 16 2011

3 (to be filled in by Clerk of the Board)

4  
5 RECOMMENDED FOR APPROVAL:

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

6 By: Steve Thomas  
7 ~~PER~~ WARREN D. WILLIAMS  
8 General Manager-Chief Engineer

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

9  
10 APPROVED AS TO FORM:

ATTEST:

11 PAMELA J. WALLS  
12 County Counsel  
13  
14 By: Neal Kipnis  
15 NEAL KIPNIS  
Deputy County Counsel

KECIA HARPER-IHEM  
Clerk of the Board  
16  
17 By: Kecia Harper-Ihem  
18 Deputy

(SEAL)

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26 Consulting Services Agreement  
27 07/19/11  
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**URS CORPORATION**

By: *William Manker*  
WILLIAM MANKER  
Vice President

Consulting Services Agreement  
07/19/11  
TT:blj

## ATTACHMENT "A"

## SCOPE OF SERVICES

**Based on CONSULTANT qualifications, CONSULTANT may be asked to perform one or more of the following types of NPDES support services as specifically directed in Task Orders issued to CONSULTANT:**

- A. Municipal Separate Storm Sewer System (MS4) Program Support. Tasks may include general NPDES program regulatory support, permit negotiation support, compliance program development and implementation, program assessment and reporting, training and outreach, program funding facilitation and other related activities.
- B. TMDL / Basin Planning support. Tasks may include assisting with basin planning efforts, TMDL development, TMDL compliance program development/implementation, BMP or watersheds modeling and assessment efforts and other related activities.
- C. Monitoring Program Support. Tasks may include monitoring program design, program reporting and assessment, monitoring special studies, field data collection and other related activities.
- D. Laboratory Analysis. Tasks may include assessment of aqueous, sedimentary or other using chemical analyses, bacteriological analyses, toxicological analyses, biological analyses, genetic analyses, and other related activities.
- E. Other tasks as assigned. From time to time the District may require other tasks not explicitly identified above to be performed to facilitate its role as Principal Permittee for the NPDES MS4 permit programs, to facilitate compliance with the District's own NPDES requirements or to respond to water quality related regulatory orders and/or violations issued by the United States Environmental Protection Agency, Regional Water Quality Control Boards or other regulatory agencies.

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

**URS CORPORATION**

By: \_\_\_\_\_  
WILLIAM MANKER  
Vice President