

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

511B



**FROM:** General Manager-Chief Engineer

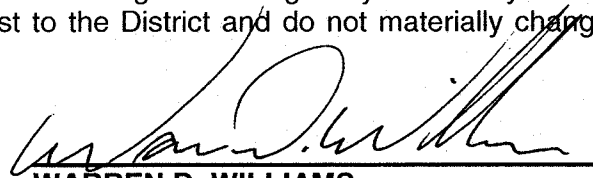
**SUBMITTAL DATE:**  
November 20, 2012

**SUBJECT:** Pre-qualified 2012 Civil Engineering and Ancillary Services Consultant On-Call List

**RECOMMENDED MOTION:**

1. Approve the 2012 Civil Engineering and Ancillary Services Consultant On-Call List (Attachment "A") for use on an as needed basis for Fiscal Years 2012-2013, 2013-2014, 2014-2015 and 2015-16; and
2. Approve the Consulting Services Agreements for the 2012 Civil Engineering and Ancillary Services Consultant On-Call List providers; and
3. Authorize the Chairman to execute the Agreement documents on behalf of the District; and
4. Authorize the District's General Manager-Chief Engineer to sign any necessary Amendments to the Agreements that do not increase the cost to the District and do not materially change the Scope of Services.

Continued on Page 2.

  
**WARREN D. WILLIAMS**  
 General Manager-Chief Engineer

<b>FINANCIAL DATA</b>	Current F.Y. District Cost:	\$1,500,000	In Current Year Budget:	Yes
	Current F.Y. County Cost:	N/A	Budget Adjustment:	N/A
	Annual Net District Cost:	\$1,500,000	For Fiscal Year:	12/13; 13/14; 14/15; 15/16

<b>SOURCE OF FUNDS:</b> 25110-25170 947400-947520 525440 Zone 1 through Zone 7 Funds, Professional Services	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:**

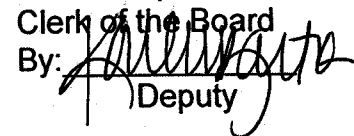
APPROVE  
 BY:   
 Michael R. Shetler

**County Executive Office Signature**

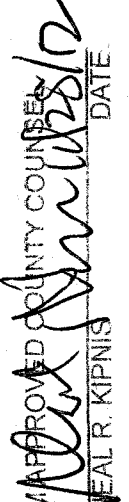
**MINUTES OF THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT**

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

Ayes: Buster, Stone, Benoit and Ashley  
 Nays: None  
 Absent: Tavaglione  
 Date: November 20, 2012  
 xc: Flood

Kecia Harper-Ihem  
 Clerk of the Board  
 By:   
 Deputy

FISCAL PROCEDURES APPROVED  
 JEANINE J. REY, FINANCE DIRECTOR  
 BY:  10/25/2012  
 JEANINE J. REY  
 DATE:   
 NEAL R. KIPNIS  
 DATE:

FORM APPROVED COUNTY CLERK  
 BY:   
 DATE:

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

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

**SUBJECT:** Pre-qualified 2012 Civil Engineering and Ancillary Services Consultant On-Call List

**SUBMITTAL DATE:** November 20, 2012

**Page 2**

**BACKGROUND:**

The purpose of the pre-qualified 2012 Civil Engineering and Ancillary Services Consultant On-Call List (2012 On-Call List) is to provide expedited access to specialized technical expertise and services necessary to support the District's work in two categories:

- Preparation of design and construction plans, specifications and estimates for Capital Improvement Projects
- Project Management, Staff Extension, Training and Engineering Studies

To allow the District to implement its Capital Improvement and Floodplain Management Programs more effectively, District staff is recommending that the contract limits set forth in Board Policy H-7 (\$100,000 per project with a further \$100,000 cap in a single year) be increased. The 2012 On-Call List would authorize individual contract limits of \$250,000 per fiscal year or per project, with a further cap of \$750,000 for the entire term of the contract. This is identical to the limit approved by the Board of Supervisors on the District's 2011 Engineering Services Support and Ancillary Professional Services On-Call List.

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 firms on the list based on a number of factors such as work load, continuity, special expertise and strength specific to the project.

Pursuant to County Board Policy H-7, on August 2, 2012, the District mailed a Request for Qualifications to various engineering firms with the intent to establish a pre-qualified list of engineering service providers. A Notice of Availability was also published in The Press Enterprise and The Desert Sun on August 2, 2012. The Request for Qualifications was also made available to the public on the District's website from August 2, 2012 through August 30, 2012.

Sixteen (16) firms submitted Statement of Qualifications packages. A selection committee comprised of District staff was established to review each firm's qualifications relative to:

- Category of service offered
- Firm's relevant experience, technical competence and past performance
- Key personnel's technical competence and qualifications
- Support resources
- Location and local experience

As a result, the committee selected the top-tier firms in each category to be included on the 2012 On-Call List (Attachment "A"). Please note that even though HDR qualified for both categories, it will still be limited to a total of \$750,000 over the term of the Agreement. The 2012 On-Call List is valid until June 30, 2015. Prior to its expiration, the District will issue another Request for Qualifications.

Under the multi-year Consulting Services Agreements (Agreements) recommended for approval via this action, the District will have the ability, but no obligation, to utilize the services of the selected firms on an as-needed basis for Fiscal Years 2012-2013, 2013-2014, 2014-2015 and 2015-2016. Even though HDR qualified for both categories, it still will be limited to a "not-to-exceed" amount of \$250,000 in any Fiscal Year with a further cap of \$750,000 for the entire term of the Agreement like the other firms.

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

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County Counsel has approved the Agreements as to legal form.

**FINANCIAL:**

Sufficient funding is available in the District's Zone 1 through Zone 7 budget(s) for Fiscal Year 2012-2013 and will be included in the proposed budget(s) for Fiscal Years 2013-2014, 2014-2015 and 2015-2016, as appropriate.

AMR:bjj

## **Attachment "A"**

**2-Category Pre-qualified 2012 Civil Engineering and Ancillary Services Consultant On-Call List**  
(Services up to \$250,000 per project or per fiscal year with a cap of \$750,000 for the entire term of the agreement)

### **Category 1**

(Preparation of design and construction plans, specifications and estimates for Capital Improvement Projects)

AECOM Technical Services, Inc.

HDR Engineering, Inc.

### **Category 2**

(Project Management, Staff Extension, Training, Engineering Studies)

HDR Engineering, Inc.

JE Fuller/Hydrology & Geomorphology, Inc.

Nolte Associates, Inc.

Stetson Engineers Inc.

Tetra Tech, Inc.

CONSULTING SERVICES AGREEMENT  
FY 2012-13 to FY 2014-15

The RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, hereinafter called "DISTRICT", and AECOM TECHNICAL SERVICES, INC., hereinafter called "CONSULTANT", hereby agree as follows:

1. PROJECT

CONSULTANT shall provide on-call civil engineering and ancillary 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 design and construction related services in support of DISTRICT's capital improvement projects as further described in the "Scope of Services", attached hereto as Attachment "A" and made a part hereof, in support of DISTRICT'S capital improvement 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).

By entering into this Agreement, CONSULTANT assumes responsible charge of the work pursuant to Section 6703 of the Professional Engineers Act; Chapter 7 of Division 3 of the Business and Professions Code, and shall be wholly responsible for the completeness and accuracy of all data, technical studies, reports, plans, specifications

NOV 20 2012 11.6

1 and estimates prepared pursuant to this Agreement, and shall check all such material  
2 accordingly.

3 3. PERSONNEL

4 A. Project Manager

5 For each Task Order, DISTRICT shall designate a representative who shall act as  
6 DISTRICTS Project Manager ("Project Manager"). DISTRICT shall provide  
7 written notice to CONSULTANT of any change in Project Manager assignment  
8 for a given Task Order.

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10 B. CONSULTANT'S Representative

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

16  
17 C. Substitution of Key Personnel

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

2 The term of this Agreement shall become effective on the date the Agreement is  
3 executed by DISTRICT'S Board of Supervisors, and shall remain in effect through the  
4 required date for completion of an assigned Task Order, provided that such Task Order  
5 was approved prior to June 30, 2015 and completed by June 30, 2016.

6 5. COMPENSATION

7 CONSULTANT shall receive compensation for all services satisfactorily performed and  
8 expenses incurred under this Agreement in accordance with the terms of the approved  
9 Task Order(s) and "Fee Schedule" as set forth on Attachment "C". The total amount to  
10 be paid to CONSULTANT for the performance of all Task Orders approved pursuant to  
11 this Agreement shall not exceed two hundred fifty thousand dollars (\$250,000) in any  
12 fiscal year and shall not exceed the sum of seven hundred fifty thousand dollars  
13 (\$750,000) over the entire term of this Agreement.

14 6. PAYMENTS

15 Progress payments shall be made in accordance with the Compensation/Fee Rate  
16 Schedule attached to the approved Task Order. Progress payments shall be processed no  
17 more than once per month. Upon satisfactory performance of CONSULTANT'S  
18 services pursuant to an approved Task Order, DISTRICT shall pay CONSULTANT  
19 within forty-five (45) days after DISTRICT'S receipt of CONSULTANT'S appropriate  
20 invoices. DISTRICT shall not pay interest or finance charges on any outstanding  
21 balance(s). CONSULTANT shall keep employee and expense records according to  
22 customary accounting methods and such records shall, upon request, be available for  
23 inspection by DISTRICT to verify the invoices of CONSULTANT. All invoices shall  
24 itemize charges to conform to the Compensation/Fee Rate Schedule negotiated for the  
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1 task order. DISTRICT shall notify CONSULTANT of any disputed amounts on invoice  
2 within thirty (30) days of receipt.

3 7. PROJECT PERFORMANCE

4 A. Commencement of Services

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

7 B. Time of Completion

8 Time is of the essence in the performance of this Agreement. CONSULTANT  
9 shall complete services in accordance with the schedule(s) set forth in the  
10 approved Task Order(s).  
11

- 12 8. LICENSES – CONSULTANT, its employees, agents, contractors and subcontractors  
13 shall possess appropriate federal and/or state permits and maintain professional licenses  
14 required by the applicable Federal, State and local regulations at all times while  
15 performing services under this Agreement.  
16

17 9. STANDARD OF CARE

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

In the event CONSULTANT'S data, technical studies, reports, plans, specifications, estimates or any 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 data, technical studies, reports, plans, specifications, estimates or any 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: Chief of Regulatory Division

AECOM TECHNICAL  
SERVICES, INC.  
515 S. Flower Street, 4<sup>th</sup> Floor  
Los Angeles, CA 90071  
Attn: Edward Ng

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 and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section.

Without limiting or diminishing 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 statutory 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, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of CONSULTANT'S performance of its obligations hereunder. Policy shall name the Riverside County Flood Control and Water Conservation District, the County of Riverside, its agencies,

1 districts, special districts, and departments, their respective directors, officers,  
2 Board of Supervisors, employees, elected or appointed officials, employees,  
3 agents or representatives as additional insureds. Policy's limit of liability shall  
4 not be less than \$1,000,000 per occurrence combined single limit. If such  
5 insurance contains a general aggregate limit, it shall apply separately to this  
6 Agreement or be no less than two (2) times the occurrence limit.

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8 C. Vehicle Liability

9 If vehicles or mobile equipment are used in the performance of the obligations  
10 under this Agreement, CONSULTANT shall maintain liability insurance for all  
11 owned, non-owned or hired vehicles so used in an amount not less than  
12 \$1,000,000 per occurrence combined single limit. If such insurance contains a  
13 general aggregate limit, it shall apply separately to this Agreement or be no less  
14 than two (2) times the occurrence limit. Policy shall name the Riverside County  
15 Flood Control and Water Conservation District, the County of Riverside, its  
16 agencies, districts, special districts, and departments, their respective directors,  
17 officers, Board of Supervisors, elected or appointed officials, employees, agents  
18 or representatives as additional insureds.  
19

20 D. Professional Liability

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

7 E. General Insurance Provisions – All Lines

- 8
- 9 a. Any insurance carrier providing insurance coverage hereunder shall be  
10 admitted to the State of California and have an A.M. BEST rating of not  
11 less than an A: VIII (A: 8) unless such requirements are waived, in  
12 writing, by the County Risk Manager. If the County's Risk Manager  
13 waives a requirement for a particular insurer such waiver is only valid for  
14 the specific insurer and only for one policy term.
- 15
- 16 b. CONSULTANT must declare its insurance self-insured retention for each  
17 coverage required herein. If any such self-insured retention exceeds  
18 \$500,000 per occurrence each such retention shall have the prior written  
19 consent of the County Risk Manager before the commencement of  
20 operations under this Agreement. Upon notification of self-insured  
21 retention deemed unacceptable to DISTRICT, and at the election of the  
22 County's Risk Manager, CONSULTANT'S carriers shall either: 1) reduce  
23 or eliminate such self-insured retention with respect to this Agreement  
24 with DISTRICT, or 2) procure a bond which guarantees payment of  
25 losses and related investigations, claims administration, and defense costs  
26 and expenses.  
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c. CONSULTANT shall cause their insurance carrier(s) to furnish DISTRICT with: 1) a properly executed original certificate(s) of insurance and original certified copies of endorsements effecting coverage as required herein; and 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 of the insurance carrier(s) that thirty (30) days written notice shall be given to DISTRICT prior to any material modification, cancellation, expiration, or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in 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 set forth herein 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 that CONSULTANT'S insurance shall be construed as primary insurance, and 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, DISTRICT reserves the right to adjust the types of insurance required under this Agreement and the monetary limits of liability for the insurance coverage currently required herein, if, in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by 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  
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 Section  
26 2782. Such interpretation shall not relieve CONSULTANT from indemnifying  
27 DISTRICT (including its directors, officers, Board of Supervisors, elected and appointed  
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officials, 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, calculations, technical studies, plans, specifications, computer files, field notes, estimates, drawings, logs, reports and any other documents as set forth in the approved Task Order(s). All data, calculations, technical studies, plans, specifications, computer files, field notes, drawings, logs, reports and any other documents produced by CONSULTANT in the performance of the services as set forth in the approved Task Order(s) 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



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

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

13                  In the event DISTRICT terminates this Agreement, DISTRICT shall make  
14                  payment for all services performed in accordance with this Agreement to the date  
15                  of termination, a total amount which bears the same ratio to the total maximum  
16                  fee otherwise payable under this Agreement as the services actually bear to the  
17                  total services necessary for performance of this Agreement. Notwithstanding any  
18                  of the other provision of this Agreement, CONSULTANT rights under this  
19                  Agreement shall terminate (except for fees accrued prior to the date of  
20                  termination) upon dishonesty, or a willful or material breach of this Agreement  
21                  by CONSULTANT; or in the event of CONSULTANT'S unwillingness or  
22                  inability for any reason whatsoever to perform the duties hereunder; or if the  
23                  Agreement is terminated pursuant to Section 27 (NON-DISCRIMINATION). In  
24                  such event, CONSULTANT shall not be entitled to any further compensation  
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1 under this Agreement. The rights and remedies of DISTRICT provided in this  
2 section shall not be exclusive and are in addition to any other rights and remedies  
3 provided by law or under this Agreement.

4 B. Approved Task Order

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

22 17. BASIC SERVICES OF CONSULTANT

23 The scope of services associated with the performance of any specific Task Order under  
24 this Agreement shall be expressly defined and agreed upon prior to the approval of the  
25 Task Order by DISTRICT'S General Manager-Chief Engineer. Any changes to the  
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1 approved scope of services must be authorized by DISTRICT'S General Manager-Chief  
2 Engineer, and shall be made in writing.

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

20 All workers shall be paid not less than the general prevailing rate of wages and benefits  
21 for work of a similar character in the locality in which the work is performed, as  
22 provided in Labor Code Sections 1770 et seq. Pursuant to the Labor Code, DISTRICT  
23 has obtained for the Board of Supervisors of DISTRICT from the Director of the  
24 Department of Industrial Relations, State of California, his determinations of general  
25 prevailing rates of per diem wages applicable to the work, and for holiday and overtime  
26 work, including employer payments for health and welfare, pension, vacation,  
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1 apprentices and similar purposes for each craft, classification or type of workman  
2 needed, as set forth on the schedule which is on file at DISTRICT office, and which will  
3 be made available to any interested person upon request.

4 19. INDEPENDENT CONTRACTOR

5 CONSULTANT and the agents and employees of CONSULTANT, shall act at all times  
6 in an independent capacity during the term of this Agreement and in the performance of  
7 the services to be rendered hereunder and shall not act as or shall not be and shall not in  
8 any manner be considered to be employees or agents of DISTRICT.  
9

10 20. SUBCONTRACTING

11 CONSULTANT may, at CONSULTANT'S own expense, retain or employ sub-  
12 consultants to accomplish certain portions of the work covered by this Agreement.  
13 However, except as specifically provided in the Compensation/Fee Rate Schedule  
14 attached to the approved Task Order or as expressly identified in this Agreement, no  
15 portion of the services pertinent to this Agreement shall be subcontracted without prior  
16 written approval and authorization by DISTRICT.  
17

18 Should one or more of the sub-consultants, as identified in the Compensation/Fee Rate  
19 Schedule attached to the approved Task Order or as expressly identified in this  
20 Agreement, become unavailable, CONSULTANT may substitute other sub-consultants  
21 of equal or greater competence upon written approval by DISTRICT. In the event that  
22 DISTRICT and CONSULTANT cannot agree as to the substitution of the sub-  
23 consultant, DISTRICT may terminate the Task Order, pursuant to the applicable  
24 provisions of this Agreement.  
25

26 In the event CONSULTANT subcontracts any portion of CONSULTANT'S duties under  
27 this Agreement, CONSULTANT shall require its Sub-consultants to comply with the  
28

1 terms of this Agreement in the same manner as required of CONSULTANT. The fact  
2 that CONSULTANT employs Sub-consultants not in his regular employ shall not relieve  
3 CONSULTANT of any responsibility regarding the adequacy of the Sub-consultant's  
4 work performed or services provided pursuant to this Agreement.

5 21. CHANGES TO TASK ORDER SCOPE OF SERVICES

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

3 At any time during the performance of an approved Task Order, DISTRICT may request  
4 that CONSULTANT perform extra services. Any work which is determined by  
5 DISTRICT to be necessary for the proper completion of the approved Task Order, but  
6 which neither CONSULTANT nor DISTRICT reasonably anticipated would be  
7 necessary at the time the scope of services for the assigned Task Order was approved,  
8 must be authorized by DISTRICT'S General Manager-Chief Engineer by a new or  
9 revised Task Order.  
10

11 At any time during the performance of the Task Order, the Project Manager, upon  
12 providing five (5) days written notice to CONSULTANT, may delete services and the  
13 associated fees from the Task Order. In the event DISTRICT requests deletion of  
14 services from the Task Order, DISTRICT shall make payment for all services  
15 satisfactorily performed in accordance with the negotiated Task Order up to the effective  
16 date of deletion; the amount of the payment shall be prorated to the total services  
17 necessary for completion of the Task Order. No work product for the deleted services  
18 shall be provided to DISTRICT.  
19

20 22. DISPUTES

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

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

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

20 23. ASSIGNMENT

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

24 24. CONFLICT OF INTEREST

25 CONSULTANT covenants that it presently has no interest, including but not limited to,  
 26 other projects or independent contracts, and shall not acquire any such interest, direct or  
 27 indirect, which would conflict in any manner or degree with the performance of services  
 28

1 required to be performed under this Agreement. CONSULTANT further covenants that  
2 in the performance of this Agreement, no person having any such interest shall be  
3 employed or retained by it under this Agreement.

4 25. JURISDICTION/LAW/SEVERABILITY

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

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

16  
17 26. WAIVER

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

24  
25 27. NON-DISCRIMINATION

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

5 28. NON-APPROPRIATION OF FUNDS

6 It is mutually agreed and understood that the obligation(s) of DISTRICT are limited by  
7 and contingent upon the availability of DISTRICT funds for the reimbursement of  
8 CONSULTANT'S fees. In the event that such funds are not forthcoming for any reason,  
9 DISTRICT shall immediately notify CONSULTANT in writing. This Agreement shall  
10 be deemed terminated and have no further force and effect immediately upon receipt of  
11 DISTRICT'S notification by CONSULTANT. In the event of such termination,  
12 CONSULTANT shall be entitled to reimbursement of its costs in accordance with  
13 Sections 5 and 6 (COMPENSATION and PAYMENTS).  
14

15 //

16 //  
17

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

NOV 20 2012

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

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

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

APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS  
County Counsel

KECIA HARPER-IHEM  
Clerk of the Board

By: Neal R. Kipnis  
NEAL R. KIPNIS  
Deputy County Counsel

By: Kellie Guter  
Deputy

(SEAL)

Consulting Services Agreement  
AECOM Technical Services, Inc. (FY 2012-13 to FY 2014-15)  
10/25/12

AECOM TECHNICAL SERVICES, INC.

*Matt G. Ulukeya*

Signature of Responsible Officer

**MATT G. ULUKAYA**

Printed Name

**VICE PRESIDENT**

Title

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Consulting Services Agreement  
AECOM Technical Services, Inc. (FY 2012-13 to FY 2014-15)  
10/25/12

ATTACHMENT "A"

SCOPE OF SERVICES

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

1. CIVIL ENGINEERING (GENERAL)

As part of the DISTRICT'S Capital Improvement Program, CONSULTANT shall prepare construction drawings, specifications, cost estimates and all other supporting documents and reports.

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

**AECOM TECHNICAL SERVICES, INC.**

By: \_\_\_\_\_  
PAT SOMERVILLE  
Vice President

# ATTACHMENT C



## Billing Rate Sheet

Classification	2012 Billing Rates	2013 Billing Rates	2014 Billing Rates
Project Director	\$ 250.00	\$ 256.25	\$ 263.94
Project Manager	\$ 225.92	\$ 231.57	\$ 238.52
Technical Manager	\$ 230.55	\$ 236.31	\$ 243.40
Technical Leader II	\$ 187.42	\$ 192.10	\$ 197.87
Technical Leader I	\$ 158.79	\$ 162.76	\$ 167.64
Project Engineer	\$ 145.79	\$ 149.43	\$ 153.92
Engineer IV	\$ 141.82	\$ 145.37	\$ 149.73
Engineer III	\$ 122.44	\$ 125.50	\$ 129.27
Engineer II	\$ 102.01	\$ 104.56	\$ 107.70
Engineer I	\$ 83.49	\$ 85.58	\$ 88.14
Senior Planner	\$ 140.15	\$ 143.65	\$ 147.96
Associate Planner	\$ 99.50	\$ 101.99	\$ 105.05
Assistant Planner	\$ 76.96	\$ 78.88	\$ 81.25
CADD Manager	\$ 146.27	\$ 149.93	\$ 154.42
CADD Drafter IV	\$ 111.95	\$ 114.75	\$ 118.19
CADD Drafter III	\$ 93.56	\$ 95.90	\$ 98.78
CADD Drafter II	\$ 60.57	\$ 62.08	\$ 63.95
CADD Drafter I	\$ 50.60	\$ 51.87	\$ 53.42
Project Controls II	\$ 106.96	\$ 109.63	\$ 112.92
Project Controls I	\$ 74.15	\$ 76.00	\$ 78.28
Administrative Manager	\$ 141.89	\$ 145.44	\$ 149.80
Administrative Assistant II	\$ 80.80	\$ 82.82	\$ 85.30
Administrative Assistant I	\$ 59.95	\$ 61.45	\$ 63.29

Year 1 Escalation: 2.5%

Year 2 Escalation: 3.0%

CONSULTING SERVICES AGREEMENT

FY 2012-13 to FY 2014-15

1  
2 The RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION  
3 DISTRICT, hereinafter called "DISTRICT", and HDR ENGINEERING, INC., hereinafter  
4 called "CONSULTANT", hereby agree as follows:  
5

6 1. PROJECT

7 CONSULTANT shall provide on-call civil engineering and ancillary services in  
8 accordance with applicable federal, state, and local laws and regulations as requested by  
9 DISTRICT.

10 2. SCOPE OF SERVICES

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

21 By entering into this Agreement, CONSULTANT assumes responsible charge of the  
22 work pursuant to Section 6703 of the Professional Engineers Act; Chapter 7 of Division  
23 3 of the Business and Professions Code, and shall be wholly responsible for the  
24 completeness and accuracy of all data, technical studies, reports, plans, specifications  
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1 and estimates prepared pursuant to this Agreement, and shall check all such material  
2 accordingly.

3 3. PERSONNEL

4 A. Project Manager

5 For each Task Order, DISTRICT shall designate a representative who shall act as  
6 DISTRICT'S Project Manager ("Project Manager"). DISTRICT shall provide  
7 written notice to CONSULTANT of any change in Project Manager assignment  
8 for a given Task Order.

9  
10 B. CONSULTANT'S Representative

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

16  
17 C. Substitution of Key Personnel

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

2 The term of this Agreement shall become effective on the date the Agreement is  
3 executed by DISTRICT'S Board of Supervisors, and shall remain in effect through the  
4 required date for completion of an assigned Task Order, provided that such Task Order  
5 was approved prior to June 30, 2015 and completed by June 30, 2016.

6 5. COMPENSATION

7 CONSULTANT shall receive compensation for all services satisfactorily performed and  
8 expenses incurred under this Agreement in accordance with the terms of the approved  
9 Task Order(s) and "Fee Schedule" as set forth on Attachment "C. The total amount to be  
10 paid to CONSULTANT for the performance of all Task Orders approved pursuant to  
11 this Agreement shall not exceed two hundred fifty thousand dollars (\$250,000) in any  
12 fiscal year and shall not exceed the sum of seven hundred fifty thousand dollars  
13 (\$750,000) over the entire term of this Agreement.

14 6. PAYMENTS

15 Progress payments shall be made in accordance with the Compensation/Fee Rate  
16 Schedule attached to the approved Task Order. Progress payments shall be processed no  
17 more than once per month. Upon satisfactory performance of CONSULTANT'S  
18 services pursuant to an approved Task Order, DISTRICT shall pay CONSULTANT  
19 within forty-five (45) days after DISTRICT'S receipt of CONSULTANT'S appropriate  
20 invoices. DISTRICT shall not pay interest or finance charges on any outstanding  
21 balance(s). CONSULTANT shall keep employee and expense records according to  
22 customary accounting methods and such records shall, upon request, be available for  
23 inspection by DISTRICT to verify the invoices of CONSULTANT. All invoices shall  
24 itemize charges to conform to the Compensation/Fee Rate Schedule negotiated for the  
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1 task order. DISTRICT shall notify CONSULTANT of any disputed amounts on invoice  
2 within thirty (30) days of receipt.

3 7. PROJECT PERFORMANCE

4 A. Commencement of Services

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

7  
8 B. Time of Completion

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

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

16  
17 9. STANDARD OF CARE

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

2 In the event CONSULTANT'S data, technical studies, reports, plans, specifications,  
3 estimates or any work products contain any errors or omissions that cause DISTRICT to  
4 incur additional expense beyond what would have otherwise resulted if there were no  
5 errors or omissions in CONSULTANT'S data, technical studies, reports, plans,  
6 specifications, estimates or any work products, such additional expense shall be borne  
7 solely by CONSULTANT.  
8

9 11. PERMITS AND RIGHTS OF ENTRY

10 DISTRICT shall obtain all rights of entry as may be required to allow CONSULTANT  
11 to perform the proposed consulting services within and upon privately-owned property.  
12 All permits and rights of entry as may be required from any and all affected public  
13 entities shall be obtained by CONSULTANT. Sufficient evidence of having obtained  
14 such permits and/or rights of entry shall be furnished to DISTRICT by CONSULTANT,  
15 prior to initiation of work. CONSULTANT will prosecute the work in such a manner as  
16 to minimize public inconvenience and possible hazard, and will restore the streets and  
17 other work areas to their original condition and former usefulness as soon as practicable.  
18 CONSULTANT shall be responsible for the protection of public and private property  
19 adjacent to the work and shall exercise due caution to avoid damage to such property.  
20

21 12. NOTICES

22 Any and all notices sent or required to be sent to the parties of this Agreement will be  
23 mailed by first class mail, postage prepaid, to the following addresses:  
24

25 RIVERSIDE COUNTY FLOOD CONTROL	HDR ENGINEERING, INC.
26 AND WATER CONSERVATION DISTRICT	2280 Market Street, Suite 100
1995 Market Street	Riverside, CA 92501-2110
Riverside, CA 92501	Attn: Mark Seits
27 Attn: Chief of Regulatory Division	

28

1 13. REQUIRED INSURANCE

2 CONSULTANT shall not commence operations until DISTRICT has been furnished  
3 with original certificate(s) of insurance and original certified copies of endorsements and  
4 if requested, certified original policies of insurance including all endorsements and any  
5 and all other attachments as required in this Section.

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

11 A. Workers' Compensation

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

20 B. Commercial General Liability

21 Commercial General Liability insurance coverage, including but not limited to,  
22 premises liability, unmodified contractual liability, products and completed  
23 operations liability, personal and advertising injury, and cross liability coverage,  
24 covering claims which may arise from or out of CONSULTANT'S performance  
25 of its obligations hereunder. Policy shall name the Riverside County Flood  
26 Control and Water Conservation District, the County of Riverside, its agencies,  
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1 districts, special districts, and departments, their respective directors, officers,  
2 Board of Supervisors, employees, elected or appointed officials, employees,  
3 agents or representatives as additional insureds. Policy's limit of liability shall  
4 not be less than \$1,000,000 per occurrence combined single limit. If such  
5 insurance contains a general aggregate limit, it shall apply separately to this  
6 Agreement or be no less than two (2) times the occurrence limit.  
7

8 C. Vehicle Liability

9 If vehicles or mobile equipment are used in the performance of the obligations  
10 under this Agreement, CONSULTANT shall maintain liability insurance for all  
11 owned, non-owned or hired vehicles so used in an amount not less than  
12 \$1,000,000 per occurrence combined single limit. If such insurance contains a  
13 general aggregate limit, it shall apply separately to this Agreement or be no less  
14 than two (2) times the occurrence limit. Policy shall name the Riverside County  
15 Flood Control and Water Conservation District, the County of Riverside, its  
16 agencies, districts, special districts, and departments, their respective directors,  
17 officers, Board of Supervisors, elected or appointed officials, employees, agents  
18 or representatives as additional insureds.  
19

20 D. Professional Liability

21 CONSULTANT shall maintain Professional Liability Insurance providing  
22 coverage for CONSULTANT'S performance of work included within this  
23 Agreement, with a limit of liability of not less than \$1,000,000 per occurrence  
24 and \$2,000,000 annual aggregate. If CONSULTANT'S Professional Liability  
25 Insurance is written on a claims made basis rather than an occurrence basis, such  
26 insurance shall continue through the term of this Agreement and CONSULTANT  
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1 shall purchase at his sole expense either: 1) an Extended Reporting Endorsement  
2 (also known as Tail Coverage); or 2) Prior Dates Coverage from a new insurer  
3 with a date retroactive to the date of, or prior to, the inception of this Agreement;  
4 or 3) demonstrate through Certificates of Insurance that CONSULTANT has  
5 maintained continuous coverage with the same or original insurer. Coverage  
6 provided under items: 1), 2) or 3) will continue as long as the law allows.  
7

8 **E. General Insurance Provisions – All Lines**

- 9 a. Any insurance carrier providing insurance coverage hereunder shall be  
10 admitted to the State of California and have an A.M. BEST rating of not  
11 less than an A: VIII (A: 8) unless such requirements are waived, in  
12 writing, by the County Risk Manager. If the County's Risk Manager  
13 waives a requirement for a particular insurer such waiver is only valid for  
14 the specific insurer and only for one policy term.
- 15 b. CONSULTANT must declare its insurance self-insured retention for each  
16 coverage required herein. If any such self-insured retention exceeds  
17 \$500,000 per occurrence each such retention shall have the prior written  
18 consent of the County Risk Manager before the commencement of  
19 operations under this Agreement. Upon notification of self-insured  
20 retention deemed unacceptable to DISTRICT, and at the election of the  
21 County's Risk Manager, CONSULTANT'S carriers shall either: 1) reduce  
22 or eliminate such self-insured retention with respect to this Agreement  
23 with DISTRICT, or 2) procure a bond which guarantees payment of  
24 losses and related investigations, claims administration, and defense costs  
25 and expenses.  
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c. CONSULTANT shall cause their insurance carrier(s) to furnish DISTRICT with: 1) a properly executed original certificate(s) of insurance and original certified copies of endorsements effecting coverage as required herein; and 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 of the insurance carrier(s) that thirty (30) days written notice shall be given to DISTRICT prior to any material modification, cancellation, expiration, or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in 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 set forth herein 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 that CONSULTANT'S insurance shall be construed as primary insurance, and DISTRICT'S insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.

- 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, DISTRICT 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 currently required herein, if, in the  
9 County Risk Manager's reasonable judgment, the amount or type of  
10 insurance carried by 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.  
18  
19

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 Section  
26 2782. Such interpretation shall not relieve CONSULTANT from indemnifying  
27 DISTRICT (including its directors, officers, Board of Supervisors, elected and appointed  
28

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

3 15. WORK PRODUCT

4 CONSULTANT shall provide DISTRICT with all data, calculations, technical studies,  
5 plans, specifications, computer files, field notes, estimates, drawings, logs, reports and  
6 any other documents as set forth in the approved Task Order(s). All data, calculations,  
7 technical studies, plans, specifications, computer files, field notes, drawings, logs,  
8 reports and any other documents produced by CONSULTANT in the performance of the  
9 services as set forth in the approved Task Order(s) shall be and remain the sole property  
10 of DISTRICT. CONSULTANT shall not publish or transfer any material produced or  
11 resulting from activities supported by this Agreement without the written consent of the  
12 General Manager-Chief Engineer of DISTRICT. If any such material is subject to  
13 copyright or trademark, the parties agree that the right to any and all copyright and/or  
14 trademark in and to the material is expressly reserved to DISTRICT. If any such  
15 material is copyrighted, the parties hereto understand and agree that DISTRICT reserves  
16 a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, and use such  
17 material, in whole or in part, and to authorize others to do so, provided written credit is  
18 given the author.  
19  
20

21 16. TERMINATION

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

23 A. Agreement

- 24  
25 1) Terminate this Agreement without cause upon providing CONSULTANT  
26 thirty (30) days written notice stating the extent and effective date of  
27 termination; or  
28

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

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

14          In the event DISTRICT terminates this Agreement, DISTRICT shall make  
15          payment for all services performed in accordance with this Agreement to the date  
16          of termination, a total amount which bears the same ratio to the total maximum  
17          fee otherwise payable under this Agreement as the services actually bear to the  
18          total services necessary for performance of this Agreement. Notwithstanding any  
19          of the other provision of this Agreement, CONSULTANT rights under this  
20          Agreement shall terminate (except for fees accrued prior to the date of  
21          termination) upon dishonesty, or a willful or material breach of this Agreement  
22          by CONSULTANT; or in the event of CONSULTANT'S unwillingness or  
23          inability for any reason whatsoever to perform the duties hereunder; or if the  
24          Agreement is terminated pursuant to Section 27 (NON-DISCRIMINATION). In  
25          such event, CONSULTANT shall not be entitled to any further compensation  
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1 under this Agreement. The rights and remedies of DISTRICT provided in this  
2 section shall not be exclusive and are in addition to any other rights and remedies  
3 provided by law or under this Agreement.

4 B. Approved Task Order

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

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

22 17. BASIC SERVICES OF CONSULTANT

23 The scope of services associated with the performance of any specific Task Order under  
24 this Agreement shall be expressly defined and agreed upon prior to the approval of the  
25 Task Order by DISTRICT'S General Manager-Chief Engineer. Any changes to the  
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1 approved scope of services must be authorized by DISTRICT'S General Manager-Chief  
2 Engineer, and shall be made in writing.

3 All work prepared by CONSULTANT shall be subject to the approval of the Project  
4 Manager. CONSULTANT shall allow Project Manager to inspect and review  
5 CONSULTANT'S work in progress at any reasonable time. All reports, working papers,  
6 and similar work products prepared for submission in the course of providing services  
7 under this Agreement shall be submitted to the Project Manager in draft form. In the  
8 event that Project Manager, in his or her sole discretion, determines the formally  
9 submitted work product to be inadequate, CONSULTANT may be required to revise and  
10 resubmit the work at no additional cost to DISTRICT. Should CONSULTANT fail to  
11 make requested corrections in a timely manner, such corrections may be made by  
12 DISTRICT, and the cost thereof charged to CONSULTANT. The responsibility for  
13 accuracy and completeness of such items remains solely that of CONSULTANT.  
14 Neither DISTRICT'S review nor approval shall give rise to any liability or responsibility  
15 on the part of DISTRICT, or waive any of DISTRICT'S rights, or relieve  
16 CONSULTANT of its professional responsibilities or obligations under this Agreement.  
17  
18

19 18. PREVAILING WAGE

20 All workers shall be paid not less than the general prevailing rate of wages and benefits  
21 for work of a similar character in the locality in which the work is performed, as  
22 provided in Labor Code Sections 1770 et seq. Pursuant to the Labor Code, DISTRICT  
23 has obtained for the Board of Supervisors of DISTRICT from the Director of the  
24 Department of Industrial Relations, State of California, his determinations of general  
25 prevailing rates of per diem wages applicable to the work, and for holiday and overtime  
26 work, including employer payments for health and welfare, pension, vacation,  
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1 apprentices and similar purposes for each craft, classification or type of workman  
2 needed, as set forth on the schedule which is on file at DISTRICT office, and which will  
3 be made available to any interested person upon request.

4 19. INDEPENDENT CONTRACTOR

5 CONSULTANT and the agents and employees of CONSULTANT, shall act at all times  
6 in an independent capacity during the term of this Agreement and in the performance of  
7 the services to be rendered hereunder and shall not act as or shall not be and shall not in  
8 any manner be considered to be employees or agents of DISTRICT.  
9

10 20. SUBCONTRACTING

11 CONSULTANT may, at CONSULTANT'S own expense, retain or employ sub-  
12 consultants to accomplish certain portions of the work covered by this Agreement.  
13 However, except as specifically provided in the Compensation/Fee Rate Schedule  
14 attached to the approved Task Order or as expressly identified in this Agreement, no  
15 portion of the services pertinent to this Agreement shall be subcontracted without prior  
16 written approval and authorization by DISTRICT.  
17

18 Should one or more of the sub-consultants, as identified in the Compensation/Fee Rate  
19 Schedule attached to the approved Task Order or as expressly identified in this  
20 Agreement, become unavailable, CONSULTANT may substitute other sub-consultants  
21 of equal or greater competence upon written approval by DISTRICT. In the event that  
22 DISTRICT and CONSULTANT cannot agree as to the substitution of the sub-  
23 consultant, DISTRICT may terminate the Task Order, pursuant to the applicable  
24 provisions of this Agreement.  
25

26 In the event CONSULTANT subcontracts any portion of CONSULTANT'S duties under  
27 this Agreement, CONSULTANT shall require its Sub-consultants to comply with the  
28

1 terms of this Agreement in the same manner as required of CONSULTANT. The fact  
2 that CONSULTANT employs Sub-consultants not in his regular employ shall not relieve  
3 CONSULTANT of any responsibility regarding the adequacy of the Sub-consultant's  
4 work performed or services provided pursuant to this Agreement.

5 21. CHANGES TO TASK ORDER SCOPE OF SERVICES

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

3 At any time during the performance of an approved Task Order, DISTRICT may request  
4 that CONSULTANT perform extra services. Any work which is determined by  
5 DISTRICT to be necessary for the proper completion of the approved Task Order, but  
6 which neither CONSULTANT nor DISTRICT reasonably anticipated would be  
7 necessary at the time the scope of services for the assigned Task Order was approved,  
8 must be authorized by DISTRICT'S General Manager-Chief Engineer by a new or  
9 revised Task Order.  
10

11 At any time during the performance of the Task Order, the Project Manager, upon  
12 providing five (5) days written notice to CONSULTANT, may delete services and the  
13 associated fees from the Task Order. In the event DISTRICT requests deletion of  
14 services from the Task Order, DISTRICT shall make payment for all services  
15 satisfactorily performed in accordance with the negotiated Task Order up to the effective  
16 date of deletion; the amount of the payment shall be prorated to the total services  
17 necessary for completion of the Task Order. No work product for the deleted services  
18 shall be provided to DISTRICT.  
19

20 22. DISPUTES

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

12  
 13 B. Any controversy or claim arising out of or relating to this Agreement which  
 14 cannot be resolved by mutual agreement may be settled by arbitration, provided  
 15 that the parties hereto mutually agree to submit to arbitration.  
 16

17 C. Neither the pendency of a dispute nor its consideration by arbitration shall excuse  
 18 CONSULTANT from full and timely performance in accordance with the terms  
 19 of this Agreement.  
 20

21 23. ASSIGNMENT

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

24 24. CONFLICT OF INTEREST

25 CONSULTANT covenants that it presently has no interest, including but not limited to,  
 26 other projects or independent contracts, and shall not acquire any such interest, direct or  
 27 indirect, which would conflict in any manner or degree with the performance of services  
 28

1 required to be performed under this Agreement. CONSULTANT further covenants that  
2 in the performance of this Agreement, no person having any such interest shall be  
3 employed or retained by it under this Agreement.

4 25. JURISDICTION/LAW/SEVERABILITY

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

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

15 26. WAIVER

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

22 27. NON-DISCRIMINATION

23 In the performance of the terms of this Agreement, CONSULTANT shall not engage in  
24 nor permit others he may employ to engage in discrimination in the employment of  
25  
26  
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1 persons because of the race, color, national origin or ancestry, religion, physical  
2 handicap, disability as defined by the Americans with Disabilities Act (ADA), medical  
3 condition, marital status or sex of such persons, in accordance with the provision of  
4 California Labor Code Section 1735.

5 28. NON-APPROPRIATION OF FUNDS

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

NOV 20 2012

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

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

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

APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS  
County Counsel

KECIA HARPER-IHEM  
Clerk of the Board

By: Neal R. Kipnis  
NEAL R. KIPNIS  
Deputy County Counsel

By: Kecia Harper-Ihem  
Deputy

(SEAL)

Consulting Services Agreement  
HDR Engineering, Inc. (FY 2012-13 to FY 2014-15)  
10/25/12

HDR ENGINEERING, INC.



Signature of Responsible Officer

Richard Cotes

Printed Name

Vice President

Title

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Consulting Services Agreement  
HDR Engineering, Inc. (FY 2012-13 to FY 2014-15)  
10/25/12

## ATTACHMENT "A"

### SCOPE OF SERVICES

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

#### 1. CIVIL ENGINEERING (GENERAL)

As part of the DISTRICT'S Capital Improvement Program, CONSULTANT shall prepare construction drawings, specifications, cost estimates and all other supporting documents and reports.

#### 2. PROJECT MANAGEMENT - STAFF EXTENSION – TRAINING – ENGINEERING STUDIES

- A. Interface with DISTRICT, attend meetings, brief departmental points of contact on project status, and maintain DISTRICT provided project schedule and fiscal tracking reports.
- B. Prepare project Task Orders which should include written description of scope and verification of program, schematic and single line drawings, and digital photo documentation of area of work.
- C. Prepare budget cost estimates, and coordinate preparation of more detailed cost estimates by subconsultants.
- D. Prepare and deliver formal training sessions/lectures to DISTRICT staff in technical areas such as hydrology, hydraulics, structural analysis, computer aided design, geomorphology, etc.
- E. Coordinate the preparation of design and construction documents by consultant design professionals.
- F. Prepare or review hydrology and hydraulic studies and associated documents to revise FEMA flood insurance rate maps.
- G. Prepare studies and documentation to support levee certification report submittals to FEMA.
- H. Prepare dam inundation studies and mapping to support Emergency Action Plans.

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

ATTACHMENT "C"

Fee Schedule

HDR ENGINEERING, INC.

Southern California Operations

STANDARD CHARGES FOR PROFESSIONAL SERVICES

Effective November 1, 2012 -October 31, 2013

**Engineers, Scientists and Environmental Planners**

	<u>11/1/2012 -10/31/13</u>	
Sr. Company Officer	\$	352
Principal in Charge	\$	331
Env & Water Res Sr. PM	\$	273
Env & Water Res PM	\$	247
Water Res Sr. Engineer	\$	226
Sr. Project Mgr/PM	\$	219
Sr. Env Planner/Sr. Biologist	\$	189
Water Res PE	\$	173
Sr. GIS/Sr. Designer	\$	133
CADD	\$	131
GIS Analyst	\$	116
Staff Engineer/Biologist/Planner	\$	110
Water Res Jr. Engineer	\$	105
EIT	\$	101
Project Administrator	\$	105
Document Production Specialist	\$	100
Env Intern/Field Tech/Eng Intern	\$	68

*\* Billing rates subject to 5% annual escalation effective November 1, 2013*

**Reimbursable Expenses**

Technology Charge	\$	3.70 per hour
Vehicle Mileage		per IRS Regulations

**Outside Services (mark-up):**

Subconsultants *	<i>(applied to total price)</i>
Printing *	<i>(applied to cost of Printing)</i>
Outside Reproduction *	<i>(applied to cost of Outside Reproduction)</i>
Equipment Rental *	<i>(applied to cost of Equipment Rental)</i>
Shipping/Postage *	

*\* These are project by project decisions (mark-up between 5-10%)*



CONSULTING SERVICES AGREEMENT  
FY 2012-13 to FY 2014-15

The RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, hereinafter called "DISTRICT", and JE FULLER/HYDROLOGY & GEOMORPHOLOGY, INC., hereinafter called "CONSULTANT", hereby agree as follows:

1. PROJECT

CONSULTANT shall provide on-call civil engineering and ancillary 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 design and construction related services in support of DISTRICT's capital improvement projects as further described in the "Scope of Services", attached hereto as Attachment "A" and made a part hereof, in support of DISTRICT'S capital improvement 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).

By entering into this Agreement, CONSULTANT assumes responsible charge of the work pursuant to Section 6703 of the Professional Engineers Act; Chapter 7 of Division 3 of the Business and Professions Code, and shall be wholly responsible for the completeness and accuracy of all data, technical studies, reports, plans, specifications

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1 and estimates prepared pursuant to this Agreement, and shall check all such material  
2 accordingly.

3 3. PERSONNEL

4 A. Project Manager

5 For each Task Order, DISTRICT shall designate a representative who shall act as  
6 DISTRICT'S Project Manager ("Project Manager"). DISTRICT shall provide  
7 written notice to CONSULTANT of any change in Project Manager assignment  
8 for a given Task Order.

9  
10 B. CONSULTANT'S Representative

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

16  
17 C. Substitution of Key Personnel

18 At the time of Task Order approval, CONSULTANT shall identify its Key  
19 Personnel who will perform each assigned Task Order to the DISTRICT'S  
20 Project Manager. Should one or more of the identified Key Personnel become  
21 unavailable, CONSULTANT may substitute other personnel of equal or greater  
22 competence upon written approval by DISTRICT. In the event that DISTRICT  
23 and CONSULTANT cannot agree as to the substitution of the Key Personnel,  
24 DISTRICT may terminate the Task Order, pursuant to the applicable provisions  
25 of this Agreement.  
26  
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1 4. TERM

2 The term of this Agreement shall become effective on the date the Agreement is  
3 executed by DISTRICT'S Board of Supervisors, and shall remain in effect through the  
4 required date for completion of an assigned Task Order, provided that such Task Order  
5 was approved prior to June 30, 2015 and completed by June 30, 2016.

6 5. COMPENSATION

7 CONSULTANT shall receive compensation for all services satisfactorily performed and  
8 expenses incurred under this Agreement in accordance with the terms of the approved  
9 Task Order(s) and "Fee Schedule" as set forth on Attachment "C". The total amount to  
10 be paid to CONSULTANT for the performance of all Task Orders approved pursuant to  
11 this Agreement shall not exceed two hundred fifty thousand dollars (\$250,000) in any  
12 Fiscal Year and shall not exceed the sum of seven hundred fifty thousand dollars  
13 (\$750,000) over the entire term of this Agreement.

14 6. PAYMENTS

15 Progress payments shall be made in accordance with the Compensation/Fee Rate  
16 Schedule attached to the approved Task Order. Progress payments shall be processed no  
17 more than once per month. Upon satisfactory performance of CONSULTANT'S  
18 services pursuant to an approved Task Order, DISTRICT shall pay CONSULTANT  
19 within forty-five (45) days after DISTRICT'S receipt of CONSULTANT'S appropriate  
20 invoices. DISTRICT shall not pay interest or finance charges on any outstanding  
21 balance(s). CONSULTANT shall keep employee and expense records according to  
22 customary accounting methods and such records shall, upon request, be available for  
23 inspection by DISTRICT to verify the invoices of CONSULTANT. All invoices shall  
24 itemize charges to conform to the Compensation/Fee Rate Schedule negotiated for the  
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1 task order. DISTRICT shall notify CONSULTANT of any disputed amounts on invoice  
2 within thirty (30) days of receipt.

3 7. PROJECT PERFORMANCE

4 A. Commencement of Services

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

7  
8 B. Time of Completion

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

12 8. LICENSES – CONSULTANT, its employees, agents, contractors and subcontractors  
13 shall possess appropriate federal and/or state permits and maintain professional licenses  
14 required by the applicable Federal, State and local regulations at all times while  
15 performing services under this Agreement.  
16

17 9. STANDARD OF CARE

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

2 In the event CONSULTANT'S data, technical studies, reports, plans, specifications,  
3 estimates or any work products contain any errors or omissions that cause DISTRICT to  
4 incur additional expense beyond what would have otherwise resulted if there were no  
5 errors or omissions in CONSULTANT'S data, technical studies, reports, plans,  
6 specifications, estimates or any work products, such additional expense shall be borne  
7 solely by CONSULTANT.  
8

9 11. PERMITS AND RIGHTS OF ENTRY

10 DISTRICT shall obtain all rights of entry as may be required to allow CONSULTANT  
11 to perform the proposed consulting services within and upon privately-owned property.  
12 All permits and rights of entry as may be required from any and all affected public  
13 entities shall be obtained by CONSULTANT. Sufficient evidence of having obtained  
14 such permits and/or rights of entry shall be furnished to DISTRICT by CONSULTANT,  
15 prior to initiation of work. CONSULTANT will prosecute the work in such a manner as  
16 to minimize public inconvenience and possible hazard, and will restore the streets and  
17 other work areas to their original condition and former usefulness as soon as practicable.  
18 CONSULTANT shall be responsible for the protection of public and private property  
19 adjacent to the work and shall exercise due caution to avoid damage to such property.  
20

21 12. NOTICES

22 Any and all notices sent or required to be sent to the parties of this Agreement will be  
23 mailed by first class mail, postage prepaid, to the following addresses:  
24

25 RIVERSIDE COUNTY FLOOD CONTROL  
26 AND WATER CONSERVATION DISTRICT  
27 1995 Market Street  
28 Riverside, CA 92501  
Attn: Chief of Regulatory Division

JE FULLER/HYDROLOGY &  
GEOMORPHOLOGY, INC.  
8400 S. Kyrene Road, Suite 201  
Tempe, AZ 85284  
Attn: Brian Schalk

1 13. REQUIRED INSURANCE

2 CONSULTANT shall not commence operations until DISTRICT has been furnished  
3 with original certificate(s) of insurance and original certified copies of endorsements and  
4 if requested, certified original policies of insurance including all endorsements and any  
5 and all other attachments as required in this Section.

6 Without limiting or diminishing the CONSULTANT'S obligation to indemnify or hold  
7 DISTRICT harmless, CONSULTANT shall procure and maintain or cause to be  
8 maintained, at its sole cost and expense, the following insurance coverages during the  
9 term of this Agreement:  
10

11 A. Workers' Compensation

12 If CONSULTANT has employees as defined by the State of California,  
13 CONSULTANT shall maintain statutory Workers' Compensation Insurance  
14 (Coverage A) as prescribed by the laws of the State of California. Policy shall  
15 include Employer's Liability (Coverage B) including Occupational Disease with  
16 limits not less than \$1,000,000 per person per accident. Policy shall be endorsed  
17 to waive subrogation in favor of DISTRICT and, if applicable, to provide a  
18 Borrowed Servant/Alternate Employer endorsement.  
19

20 B. Commercial General Liability

21 Commercial General Liability insurance coverage, including but not limited to,  
22 premises liability, unmodified contractual liability, products and completed  
23 operations liability, personal and advertising injury, and cross liability coverage,  
24 covering claims which may arise from or out of CONSULTANT'S performance  
25 of its obligations hereunder. Policy shall name the Riverside County Flood  
26 Control and Water Conservation District, the County of Riverside, its agencies,  
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1 districts, special districts, and departments, their respective directors, officers,  
2 Board of Supervisors, employees, elected or appointed officials, employees,  
3 agents or representatives as additional insureds. Policy's limit of liability shall  
4 not be less than \$1,000,000 per occurrence combined single limit. If such  
5 insurance contains a general aggregate limit, it shall apply separately to this  
6 Agreement or be no less than two (2) times the occurrence limit.  
7

8 C. Vehicle Liability

9 If vehicles or mobile equipment are used in the performance of the obligations  
10 under this Agreement, CONSULTANT shall maintain liability insurance for all  
11 owned, non-owned or hired vehicles so used in an amount not less than  
12 \$1,000,000 per occurrence combined single limit. If such insurance contains a  
13 general aggregate limit, it shall apply separately to this Agreement or be no less  
14 than two (2) times the occurrence limit. Policy shall name the Riverside County  
15 Flood Control and Water Conservation District, the County of Riverside, its  
16 agencies, districts, special districts, and departments, their respective directors,  
17 officers, Board of Supervisors, elected or appointed officials, employees, agents  
18 or representatives as additional insureds.  
19

20 D. Professional Liability

21 CONSULTANT shall maintain Professional Liability Insurance providing  
22 coverage for CONSULTANT'S performance of work included within this  
23 Agreement, with a limit of liability of not less than \$1,000,000 per occurrence  
24 and \$2,000,000 annual aggregate. If CONSULTANT'S Professional Liability  
25 Insurance is written on a claims made basis rather than an occurrence basis, such  
26 insurance shall continue through the term of this Agreement and CONSULTANT  
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1 shall purchase at his sole expense either: 1) an Extended Reporting Endorsement  
2 (also known as Tail Coverage); or 2) Prior Dates Coverage from a new insurer  
3 with a date retroactive to the date of, or prior to, the inception of this Agreement;  
4 or 3) demonstrate through Certificates of Insurance that CONSULTANT has  
5 maintained continuous coverage with the same or original insurer. Coverage  
6 provided under items: 1), 2) or 3) will continue as long as the law allows.  
7

8 E. General Insurance Provisions – All Lines

- 9 a. Any insurance carrier providing insurance coverage hereunder shall be  
10 admitted to the State of California and have an A.M. BEST rating of not  
11 less than an A: VIII (A: 8) unless such requirements are waived, in  
12 writing, by the County Risk Manager. If the County's Risk Manager  
13 waives a requirement for a particular insurer such waiver is only valid for  
14 the specific insurer and only for one policy term.  
15
- 16 b. CONSULTANT must declare its insurance self-insured retention for each  
17 coverage required herein. If any such self-insured retention exceeds  
18 \$500,000 per occurrence each such retention shall have the prior written  
19 consent of the County Risk Manager before the commencement of  
20 operations under this Agreement. Upon notification of self-insured  
21 retention deemed unacceptable to DISTRICT, and at the election of the  
22 County's Risk Manager, CONSULTANT'S carriers shall either: 1) reduce  
23 or eliminate such self-insured retention with respect to this Agreement  
24 with DISTRICT, or 2) procure a bond which guarantees payment of  
25 losses and related investigations, claims administration, and defense costs  
26 and expenses.  
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1 c. CONSULTANT shall cause their insurance carrier(s) to furnish  
2 DISTRICT with: 1) a properly executed original certificate(s) of  
3 insurance and original certified copies of endorsements effecting  
4 coverage as required herein; and 2) if requested to do so orally or in  
5 writing by the County Risk Manager, provide original certified copies of  
6 policies including all endorsements and all attachments thereto, showing  
7 such insurance is in full force and effect. Further, said certificate(s) and  
8 policies of insurance shall contain the covenant of the insurance carrier(s)  
9 that thirty (30) days written notice shall be given to DISTRICT prior to  
10 any material modification, cancellation, expiration, or reduction in  
11 coverage of such insurance. In the event of a material modification,  
12 cancellation, expiration, or reduction in coverage, this Agreement shall  
13 terminate forthwith, unless DISTRICT receives, prior to such effective  
14 date, another properly executed original certificate of insurance and  
15 original copies of endorsements or original certified policies, including all  
16 endorsements and attachments thereto, evidencing coverages set forth  
17 herein and the insurance required herein is in full force and effect.  
18 Individual(s) authorized by the insurance carrier to do so on its behalf  
19 shall sign the original endorsements for each policy and the certificate of  
20 insurance.  
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23

24 d. It is understood and agreed by the parties hereto that CONSULTANT'S  
25 insurance shall be construed as primary insurance, and DISTRICT'S  
26 insurance and/or deductibles and/or self-insured retentions or self-insured  
27 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, DISTRICT reserves the right to adjust the types of insurance required under this Agreement and the monetary limits of liability for the insurance coverage currently required herein, if, in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by 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

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 Section  
26 2782. Such interpretation shall not relieve CONSULTANT from indemnifying  
27 DISTRICT (including its directors, officers, Board of Supervisors, elected and appointed  
28

officials, 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, calculations, technical studies, plans, specifications, computer files, field notes, estimates, drawings, logs, reports and any other documents as set forth in the approved Task Order(s). All data, calculations, technical studies, plans, specifications, computer files, field notes, drawings, logs, reports and any other documents produced by CONSULTANT in the performance of the services as set forth in the approved Task Order(s) 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

1           2) Upon five (5) days written notice, terminate this Agreement for  
2           CONSULTANT default, if CONSULTANT refuses or fails to comply  
3           with the provisions of this Agreement or fails to make progress so as to  
4           endanger performance and does not cure such failure within a reasonable  
5           period of time. In the event of such termination, DISTRICT may proceed  
6           with the work in a manner deemed proper to DISTRICT.  
7

8           In the event DISTRICT issues a Notice of Termination, CONSULTANT shall: i)  
9           stop all work under this Agreement on the date specified in the Notice of  
10          Termination; and ii) transfer to DISTRICT and deliver in the manner, and to the  
11          extent, if any, as directed by DISTRICT, any equipment, data or reports which, if  
12          the Agreement had been completed, would have been required to be furnished to  
13          DISTRICT.  
14

15          In the event DISTRICT terminates this Agreement, DISTRICT shall make  
16          payment for all services performed in accordance with this Agreement to the date  
17          of termination, a total amount which bears the same ratio to the total maximum  
18          fee otherwise payable under this Agreement as the services actually bear to the  
19          total services necessary for performance of this Agreement. Notwithstanding any  
20          of the other provision of this Agreement, CONSULTANT rights under this  
21          Agreement shall terminate (except for fees accrued prior to the date of  
22          termination) upon dishonesty, or a willful or material breach of this Agreement  
23          by CONSULTANT; or in the event of CONSULTANT'S unwillingness or  
24          inability for any reason whatsoever to perform the duties hereunder; or if the  
25          Agreement is terminated pursuant to Section 27 (NON-DISCRIMINATION). In  
26          such event, CONSULTANT shall not be entitled to any further compensation  
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1 under this Agreement. The rights and remedies of DISTRICT provided in this  
2 section shall not be exclusive and are in addition to any other rights and remedies  
3 provided by law or under this Agreement.

4 B. Approved Task Order

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

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

22  
23 17. BASIC SERVICES OF CONSULTANT

24 The scope of services associated with the performance of any specific Task Order under  
25 this Agreement shall be expressly defined and agreed upon prior to the approval of the  
26 Task Order by DISTRICT'S General Manager-Chief Engineer. Any changes to the  
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1 approved scope of services must be authorized by DISTRICT'S General Manager-Chief  
2 Engineer, and shall be made in writing.

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

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19 18. PREVAILING WAGE

20 All workers shall be paid not less than the general prevailing rate of wages and benefits  
21 for work of a similar character in the locality in which the work is performed, as  
22 provided in Labor Code Sections 1770 et seq. Pursuant to the Labor Code, DISTRICT  
23 has obtained for the Board of Supervisors of DISTRICT from the Director of the  
24 Department of Industrial Relations, State of California, his determinations of general  
25 prevailing rates of per diem wages applicable to the work, and for holiday and overtime  
26 work, including employer payments for health and welfare, pension, vacation,  
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1 apprentices and similar purposes for each craft, classification or type of workman  
2 needed, as set forth on the schedule which is on file at DISTRICT office, and which will  
3 be made available to any interested person upon request.

4 19. INDEPENDENT CONTRACTOR

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

9  
10 20. SUBCONTRACTING

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

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

25  
26 In the event CONSULTANT subcontracts any portion of CONSULTANT'S duties under  
27 this Agreement, CONSULTANT shall require its Sub-consultants to comply with the  
28



1 terms of this Agreement in the same manner as required of CONSULTANT. The fact  
2 that CONSULTANT employs Sub-consultants not in his regular employ shall not relieve  
3 CONSULTANT of any responsibility regarding the adequacy of the Sub-consultant's  
4 work performed or services provided pursuant to this Agreement.

5 21. CHANGES TO TASK ORDER SCOPE OF SERVICES

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

3 At any time during the performance of an approved Task Order, DISTRICT may request  
4 that CONSULTANT perform extra services. Any work which is determined by  
5 DISTRICT to be necessary for the proper completion of the approved Task Order, but  
6 which neither CONSULTANT nor DISTRICT reasonably anticipated would be  
7 necessary at the time the scope of services for the assigned Task Order was approved,  
8 must be authorized by DISTRICT'S General Manager-Chief Engineer by a new or  
9 revised Task Order.  
10

11 At any time during the performance of the Task Order, the Project Manager, upon  
12 providing five (5) days written notice to CONSULTANT, may delete services and the  
13 associated fees from the Task Order. In the event DISTRICT requests deletion of  
14 services from the Task Order, DISTRICT shall make payment for all services  
15 satisfactorily performed in accordance with the negotiated Task Order up to the effective  
16 date of deletion; the amount of the payment shall be prorated to the total services  
17 necessary for completion of the Task Order. No work product for the deleted services  
18 shall be provided to DISTRICT.  
19

20 22. DISPUTES

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

12  
 13 B. Any controversy or claim arising out of or relating to this Agreement which  
 14 cannot be resolved by mutual agreement may be settled by arbitration, provided  
 15 that the parties hereto mutually agree to submit to arbitration.  
 16

17 C. Neither the pendency of a dispute nor its consideration by arbitration shall excuse  
 18 CONSULTANT from full and timely performance in accordance with the terms  
 19 of this Agreement.  
 20

21 23. ASSIGNMENT

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

24 24. CONFLICT OF INTEREST

25 CONSULTANT covenants that it presently has no interest, including but not limited to,  
 26 other projects or independent contracts, and shall not acquire any such interest, direct or  
 27 indirect, which would conflict in any manner or degree with the performance of services  
 28

1 required to be performed under this Agreement. CONSULTANT further covenants that  
2 in the performance of this Agreement, no person having any such interest shall be  
3 employed or retained by it under this Agreement.

4 25. JURISDICTION/LAW/SEVERABILITY

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

9 Any legal action, in law or equity related to the performance or interpretation of this  
10 Agreement shall be filed only in the Superior Court for the State of California located in  
11 Riverside, California, and the parties waive any provision of law providing for a change  
12 of venue to another location. Prior to the filing of any legal action, the parties shall be  
13 obligated to attend a mediation session with a neutral mediator to try to resolve the  
14 dispute.  
15

16  
17 26. WAIVER

18 Any waiver by DISTRICT of any breach of any one or more of the terms of this  
19 Agreement shall not be construed to be a waiver of any subsequent or other breach of the  
20 same or any other term thereof. Failure on the part of DISTRICT to require exact, full  
21 and complete compliance with any terms of this Agreement shall not be construed as in  
22 any manner changing the terms hereof, or estopping DISTRICT from enforcement  
23 hereof.  
24

25 27. NON-DISCRIMINATION

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

5 28. NON-APPROPRIATION OF FUNDS

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