

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

210B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:
April 23, 2013

SUBJECT: Pre-qualification for On-Call Watershed Protection Programs Professional Services

RECOMMENDED MOTION:

1. Approve the On-Call Watershed Protection Programs Professional Services Providers List (Attachment "A") for use on an as-needed basis for Fiscal Years 2012-2013, 2013-2014, 2014-2015 and 2015-2016; and

Continued on Page 2

AMR:bjj

WARREN D. WILLIAMS
General Manager-Chief Engineer

FINANCIAL DATA	Current F.Y. District Cost:	\$7,500,000	In Current Year Budget:	Yes
	Current F.Y. County Cost:	N/A	Budget Adjustment:	No
	Annual Net District Cost:	\$7,500,000	For Fiscal Year:	12/13; 13/14; 14/15; 15/16

SOURCE OF FUNDS:

25110-25170 947400-947520 525440 Zones 1 through Zone 7 Professional Services; 25180 947540 525440 NPDES Whitewater Assessment Professional Services; 25190 947560 525440 NPDES Santa Ana Assessment Professional Services; and 25200 947580 525440 NPDES Santa Margarita Assessment Professional Services

Positions To Be Deleted Per A-30

Requires 4/5 Vote

C.E.O. RECOMMENDATION:

APPROVE

BY:
Steven C. Horn, MPA

County Executive Office Signature

Policy
 Policy
 Consent
 Consent

MINUTES OF THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT

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

Ayes: Jeffries, Tavaglione, Stone, Benoit and Ashley
 Nays: None
 Absent: None
 Date: April 23, 2013
 xc: Flood

Kecia Harper-Ihem
 Clerk of the Board
 By:
 Deputy

Prev. Agn. Ref.:

District: All

Agenda Number:

11-6

FISCAL PROCEDURES APPROVED
 JEANINE J. REY, FINANCE DIRECTOR
 BY:
 JEANINE J. REY

FORM APPROVED COUNTY COUNSEL
 DATE: 4/23/13
 BY:
 NEAL R. KIRNIS

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

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

SUBJECT: Pre-qualification for On-Call Watershed Protection Programs Professional Services

SUBMITTAL DATE: April 23, 2013

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RECOMMENDED MOTION (Continued):

2. Approve ten (10) Multi-year Consulting Services Agreements between the District and the following On-Call Watershed Protection Programs Professional Services providers: Rosanna M. Lacarra, Lynn Merrill, S. Groner Associates, Inc., Tory R. Walker Engineering, Inc., Watearth, Inc., California Watershed Engineering, Corporation, Babcock Laboratories, Inc., Larry Walker Associates, Inc., RMC Water and Environment, and Stetson Engineers Inc.; 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 Multi-year Consulting Services Agreements that do not increase the cost to the District and do not materially change the Scope of Services.

BACKGROUND:

The purpose of the pre-qualified On-Call Watershed Protection Programs Professional Services Providers List (On-Call List) is to provide expedited access to specialized technical expertise and services necessary to support the District's ongoing watershed protection programs in the following six categories:

- Municipal Separate Storm Sewer System (MS4) Program
- Total Maximum Daily Loads (TMDL)/Basin Planning
- Monitoring Program
- Laboratory Analysis
- Public Education/Outreach Program
- Water Conservation

To allow the District to implement its watershed protection programs more effectively, District staff is recommending that: i) the agreement limits set forth in the existing Board approved Revised Tier 1 National Pollutant Discharge Elimination System (NPDES) Support and Ancillary Professional Services Providers List and Tier 2 NPDES Professional Services Providers List be increased, and (ii) the Revised Tier 1 and Tier 2 Lists be replaced by the subject On-Call List to include a more extensive list of qualifying firms. The subject On-Call List would authorize a two-tier structure with individual agreement limits of \$150,000 and \$350,000 per fiscal year with a further cap of \$450,000 and \$1,050,000, respectively for the entire term of the agreement.

Pursuant to County Board Policy H-7, on September 17, 2012, the District emailed a Request for Qualifications to various consultant firms with the intent to establish a pre-qualified list of environmental/engineering/regulatory professional services providers to supplement the existing Board approved Revised Tier 1 and 2 lists. A Notice of Availability was also published in The Press Enterprise on September 17, 2012. The Request for Qualifications was also made available to the public on the District's website from September 17, 2012 through January 31, 2013.

Eleven (11) firms submitted Statement of Qualifications packages. A selection committee comprised of District, City and/or County representatives was established to review each firm's qualifications relative to the following:

- Firm's relevant experience, technical competence and past performance
- Key personnel's technical competence and qualifications
- Support resources

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BACKGROUND (Continued):

- Location and local experience

The On-Call List (Attachment "A") was developed as a result of this Request for Qualifications. This On-Call List is valid until June 30, 2016. 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 Rosanna M. Lacarra, Lynn Merrill, S. Groner Associates, Inc., Tory R. Walker Engineering, Inc., Watearth, Inc., California Watershed Engineering, Corporation, Babcock Laboratories, Inc., Larry Walker Associates, Inc., RMC Water and Environment, and Stetson Engineers Inc. for the District's ongoing watershed protection programs on an as-needed basis for Fiscal Years 2012-2013, 2013-2014, 2014-2015 and 2015-2016.

These Agreements are for: i) a "not-to-exceed" amount of \$150,000 in any Fiscal Year with a further cap of \$450,000 for the entire term of the Agreement for each firm listed under Tier 1, and ii) a "not-to-exceed" amount of \$350,000 in any fiscal year with a further cap of \$1,050,000 for the entire term of the Agreement for each firm listed under Tier 2. The District will fairly apportion the work among the firms based on a number of factors such as work load, continuity, special expertise and strength specific to the project.

County Counsel has approved the Agreements as to legal form.

FINANCIAL:

Sufficient funding is available in the District's budget for Fiscal Year 2012-2013 and will be included in the proposed budgets for Fiscal Years 2013-2014, 2014-2015, 2015-2016, and 2016-2017, as appropriate.

ATTACHMENT "A"

2 – TIERED PRE-QUALIFIED LIST OF ON-CALL WATERSHED PROTECTION PROGRAMS PROFESSIONAL SERVICES PROVIDERS

TIER 1

(Services with a not-to-exceed limit of \$150,000 for any fiscal year with a further cap of \$450,000 for each individual Agreement)

Rosanna M. Lacarra

Lynn Merrill

S. Groner Associates, Inc.

Tory R. Walker Engineering, Inc.

Watearth, Inc.

TIER 2

(Services with a not-to-exceed limit of \$350,000 for any fiscal year with a further cap of \$1,050,000 for each individual Agreement)

AEI-CASC Engineering, Inc.

AMEC Environment & Infrastructure, Inc.

Babcock Laboratories, Inc.

Brown and Caldwell

California Watershed Engineering, Corporation

CDM Smith, Inc.

HDR Engineering, Inc.

Larry Walker Associates, Inc.

RBF Consulting

RMC Water and Environment

Stetson Engineers Inc.

Tetra Tech, Inc.

URS Corporation Americas

Weston Solutions, Inc.

MULTI-YEAR CONSULTING SERVICES AGREEMENT
FY 2012-13 to FY 2015-16

The Riverside County Flood Control and Water Conservation District, hereinafter called "DISTRICT", and California Watershed Engineering, Corporation, hereinafter called "CONSULTANT", hereby agree as follows:

1. PROJECT

CONSULTANT shall provide on-call professional services, on an as-needed basis as requested by DISTRICT, for DISTRICT'S watershed protection programs in accordance with applicable Federal, State, and local laws and regulations.

2. SCOPE OF SERVICES

As requested by DISTRICT, CONSULTANT shall provide professional services in support of DISTRICT'S Watershed Protection Division programs and ancillary services as further described in the "Scope of Services", attached hereto as Attachment "A" and made a part hereof. During the term of this Agreement, CONSULTANT may be invited to submit budget proposals for one or more 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" attached hereto. CONSULTANT understands and expressly agrees that the execution of this Agreement by CONSULTANT and/or the submission of any budget proposal to furnish services does not guarantee the assignment or approval of any subsequent Task Order(s).

3. PERSONNEL

A. Project Manager

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

1 Order. DISTRICT shall provide written notice to CONSULTANT of any
2 change in Project Manager assignment for a given Task Order.

3 B. CONSULTANT'S Representative

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

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

21 The term of this Agreement shall become effective on the date the Agreement is
22 executed by DISTRICT'S Board of Supervisors, and shall remain in effect through the
23 required date for completion of an assigned Task Order, provided that such Task Order
24 was approved prior to June 30, 2016 and completed by December 31, 2016.
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5. COMPENSATION

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CONSULTANT shall receive compensation for all services satisfactorily performed under this Agreement in accordance with the terms of the approved Task Order(s). The total amount to be paid to CONSULTANT for the performance of all Task Orders approved pursuant to this Agreement shall not exceed three hundred fifty thousand dollars (\$350,000) in any fiscal year and shall not exceed the sum of one million fifty thousand dollars (\$1,050,000) over the entire term of this Agreement.

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6. PAYMENT

Progress payments shall be made in accordance with the Compensation/Fee Rate Schedule attached to the approved Task Order. Progress payments shall be processed no more than once per month. Upon satisfactory performance of CONSULTANT'S services pursuant to an approved Task Order, DISTRICT shall pay CONSULTANT within forty-five (45) days after DISTRICT'S receipt of CONSULTANT'S appropriate invoices. DISTRICT shall not pay interest or finance charges on any outstanding balance(s). CONSULTANT shall submit its invoice, in arrears, no later than sixty (60) calendar days following the month for which services were rendered. Failure to submit a timely invoice will result in non-payment of services. DISTRICT shall not be responsible for payment of any of CONSULTANT'S invoices submitted after the 60-day period. CONSULTANT shall keep employee and expense records according to customary accounting methods and such records shall, upon request, be available for inspection by DISTRICT to verify the invoices of CONSULTANT. All invoices shall itemize charges to conform to the Compensation/Fee Rate Schedule negotiated for the Task Order. DISTRICT shall notify CONSULTANT of any disputed amounts on invoice within thirty (30) days of receipt.

1 7. PROJECT PERFORMANCE

2 A. Commencement of Services

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

5 B. Time of Completion

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

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

14 9. STANDARD OF CARE

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

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25 10. ERRORS AND OMISSIONS

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

3 11. PERMITS AND RIGHTS OF ENTRY

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

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

20 RIVERSIDE COUNTY FLOOD CONTROL
 21 AND WATER CONSERVATION DISTRICT
 22 1995 Market Street
 23 Riverside, CA 92501
 Attn: Watershed Protection Division

CALIFORNIA WATERSHED
 ENGINEERING, CORPORATION
 1561 E. Orangethorpe Avenue
 Suite 240
 Fullerton, CA 92831
 Attn: Jason Pereira

24 13. REQUIRED INSURANCE

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

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

7 A. Workers' Compensation

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

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

4 C. Vehicle Liability

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

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

5 E. General Insurance Provisions – All Lines

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

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

23 C. CONSULTANT shall cause their insurance carrier(s) to furnish
24 DISTRICT with: 1) a properly executed original certificate(s) of
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1 insurance and original certified copies of endorsements effecting
2 coverage as required herein; and 2) if requested to do so orally or in
3 writing by the County Risk Manager, provide original certified copies of
4 policies including all endorsements and all attachments thereto, showing
5 such insurance is in full force and effect. Further, said certificate(s) and
6 policies of insurance shall contain the covenant of the insurance
7 carrier(s) that thirty (30) days written notice shall be given to DISTRICT
8 prior to any material modification, cancellation, expiration, or reduction
9 in coverage of such insurance. In the event of a material modification,
10 cancellation, expiration, or reduction in coverage, this Agreement shall
11 terminate forthwith, unless DISTRICT receives, prior to such effective
12 date, another properly executed original certificate of insurance and
13 original copies of endorsements or original certified policies, including
14 all endorsements and attachments thereto, evidencing coverages set forth
15 herein and the insurance required herein is in full force and effect.
16 Individual(s) authorized by the insurance carrier to do so on its behalf
17 shall sign the original endorsements for each policy and the certificate of
18 insurance.
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21 D. It is understood and agreed by the parties hereto that CONSULTANT'S
22 insurance shall be construed as primary insurance, and DISTRICT'S
23 insurance and/or deductibles and/or self-insured retentions or self-
24 insured programs shall not be construed as contributory.
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26 E. If, during the term of this Agreement or any extension thereof, there is a
27 material change in the scope of services; or there is a material change in
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1 the equipment to be used in the performance of the scope of work which
2 will add additional exposures (such as the use of aircraft, watercraft,
3 cranes, etc.); or the term of this Agreement, including any extensions
4 thereof, exceeds five (5) years, DISTRICT reserves the right to adjust the
5 types of insurance required under this Agreement and the monetary
6 limits of liability for the insurance coverage currently required herein, if,
7 in the County Risk Manager's reasonable judgment, the amount or type
8 of insurance carried by CONSULTANT has become inadequate.

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

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

14 H. CONSULTANT agrees to notify DISTRICT of any claim by a third
15 party or any incident or event that may give rise to a claim arising from
16 the performance of this Agreement.
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18 14. INDEMNIFICATION

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

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

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

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

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

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

3 15. WORK PRODUCT

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

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

21 A. Agreement

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

5 In the event DISTRICT issues a Notice of Termination, CONSULTANT shall:

6 i) stop all work under this Agreement on the date specified in the Notice of
7 Termination; and ii) transfer to DISTRICT and deliver in the manner, and to the
8 extent, if any, as directed by DISTRICT, any equipment, data or reports which,
9 if the Agreement had been completed, would have been required to be furnished
10 to DISTRICT.
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12 In the event DISTRICT terminates this Agreement, DISTRICT shall make
13 payment for all services performed in accordance with this Agreement to the
14 date of termination, a total amount which bears the same ratio to the total
15 maximum fee otherwise payable under this Agreement as the services actually
16 bear to the total services necessary for performance of this Agreement.
17 Notwithstanding any of the other provision of this Agreement, CONSULTANT
18 rights under this Agreement shall terminate (except for fees accrued prior to the
19 date of termination) upon dishonesty, or a willful or material breach of this
20 Agreement by CONSULTANT; or in the event of CONSULTANT'S
21 unwillingness or inability for any reason whatsoever to perform the duties
22 hereunder; or if the Agreement is terminated pursuant to Section 26 (NON-
23 DISCRIMINATION). In such event, CONSULTANT shall not be entitled to
24 any further compensation under this Agreement. The rights and remedies of
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1 DISTRICT provided in this section shall not be exclusive and are in addition to
2 any other rights and remedies provided by law or under this Agreement.

3 B. Approved Task Order

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

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

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

B. Progress Reports

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

18. INDEPENDENT CONTRACTOR

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

19. SUBCONTRACTING

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

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

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

3 20. CHANGES TO TASK ORDER SCOPE OF SERVICES

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

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

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

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

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

19 22. ASSIGNMENT

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

23 23. CONFLICT OF INTEREST

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

3 24. JURISDICTION/LAW/SEVERABILITY

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

8 Any legal action, in law or equity related to the performance or interpretation of this
 9 Agreement shall be filed only in the Superior Court for the State of California located in
 10 Riverside, California, and the parties waive any provision of law providing for a change
 11 of venue to another location. Prior to the filing of any legal action, the parties shall be
 12 obligated to attend a mediation session with a neutral mediator to try to resolve the
 13 dispute.
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15 25. 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
 18 the same or any other term thereof. Failure on the part of DISTRICT to require exact,
 19 full and complete compliance with any terms of this Agreement shall not be construed
 20 as in any manner changing the terms hereof, or estopping DISTRICT from enforcement
 21 hereof.
 22

23 26. NON-DISCRIMINATION

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

27. CONFIDENTIALITY OF DATA

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

CONSULTANT shall refer all requests for information to DISTRICT. These same requirements shall be applicable to any of CONSULTANT'S subcontractors. CONSULTANT shall include the requirements stated in this section of the Agreement with any of its subcontractors.

28. DISCREPANCIES

In the event of any conflict between the provisions of this Agreement and any Task Order, the provisions of this Agreement shall govern.

29. NON-APPROPRIATION OF FUNDS

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

of such termination, CONSULTANT shall be entitled to reimbursement of its costs in
accordance with Sections 5 and 6 (COMPENSATION and PAYMENTS).

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

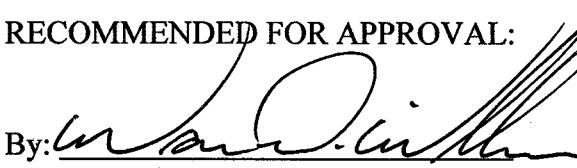
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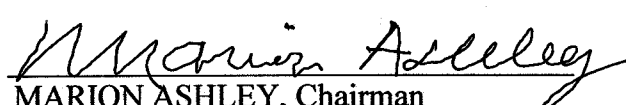
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(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By: 
WARREN D. WILLIAMS
General Manager-Chief Engineer

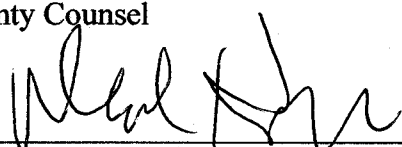
By: 
MARION ASHLEY, Chairman
Riverside County Flood Control and Water
Conservation District Board of Supervisors

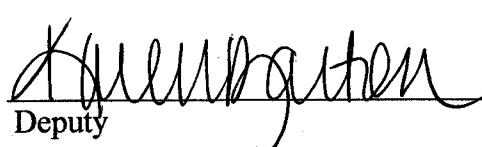
APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

By: 
NEAL R. KIPNIS
Deputy County Counsel


By: 
Deputy

(SEAL)

Multi-Year Consulting Services Agreement
w/California Watershed Engineering, Corporation (FY 2012-13 to FY 2015-16)
03/13/2013

**CALIFORNIA WATERSHED
ENGINEERING, CORPORATION**

By: _____


JASON T. PEREIRA
Principal

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Multi-Year Consulting Services Agreement
w/California Watershed Engineering, Corporation (FY 2012-13 to FY 2015-16)
03/13/2013

ATTACHMENT "A"
SCOPE OF SERVICES

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

1. MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PROGRAM
Tasks may include general NPDES program regulatory support, permit negotiation support, compliance program development and implementation, program assessment and reporting, training and outreach, program funding facilitation and other related activities.
2. TOTAL MAXIMUM DAILY LOADS (TMDL)/BASIN PLANNING
Tasks may include assisting with basin planning efforts, TMDL development, TMDL compliance program development/implementation, BMP or watersheds modeling and assessment efforts and other related activities.
3. MONITORING PROGRAM
Task may include monitoring program design, program reporting and assessment, monitoring special studies, field data collection and other related activities.
4. LABORATORY ANALYSIS
Tasks may include assessment of aqueous, sedimentary or other using chemical analyses, bacteriological analyses, toxicological analyses, biological analyses, genetic analyses, and other related activities.
5. PUBLIC EDUCATION/OUTREACH PROGRAM
Tasks may include developing and conducting presentations, outreach programs, producing print and electronic media, website development, establishing business partnerships and other related activities.
6. WATER CONSERVATION
Tasks may include groundwater recharge master planning, integration of water conservation functions into flood control facilities, establishing water resource needs, seeking multipurpose project opportunities, identification of partnerships, conducting hydrogeologic investigations and other related activities.
7. OTHER TASKS AS ASSIGNED
From time to time the District may require other tasks not explicitly identified above to be performed in order to accomplish the Watershed Protection Division objectives.

Multi-Year Consulting Services Agreement
w/California Watershed Engineering, Corporation (FY 2012-13 to FY 2015-16)
03/12/2013

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 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

CALIFORNIA WATERSHED ENGINEERING, CORPORATION

By: _____
JASON T. PEREIRA
Principal

MULTI-YEAR CONSULTING SERVICES AGREEMENT
FY 2012-13 to FY 2015-16

1
2 The Riverside County Flood Control and Water Conservation District, hereinafter
3 called "DISTRICT", and Watearth, Inc., hereinafter called "CONSULTANT", hereby agree as
4 follows:

5
6 1. PROJECT

7 CONSULTANT shall provide on-call professional services, on an as-needed basis as
8 requested by DISTRICT, for DISTRICT'S watershed protection programs in accordance
9 with applicable Federal, State, and local laws and regulations.

10 2. SCOPE OF SERVICES

11 As requested by DISTRICT, CONSULTANT shall provide professional services in
12 support of DISTRICT'S Watershed Protection Division programs and ancillary services
13 as further described in the "Scope of Services", attached hereto as Attachment "A" and
14 made a part hereof. During the term of this Agreement, CONSULTANT may be
15 invited to submit budget proposals for one or more of the various services listed in
16 Attachment "A" as requested by DISTRICT and be assigned subsequent Task Orders,
17 the form of which is Attachment "B" attached hereto. CONSULTANT understands and
18 expressly agrees that the execution of this Agreement by CONSULTANT and/or the
19 submission of any budget proposal to furnish services does not guarantee the
20 assignment or approval of any subsequent Task Order(s).

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23 3. PERSONNEL

24 A. Project Manager

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

3 B. CONSULTANT'S Representative

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

10 C. Substitution of Key Personnel

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

21 The term of this Agreement shall become effective on the date the Agreement is
22 executed by DISTRICT'S Board of Supervisors, and shall remain in effect through the
23 required date for completion of an assigned Task Order, provided that such Task Order
24 was approved prior to June 30, 2016 and completed by December 31, 2016.
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5. COMPENSATION

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CONSULTANT shall receive compensation for all services satisfactorily performed under this Agreement in accordance with the terms of the approved Task Order(s). The total amount to be paid to CONSULTANT for the performance of all Task Orders approved pursuant to this Agreement shall not exceed one hundred fifty thousand dollars (\$150,000) in any fiscal year and shall not exceed the sum of four hundred fifty thousand dollars (\$450,000) over the entire term of this Agreement.

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6. PAYMENT

Progress payments shall be made in accordance with the Compensation/Fee Rate Schedule attached to the approved Task Order. Progress payments shall be processed no more than once per month. Upon satisfactory performance of CONSULTANT'S services pursuant to an approved Task Order, DISTRICT shall pay CONSULTANT within forty-five (45) days after DISTRICT'S receipt of CONSULTANT'S appropriate invoices. DISTRICT shall not pay interest or finance charges on any outstanding balance(s). CONSULTANT shall submit its invoice, in arrears, no later than sixty (60) calendar days following the month for which services were rendered. Failure to submit a timely invoice will result in non-payment of services. DISTRICT shall not be responsible for payment of any of CONSULTANT'S invoices submitted after the 60-day period. CONSULTANT shall keep employee and expense records according to customary accounting methods and such records shall, upon request, be available for inspection by DISTRICT to verify the invoices of CONSULTANT. All invoices shall itemize charges to conform to the Compensation/Fee Rate Schedule negotiated for the Task Order. DISTRICT shall notify CONSULTANT of any disputed amounts on invoice within thirty (30) days of receipt.

1 7. PROJECT PERFORMANCE

2 A. Commencement of Services

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

5 B. Time of Completion

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

9
10 8. LICENSES – CONSULTANT, its employees, agents, contractors and subcontractors
11 shall possess appropriate Federal and/or State permits and maintain professional
12 licenses required by the applicable Federal, State and local regulations at all times while
13 performing services under this Agreement.

14 9. STANDARD OF CARE

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

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25 10. ERRORS AND OMISSIONS

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

3 11. PERMITS AND RIGHTS OF ENTRY

4 DISTRICT shall obtain all rights of entry as may be required to allow CONSULTANT
5 to perform the proposed consulting services within and upon privately-owned property.

6 All permits and rights of entry as may be required from any and all affected public
7 entities shall be obtained by CONSULTANT. Sufficient evidence of having obtained
8 such permits and/or rights of entry shall be furnished to DISTRICT by CONSULTANT,
9 prior to initiation of work. CONSULTANT will prosecute the work in such a manner
10 as to minimize public inconvenience and possible hazard, and will restore the streets
11 and other work areas to their original condition and former usefulness as soon as
12 practicable. CONSULTANT shall be responsible for the protection of public and
13 private property adjacent to the work and shall exercise due caution to avoid damage to
14 such property.
15

16 12. NOTICES

17 Any and all notices sent or required to be sent to the parties of this Agreement will be
18 mailed by first class mail, postage prepaid, to the following addresses:
19

20 RIVERSIDE COUNTY FLOOD CONTROL
21 AND WATER CONSERVATION DISTRICT
22 1995 Market Street
23 Riverside, CA 92501
24 Attn: Watershed Protection Division

WATEARTH, INC.
Post Office Box 19304
Irvine, CA 92623
Attn: Jennifer J. Walker

25 13. REQUIRED INSURANCE

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

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

7 A. Workers' Compensation

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

16 B. Commercial General Liability

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

4 C. Vehicle Liability

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

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

5 E. General Insurance Provisions – All Lines

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

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

23 C. CONSULTANT shall cause their insurance carrier(s) to furnish
24 DISTRICT with: 1) a properly executed original certificate(s) of
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1 insurance and original certified copies of endorsements effecting
2 coverage as required herein; and 2) if requested to do so orally or in
3 writing by the County Risk Manager, provide original certified copies of
4 policies including all endorsements and all attachments thereto, showing
5 such insurance is in full force and effect. Further, said certificate(s) and
6 policies of insurance shall contain the covenant of the insurance
7 carrier(s) that thirty (30) days written notice shall be given to DISTRICT
8 prior to any material modification, cancellation, expiration, or reduction
9 in coverage of such insurance. In the event of a material modification,
10 cancellation, expiration, or reduction in coverage, this Agreement shall
11 terminate forthwith, unless DISTRICT receives, prior to such effective
12 date, another properly executed original certificate of insurance and
13 original copies of endorsements or original certified policies, including
14 all endorsements and attachments thereto, evidencing coverages set forth
15 herein and the insurance required herein is in full force and effect.
16 Individual(s) authorized by the insurance carrier to do so on its behalf
17 shall sign the original endorsements for each policy and the certificate of
18 insurance.

21 D. It is understood and agreed by the parties hereto that CONSULTANT'S
22 insurance shall be construed as primary insurance, and DISTRICT'S
23 insurance and/or deductibles and/or self-insured retentions or self-
24 insured programs shall not be construed as contributory.

26 E. If, during the term of this Agreement or any extension thereof, there is a
27 material change in the scope of services; or there is a material change in
28

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

9
10 F. CONSULTANT shall pass down the insurance obligations contained
11 herein to all tiers of subcontractors working under this Agreement.

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

14 H. CONSULTANT agrees to notify DISTRICT of any claim by a third
15 party or any incident or event that may give rise to a claim arising from
16 the performance of this Agreement.
17

18 14. INDEMNIFICATION

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

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

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

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

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

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

3 15. WORK PRODUCT

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

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

21 A. Agreement

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

5 In the event DISTRICT issues a Notice of Termination, CONSULTANT shall:

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

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

3 B. Approved Task Order

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

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

21 17. BASIC SERVICES OF CONSULTANT

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

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

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

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

19. SUBCONTRACTING

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

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

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

3 20. CHANGES TO TASK ORDER SCOPE OF SERVICES

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

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

17
18 21. DISPUTES

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

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

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

20 22. ASSIGNMENT

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

23 23. CONFLICT OF INTEREST

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

3 24. JURISDICTION/LAW/SEVERABILITY

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

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

15 25. 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
18 the same or any other term thereof. Failure on the part of DISTRICT to require exact,
19 full and complete compliance with any terms of this Agreement shall not be construed
20 as in any manner changing the terms hereof, or estopping DISTRICT from enforcement
21 hereof.
22

23 26. NON-DISCRIMINATION

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

4 27. CONFIDENTIALITY OF DATA

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

12 CONSULTANT shall refer all requests for information to DISTRICT. These same
13 requirements shall be applicable to any of CONSULTANT'S subcontractors.
14 CONSULTANT shall include the requirements stated in this section of the Agreement
15 with any of its subcontractors.
16

17 28. DISCREPANCIES

18 In the event of any conflict between the provisions of this Agreement and any Task
19 Order, the provisions of this Agreement shall govern.

20 29. NON-APPROPRIATION OF FUNDS

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

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

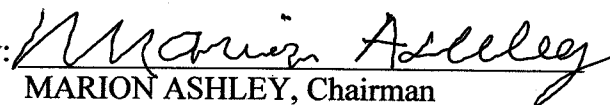
APR 23 2013

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By: 
WARREN D. WILLIAMS
General Manager-Chief Engineer

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

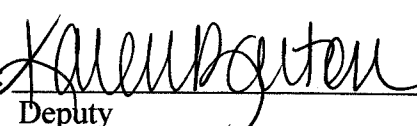
APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board


By: 
NEAL R. KIPNIS
Deputy County Counsel

By: 
Deputy

(SEAL)

Multi-Year Consulting Services Agreement
w/Watearth, Inc. (FY 2012-13 to FY 2015-16)
03/13/2013

WATEARTH, INC.

By: 
JENNIFER J. WALKER
President

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Multi-Year Consulting Services Agreement
w/Watearth, Inc. (FY 2012-13 to FY 2015-16)
03/13/2013

ATTACHMENT "A"
SCOPE OF SERVICES

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

1. MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PROGRAM
Tasks may include general NPDES program regulatory support, permit negotiation support, compliance program development and implementation, program assessment and reporting, training and outreach, program funding facilitation and other related activities.
2. TOTAL MAXIMUM DAILY LOADS (TMDL)/BASIN PLANNING
Tasks may include assisting with basin planning efforts, TMDL development, TMDL compliance program development/implementation, BMP or watersheds modeling and assessment efforts and other related activities.
3. MONITORING PROGRAM
Task may include monitoring program design, program reporting and assessment, monitoring special studies, field data collection and other related activities.
4. LABORATORY ANALYSIS
Tasks may include assessment of aqueous, sedimentary or other using chemical analyses, bacteriological analyses, toxicological analyses, biological analyses, genetic analyses, and other related activities.
5. PUBLIC EDUCATION/OUTREACH PROGRAM
Tasks may include developing and conducting presentations, outreach programs, producing print and electronic media, website development, establishing business partnerships and other related activities.
6. WATER CONSERVATION
Tasks may include groundwater recharge master planning, integration of water conservation functions into flood control facilities, establishing water resource needs, seeking multipurpose project opportunities, identification of partnerships, conducting hydrogeologic investigations and other related activities.
7. OTHER TASKS AS ASSIGNED
From time to time the District may require other tasks not explicitly identified above to be performed in order to accomplish the Watershed Protection Division objectives.

Multi-Year Consulting Services Agreement
w/Watearth, Inc. (FY 2012-13 to FY 2015-16)
03/12/2013

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 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

WATEARTH, INC.

By: _____
JENNIFER J. WALKER
President

MULTI-YEAR CONSULTING SERVICES AGREEMENT

FY 2012-13 to FY 2015-16

The Riverside County Flood Control and Water Conservation District, hereinafter called "DISTRICT", and S. Groner Associates, Inc., hereinafter called "CONSULTANT", hereby agree as follows:

1. PROJECT

CONSULTANT shall provide on-call professional services, on an as-needed basis as requested by DISTRICT, for DISTRICT'S watershed protection programs in accordance with applicable Federal, State, and local laws and regulations.

2. SCOPE OF SERVICES

As requested by DISTRICT, CONSULTANT shall provide professional services in support of DISTRICT'S Watershed Protection Division programs and ancillary services as further described in the "Scope of Services", attached hereto as Attachment "A" and made a part hereof. During the term of this Agreement, CONSULTANT may be invited to submit budget proposals for one or more of the various services listed in Attachment "A" as requested by DISTRICT and assigned subsequent Task Orders, the form of which is Attachment "B" attached hereto. CONSULTANT understands and expressly agrees that the execution of this Agreement by CONSULTANT and/or the submission of any budget proposal to furnish services does not guarantee the assignment or approval of any subsequent Task Order(s).

3. PERSONNELA. Project Manager

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

1 Order. DISTRICT shall provide written notice to CONSULTANT of any
2 change in Project Manager assignment for a given Task Order.

3 B. CONSULTANT'S Representative

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

10 C. Substitution of Key Personnel

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

20 4. TERM

21 The term of this Agreement shall become effective on the date this Agreement is
22 executed by DISTRICT'S Board of Supervisors, and shall remain in effect through the
23 required date for completion of an assigned Task Order, provided that such Task Order
24 was approved prior to June 30, 2016 and completed by December 31, 2016.
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5. COMPENSATION

CONSULTANT shall receive compensation for all services satisfactorily performed under this Agreement in accordance with the terms of the approved Task Order(s). The total amount to be paid to CONSULTANT for the performance of all Task Orders approved pursuant to this Agreement shall not exceed one hundred fifty thousand dollars (\$150,000) in any fiscal year and shall not exceed the sum of four hundred fifty thousand dollars (\$450,000) over the entire term of this Agreement.

6. PAYMENT

Progress payments shall be made in accordance with the Compensation/Fee Rate Schedule attached to the approved Task Order. Progress payments shall be processed no more than once per month. Upon satisfactory performance of CONSULTANT'S services pursuant to an approved Task Order, DISTRICT shall pay CONSULTANT within forty-five (45) days after DISTRICT'S receipt of CONSULTANT'S appropriate invoices. DISTRICT shall not pay interest or finance charges on any outstanding balance(s). CONSULTANT shall submit its invoice, in arrears, no later than sixty (60) calendar days following the month for which services were rendered. Failure to submit a timely invoice will result in non-payment of services. DISTRICT shall not be responsible for payment of any of CONSULTANT'S invoices submitted after the 60-day period. CONSULTANT shall keep employee and expense records according to customary accounting methods and such records shall, upon request, be available for inspection by DISTRICT to verify the invoices of CONSULTANT. All invoices shall itemize charges to conform to the Compensation/Fee Rate Schedule negotiated for the Task Order. DISTRICT shall notify CONSULTANT of any disputed amounts on invoice within thirty (30) days of receipt.

1 7. PROJECT PERFORMANCE

2 A. Commencement of Services

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

5 B. Time of Completion

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

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

14 9. STANDARD OF CARE

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

25 10. ERRORS AND OMISSIONS

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

3 11. PERMITS AND RIGHTS OF ENTRY

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

16
17 12. NOTICES

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

20 RIVERSIDE COUNTY FLOOD CONTROL
21 AND WATER CONSERVATION DISTRICT
22 1995 Market Street
23 Riverside, CA 92501
Attn: Watershed Protection Division

S. GRONER ASSOCIATES, INC.
100 W. Broadway, Suite 290
Long Beach, CA 90802
Attn: Stephen Groner

24 13. REQUIRED INSURANCE

25 CONSULTANT shall not commence operations until DISTRICT has been furnished
26 with original certificate(s) of insurance and original certified copies of endorsements
27
28

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

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

7
8 A. Workers' Compensation

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

17 B. Commercial General Liability

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

4 C. Vehicle Liability

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

16
17 D. Professional Liability

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

5 E. General Insurance Provisions – All Lines

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

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

23 C. CONSULTANT shall cause their insurance carrier(s) to furnish
24 DISTRICT with: 1) a properly executed original certificate(s) of
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1 insurance and original certified copies of endorsements effecting
2 coverage as required herein; and 2) if requested to do so orally or in
3 writing by the County Risk Manager, provide original certified copies of
4 policies including all endorsements and all attachments thereto, showing
5 such insurance is in full force and effect. Further, said certificate(s) and
6 policies of insurance shall contain the covenant of the insurance
7 carrier(s) that thirty (30) days written notice shall be given to DISTRICT
8 prior to any material modification, cancellation, expiration, or reduction
9 in coverage of such insurance. In the event of a material modification,
10 cancellation, expiration, or reduction in coverage, this Agreement shall
11 terminate forthwith, unless DISTRICT receives, prior to such effective
12 date, another properly executed original certificate of insurance and
13 original copies of endorsements or original certified policies, including
14 all endorsements and attachments thereto, evidencing coverages set forth
15 herein and the insurance required herein is in full force and effect.
16 Individual(s) authorized by the insurance carrier to do so on its behalf
17 shall sign the original endorsements for each policy and the certificate of
18 insurance.
19
20

- 21 D. It is understood and agreed by the parties hereto that CONSULTANT'S
22 insurance shall be construed as primary insurance, and DISTRICT'S
23 insurance and/or deductibles and/or self-insured retentions or self-
24 insured programs shall not be construed as contributory.
25
26 E. If, during the term of this Agreement or any extension thereof, there is a
27 material change in the scope of services; or there is a material change in
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1 the equipment to be used in the performance of the scope of work which
2 will add additional exposures (such as the use of aircraft, watercraft,
3 cranes, etc.); or the term of this Agreement, including any extensions
4 thereof, exceeds five (5) years, DISTRICT reserves the right to adjust the
5 types of insurance required under this Agreement and the monetary
6 limits of liability for the insurance coverage currently required herein, if,
7 in the County Risk Manager's reasonable judgment, the amount or type
8 of insurance carried by CONSULTANT has become inadequate.

9
10 F. CONSULTANT shall pass down the insurance obligations contained
11 herein to all tiers of subcontractors working under this Agreement.

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

14 H. CONSULTANT agrees to notify DISTRICT of any claim by a third
15 party or any incident or event that may give rise to a claim arising from
16 the performance of this Agreement.
17

18 14. INDEMNIFICATION

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

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

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

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

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

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

3 15. WORK PRODUCT

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

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19 16. TERMINATION

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

21 A. Agreement

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

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

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

3 B. Approved Task Order

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

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

21 17. BASIC SERVICES OF CONSULTANT

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

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

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20 B. Progress Reports

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

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

6 19. SUBCONTRACTING

7 CONSULTANT may, at CONSULTANT'S own expense, retain or employ sub-
8 consultants to accomplish certain portions of the work covered by this Agreement.

9 However, except as specifically provided in the Compensation/Fee Rate Schedule
10 attached to the approved Task Order or as expressly identified in this Agreement, no
11 portion of the services pertinent to this Agreement shall be subcontracted without prior
12 written approval and authorization by DISTRICT.

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

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

3 20. CHANGES TO TASK ORDER SCOPE OF SERVICES

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

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

18 21. DISPUTES

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

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

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

19 22. ASSIGNMENT

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

23 23. CONFLICT OF INTEREST

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

3 24. JURISDICTION/LAW/SEVERABILITY

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

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

15 25. 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
18 the same or any other term thereof. Failure on the part of DISTRICT to require exact,
19 full and complete compliance with any terms of this Agreement shall not be construed
20 as in any manner changing the terms hereof, or estopping DISTRICT from enforcement
21 hereof.
22

23 26. NON-DISCRIMINATION

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

4 27. CONFIDENTIALITY OF DATA

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

12 CONSULTANT shall refer all requests for information to DISTRICT. These same
13 requirements shall be applicable to any of CONSULTANT'S subcontractors.
14 CONSULTANT shall include the requirements stated in this section of the Agreement
15 with any of its subcontractors.
16

17 28. DISCREPANCIES

18 In the event of any conflict between the provisions of this Agreement and any Task
19 Order, the provisions of this Agreement shall govern.

20 29. NON-APPROPRIATION OF FUNDS

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

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

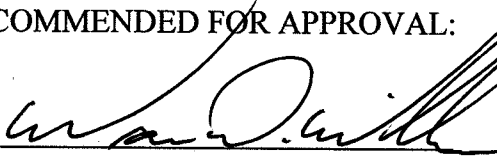
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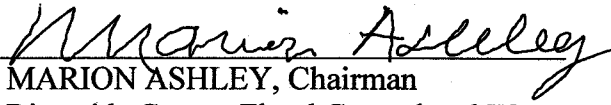
APR 23 2013

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By: 
WARREN D. WILLIAMS
General Manager-Chief Engineer

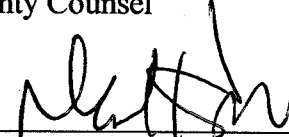
By: 
MARION ASHLEY, Chairman
Riverside County Flood Control and Water
Conservation District Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

By: 
NEAL R. KIPNIS
Deputy County Counsel


By: 
Deputy

(SEAL)

Multi-Year Consulting Services Agreement
w/S. Groner Associates, Inc. (FY 2012-13 to FY 2015-16)
03/13/2013

S. GRONER ASSOCIATES, INC.

By: _____


STEPHEN GRONER, P.E.
President

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**Multi-Year Consulting Services Agreement
w/S. Groner Associates, Inc. (FY 2012-13 to FY 2015-16)
03/13/2013**

ATTACHMENT "A"

SCOPE OF SERVICES

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

1. MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PROGRAM
Tasks may include general NPDES program regulatory support, permit negotiation support, compliance program development and implementation, program assessment and reporting, training and outreach, program funding facilitation and other related activities.
2. TOTAL MAXIMUM DAILY LOADS (TMDL)/BASIN PLANNING
Tasks may include assisting with basin planning efforts, TMDL development, TMDL compliance program development/implementation, BMP or watersheds modeling and assessment efforts and other related activities.
3. MONITORING PROGRAM
Task may include monitoring program design, program reporting and assessment, monitoring special studies, field data collection and other related activities.
4. LABORATORY ANALYSIS
Tasks may include assessment of aqueous, sedimentary or other using chemical analyses, bacteriological analyses, toxicological analyses, biological analyses, genetic analyses, and other related activities.
5. PUBLIC EDUCATION/OUTREACH PROGRAM
Tasks may include developing and conducting presentations, outreach programs, producing print and electronic media, website development, establishing business partnerships and other related activities.
6. WATER CONSERVATION
Tasks may include groundwater recharge master planning, integration of water conservation functions into flood control facilities, establishing water resource needs, seeking multipurpose project opportunities, identification of partnerships, conducting hydrogeologic investigations and other related activities.
7. OTHER TASKS AS ASSIGNED
From time to time the District may require other tasks not explicitly identified above to be performed in order to accomplish the Watershed Protection Division objectives.

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

S. GRONER ASSOCIATES, INC.

By: _____
STEPHEN GRONER
President

MULTI-YEAR CONSULTING SERVICES AGREEMENT
FY 2012-13 to FY 2015-16

1
2 The Riverside County Flood Control and Water Conservation District, hereinafter
3 called "DISTRICT", and Lynn Merrill, hereinafter called "CONSULTANT", hereby agree as
4 follows:
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6 1. PROJECT

7 CONSULTANT shall provide on-call professional services, on an as-needed basis as
8 requested by DISTRICT, for DISTRICT'S watershed protection programs in accordance
9 with applicable Federal, State, and local laws and regulations.

10 2. SCOPE OF SERVICES

11 As requested by DISTRICT, CONSULTANT shall provide professional services in
12 support of DISTRICT'S Watershed Protection Division programs and ancillary services
13 as further described in the "Scope of Services", attached hereto as Attachment "A" and
14 made a part hereof. During the term of this Agreement, CONSULTANT may be
15 invited to submit budget proposals for one or more of the various services listed in
16 Attachment "A" as requested by DISTRICT and be assigned subsequent Task Orders,
17 the form of which is Attachment "B" attached hereto. CONSULTANT understands and
18 expressly agrees that the execution of this Agreement by CONSULTANT and/or the
19 submission of any budget proposal to furnish services does not guarantee the
20 assignment or approval of any subsequent Task Order(s).
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23 3. PERSONNEL

24 A. Project Manager

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

3 B. CONSULTANT'S Representative

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

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

21 The term of this Agreement shall become effective on the date the Agreement is
22 executed by DISTRICT'S Board of Supervisors, and shall remain in effect through the
23 required date for completion of an assigned Task Order, provided that such Task Order
24 was approved prior to June 30, 2016 and completed by December 31, 2016.
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5. COMPENSATION

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CONSULTANT shall receive compensation for all services satisfactorily performed under this Agreement in accordance with the terms of the approved Task Order(s). The total amount to be paid to CONSULTANT for the performance of all Task Orders approved pursuant to this Agreement shall not exceed one hundred fifty thousand dollars (\$150,000) in any fiscal year and shall not exceed the sum of four hundred fifty thousand dollars (\$450,000) over the entire term of this Agreement.

6. PAYMENT

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Progress payments shall be made in accordance with the Compensation/Fee Rate Schedule attached to the approved Task Order. Progress payments shall be processed no more than once per month. Upon satisfactory performance of CONSULTANT'S services pursuant to an approved Task Order, DISTRICT shall pay CONSULTANT within forty-five (45) days after DISTRICT'S receipt of CONSULTANT'S appropriate invoices. DISTRICT shall not pay interest or finance charges on any outstanding balance(s). CONSULTANT shall submit its invoice, in arrears, no later than sixty (60) calendar days following the month for which services were rendered. Failure to submit a timely invoice will result in non-payment of services. DISTRICT shall not be responsible for payment of any of CONSULTANT'S invoices submitted after the 60-day period. CONSULTANT shall keep employee and expense records according to customary accounting methods and such records shall, upon request, be available for inspection by DISTRICT to verify the invoices of CONSULTANT. All invoices shall itemize charges to conform to the Compensation/Fee Rate Schedule negotiated for the Task Order. DISTRICT shall notify CONSULTANT of any disputed amounts on invoice within thirty (30) days of receipt.

1 7. PROJECT PERFORMANCE

2 A. Commencement of Services

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

5 B. Time of Completion

6 Time is of the essence in the performance of this Agreement. CONSULTANT
7 shall complete services in accordance with the schedule(s) set forth in the
8 approved Task Order(s).
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10 8. LICENSES – CONSULTANT, its employees, agents, contractors and subcontractors
11 shall possess appropriate Federal and/or State permits and maintain professional
12 licenses required by the applicable Federal, State and local regulations at all times while
13 performing services under this Agreement.

14 9. STANDARD OF CARE

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

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

3 11. PERMITS AND RIGHTS OF ENTRY

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

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

20 RIVERSIDE COUNTY FLOOD CONTROL LYNN MERRILL
21 AND WATER CONSERVATION DISTRICT 1008 W. Buffington Street
22 1995 Market Street Upland, CA 91784
23 Riverside, CA 92501
24 Attn: Watershed Protection Division

25 13. REQUIRED INSURANCE

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

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

7 A. Workers' Compensation

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

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

4 C. Vehicle Liability

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

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

5 E. General Insurance Provisions – All Lines

- 6 A. Any insurance carrier providing insurance coverage hereunder shall be
7 admitted to the State of California and have an A.M. BEST rating of not
8 less than an A: VIII (A: 8) unless such requirements are waived, in
9 writing, by the County Risk Manager. If the County's Risk Manager
10 waives a requirement for a particular insurer such waiver is only valid
11 for the specific insurer and only for one policy term.
- 12 B. CONSULTANT must declare its insurance self-insured retention for
13 each coverage required herein. If any such self-insured retention
14 exceeds \$500,000 per occurrence each such retention shall have the prior
15 written consent of the County Risk Manager before the commencement
16 of operations under this Agreement. Upon notification of self-insured
17 retention deemed unacceptable to DISTRICT, and at the election of the
18 County's Risk Manager, CONSULTANT'S carriers shall either: 1)
19 reduce or eliminate such self-insured retention with respect to this
20 Agreement with DISTRICT, or 2) procure a bond which guarantees
21 payment of losses and related investigations, claims administration, and
22 defense costs and expenses.
- 23 C. CONSULTANT shall cause their insurance carrier(s) to furnish
24 DISTRICT with: 1) a properly executed original certificate(s) of
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1 insurance and original certified copies of endorsements effecting
2 coverage as required herein; and 2) if requested to do so orally or in
3 writing by the County Risk Manager, provide original certified copies of
4 policies including all endorsements and all attachments thereto, showing
5 such insurance is in full force and effect. Further, said certificate(s) and
6 policies of insurance shall contain the covenant of the insurance
7 carrier(s) that thirty (30) days written notice shall be given to DISTRICT
8 prior to any material modification, cancellation, expiration, or reduction
9 in coverage of such insurance. In the event of a material modification,
10 cancellation, expiration, or reduction in coverage, this Agreement shall
11 terminate forthwith, unless DISTRICT receives, prior to such effective
12 date, another properly executed original certificate of insurance and
13 original copies of endorsements or original certified policies, including
14 all endorsements and attachments thereto, evidencing coverages set forth
15 herein and the insurance required herein is in full force and effect.
16 Individual(s) authorized by the insurance carrier to do so on its behalf
17 shall sign the original endorsements for each policy and the certificate of
18 insurance.
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- 21 D. It is understood and agreed by the parties hereto that CONSULTANT'S
22 insurance shall be construed as primary insurance, and DISTRICT'S
23 insurance and/or deductibles and/or self-insured retentions or self-
24 insured programs shall not be construed as contributory.
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26 E. If, during the term of this Agreement or any extension thereof, there is a
27 material change in the scope of services; or there is a material change in
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1 the equipment to be used in the performance of the scope of work which
2 will add additional exposures (such as the use of aircraft, watercraft,
3 cranes, etc.); or the term of this Agreement, including any extensions
4 thereof, exceeds five (5) years, DISTRICT reserves the right to adjust the
5 types of insurance required under this Agreement and the monetary
6 limits of liability for the insurance coverage currently required herein, if,
7 in the County Risk Manager's reasonable judgment, the amount or type
8 of insurance carried by CONSULTANT has become inadequate.

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

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

14 H. CONSULTANT agrees to notify DISTRICT of any claim by a third
15 party or any incident or event that may give rise to a claim arising from
16 the performance of this Agreement.
17

18 14. INDEMNIFICATION

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

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

19 The specified insurance limits required in this Agreement shall in no way limit or
20 circumscribe CONSULTANT'S obligations to indemnify and hold harmless DISTRICT
21 from third party claims.
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23 In the event there is conflict between this section and California Civil Code Section
24 2782, this section shall be interpreted to comply with California Civil Code Section
25 2782. Such interpretation shall not relieve CONSULTANT from indemnifying
26 DISTRICT (including its directors, officers, Board of Supervisors, elected and
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1 appointed officials, employees, agents and representatives) or the County of Riverside
2 to the fullest extent allowed by law.

3 15. WORK PRODUCT

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

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

21 A. Agreement

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

5 In the event DISTRICT issues a Notice of Termination, CONSULTANT shall:

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

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

3 B. Approved Task Order

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

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

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

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

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B. Progress Reports

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

18. INDEPENDENT CONTRACTOR

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

19. SUBCONTRACTING

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

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

In the event CONSULTANT subcontracts any portion of CONSULTANT'S duties under this Agreement, CONSULTANT shall require its sub-consultants to comply with the terms of this Agreement in the same manner as required of CONSULTANT. The fact that CONSULTANT employs sub-consultants not in his regular employ shall not

1 relieve CONSULTANT of any responsibility regarding the adequacy of the sub-
2 consultant's work performed or services provided pursuant to this Agreement.

3 20. CHANGES TO TASK ORDER SCOPE OF SERVICES

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

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

19 A. In the event CONSULTANT considers any work demanded of CONSULTANT
20 to be outside the requirements of this Agreement, or if CONSULTANT
21 considers any order, instruction or decision of DISTRICT to be unfair,
22 CONSULTANT shall promptly, upon receipt of such order, instruction or
23 decision, ask for a written confirmation of the same whereupon CONSULTANT
24 shall proceed without delay to perform the work or to conform to the order,
25 instruction, or decision. However, if CONSULTANT finds such order,
26 instruction or decision unsatisfactory, CONSULTANT shall, within twenty-one
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1 (21) calendar days after receipt of same, file a written protest with DISTRICT
2 stating clearly and in detail its objections and reasons therefor. Except for such
3 protests or objections as are made of record in the manner specified and within
4 the time stated herein, and except for such instances where the basis of a protest
5 could not reasonably have been foreseen by CONSULTANT within the time
6 limit specified for protest, CONSULTANT hereby waives all grounds for
7 protests or objections to orders, instruction, or decisions of DISTRICT and
8 hereby agrees that, as to all matters not included in such protests, the orders,
9 instructions and decisions of DISTRICT will be limited to matters properly
10 falling within DISTRICT'S authority.
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12 B. Any controversy or claim arising out of or relating to this Agreement which
13 cannot be resolved by mutual agreement may be settled by arbitration, provided
14 that the parties hereto mutually agree to submit to arbitration.
15

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

20 22. ASSIGNMENT

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

23 23. CONFLICT OF INTEREST

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

3 24. JURISDICTION/LAW/SEVERABILITY

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

8 Any legal action, in law or equity related to the performance or interpretation of this
9 Agreement shall be filed only in the Superior Court for the State of California located in
10 Riverside, California, and the parties waive any provision of law providing for a change
11 of venue to another location. Prior to the filing of any legal action, the parties shall be
12 obligated to attend a mediation session with a neutral mediator to try to resolve the
13 dispute.
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15 25. 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
18 the same or any other term thereof. Failure on the part of DISTRICT to require exact,
19 full and complete compliance with any terms of this Agreement shall not be construed
20 as in any manner changing the terms hereof, or estopping DISTRICT from enforcement
21 hereof.
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23 26. NON-DISCRIMINATION

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

4 27. CONFIDENTIALITY OF DATA

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

12 CONSULTANT shall refer all requests for information to DISTRICT. These same
13 requirements shall be applicable to any of CONSULTANT'S subcontractors.
14 CONSULTANT shall include the requirements stated in this section of the Agreement
15 with any of its subcontractors.
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17 28. DISCREPANCIES

18 In the event of any conflict between the provisions of this Agreement and any Task
19 Order, the provisions of this Agreement shall govern.

20 29. NON-APPROPRIATION OF FUNDS

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

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

APR 23 2013

(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)

Multi-Year Consulting Services Agreement
w/Lynn Merrill (FY 2012-13 to FY 2015-16)
03/13/2013

LYNN MERRILL

By: 
LYNN MERRILL

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Multi-Year Consulting Services Agreement
w/Lynn Merrill (FY 2012-13 to FY 2015-16)
03/13/2013

ATTACHMENT "A"
SCOPE OF SERVICES

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

1. MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PROGRAM
Tasks may include general NPDES program regulatory support, permit negotiation support, compliance program development and implementation, program assessment and reporting, training and outreach, program funding facilitation and other related activities.
2. TOTAL MAXIMUM DAILY LOADS (TMDL)/BASIN PLANNING
Tasks may include assisting with basin planning efforts, TMDL development, TMDL compliance program development/implementation, BMP or watersheds modeling and assessment efforts and other related activities.
3. MONITORING PROGRAM
Task may include monitoring program design, program reporting and assessment, monitoring special studies, field data collection and other related activities.
4. LABORATORY ANALYSIS
Tasks may include assessment of aqueous, sedimentary or other using chemical analyses, bacteriological analyses, toxicological analyses, biological analyses, genetic analyses, and other related activities.
5. PUBLIC EDUCATION/OUTREACH PROGRAM
Tasks may include developing and conducting presentations, outreach programs, producing print and electronic media, website development, establishing business partnerships and other related activities.
6. WATER CONSERVATION
Tasks may include groundwater recharge master planning, integration of water conservation functions into flood control facilities, establishing water resource needs, seeking multipurpose project opportunities, identification of partnerships, conducting hydrogeologic investigations and other related activities.
7. OTHER TASKS AS ASSIGNED
From time to time the District may require other tasks not explicitly identified above to be performed in order to accomplish the Watershed Protection Division objectives.

Multi-Year Consulting Services Agreement
w/Lynn Merrill (FY 2012-13 to FY 2015-16)
03/12/2013

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 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

LYNN MERRILL

By: _____
LYNN MERRILL

MULTI-YEAR CONSULTING SERVICES AGREEMENT
FY 2012-13 to FY 2015-16

The Riverside County Flood Control and Water Conservation District, hereinafter called "DISTRICT", and Rosanna M. Lacarra, doing business in California as LaRoc Environmental, hereinafter called "CONSULTANT", hereby agree as follows:

1. PROJECT

CONSULTANT shall provide on-call professional services, on an as-needed basis as requested by DISTRICT, for DISTRICT'S watershed protection programs in accordance with applicable Federal, State, and local laws and regulations.

2. SCOPE OF SERVICES

As requested by DISTRICT, CONSULTANT shall provide professional services in support of DISTRICT'S Watershed Protection Division programs and ancillary services as further described in the "Scope of Services", attached hereto as Attachment "A" and made a part hereof. During the term of this Agreement, CONSULTANT may be invited to submit budget proposals for one or more 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" attached hereto. CONSULTANT understands and expressly agrees that the execution of this Agreement by CONSULTANT and/or the submission of any budget proposal to furnish services does not guarantee the assignment or approval of any subsequent Task Order(s).

3. PERSONNEL

A. Project Manager

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

APR 23 2013 11-6

1 Order. DISTRICT shall provide written notice to CONSULTANT of any
2 change in Project Manager assignment for a given Task Order.

3 B. CONSULTANT'S Representative

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

10 C. Substitution of Key Personnel

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

20 4. TERM

21 The term of this Agreement shall become effective on the date the Agreement is
22 executed by DISTRICT'S Board of Supervisors, and shall remain in effect through the
23 required date for completion of an assigned Task Order, provided that such Task Order
24 was approved prior to June 30, 2016 and completed by December 31, 2016.
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5. COMPENSATION

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CONSULTANT shall receive compensation for all services satisfactorily performed under this Agreement in accordance with the terms of the approved Task Order(s). The total amount to be paid to CONSULTANT for the performance of all Task Orders approved pursuant to this Agreement shall not exceed one hundred fifty thousand dollars (\$150,000) in any fiscal year and shall not exceed the sum of four hundred fifty thousand dollars (\$450,000) over the entire term of this Agreement.

6. PAYMENT

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Progress payments shall be made in accordance with the Compensation/Fee Rate Schedule attached to the approved Task Order. Progress payments shall be processed no more than once per month. Upon satisfactory performance of CONSULTANT'S services pursuant to an approved Task Order, DISTRICT shall pay CONSULTANT within forty-five (45) days after DISTRICT'S receipt of CONSULTANT'S appropriate invoices. DISTRICT shall not pay interest or finance charges on any outstanding balance(s). CONSULTANT shall submit its invoice, in arrears, no later than sixty (60) calendar days following the month for which services were rendered. Failure to submit a timely invoice will result in non-payment of services. DISTRICT shall not be responsible for payment of any of CONSULTANT'S invoices submitted after the 60-day period. CONSULTANT shall keep employee and expense records according to customary accounting methods and such records shall, upon request, be available for inspection by DISTRICT to verify the invoices of CONSULTANT. All invoices shall itemize charges to conform to the Compensation/Fee Rate Schedule negotiated for the Task Order. DISTRICT shall notify CONSULTANT of any disputed amounts on invoice within thirty (30) days of receipt.

1 7. PROJECT PERFORMANCE

2 A. Commencement of Services

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

5 B. Time of Completion

6 Time is of the essence in the performance of this Agreement. CONSULTANT
7 shall complete services in accordance with the schedule(s) set forth in the
8 approved Task Order(s).
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10 8. LICENSES – CONSULTANT, its employees, agents, contractors and subcontractors
11 shall possess appropriate Federal and/or State permits and maintain professional
12 licenses required by the applicable Federal, State and local regulations at all times while
13 performing services under this Agreement.

14 9. STANDARD OF CARE

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

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

3 11. PERMITS AND RIGHTS OF ENTRY

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

17 Any and all notices sent or required to be sent to the parties of this Agreement will be
 18 mailed by first class mail, postage prepaid, to the following addresses:
 19

20 RIVERSIDE COUNTY FLOOD CONTROL	ROSANNA M. LACARRA
21 AND WATER CONSERVATION DISTRICT	P.O. Box 324
1995 Market Street	Carlsbad, CA 92018
22 Riverside, CA 92501	
23 Attn: Watershed Protection Division	

24 13. REQUIRED INSURANCE

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

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

7 A. Workers' Compensation

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

16 B. Commercial General Liability

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

4 C. Vehicle Liability

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

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

5 E. General Insurance Provisions – All Lines

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

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

23 C. CONSULTANT shall cause their insurance carrier(s) to furnish
24 DISTRICT with: 1) a properly executed original certificate(s) of
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1 insurance and original certified copies of endorsements effecting
2 coverage as required herein; and 2) if requested to do so orally or in
3 writing by the County Risk Manager, provide original certified copies of
4 policies including all endorsements and all attachments thereto, showing
5 such insurance is in full force and effect. Further, said certificate(s) and
6 policies of insurance shall contain the covenant of the insurance
7 carrier(s) that thirty (30) days written notice shall be given to DISTRICT
8 prior to any material modification, cancellation, expiration, or reduction
9 in coverage of such insurance. In the event of a material modification,
10 cancellation, expiration, or reduction in coverage, this Agreement shall
11 terminate forthwith, unless DISTRICT receives, prior to such effective
12 date, another properly executed original certificate of insurance and
13 original copies of endorsements or original certified policies, including
14 all endorsements and attachments thereto, evidencing coverages set forth
15 herein and the insurance required herein is in full force and effect.
16 Individual(s) authorized by the insurance carrier to do so on its behalf
17 shall sign the original endorsements for each policy and the certificate of
18 insurance.
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21 D. It is understood and agreed by the parties hereto that CONSULTANT'S
22 insurance shall be construed as primary insurance, and DISTRICT'S
23 insurance and/or deductibles and/or self-insured retentions or self-
24 insured programs shall not be construed as contributory.

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

9
10 F. CONSULTANT shall pass down the insurance obligations contained
11 herein to all tiers of subcontractors working under this Agreement.

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

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

17
18 14. INDEMNIFICATION

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

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

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

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

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

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

3 15. WORK PRODUCT

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

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

21 A. Agreement

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

5 In the event DISTRICT issues a Notice of Termination, CONSULTANT shall:
6 i) stop all work under this Agreement on the date specified in the Notice of
7 Termination; and ii) transfer to DISTRICT and deliver in the manner, and to the
8 extent, if any, as directed by DISTRICT, any equipment, data or reports which,
9 if the Agreement had been completed, would have been required to be furnished
10 to DISTRICT.
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12 In the event DISTRICT terminates this Agreement, DISTRICT shall make
13 payment for all services performed in accordance with this Agreement to the
14 date of termination, a total amount which bears the same ratio to the total
15 maximum fee otherwise payable under this Agreement as the services actually
16 bear to the total services necessary for performance of this Agreement.
17 Notwithstanding any of the other provision of this Agreement, CONSULTANT
18 rights under this Agreement shall terminate (except for fees accrued prior to the
19 date of termination) upon dishonesty, or a willful or material breach of this
20 Agreement by CONSULTANT; or in the event of CONSULTANT'S
21 unwillingness or inability for any reason whatsoever to perform the duties
22 hereunder; or if the Agreement is terminated pursuant to Section 26 (NON-
23 DISCRIMINATION). In such event, CONSULTANT shall not be entitled to
24 any further compensation under this Agreement. The rights and remedies of
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1 DISTRICT provided in this section shall not be exclusive and are in addition to
2 any other rights and remedies provided by law or under this Agreement.

3 B. Approved Task Order

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

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

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

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B. Progress Reports

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

18. INDEPENDENT CONTRACTOR

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

19. SUBCONTRACTING

CONSULTANT may, at CONSULTANT'S own expense, retain or employ sub-consultants to accomplish certain portions of the work covered by this Agreement.

However, except as specifically provided in the Compensation/Fee Rate Schedule attached to the approved Task Order or as expressly identified in this Agreement, no portion of the services pertinent to this Agreement shall be subcontracted without prior written approval and authorization by DISTRICT.

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

In the event CONSULTANT subcontracts any portion of CONSULTANT'S duties under this Agreement, CONSULTANT shall require its sub-consultants to comply with the terms of this Agreement in the same manner as required of CONSULTANT. The fact that CONSULTANT employs sub-consultants not in his regular employ shall not

1 relieve CONSULTANT of any responsibility regarding the adequacy of the sub-
2 consultant's work performed or services provided pursuant to this Agreement.

3 20. CHANGES TO TASK ORDER SCOPE OF SERVICES

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

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

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18 21. DISPUTES

19 A. In the event CONSULTANT considers any work demanded of CONSULTANT
20 to be outside the requirements of this Agreement, or if CONSULTANT
21 considers any order, instruction or decision of DISTRICT to be unfair,
22 CONSULTANT shall promptly, upon receipt of such order, instruction or
23 decision, ask for a written confirmation of the same whereupon CONSULTANT
24 shall proceed without delay to perform the work or to conform to the order,
25 instruction, or decision. However, if CONSULTANT finds such order,
26 instruction or decision unsatisfactory, CONSULTANT shall, within twenty-one
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1 (21) calendar days after receipt of same, file a written protest with DISTRICT
2 stating clearly and in detail its objections and reasons therefor. Except for such
3 protests or objections as are made of record in the manner specified and within
4 the time stated herein, and except for such instances where the basis of a protest
5 could not reasonably have been foreseen by CONSULTANT within the time
6 limit specified for protest, CONSULTANT hereby waives all grounds for
7 protests or objections to orders, instruction, or decisions of DISTRICT and
8 hereby agrees that, as to all matters not included in such protests, the orders,
9 instructions and decisions of DISTRICT will be limited to matters properly
10 falling within DISTRICT'S authority.
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12 B. Any controversy or claim arising out of or relating to this Agreement which
13 cannot be resolved by mutual agreement may be settled by arbitration, provided
14 that the parties hereto mutually agree to submit to arbitration.
15

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

19 22. ASSIGNMENT

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

23 23. CONFLICT OF INTEREST

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

1 in the performance of this Agreement, no person having any such interest shall be
2 employed or retained by it under this Agreement.

3 24. JURISDICTION/LAW/SEVERABILITY

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

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

15 25. 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
18 the same or any other term thereof. Failure on the part of DISTRICT to require exact,
19 full and complete compliance with any terms of this Agreement shall not be construed
20 as in any manner changing the terms hereof, or estopping DISTRICT from enforcement
21 hereof.
22

23 26. NON-DISCRIMINATION

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

4 27. CONFIDENTIALITY OF DATA

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

12 CONSULTANT shall refer all requests for information to DISTRICT. These same
13 requirements shall be applicable to any of CONSULTANT'S subcontractors.
14 CONSULTANT shall include the requirements stated in this section of the Agreement
15 with any of its subcontractors.
16

17 28. DISCREPANCIES

18 In the event of any conflict between the provisions of this Agreement and any Task
19 Order, the provisions of this Agreement shall govern.

20 29. NON-APPROPRIATION OF FUNDS

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

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

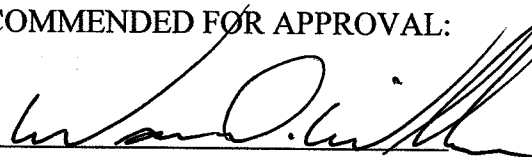
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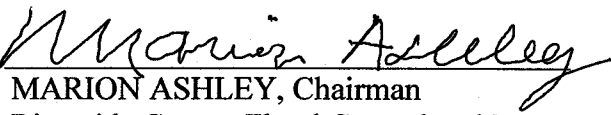
~~APR 23 2013~~

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By: 
WARREN D. WILLIAMS
General Manager-Chief Engineer

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

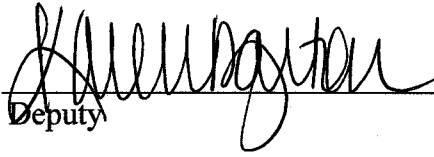
APPROVED AS TO FORM:

ATTEST:

PAMELA J. WALLS
County Counsel

KECIA HARPER-IHEM
Clerk of the Board

By: 
NEAL R. KIPNIS
Deputy County Counsel

By: 
Deputy

(SEAL)

Multi-Year Consulting Services Agreement
w/Rosanna M. Lacarra (FY 2012-13 to FY 2015-16)
03/13/2013

APR 23 2013 11-6

ROSANNA M. LACARRA

By: 
ROSANNA M. LACARRA

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Multi-Year Consulting Services Agreement
w/Rosanna M. Lacarra (FY 2012-13 to FY 2015-16)
03/13/2013

ATTACHMENT "A"
SCOPE OF SERVICES

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

1. MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PROGRAM
Tasks may include general NPDES program regulatory support, permit negotiation support, compliance program development and implementation, program assessment and reporting, training and outreach, program funding facilitation and other related activities.
2. TOTAL MAXIMUM DAILY LOADS (TMDL)/BASIN PLANNING
Tasks may include assisting with basin planning efforts, TMDL development, TMDL compliance program development/implementation, BMP or watersheds modeling and assessment efforts and other related activities.
3. MONITORING PROGRAM
Task may include monitoring program design, program reporting and assessment, monitoring special studies, field data collection and other related activities.
4. LABORATORY ANALYSIS
Tasks may include assessment of aqueous, sedimentary or other using chemical analyses, bacteriological analyses, toxicological analyses, biological analyses, genetic analyses, and other related activities.
5. PUBLIC EDUCATION/OUTREACH PROGRAM
Tasks may include developing and conducting presentations, outreach programs, producing print and electronic media, website development, establishing business partnerships and other related activities.
6. WATER CONSERVATION
Tasks may include groundwater recharge master planning, integration of water conservation functions into flood control facilities, establishing water resource needs, seeking multipurpose project opportunities, identification of partnerships, conducting hydrogeologic investigations and other related activities.
7. OTHER TASKS AS ASSIGNED
From time to time the District may require other tasks not explicitly identified above to be performed in order to accomplish the Watershed Protection Division objectives.

Multi-Year Consulting Services Agreement
w/Rosanna M. Lacarra (FY 2012-13 to FY 2015-16)
03/12/2013

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 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

ROSANNA M. LACARRA

By: _____
ROSANNA M. LACARRA