826

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

FROM: Transportation & Land Management Agency

SUBMITTAL DATE:
December 18, 2013

SUBJECT: Professional Services Agreements between the County of Riverside Transportation and Land Management Agency and RBF Consulting, Moore Iacofano Goltsman, Inc. (MIG - Hogle–Ireland) and Pacific Municipal Consultants, Inc. All Districts/All Districts [$1,200,000] 100% funded by Deposit Based and Development Fees.

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve and authorize the Chairman of the Board to execute the professional services agreements for Planner Services between the County of Riverside on behalf of Transportation and Land Management Agency and RBF Consulting; Moore Iacofano Goltsman, Inc. (MIG–Hogle–Ireland); and Pacific Municipal Consultants, Inc., effective January 1, 2014 through December 31, 2014, renewable in one (1) year increments through December 31, 2018, in the aggregate amount of $1,200,000 and;
2. Authorize the Purchasing Agent, in accordance with Ordinance No. 459, to exercise the renewal option, based on the availability of fiscal funding, shift funds between vendors and to sign amendments that do not change the substantive terms of the agreement, including amendments to the compensation provision that do not exceed the annual CPI rates.

Juan Perez
Director of Transportation and Land Management Agency

FORM APPROVED COUNTY COUNSEL
BY: MARSHA L. VICTOR 12/18/13
DATE
Departmental Concurrence

Purchasing: Mark Seiler, Assistant Director

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	$ 600,000	$ 1,200,000	$ 6,000,000	$ 0	Consent ☐ Policy ☒
NET COUNTY COST	$ 0	$ 0	$ 0	$ 0	

SOURCE OF FUNDS: Deposit Based & Development Fees (100%)

Budget Adjustment: N/A
For Fiscal Year: 13/14-18/19

C.E.O. RECOMMENDATION: APPROVE

BY: Alex Gann
Alex Gann

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Ashley, seconded by Supervisor Benoit 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: January 7, 2014
xc: TLMA, Purchasing

Kecia Harper-Ihem
Clerk of the Board
By: Deputy

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

Prev. Agn. Ref.: | **District: All/All** | **Agenda Number:** 3-39

BACKGROUND:
Summary

The Transportation and Land Management Agency on behalf of the Planning Department and Airport Land Use Commission (ALUC) has requested that the above mentioned Contractors provide all services as outlined and specified in the submitted contracts with a Scope Of Work, consisting of three (3) pages at the prices stated in Exhibit B, Payment Provisions.

In January 2013, in an effort to maintain a competitive procurement process, and without prejudice to the current consultant(s), Purchasing and Fleet Services on behalf of the Transportation and Land Management Agency issued a Request for Proposal (RFP) for Planner Services. RFP # TLARC 364 was issued to six vendors and advertised on the purchasing website in conjunction with County Purchasing.

Four (4) responses were received by Purchasing and were reviewed by the evaluation team consisting of representatives from the Planning Department, ALUC, and a Planning Commissioner. The evaluation criteria for the bid was overall responsiveness and understanding of the RFP requirements, bidder experience and ability, technical capability/qualifications, cost, references, financial status, clarification, exceptions or deviations and credentials, resumes, licenses and certifications. Based on the evaluation of the initial proposals and subsequent vendor interviews, RBF Consulting, Moore Iacofano Goltsman, Inc. (MIG-Hogle-Ireland) and Pacific Municipal Consultants were selected by the evaluation team as the most responsive/responsible vendors.

Due to the intervention for the holidays and the negotiation process with multiple vendors, staff is requesting that the Board approve the agreements with a January 1, 2014 as the effective start date. MIG-Hogle-Ireland is the only contractor of the three (3) that currently has staff working for Planning and ALUC and it is necessary to avoid an interruption in Planning Services to County citizens and businesses. Upon approval by the County of Riverside Board of Supervisors, the agreements shall be effective January 1, 2014 to December 31, 2014, with the ability to extend the agreements for up four (4) years, in one (1) year increments, unless terminated earlier.

County Counsel has also reviewed and updated the proposed contracts to make sure that they comply with the latest legal requirements.

Impact on Citizens and Businesses
Planning services are essential to appropriately review and process development applications with professional guidance and oversight in accordance with the County General Plan and development ordinances.

SUPPLEMENTAL:
Additional Fiscal Information
Maximum payments by the County to the three Contractors shall not exceed $1,200,000 per fiscal year which will be 100% funded by Deposit Based and/or other developer paid Fees. No dollar amount of work is guaranteed. The basis for work will be on an "as-needed" basis. The contract amount is anticipated to be divided as follows:

- $300,000 for RBF Consulting,
- $600,000 for Moore Iacofano Goltsman, Inc. (MIG–Hogle-Ireland), and
- $300,000 for Pacific Municipal Consultants, Inc., (PMC).

TLMA staff proposes that future work will be assigned on an as needed basis to each vendor as follows, although we reserve the right to shift work assignments in the best interest of the County.

- RBF will review and prepare environmental documents including but not limited to Environmental Impact Reports, Environmental Assessments and related technical environmental documents.
- Moore Iacofano Goltsman, Inc. (MIG–Hogle-Ireland) will process Specific Plans, Conditional Use Permits, Plot Plans and related applications.
- PMC will process Major and Minor Plot Plans and related applications.

The contract also stipulates that any planner who works on a project for ALUC shall not work on the same or any related project for Planning Department to maintain a separation of services and avoid conflict of interest.

Once an application is submitted, the TLMA staff will assign the application to the appropriate consultant on an as needed basis. Because the contracts are on an "as needed" basis, resources can be swiftly delivered to handle any uptick in development activity, while no work will be offered should another economic downturn prevail. This approach offers maximum customer service through staff flexibility, built around a small core of permanent, Planning Department staff. The County has successfully used the contract model to supplement core staff in handling activity peaks, in areas that are susceptible to economic downturn.

Contract History and Price Reasonableness

The current agreement with MIG Hogle-Ireland (only) is scheduled to expire on December 31, 2013. The proposed agreements will be in effect from January 1, 2014 to December 31, 2014 with the option to renew for additional years, through December 31, 2018. Each year shall be renewable in one year increments by written amendment, unless terminated earlier.

Purchasing and TLMA have reviewed the proposed hourly rates and they are comparable for such work in the industry.

ATTACHMENTS

(A,B,C) Contract Agreements

PROFESSIONAL SERVICE AGREEMENT

for

PLANNER SERVICES

between

COUNTY OF RIVERSIDE

and

RBF CONSULTING

JAN 07 2014 3.39

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This Agreement, made and entered into this 12th day of December, 2013, by and between RBF CONSULTING (herein referred to as "CONTRACTOR"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, (herein referred to as "COUNTY").

WHERAS, Government Code Section 31000 et. sseq authorizes the COUNTY to contract for services with a person who is trained and experienced, and who is competent to perform the services required; and

WHEREAS, CONTRACTOR has the expertise, special skills, knowledge and experience to perform the duties set out herein

NOWTHEREFORE, in consideration of the mutual covenants contained herein, the parties do hereby agree as follows:

1. Description of Services

1.1 CONTRACTOR shall provide all services as outlined and specified in Exhibit A, Scope of Services, consisting of three (3) pages at the prices stated in Exhibit B, Payment Provisions, consisting of one (1) page, attached hereto and incorporated by this reference.

1.2 CONTRACTOR represents that it has the special skills, experience, and knowledge necessary to fully and adequately perform under this Agreement and the COUNTY relies upon this representation. CONTRACTOR shall perform to the satisfaction of the COUNTY and in conformance to and consistent with the highest standards of firms/professionals in the same discipline in the State of California.

1.3 CONTRACTOR affirms this it is fully apprised of all of the work to be performed under this Agreement; and the CONTRACTOR agrees it can properly perform this work at the prices stated in Exhibit B. CONTRACTOR is not to perform services or provide products outside of the Agreement.

1.4 Acceptance by the COUNTY of the CONTRACTOR's performance under this Agreement does not operate as a release of CONTRACTOR's responsibility for full compliance with the terms of this Agreement.

1.5 All agents, employees or subcontractors, of CONTRACTOR doing work for COUNTY shall sign an Independent Contractor Agreement, in a form proscribed by COUNTY, acknowledging their status as independent contractors before commencing any work for COUNTY pursuant to this Agreement or any particular Work Assignment.

2. Period of Performance

2.1 This Agreement shall be effective upon signature of this Agreement by both parties and continue in effect through December 31, 2014 with the option to renew for four additional years, to

December 31, 2019; each year shall be renewable in one year increments by written amendment, unless terminated earlier. CONTRACTOR shall commence performance upon signature of this Agreement by both parties and shall diligently and continuously perform thereafter. The Riverside County Board of Supervisors is the only authority that may obligate the County for a non-cancelable multi-year agreement.

3. Compensation

3.1 The COUNTY shall pay the CONTRACTOR for services performed, products provided and expenses incurred in accordance with the terms of Exhibit B, Payment Provisions. Maximum payments by COUNTY to CONTRACTOR shall not exceed ($300,000) (three hundred thousand dollars) annually including all expenses. The COUNTY is not responsible for any fees or costs incurred above or beyond the contracted amount and shall have no obligation to purchase any specified amount of services or products. Unless otherwise specifically stated in Exhibit B, COUNTY shall not be responsible for payment of any of CONTRACTOR's expenses related to this Agreement.

3.2 No price increases will be permitted during the first year of this Agreement. The COUNTY requires written proof satisfactory to COUNTY of cost increases prior to any approved price adjustment. After the first year of the award, a minimum of 30-days advance notice in writing is required to be considered and approved by COUNTY. No retroactive price adjustments will be considered. Any price increases must be stated in a written amendment to this Agreement. The net dollar amount of profit will remain firm during the period of the Agreement. Annual increases shall not exceed the Consumer Price Index- All Consumers, All Items - Greater Los Angeles, Riverside and Orange County areas for planning services and be subject to satisfactory performance review by the COUNTY and approved (if needed) for budget funding by the Board of Supervisors.

3.3 CONTRACTOR shall be paid only in accordance with an invoice submitted to COUNTY by CONTRACTOR within fifteen (15) days from the last day of each calendar month, and COUNTY shall pay the invoice within thirty (30) working days from the date of receipt of the invoice. Payment shall be made to CONTRACTOR only after services have been rendered or delivery of materials or products, and acceptance has been made by COUNTY. Prepare invoices in duplicate. For this Agreement, send the original and duplicate copies of invoices to:

TRANSPORTATION LAND MANAGEMENT AGENCY
4080 LEMON STREET 12 TH FLOOR
RIVERSIDE, CA
ATTN: FRANK COYLE

a) Each invoice shall contain a minimum of the following information: invoice number and date; remittance address; bill-to and ship-to addresses of ordering department/division;

Agreement number: (TLARC-92561-003-12/14); quantities; item descriptions, unit prices, extensions, sales/use tax if applicable, and an invoice total.

b) Invoices shall be rendered monthly in arrears.

3.4 The COUNTY obligation for payment of this Agreement beyond the current fiscal year end is contingent upon and limited by the availability of COUNTY funding from which payment can be made. No legal liability on the part of the COUNTY shall arise for payment beyond June 30 of each calendar year unless funds are made available for such payment. In the event that such funds are not forthcoming for any reason, COUNTY shall immediately notify CONTRACTOR in writing; and this Agreement shall be deemed terminated, have no further force, and effect.

4. Alteration or Changes to the Agreement

4.1 The Board of Supervisors and the COUNTY Purchasing Agent and/or his designee are the only authorized COUNTY representatives who may at any time, by written order, alter this Agreement. If any such alteration causes an increase or decrease in the cost of, or the time required for the performance under this Agreement, an equitable adjustment shall be made in the Agreement price or delivery schedule, or both, and the Agreement shall be modified by written amendment accordingly.

4.2 Any claim by the CONTRACTOR for additional payment related to this Agreement shall be made in writing by the CONTRACTOR within 30 days of when the CONTRACTOR has or should have notice of any actual or claimed change in the work, which results in additional and unanticipated cost to the CONTRACTOR. If the COUNTY Purchasing Agent decides that the facts provide sufficient justification, he may authorize additional payment to the CONTRACTOR pursuant to the claim. Nothing in this section shall excuse the CONTRACTOR from proceeding with performance of the Agreement even if there has been a change.

5. Termination

5.1. COUNTY may terminate this Agreement without cause upon 30 days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

5.2 COUNTY may, upon five (5) days written notice, terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Agreement or fails to make progress to endanger performance and does not immediately cure such failure. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

5.3 After receipt of the notice of termination, CONTRACTOR shall:

(a) Stop all work under this Agreement on the date specified in the notice of termination; and

(b) Transfer to COUNTY and deliver in the manner as directed by COUNTY any materials, reports or other products, which, if the Agreement had been completed or continued, would have been required to be furnished to COUNTY.

5.4 After termination, COUNTY shall make payment only for CONTRACTOR's performance up to the date of termination in accordance with this Agreement and at the rates set forth in Exhibit B.

5.5 CONTRACTOR's rights under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement. In such event, CONTRACTOR shall not be entitled to any further compensation under this Agreement.

5.6 The rights and remedies of COUNTY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

6. Ownership/Use of Contract Materials and Products

The CONTRACTOR agrees that all materials, reports or products in any form, including electronic, created by CONTRACTOR for which CONTRACTOR has been compensated by COUNTY pursuant to this Agreement shall be the sole property of the COUNTY; and may be used by the COUNTY for any purpose COUNTY deems to be appropriate, including, but not limit to, duplication and/or distribution within the COUNTY or to third parties. CONTRACTOR agrees not to release or circulate in whole or part such materials, reports, or products without prior written authorization of the COUNTY.

7. Conduct of Contractor

7.1 The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR further covenants that no person or subcontractor having any such interest shall be employed or retained by CONTRACTOR under this Agreement. The CONTRACTOR agrees to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

7.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from

individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.

7.3 The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.

8. Inspection of Service; Quality Control/Assurance

8.1 All performance (which includes services, workmanship, materials, supplies and equipment furnished or utilized in the performance of this Agreement) shall be subject to inspection and test by the COUNTY or other regulatory agencies at all times. The CONTRACTOR shall provide adequate cooperation to any inspector or other COUNTY representative to permit him/her to determine the CONTRACTOR's conformity with the terms of this Agreement. If any services performed or products provided by CONTRACTOR are not in conformance with the terms of this Agreement, the COUNTY shall have the right to require the CONTRACTOR to perform the services or provide the products in conformance with the terms of the Agreement at no additional cost to the COUNTY. When the services to be performed or the products to be provided are of such nature that the difference cannot be corrected, the COUNTY shall have the right to: (1) require the CONTRACTOR immediately to take all necessary steps to ensure future performance in conformity with the terms of the Agreement; and/or (2) reduce the Agreement price to reflect the reduced value of the services performed or products provided. The COUNTY may also terminate this Agreement for default and charge to CONTRACTOR any costs incurred by the COUNTY because of the CONTRACTOR's failure to perform.

8.2 CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY representative or other regulatory official to monitor, assess, or evaluate CONTRACTOR's performance under this Agreement at any time upon reasonable notice to CONTRACTOR.

9. Independent Contractor

9.1 The CONTRACTOR is, for purposes relating to this Agreement, an independent contractor and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents, and subcontractors) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that

an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.

9.2 CONTRACTOR shall provide and maintain, throughout the term of this Agreement, their own workspace, tools, equipment and supplies necessary to perform the duties set forth under this Agreement. Notwithstanding the foregoing, COUNTY may, in its sole discretion, and with its prior written consent, provide access to COUNTY facilities, offices or meeting rooms during regular work hours for meetings, conferences or other work of CONTRACTOR.

9.3 CONTRACTOR has the right to perform services for other clients during the term of this Agreement as long as such services are not in direct conflict with the services provided to COUNTY.

10. Subcontract for Work or Services

No contract shall be made by the CONTRACTOR with any other party for furnishing any of the work or services under this Agreement without the prior written approval of the COUNTY; but this provision shall not require the approval of contracts of employment between the CONTRACTOR and personnel assigned under this Agreement, or for parties named in the proposal and agreed to under this Agreement.

11. Disputes

11.1 The parties shall attempt to resolve any disputes amicably at the working level. If that is not successful, the dispute shall be referred to the senior management of the parties. Any dispute relating to this Agreement, which is not resolved by the parties, shall be decided by the COUNTY's Purchasing Department's Compliance Contract Officer who shall furnish the decision in writing. The decision of the COUNTY's Compliance Contract Officer shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith. The CONTRACTOR shall proceed diligently with the performance of this Agreement pending the resolution of a dispute.

11.2 Prior to the filing of any legal action related to this Agreement, the parties shall be obligated to attend a mediation session in Riverside County before a neutral third party mediator. A second mediation session shall be required if the first session is not successful. The parties shall share the cost of the mediations.

12. Licensing and Permits

CONTRACTOR shall comply with all State or other licensing requirements, including but not limited to the provisions of Chapter 9 of Division 3 of the Business and Professions Code. All licensing requirements shall be met at the time proposals are submitted to the COUNTY. CONTRACTOR warrants that it has all necessary permits, approvals, certificates, waivers and exemptions necessary for performance of this Agreement as required by the laws and regulations of the United States, the State of California, the County of Riverside and all other governmental agencies with jurisdiction, and shall maintain these throughout the term of this Agreement.

13. Use By Other Political Entities

The CONTRACTOR agrees to extend the same pricing, terms, and conditions as stated in this Agreement to each and every political entity, special district, and related non-profit entity in Riverside County. It is understood that other entities shall make purchases in their own name, make direct payment, and be liable directly to the CONTRACTOR; and COUNTY shall in no way be responsible to CONTRACTOR for other entities' purchases.

14. Non-Discrimination

CONTRACTOR shall not be discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

15. Records and Documents

CONTRACTOR shall make available, upon written request by any duly authorized Federal, State, or COUNTY agency, a copy of this Agreement and such books, documents and records as are necessary to certify the nature and extent of the CONTRACTOR's costs related to this Agreement. All such books, documents and records shall be maintained by CONTRACTOR for at least five years following termination of this Agreement and be available for audit by the COUNTY. CONTRACTOR shall provide to the COUNTY reports and information related to this Agreement as requested by COUNTY.

16. Confidentiality

16.1 The CONTRACTOR shall not use for personal gain or make other improper use of privileged or confidential information which is acquired in connection with this Agreement. The term "privileged or confidential information" includes but is not limited to: unpublished or sensitive technological or scientific information; medical, personnel, or security records; anticipated material requirements or pricing/purchasing actions; COUNTY information or data which is not subject to public disclosure; COUNTY operational procedures; and knowledge of selection of contractors, subcontractors or suppliers in advance of official announcement.

16.2 The CONTRACTOR shall protect from unauthorized disclosure names and other identifying information concerning persons receiving services pursuant to this Agreement, except for general statistical information not identifying any person. The CONTRACTOR shall not use such information for any purpose other than carrying out the CONTRACTOR's obligations under this Agreement. The CONTRACTOR shall promptly transmit to the COUNTY all third party requests for disclosure of such information. The CONTRACTOR shall not disclose, except as otherwise specifically permitted by this Agreement or authorized in advance in writing by the COUNTY, any such information to anyone other than the COUNTY. For purposes of this paragraph, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.

17. Administration/Contract Liaison

The COUNTY Purchasing Agent, or designee, shall administer this Agreement on behalf of the COUNTY. The Purchasing Department is to serve as the liaison with CONTRACTOR in connection with this Agreement.

18. Notices

All correspondence and notices required or contemplated by this Agreement shall be delivered to the respective parties at the addresses set forth below and are deemed submitted two days after their deposit in the United States mail, postage prepaid:

COUNTY OF RIVERSIDE
Transportation Land Management Agency
4080 Lemon Street, 12th Floor
Riverside, CA 92501
Attn: Frank Coyle

CONTRACTOR
RBF Consulting
40810 County Center Drive, Suite 100
Temecula, CA 92591
Attn: Kevin Thomas, CEP

County Purchasing and Fleet Services
2980 Washington Street
Riverside, CA 92504
Attn: Walter Mack

19. Force Majeure

If either party is unable to comply with any provision of this Agreement due to causes beyond its reasonable control, and which could not have been reasonably anticipated, such as acts of God, acts of war, civil disorders, or other similar acts, such party shall not be held liable for such failure to comply.

20. EDD Reporting Requirements

In order to comply with child support enforcement requirements of the State of California, the COUNTY may be required to submit a Report of Independent Contractor(s) form **DE 542** to the Employment Development Department. The CONTRACTOR agrees to furnish the required data and certifications to the COUNTY within 10 days of notification of award of Agreement when required by the EDD. This data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders. Failure of the CONTRACTOR to timely submit the data and/or certificates required may result in the contract being awarded to another contractor. In the event a contract has been issued, failure of the CONTRACTOR to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignments Orders and Notices of Assignment shall constitute a material breach of Agreement. If CONTRACTOR has any questions concerning this reporting requirement, please call (916) 657-0529. CONTRACTOR should also contact its local Employment Tax Customer Service Office listed in the telephone directory in the State Government section under "Employment Development Department" or access their Internet site at www.edd.ca.gov.

21. Hold Harmless/Indemnification

21.1 CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability whatsoever, based or asserted upon any services of CONTRACTOR, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of CONTRACTOR, its officers, employees, subcontractors, agents or representatives Indemnitors from this Agreement.

CONTRACTOR shall defend, at its sole expense, all costs, and fees including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards, the Indemnitees in any claim or action based upon such alleged acts or omissions.

21.2 With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR'S indemnification to Indemnitees as set forth herein.

21.3 CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.

21.4 The specified insurance limits required in this Agreement shall in no way limit or circumscribe CONTRACTOR'S obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

21.5 In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the CONTRACTOR from indemnifying the Indemnitees to the fullest extent allowed by law.

21.6 CONTRACTOR further agrees to indemnify and hold harmless Indemnitees from all liability arising from suits, claims, demands, actions, or proceedings made by agents, employees or subcontractors of CONTRACTOR for salary, wages, compensation, health benefits, insurance, retirement or any other benefit not explicitly set forth in this Agreement and arising out of work performed for COUNTY pursuant to this Agreement or any Work Assignment.

22. <u>Insurance</u>

22.1 Without limiting or diminishing the CONTRACTOR'S obligation to indemnify or hold the COUNTY harmless, CONTRACTOR shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Agreement. As respects to the insurance section only, the COUNTY herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents, or representatives as Additional Insureds.

A. Workers' Compensation:

If the CONTRACTOR has employees as defined by the State of California, the CONTRACTOR shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the

State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than $1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of The County of Riverside.

B. Commercial General Liability:

Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of CONTRACTOR'S performance of its obligations hereunder. Policy shall name the COUNTY as Additional Insured. Policy's limit of liability shall not be less than $1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

C. Vehicle Liability:

If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then CONTRACTOR shall maintain liability insurance for all owned, non-owned, or hired vehicles so used in an amount not less than $1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the COUNTY as Additional Insureds.

D. Professional Liability (ONLY TO BE INCLUDED IN CONTRACTS WITH SERVICE PROVIDERS INCLUDING BUT NOT LIMITED TO ENGINEERS, DOCTORS, AND LAWYERS). Contractor shall maintain Professional Liability Insurance providing coverage for the Contractor's performance of work included within this Agreement, with a limit of liability of not less than $1,000,000 per occurrence and $2,000,000 annual aggregate. If Contractor's Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of this Agreement and CONTRACTOR shall purchase at his sole expense either 1) an Extended Reporting Endorsement (also, known as Tail Coverage); or 2) Prior Dates Coverage from new insurer with a retroactive date back to the date of, or prior to, the inception of this Agreement; or 3) demonstrate through Certificates of Insurance that CONTRACTOR has Maintained continuous coverage with the same or original insurer. Coverage provided under items; 1), 2), or 3) will continue as long as the law allows.

E. General Insurance Provisions - All lines:

1) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are

waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

2) The CONTRACTOR must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceeds $500,000 per occurrence each such retention shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the COUNTY, and at the election of the Country's Risk Manager, CONTRACTOR'S carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

3) CONTRACTOR shall cause CONTRACTOR'S insurance carrier(s) to furnish the County of Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the County of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. CONTRACTOR shall not commence operations until the COUNTY has been furnished original Certificate (s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.

4) It is understood and agreed to by the parties hereto that the CONTRACTOR'S insurance shall be construed as primary insurance, and the COUNTY'S insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

5) If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work; or, the term of this Agreement, including any extensions thereof, exceeds five (5) years; the

COUNTY reserves the right to adjust the types of insurance and the monetary limits of liability required under this Agreement, if in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONTRACTOR has become inadequate.

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

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

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

23. General

23.1 CONTRACTOR shall not delegate or assign any interest in this Agreement, whether by operation of law or otherwise, without the prior written consent of COUNTY. Any attempt to delegate or assign any interest herein shall be deemed void and of no force or effect.

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

23.3 In the event the CONTRACTOR receives payment under this Agreement, which is later disallowed by COUNTY for nonconformance with the terms of the Agreement, the CONTRACTOR shall promptly refund the disallowed amount to the COUNTY on request; or at its option the COUNTY may offset the amount disallowed from any payment due to the CONTRACTOR.

23.4 CONTRACTOR shall not provide partial delivery or shipment of services or products unless specifically stated in the Agreement.

23.5 CONTRACTOR shall not provide any services or products subject to any chattel mortgage or under a conditional sales contract or other agreement by which an interest is retained by a third party. The CONTRACTOR warrants that it has good title to all materials or products used by CONTRACTOR or provided to COUNTY pursuant to this Agreement, free from all liens, claims, or encumbrances.

23.6 Nothing in this Agreement shall prohibit the COUNTY from acquiring the same type or equivalent equipment, products, materials or services from other sources, when deemed by the COUNTY to be in its best interest. The COUNTY reserves the right to purchase more or less than the quantities specified in this Agreement.

23.7 The COUNTY agrees to cooperate with the CONTRACTOR in the CONTRACTOR's performance under this Agreement, including, if stated in the Agreement, providing the CONTRACTOR with reasonable facilities and timely access to COUNTY data, information, and personnel.

23.8 CONTRACTOR shall comply with all applicable Federal, State and local laws and regulations. CONTRACTOR will comply with all applicable COUNTY policies and procedures. In the event that there is a conflict between the various laws or regulations that may apply, the CONTRACTOR shall comply with the more restrictive law or regulation.

23.9 CONTRACTOR shall comply with all air pollution control, water pollution, safety and health ordinances, statutes, or regulations, which apply to performance under this Agreement.

23.10 CONTRACTOR shall comply with all requirements of the Occupational Safety and Health Administration (OSHA) standards and codes as set forth by the U.S. Department of Labor and the State of California (Cal/OSHA).

23.11 This Agreement shall be governed by the laws of the State of California. Any legal action related to the performance or interpretation of this Agreement shall be filed only in the Superior Court of the State of California located in Riverside, California, and the parties waive any provision of law providing for a change of venue to another location. In the event any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

23.12 This Agreement, including any attachments or exhibits, constitutes the entire Agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both parties.

COUNTY:
Board of Supervisors
County Administration Center
4080 Lemon Street, 4th Floor
Riverside, CA 92501

Signature: Jeff Stone

Print Name: JEFF STONE

Title: Chairman of the Board of Supervisors

Dated: JAN 07 2014

ATTEST:
KECIA HARPER-IHEM, Clerk
By: Paquel Rosel
DEPUTY

CONTRACTOR:
RBF Consulting
40810 County Center Drive, Suite 100
Temecula, CA 92591

Signature: Michael Tylman

Print Name: Michael Tylman, PE

Title: Office Manager

Dated: December 12, 2013

FORM APPROVED COUNTY COUNSEL
BY: MARSHA L. VICTOR 12/18/13 DATE

EXHIBIT A
SCOPE OF SERVICE

Services provided under this Agreement will be performed on an on-call basis to the Riverside County Planning Department and Airport Land Use Commission (ALUC) for planning related work assignments located throughout Riverside County. CONTRACTOR/Consultant shall furnish all technical and professional services including labor, transportation, and expertise to fully and adequately perform the services generally described in Exhibit A, Scope of Services, and more specifically described in Work Assignments to be negotiated and executed in the future as services are required. Work Assignments shall be initiated at the request of the COUNTY Planning Department and Airport Land Use Commission (ALUC). All services and deliverables associated with the performance and accomplishment of the covenants described in approved Work Assignments is hereinafter collectively referred to as the "WORK ASSIGNMENTS".

Current Assignment is review and prepare environmental documents including but not limited to Environmental Impact Reports, Environmental Assessments and related technical environmental documents.

I. MAJOR PERMIT REVIEW

a. Requires current planning analysis for general plan amendments, specific plans, changes of zones, tentative parcel maps and tracts, plot plans, conditional use permits, surface mining permits, etc.; development of written reports, preparation of Initial Studies (Environmental Assessments) including the preparation of conditions of approval using LMS; preparation of PowerPoint presentations and making oral/visual presentations before the Planning Commission, Director's Hearing and COUNTY Board of Supervisors; interaction with COUNTY Departments and the public.

b. Tasks: Perform analysis of development proposals including conformity with the General Plan and applicable COUNTY Ordinances and State rules and regulations including all environmental rules and regulations; prepare written reports for the cases under review and provide oral presentations on development projects before the Planning Commission.

II. SPECIFIC PLAN REVIEW

a. Requires Specific Plan and Environmental Impact Report review and processing including knowledge of COUNTY, State, and Federal environmental regulations; preparation of written reports for major development proposals, oral presentations before the Planning Commission and Airport Land Use Commission (ALUC); interaction with COUNTY, State and Federal agencies; interaction with community groups and the public. Familiarity with the COUNTY's Specific Plan Ordinance procedures is also required.

b. Tasks: Perform analysis of major development proposals for consistency with the General Plan and applicable COUNTY Ordinances including all environmental rules and regulations; review Environmental Impact Reports (EIRs) and potentially Environmental Impact Statements (EISs) for major development proposals; prepare written reports; perform field investigations of proposed development; prepare and provide oral/visual presentations to community groups and the Planning Commission and Airport Land Use Commission (ALUC).

III. CONSISTANCY ZONING SUPPORT

a. Requires Planning analysis, development of advanced planning documents; clear, straight-forward writing, public presentations, community meetings and synthesis of related ideas from many sources.

b. Tasks: Conducting Public Opinion Surveys, preparation of baseline, existing conditions inventory, formulation and mapping of alternate scenarios; preparation processing, adoption and implementation of a consistency zoning program.

IV. ENVIRONMENTAL REVIEW

a. Special knowledge requirement in CEQA guidelines and procedures.

b. Requires Environmental research and analysis, review environmental documents of all types, synthesis of environmental information from many sources; clear, straight-forward writing skills.

c. Tasks: Preparing environmental impact reports, preparing environmental assessments using a form and procedures that is mutually acceptable to the COUNTY and the CONTRACTOR, preparation and review of miscellaneous environmental documents, reviewing documents prepared by projects in other jurisdictions for their impact on the COUNTY.

V. SITE PLAN REVIEW

a. Special knowledge requirement: COUNTY Ord. Nos. 348 and 460, COUNTY wide Design Standards and Guidelines, special area design standards, COUNTY specific plan requirements and methods of efficient architectural and design review of subdivisions. Develop operational functionality relative to any new or upcoming COUNTY rules or regulations, such as, but not limited to, Landscaping Ord., Noise Ord., updated General Plan Policies such as Cultural Resources, Healthy Communities, and the COUNTY's 8-year review cycle.

b. Requires reading evaluating determining consistency of contour elevations, subdivision map design, floor plans, materials boards and site layouts against COUNTY standards.

c. Tasks: reviewing formal site plans for adequacy in terms of Ord. No. 348, specific plan requirements (if applicable), design guidelines and General Plan incentive requirements, as applicable.

VI. PLANNING LANDSCAPE PLAN REVIEW

a. Special knowledge requirement: Plant materials and irrigation systems, drought tolerant landscaping, COUNTY Ordinance Nos. 859 and 348, COUNTY Design Guidelines and special area design standards.

b. Requires Reading landscaping plans, reading irrigation plans, creating/evaluating landscape water budgets, certified water auditor, determining whether proposed plant materials are suitable for the locations, use and irrigation proposed. Also must have skill in reading and interpreting Conditions of Approval; developing specialized Conditions of Approval; and clear, straight-forward writing skills.

c. Tasks: Complete review and inspection of landscaping plans on private property in commercial, industrial, and residential settings. Compare proposed landscaping to; 1) Ordinance No. 348 requirements for landscaping - generally by zone, 2) Ensure that landscape plans comply with the landscape provisions with Ordinance No. 859, 457, 460, and 461, and Riverside COUNTY Guide

to California Friendly Landscaping; 3) Conditions of approval associated with the approved tract, CUP or Plot Plan on the property, 4) Good landscaping practice for the location and irrigation proposed 5) Meet with project applicants and their field representatives and resolve landscape issues in conjunction with the Principal Planner in charge.

VII. PROJECT MANAGEMENT

a. Special requirement: Highly proficient and experienced in budget and project management skills.

b. Requires use and experience with computerized project management programs, working efficiently to project task time standards and managing project finances. Will need to be able to complete specific development review subtasks with the COUNTY upon their establishment.

c. Tasks: Maintain, track and control of caseloads using the COUNTY's Land Management System (LMS) and/or other appropriate tracking system; maintain, track and control of each project's case balance with reports from the COUNTY Oasis Financial system; maintain positive cash flows; ensure each case assigned to the CONTRACTOR is completed with a positive ending balance; and when necessary, coordinate landscape inspections with separate landscape inspector based in the desert.

VIII. OTHER SERVICES

a. CONTRACTOR personnel may work on site in Riverside or the Desert as needed, otherwise they shall work from their own facilities.

b. To account for "billable hours" time should be recorded in 1/10 of an hour increment basis.

c. The CONTRACTOR will arrange with their accounting function to calculate billing statements to the COUNTY on projects worked every single (1) week. This is to insure charges get billed to projects and posted to accounts in a timely manner. Billing statements from the CONTRACTOR to the COUNTY should show, in detail, by person, work time expended on each project, during each day. Contract personnel must use the COUNTY project numbers and task coding to insure proper case billing. CONTRACTOR shall provide an accounting system whereby certain assigned Planning Department and Airport Land Use Commission (ALUC) staff can obtain, at any time, daily financial accounting data (no older than 24 hours) for each contract personnel relative to dates and amounts cases are billed, as well as task codes worked, in order to provide a means for the Department to quickly respond to fee appeal requests. Any charges found by the Planning Department and Airport Land Use Commission (ALUC) to be erroneous or unjustified may be reversed for projects still active; or for projects already finalized, a credit against future Consultants charges may be made.

d. **Failure to submit timely billings during a projects lifespan may result in non-payment by the COUNTY. The COUNTY may also elect to reserve the right to deduct from future consultant invoices, costs to cover negative case balances from closed cases that were assigned to contract personnel.**

EXHIBIT B
PAYMENT PROVISIONS

ALL INCLUSIVE HOURLY RATES

1. SR. ENVIRONMENTAL ANALYST AT $138.00 PER HOUR

2. ENVIRONMENTAL ANALYST AT $118.00 PER HOUR

ANY CHANGES IN THESE RATES MUST APPROVED BY THE COUNTY BY WRITTEN AMENDMENT.

Contract ID # TLARC-92561-003-12/14

PROFESSIONAL SERVICE AGREEMENT

for

PLANNER SERVICES

between

COUNTY OF RIVERSIDE

and

MOORE IACOFANO GOLTSMAN, INC.

(MIG HOGLE-IRELAND)

JAN 07 2014 3.39

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This Agreement, made and entered into this _____day of _____, 2014, by and between Moore Iacofano Goltsman, Inc. (MIG HOGLE-IRELAND), (herein referred to as "CONTRACTOR"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, (herein referred to as "COUNTY").

WHERAS, Government Code Section 31000 et. sseq authorizes the COUNTY to contract for services with a person who is trained and experienced, and who is competent to perform the services required; and

WHEREAS, CONTRACTOR has the expertise, special skills, knowledge and experience to perform the duties set out herein

NOWTHEREFORE, in consideration of the mutual covenants contained herein, the parties do hereby agree as follows:

1. Description of Services

1.1 CONTRACTOR shall provide all services as outlined and specified in Exhibit A, Scope of Services, consisting of three (3) pages at the prices stated in Exhibit B, Payment Provisions, consisting of one (1) page, attached hereto and incorporated by this reference.

1.2 CONTRACTOR represents that it has the special skills, experience, and knowledge necessary to fully and adequately perform under this Agreement and the COUNTY relies upon this representation. CONTRACTOR shall perform to the satisfaction of the COUNTY and in conformance to and consistent with the highest standards of firms/professionals in the same discipline in the State of California.

1.3 CONTRACTOR affirms this it is fully apprised of all of the work to be performed under this Agreement; and the CONTRACTOR agrees it can properly perform this work at the prices stated in Exhibit B. CONTRACTOR is not to perform services or provide products outside of the Agreement.

1.4 Acceptance by the COUNTY of the CONTRACTOR's performance under this Agreement does not operate as a release of CONTRACTOR's responsibility for full compliance with the terms of this Agreement.

1.5 All agents, employees or subcontractors, of CONTRACTOR doing work for COUNTY shall sign an Independent Contractor Agreement, in a form proscribed by COUNTY, acknowledging their status as independent contractors before commencing any work for COUNTY pursuant to this Agreement or any particular Work Assignment.

2. Period of Performance

2.1 This Agreement shall be effective upon signature of this Agreement by both parties and continue in effect through December 31, 2014 with the option to renew for four additional years, to December 31, 2019; each year shall be renewable in one year increments by written amendment, unless terminated earlier. CONTRACTOR shall commence performance upon signature of this Agreement by both parties and shall diligently and continuously perform thereafter. The Riverside County Board of Supervisors is the only authority that may obligate the County for a non-cancelable multi-year agreement.

3. Compensation

3.1 The COUNTY shall pay the CONTRACTOR for services performed, products provided and expenses incurred in accordance with the terms of Exhibit B, Payment Provisions. Maximum payments by COUNTY to CONTRACTOR shall not exceed ($600,000) (six hundred thousand dollars) annually including all expenses. The COUNTY is not responsible for any fees or costs incurred above or beyond the contracted amount and shall have no obligation to purchase any specified amount of services or products. Unless otherwise specifically stated in Exhibit B, COUNTY shall not be responsible for payment of any of CONTRACTOR's expenses related to this Agreement.

3.2 No price increases will be permitted during the first year of this Agreement. The COUNTY requires written proof satisfactory to COUNTY of cost increases prior to any approved price adjustment. After the first year of the award, a minimum of 30-days advance notice in writing is required to be considered and approved by COUNTY. No retroactive price adjustments will be considered. Any price increases must be stated in a written amendment to this Agreement. The net dollar amount of profit will remain firm during the period of the Agreement. Annual increases shall not exceed the Consumer Price Index- All Consumers, All Items - Greater Los Angeles, Riverside and Orange County areas for planning services and be subject to satisfactory performance review by the COUNTY and approved (if needed) for budget funding by the Board of Supervisors.

3.3 CONTRACTOR shall be paid only in accordance with an invoice submitted to COUNTY by CONTRACTOR within fifteen (15) days from the last day of each calendar month, and COUNTY shall pay the invoice within thirty (30) working days from the date of receipt of the invoice. Payment shall be made to CONTRACTOR only after services have been rendered or delivery of materials or products, and acceptance has been made by COUNTY. Prepare invoices in duplicate. For this Agreement, send the original and duplicate copies of invoices to:

TRANSPORTATION LAND MANAGEMENT AGENCY
4080 LEMON STREET 12 TH FLOOR
RIVERSIDE, CA
ATTN: FRANK COYLE

a) Each invoice shall contain a minimum of the following information: invoice number and date; remittance address; bill-to and ship-to addresses of ordering department/division; Agreement number: (TLARC-92561-003-12/14); quantities; item descriptions, unit prices, extensions, sales/use tax if applicable, and an invoice total.

b) Invoices shall be rendered monthly in arrears.

3.4 The COUNTY obligation for payment of this Agreement beyond the current fiscal year end is contingent upon and limited by the availability of COUNTY funding from which payment can be made. No legal liability on the part of the COUNTY shall arise for payment beyond June 30 of each calendar year unless funds are made available for such payment. In the event that such funds are not forthcoming for any reason, COUNTY shall immediately notify CONTRACTOR in writing; and this Agreement shall be deemed terminated, have no further force, and effect.

4. Alteration or Changes to the Agreement

4.1 The Board of Supervisors and the COUNTY Purchasing Agent and/or his designee are the only authorized COUNTY representatives who may at any time, by written order, alter this Agreement. If any such alteration causes an increase or decrease in the cost of, or the time required for the performance under this Agreement, an equitable adjustment shall be made in the Agreement price or delivery schedule, or both, and the Agreement shall be modified by written amendment accordingly.

4.2 Any claim by the CONTRACTOR for additional payment related to this Agreement shall be made in writing by the CONTRACTOR within 30 days of when the CONTRACTOR has or should have notice of any actual or claimed change in the work, which results in additional and unanticipated cost to the CONTRACTOR. If the COUNTY Purchasing Agent decides that the facts provide sufficient justification, he may authorize additional payment to the CONTRACTOR pursuant to the claim. Nothing in this section shall excuse the CONTRACTOR from proceeding with performance of the Agreement even if there has been a change.

5. Termination

5.1. COUNTY may terminate this Agreement without cause upon 30 days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

5.2 COUNTY may, upon five (5) days written notice, terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Agreement or fails to make progress to endanger performance and does not immediately cure such failure. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

5.3 After receipt of the notice of termination, CONTRACTOR shall:

(a) Stop all work under this Agreement on the date specified in the notice of termination; and

(b) Transfer to COUNTY and deliver in the manner as directed by COUNTY any materials, reports or other products, which, if the Agreement had been completed or continued, would have been required to be furnished to COUNTY.

5.4 After termination, COUNTY shall make payment only for CONTRACTOR's performance up to the date of termination in accordance with this Agreement and at the rates set forth in Exhibit B.

5.5 CONTRACTOR's rights under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement. In such event, CONTRACTOR shall not be entitled to any further compensation under this Agreement.

5.6 The rights and remedies of COUNTY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

6. Ownership/Use of Contract Materials and Products

The CONTRACTOR agrees that all materials, reports or products in any form, including electronic, created by CONTRACTOR for which CONTRACTOR has been compensated by COUNTY pursuant to this Agreement shall be the sole property of the COUNTY; and may be used by the COUNTY for any purpose COUNTY deems to be appropriate, including, but not limit to, duplication and/or distribution within the COUNTY or to third parties. CONTRACTOR agrees not to release or circulate in whole or part such materials, reports, or products without prior written authorization of the COUNTY.

7. Conduct of Contractor

7.1 The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR further covenants that no person or subcontractor having any such interest shall be employed or retained by CONTRACTOR under this Agreement. The CONTRACTOR agrees to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

7.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.

7.3 The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.

8. Inspection of Service; Quality Control/Assurance

8.1 All performance (which includes services, workmanship, materials, supplies and equipment furnished or utilized in the performance of this Agreement) shall be subject to inspection and test by the COUNTY or other regulatory agencies at all times. The CONTRACTOR shall provide adequate cooperation to any inspector or other COUNTY representative to permit him/her to determine the CONTRACTOR's conformity with the terms of this Agreement. If any services performed or products provided by CONTRACTOR are not in conformance with the terms of this Agreement, the COUNTY shall have the right to require the CONTRACTOR to perform the services or provide the products in conformance with the terms of the Agreement at no additional cost to the COUNTY. When the services to be performed or the products to be provided are of such nature that the difference cannot be corrected, the COUNTY shall have the right to: (1) require the CONTRACTOR immediately to take all necessary steps to ensure future performance in conformity with the terms of the Agreement; and/or (2) reduce the Agreement price to reflect the reduced value of the services performed or products provided. The COUNTY may also terminate this Agreement for default and charge to CONTRACTOR any costs incurred by the COUNTY because of the CONTRACTOR's failure to perform.

8.2 CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY representative or other regulatory official to monitor, assess, or evaluate CONTRACTOR's performance under this Agreement at any time upon reasonable notice to CONTRACTOR.

9. Independent Contractor

9.1 The CONTRACTOR is, for purposes relating to this Agreement, an independent contractor and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents, and subcontractors) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no

employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.

9.2 CONTRACTOR shall provide and maintain, throughout the term of this Agreement, their own workspace, tools, equipment and supplies necessary to perform the duties set forth under this Agreement. Notwithstanding the foregoing, COUNTY may, in its sole discretion, and with its prior written consent, provide access to COUNTY facilities, offices or meeting rooms during regular work hours for meetings, conferences or other work of CONTRACTOR.

9.3 CONTRACTOR has the right to perform services for other clients during the term of this Agreement as long as such services are not in direct conflict with the services provided to COUNTY.

10. Subcontract for Work or Services

No contract shall be made by the CONTRACTOR with any other party for furnishing any of the work or services under this Agreement without the prior written approval of the COUNTY; but this provision shall not require the approval of contracts of employment between the CONTRACTOR and personnel assigned under this Agreement, or for parties named in the proposal and agreed to under this Agreement.

11. Disputes

11.1 The parties shall attempt to resolve any disputes amicably at the working level. If that is not successful, the dispute shall be referred to the senior management of the parties. Any dispute relating to this Agreement, which is not resolved by the parties, shall be decided by the COUNTY's Purchasing Department's Compliance Contract Officer who shall furnish the decision in writing. The decision of the COUNTY's Compliance Contract Officer shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith. The CONTRACTOR shall proceed diligently with the performance of this Agreement pending the resolution of a dispute.

11.2 Prior to the filing of any legal action related to this Agreement, the parties shall be obligated to attend a mediation session in Riverside County before a neutral third party mediator. A second mediation session shall be required if the first session is not successful. The parties shall share the cost of the mediations.

12. Licensing and Permits

CONTRACTOR shall comply with all State or other licensing requirements, including but not limited to the provisions of Chapter 9 of Division 3 of the Business and Professions Code. All licensing requirements shall be met at the time proposals are submitted to the COUNTY. CONTRACTOR warrants that it has all necessary permits, approvals, certificates, waivers and exemptions necessary for performance of this Agreement as required by the laws and regulations of the United States, the State of California, the County of Riverside and all other governmental agencies with jurisdiction, and shall maintain these throughout the term of this Agreement.

13. Use By Other Political Entities

The CONTRACTOR agrees to extend the same pricing, terms, and conditions as stated in this Agreement to each and every political entity, special district, and related non-profit entity in Riverside County. It is understood that other entities shall make purchases in their own name, make direct payment, and be liable directly to the CONTRACTOR; and COUNTY shall in no way be responsible to CONTRACTOR for other entities' purchases.

14. Non-Discrimination

CONTRACTOR shall not be discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

15. Records and Documents

CONTRACTOR shall make available, upon written request by any duly authorized Federal, State, or COUNTY agency, a copy of this Agreement and such books, documents and records as are necessary to certify the nature and extent of the CONTRACTOR's costs related to this Agreement. All such books, documents and records shall be maintained by CONTRACTOR for at least five years following termination of this Agreement and be available for audit by the COUNTY. CONTRACTOR shall provide to the COUNTY reports and information related to this Agreement as requested by COUNTY.

16. Confidentiality

16.1 The CONTRACTOR shall not use for personal gain or make other improper use of privileged or confidential information which is acquired in connection with this Agreement. The term "privileged or confidential information" includes but is not limited to: unpublished or sensitive technological or scientific information; medical, personnel, or security records; anticipated material requirements or pricing/purchasing actions; COUNTY information or data which is not subject to public disclosure; COUNTY operational procedures; and knowledge of selection of contractors, subcontractors or suppliers in advance of official announcement.

16.2 The CONTRACTOR shall protect from unauthorized disclosure names and other identifying information concerning persons receiving services pursuant to this Agreement, except for general statistical information not identifying any person. The CONTRACTOR shall not use such information for any purpose other than carrying out the CONTRACTOR's obligations under this Agreement. The CONTRACTOR shall promptly transmit to the COUNTY all third party requests for disclosure of such information. The CONTRACTOR shall not disclose, except as otherwise specifically permitted by this Agreement or authorized in advance in writing by the COUNTY, any such information to anyone other than the COUNTY. For purposes of this paragraph, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.

17. Administration/Contract Liaison

The COUNTY Purchasing Agent, or designee, shall administer this Agreement on behalf of the COUNTY. The Purchasing Department is to serve as the liaison with CONTRACTOR in connection with this Agreement.

18. Notices

All correspondence and notices required or contemplated by this Agreement shall be delivered to the respective parties at the addresses set forth below and are deemed submitted two days after their deposit in the United States mail, postage prepaid:

COUNTY OF RIVERSIDE
Transportation Land Management Agency
4080 Lemon Street, 12th Floor
Riverside, CA 92501
Attn: Frank Coyle

CONTRACTOR
Moore Iacofano Goltsman, Inc.
1500 Iowa Avenue, Suite 110
Riverside, CA 92504
Attn: Pamela Steele

County Purchasing and Fleet Services
2980 Washington Street
Riverside, CA 92504
Attn: Walter Mack

19. Force Majeure

If either party is unable to comply with any provision of this Agreement due to causes beyond its reasonable control, and which could not have been reasonably anticipated, such as acts of God, acts of war, civil disorders, or other similar acts, such party shall not be held liable for such failure to comply.

20. EDD Reporting Requirements

In order to comply with child support enforcement requirements of the State of California, the COUNTY may be required to submit a Report of Independent Contractor(s) form **DE 542** to the Employment Development Department. The CONTRACTOR agrees to furnish the required data and certifications to the COUNTY within 10 days of notification of award of Agreement when required by the EDD. This data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders. Failure of the CONTRACTOR to timely submit the data and/or certificates required may result in the contract being awarded to another contractor. In the event a contract has been issued, failure of the CONTRACTOR to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignments Orders and Notices of Assignment shall constitute a material breach of Agreement. If CONTRACTOR has any questions concerning this reporting requirement, please call (916) 657-0529. CONTRACTOR should also contact its local Employment Tax Customer Service Office listed in the telephone directory in the State Government section under "Employment Development Department" or access their Internet site at www.edd.ca.gov.

21. Hold Harmless/Indemnification

21.1 CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability whatsoever, based or asserted upon any services of CONTRACTOR, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of CONTRACTOR, its

officers, employees, subcontractors, agents or representatives Indemnitors from this Agreement. CONTRACTOR shall defend, at its sole expense, all costs, and fees including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards, the Indemnitees in any claim or action based upon such alleged acts or omissions.

21.2 With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR'S indemnification to Indemnitees as set forth herein.

21.3 CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.

21.4 The specified insurance limits required in this Agreement shall in no way limit or circumscribe CONTRACTOR'S obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

21.5 In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the CONTRACTOR from indemnifying the Indemnitees to the fullest extent allowed by law.

21.6 CONTRACTOR further agrees to indemnify and hold harmless Indemnitees from all liability arising from suits, claims, demands, actions, or proceedings made by agents, employees or subcontractors of CONTRACTOR for salary, wages, compensation, health benefits, insurance, retirement or any other benefit not explicitly set forth in this Agreement and arising out of work performed for COUNTY pursuant to this Agreement or any Work Assignment.

22. <u>Insurance</u>

22.1 Without limiting or diminishing the CONTRACTOR'S obligation to indemnify or hold the COUNTY harmless, CONTRACTOR shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Agreement. As respects to the insurance section only, the COUNTY herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents, or representatives as Additional Insureds.

A. Workers' Compensation:

If the CONTRACTOR has employees as defined by the State of California, the CONTRACTOR shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than $1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of The County of Riverside.

B. Commercial General Liability:

Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of CONTRACTOR'S performance of its obligations hereunder. Policy shall name the COUNTY as Additional Insured. Policy's limit of liability shall not be less than $1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

C. Vehicle Liability:

If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then CONTRACTOR shall maintain liability insurance for all owned, non-owned, or hired vehicles so used in an amount not less than $1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the COUNTY as Additional Insureds.

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

E. General Insurance Provisions - All lines:

1) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are

waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

2) The CONTRACTOR must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceeds $500,000 per occurrence each such retention shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the COUNTY, and at the election of the Country's Risk Manager, CONTRACTOR'S carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

3) CONTRACTOR shall cause CONTRACTOR'S insurance carrier(s) to furnish the County of Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the County of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. CONTRACTOR shall not commence operations until the COUNTY has been furnished original Certificate (s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.

4) It is understood and agreed to by the parties hereto that the CONTRACTOR'S insurance shall be construed as primary insurance, and the COUNTY'S insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

5) If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work; or, the term of this Agreement, including any extensions thereof, exceeds five (5) years; the

COUNTY reserves the right to adjust the types of insurance and the monetary limits of liability required under this Agreement, if in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONTRACTOR has become inadequate.

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

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

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

23. General

23.1 CONTRACTOR shall not delegate or assign any interest in this Agreement, whether by operation of law or otherwise, without the prior written consent of COUNTY. Any attempt to delegate or assign any interest herein shall be deemed void and of no force or effect.

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

23.3 In the event the CONTRACTOR receives payment under this Agreement, which is later disallowed by COUNTY for nonconformance with the terms of the Agreement, the CONTRACTOR shall promptly refund the disallowed amount to the COUNTY on request; or at its option the COUNTY may offset the amount disallowed from any payment due to the CONTRACTOR.

23.4 CONTRACTOR shall not provide partial delivery or shipment of services or products unless specifically stated in the Agreement.

23.5 CONTRACTOR shall not provide any services or products subject to any chattel mortgage or under a conditional sales contract or other agreement by which an interest is retained by a third party. The CONTRACTOR warrants that it has good title to all materials or products used by CONTRACTOR or provided to COUNTY pursuant to this Agreement, free from all liens, claims, or encumbrances.

23.6 Nothing in this Agreement shall prohibit the COUNTY from acquiring the same type or equivalent equipment, products, materials or services from other sources, when deemed by the COUNTY to be in its best interest. The COUNTY reserves the right to purchase more or less than the quantities specified in this Agreement.

23.7 The COUNTY agrees to cooperate with the CONTRACTOR in the CONTRACTOR's performance under this Agreement, including, if stated in the Agreement, providing the CONTRACTOR with reasonable facilities and timely access to COUNTY data, information, and personnel.

23.8 CONTRACTOR shall comply with all applicable Federal, State and local laws and regulations. CONTRACTOR will comply with all applicable COUNTY policies and procedures. In the event that there is a conflict between the various laws or regulations that may apply, the CONTRACTOR shall comply with the more restrictive law or regulation.

23.9 CONTRACTOR shall comply with all air pollution control, water pollution, safety and health ordinances, statutes, or regulations, which apply to performance under this Agreement.

23.10 CONTRACTOR shall comply with all requirements of the Occupational Safety and Health Administration (OSHA) standards and codes as set forth by the U.S. Department of Labor and the State of California (Cal/OSHA).

23.11 This Agreement shall be governed by the laws of the State of California. Any legal action related to the performance or interpretation of this Agreement shall be filed only in the Superior Court of the State of California located in Riverside, California, and the parties waive any provision of law providing for a change of venue to another location. In the event any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

23.12 This Agreement, including any attachments or exhibits, constitutes the entire Agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both parties.

COUNTY:
Board of Supervisors
County Administration Center
4080 Lemon Street, 4th Floor
Riverside, CA 92501

Signature: Jeff Stone

Print Name: JEFF STONE

Title: Chairman of the Board of Supervisors

Dated: JAN 07 2014

ATTEST:
KECIA HARPER-IHEM, Clerk
By Raquel Rosel
DEPUTY

CONTRACTOR:
Moore Iacofano Goltsman, Inc.
1500 Iowa Avenue, Suite 110
Riverside, CA 92507

Signature: Pamela Steele

Print Name: Pamela Steele

Title: Principal

Dated: December 10, 2013

FORM APPROVED COUNTY COUNSEL
BY: MARSHA L. VICTOR 12/18/13 DATE

EXHIBIT A
SCOPE OF SERVICE

Services provided under this Agreement will be performed on an on-call basis to the Riverside County Planning Department and Airport Land Use Commission (ALUC) for planning related work assignments located throughout Riverside County. CONTRACTOR/Consultant shall furnish all technical and professional services including labor, transportation, and expertise to fully and adequately perform the services generally described in Exhibit A, Scope of Services, and more specifically described in Work Assignments to be negotiated and executed in the future as services are required. Work Assignments shall be initiated at the request of the COUNTY Planning Department and Airport Land Use Commission (ALUC). All services and deliverables associated with the performance and accomplishment of the covenants described in approved Work Assignments is hereinafter collectively referred to as the "WORK ASSIGNMENTS".

Current Assignment is Specific Plans, Conditional Use Permits and Plot Plans

I. MAJOR PERMIT REVIEW

a. Requires current planning analysis for general plan amendments, specific plans, changes of zones, tentative parcel maps and tracts, plot plans, conditional use permits, surface mining permits, etc.; development of written reports, preparation of Initial Studies (Environmental Assessments) including the preparation of conditions of approval using LMS; preparation of PowerPoint presentations and making oral/visual presentations before the Planning Commission, Director's Hearing and COUNTY Board of Supervisors; interaction with COUNTY Departments and the public.

b. Tasks: Perform analysis of development proposals including conformity with the General Plan and applicable COUNTY Ordinances and State rules and regulations including all environmental rules and regulations; prepare written reports for the cases under review and provide oral presentations on development projects before the Planning Commission.

II. SPECIFIC PLAN REVIEW

a. Requires Specific Plan and Environmental Impact Report review and processing including knowledge of COUNTY, State, and Federal environmental regulations; preparation of written reports for major development proposals, oral presentations before the Planning Commission and Airport Land Use Commission (ALUC); interaction with COUNTY, State and Federal agencies; interaction with community groups and the public. Familiarity with the COUNTY's Specific Plan Ordinance procedures is also required.

b. Tasks: Perform analysis of major development proposals for consistency with the General Plan and applicable COUNTY Ordinances including all environmental rules and regulations; review Environmental Impact Reports (EIRs) and potentially Environmental Impact Statements (EISs) for major development proposals; prepare written reports; perform field investigations of proposed development; prepare and provide oral/visual presentations to community groups, the Planning Commission and Airport Land Use Commission (ALUC).

III. CONSISTANCY ZONING SUPPORT

a. Requires Planning analysis, development of advanced planning documents; clear, straight-

forward writing, public presentations, community meetings and synthesis of related ideas from many sources.

b. Tasks: Conducting Public Opinion Surveys, preparation of baseline, existing conditions inventory, formulation and mapping of alternate scenarios; preparation processing, adoption and implementation of a consistency zoning program.

IV. ENVIRONMENTAL REVIEW

a. Special knowledge requirement in CEQA guidelines and procedures.

b. Requires Environmental research and analysis, review environmental documents of all types, synthesis of environmental information from many sources; clear, straight-forward writing skills.

c. Tasks: Preparing environmental impact reports, preparing environmental assessments using a form and procedures that is mutually acceptable to the COUNTY and the CONTRACTOR, preparation and review of miscellaneous environmental documents, reviewing documents prepared by projects in other jurisdictions for their impact on the COUNTY.

V. SITE PLAN REVIEW

a. Special knowledge requirement: COUNTY Ord. Nos. 348 and 460, COUNTY wide Design Standards and Guidelines, special area design standards, COUNTY specific plan requirements and methods of efficient architectural and design review of subdivisions. Develop operational functionality relative to any new or upcoming COUNTY rules or regulations, such as, but not limited to, Landscaping Ord., Noise Ord., updated General Plan Policies such as Cultural Resources, Healthy Communities, and the COUNTY's 8-year review cycle.

b. Requires reading evaluating determining consistency of contour elevations, subdivision map design, floor plans, materials boards and site layouts against COUNTY standards.

c. Tasks: reviewing formal site plans for adequacy in terms of Ord. No. 348, specific plan requirements (if applicable), design guidelines and General Plan incentive requirements, as applicable.

VI. PLANNING LANDSCAPE PLAN REVIEW

a. Special knowledge requirement: Plant materials and irrigation systems, drought tolerant landscaping, COUNTY Ordinance Nos. 859 and 348, COUNTY Design Guidelines and special area design standards.

b. Requires Reading landscaping plans, reading irrigation plans, creating/evaluating landscape water budgets, certified water auditor, determining whether proposed plant materials are suitable for the locations, use and irrigation proposed. Also must have skill in reading and interpreting Conditions of Approval; developing specialized Conditions of Approval; and clear, straight-forward writing skills.

c. Tasks: Complete review and inspection of landscaping plans on private property in commercial, industrial, and residential settings. Compare proposed landscaping to; 1) Ordinance No. 348 requirements for landscaping - generally by zone, 2) Ensure that landscape plans comply with the landscape provisions with Ordinance No. 859, 457, 460, and 461, and Riverside COUNTY Guide to California Friendly Landscaping; 3) Conditions of approval associated with the approved tract, CUP or Plot Plan on the property, 4) Good landscaping practice for the location and irrigation

proposed 5) Meet with project applicants and their field representatives and resolve landscape issues in conjunction with the Principal Planner in charge.

VII. PROJECT MANAGEMENT

a. Special requirement: Highly proficient and experienced in budget and project management skills.

b. Requires use and experience with computerized project management programs, working efficiently to project task time standards and managing project finances. Will need to be able to complete specific development review subtasks with the COUNTY upon their establishment.

c. Tasks: Maintain, track and control of caseloads using the COUNTY's Land Management System (LMS) and/or other appropriate tracking system; maintain, track and control of each project's case balance with reports from the COUNTY Oasis Financial system; maintain positive cash flows; ensure each case assigned to the CONTRACTOR is completed with a positive ending balance; and when necessary, coordinate landscape inspections with separate landscape inspector based in the desert.

VIII. OTHER SERVICES

a. CONTRACTOR personnel may work on site in Riverside or the Desert as needed; otherwise they shall work from their own facilities.

b. To account for "billable hours" time should be recorded in 1/10 of an hour increment basis.

c. The CONTRACTOR will arrange with their accounting function to calculate billing statements to the COUNTY on projects worked every single (1) week. This is to insure charges get billed to projects and posted to accounts in a timely manner. Billing statements from the CONTRACTOR to the COUNTY should show, in detail, by person, work time expended on each project, during each day. Contract personnel must use the COUNTY project numbers and task coding to insure proper case billing. CONTRACTOR shall provide an accounting system whereby certain assigned Planning Department and Airport Land Use Commission (ALUC) staff can obtain, at any time, daily financial accounting data (no older than 24 hours) for each contract personnel relative to dates and amounts cases are billed, as well as task codes worked, in order to provide a means for the Department to quickly respond to fee appeal requests. Any charges found by the Planning Department and Airport Land Use Commission (ALUC) to be erroneous or unjustified may be reversed for projects still active; or for projects already finalized, a credit against future Consultants charges may be made.

d. **Failure to submit timely billings during a projects lifespan may result in non-payment by the COUNTY. The COUNTY may also elect to reserve the right to deduct from future consultant invoices, costs to cover negative case balances from closed cases that were assigned to contract personnel.**

e. **Airport Land Use Commission (ALUC) may utilize services on an as needed basis.**

EXHIBIT B
PAYMENT PROVISIONS

ALL INCLUSIVE HOURLY RATES

1. PRINCIPAL PLANNER AT $140.00 PER HOUR

2. PLANNER 4 AT $110.00 PER HOUR

3. CULTURAL RESOURCE AT $140.00 PER HOUR

ANY CHANGES IN THESE RATES MUST BE APPROVED BY THE COUNTY BY WRITTEN AMENDMENT.

PROFESSIONAL SERVICE AGREEMENT

for

PLANNER SERVICES

between

COUNTY OF RIVERSIDE

and

PACIFIC MUNICIPAL CONSULTANTS, INC.

(DBA) PMC

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This Agreement, made and entered into this _____day of _____, 2014, by and between PACIFIC Municipal CONSULTANTS, (DBA) PMC, (herein referred to as "CONTRACTOR"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, (herein referred to as "COUNTY").

WHERAS, Government Code Section 31000 et. seq authorizes the COUNTY to contract for services with a person who is trained and experienced, and who is competent to perform the services required; and

WHEREAS, CONTRACTOR has the expertise, special skills, knowledge and experience to perform the duties set out herein

NOWTHEREFORE, in consideration of the mutual covenants contained herein, the parties do hereby agree as follows:

1. Description of Services

1.1 CONTRACTOR shall provide all services as outlined and specified in Exhibit A, Scope of Services, consisting of three (3) pages at the prices stated in Exhibit B, Payment Provisions, consisting of one (1) page, attached hereto and incorporate by this reference.

1.2 CONTRACTOR represents that it has the special skills, experience, and knowledge necessary to fully and adequately perform under this Agreement and the COUNTY relies upon this representation. CONTRACTOR shall perform to the satisfaction of the COUNTY and in conformance to and consistent with the highest standards of firms/professionals in the same discipline in the State of California.

1.3 CONTRACTOR affirms this it is fully apprised of all of the work to be performed under this Agreement; and the CONTRACTOR agrees it can properly perform this work at the prices stated in Exhibit B. CONTRACTOR is not to perform services or provide products outside of the Agreement.

1.4 Acceptance by the COUNTY of the CONTRACTOR's performance under this Agreement does not operate as a release of CONTRACTOR's responsibility for full compliance with the terms of this Agreement.

1.5 All agents, employees or subcontractors, of CONTRACTOR doing work for COUNTY shall sign an Independent Contractor Agreement, in a form proscribed by COUNTY, acknowledging their status as independent contractors before commencing any work for COUNTY pursuant to this Agreement or any particular Work Assignment.

2. Period of Performance

2.1 This Agreement shall be effective upon signature of this Agreement by both parties and continue in effect through December 31, 2014 with the option to renew for four additional years, to

December 31, 2019; each year shall be renewable in one year increments by written amendment, unless terminated earlier. CONTRACTOR shall commence performance upon signature of this Agreement by both parties and shall diligently and continuously perform thereafter. The Riverside County Board of Supervisors is the only authority that may obligate the County for a non-cancelable multi-year agreement.

3. Compensation

3.1 The COUNTY shall pay the CONTRACTOR for services performed, products provided and expenses incurred in accordance with the terms of Exhibit B, Payment Provisions. Maximum payments by COUNTY to CONTRACTOR shall not exceed ($300,000) (three hundred thousand dollars) annually including all expenses. The COUNTY is not responsible for any fees or costs incurred above or beyond the contracted amount and shall have no obligation to purchase any specified amount of services or products. Unless otherwise specifically stated in Exhibit B, COUNTY shall not be responsible for payment of any of CONTRACTOR's expenses related to this Agreement.

3.2 No price increases will be permitted during the first year of this Agreement. The COUNTY requires written proof satisfactory to COUNTY of cost increases prior to any approved price adjustment. After the first year of the award, a minimum of 30-days advance notice in writing is required to be considered and approved by COUNTY. No retroactive price adjustments will be considered. Any price increases must be stated in a written amendment to this Agreement. The net dollar amount of profit will remain firm during the period of the Agreement. Annual increases shall not exceed the Consumer Price Index- All Consumers, All Items - Greater Los Angeles, Riverside and Orange County areas for planning services and be subject to satisfactory performance review by the COUNTY and approved (if needed) for budget funding by the Board of Supervisors.

3.3 CONTRACTOR shall be paid only in accordance with an invoice submitted to COUNTY by CONTRACTOR within fifteen (15) days from the last day of each calendar month, and COUNTY shall pay the invoice within thirty (30) working days from the date of receipt of the invoice. Payment shall be made to CONTRACTOR only after services have been rendered or delivery of materials or products, and acceptance has been made by COUNTY. Prepare invoices in duplicate. For this Agreement, send the original and duplicate copies of invoices to:

TRANSPORTATION LAND MANAGEMENT AGENCY
4080 LEMON STREET 12 TH FLOOR
RIVERSIDE, CA
ATTN: FRANK COYLE

a) Each invoice shall contain a minimum of the following information: invoice number and date; remittance address; bill-to and ship-to addresses of ordering department/division;

Agreement number: (TLARC-92561-002-12/14); quantities; item descriptions, unit prices, extensions, sales/use tax if applicable, and an invoice total.

b) Invoices shall be rendered monthly in arrears.

3.4 The COUNTY obligation for payment of this Agreement beyond the current fiscal year end is contingent upon and limited by the availability of COUNTY funding from which payment can be made. No legal liability on the part of the COUNTY shall arise for payment beyond June 30 of each calendar year unless funds are made available for such payment. In the event that such funds are not forthcoming for any reason, COUNTY shall immediately notify CONTRACTOR in writing; and this Agreement shall be deemed terminated, have no further force, and effect.

4. Alteration or Changes to the Agreement

4.1 The Board of Supervisors and the COUNTY Purchasing Agent and/or his designee are the only authorized COUNTY representatives who may at any time, by written order, alter this Agreement. If any such alteration causes an increase or decrease in the cost of, or the time required for the performance under this Agreement, an equitable adjustment shall be made in the Agreement price or delivery schedule, or both, and the Agreement shall be modified by written amendment accordingly.

4.2 Any claim by the CONTRACTOR for additional payment related to this Agreement shall be made in writing by the CONTRACTOR within 30 days of when the CONTRACTOR has or should have notice of any actual or claimed change in the work, which results in additional and unanticipated cost to the CONTRACTOR. If the COUNTY Purchasing Agent decides that the facts provide sufficient justification, he may authorize additional payment to the CONTRACTOR pursuant to the claim. Nothing in this section shall excuse the CONTRACTOR from proceeding with performance of the Agreement even if there has been a change.

5. Termination

5.1. COUNTY may terminate this Agreement without cause upon 30 days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

5.2 COUNTY may, upon five (5) days written notice, terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this Agreement or fails to make progress to endanger performance and does not immediately cure such failure. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

5.3 After receipt of the notice of termination, CONTRACTOR shall:

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(a) Stop all work under this Agreement on the date specified in the notice of termination; and

(b) Transfer to COUNTY and deliver in the manner as directed by COUNTY any materials, reports or other products, which, if the Agreement had been completed or continued, would have been required to be furnished to COUNTY.

5.4 After termination, COUNTY shall make payment only for CONTRACTOR's performance up to the date of termination in accordance with this Agreement and at the rates set forth in Exhibit B.

5.5 CONTRACTOR's rights under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement. In such event, CONTRACTOR shall not be entitled to any further compensation under this Agreement.

5.6 The rights and remedies of COUNTY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

6. Ownership/Use of Contract Materials and Products

The CONTRACTOR agrees that all materials, reports or products in any form, including electronic, created by CONTRACTOR for which CONTRACTOR has been compensated by COUNTY pursuant to this Agreement shall be the sole property of the COUNTY; and may be used by the COUNTY for any purpose COUNTY deems to be appropriate, including, but not limit to, duplication and/or distribution within the COUNTY or to third parties. CONTRACTOR shall not be held liable for any modification or re-use of such COUNTY-owned property for purposes outside its original intent. CONTRACTOR agrees not to release or circulate in whole or part such materials, reports, or products without prior written authorization of the COUNTY.

7. Conduct of Contractor

7.1 The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR further covenants that no person or subcontractor having any such interest shall be employed or retained by CONTRACTOR under this Agreement. The CONTRACTOR agrees to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

7.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.

7.3 The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.

8. Inspection of Service; Quality Control/Assurance

8.1 All performance (which includes services, workmanship, materials, supplies and equipment furnished or utilized in the performance of this Agreement) shall be subject to inspection and test by the COUNTY or other regulatory agencies at all times. The CONTRACTOR shall provide adequate cooperation to any inspector or other COUNTY representative to permit him/her to determine the CONTRACTOR's conformity with the terms of this Agreement. If any services performed or products provided by CONTRACTOR are not in conformance with the terms of this Agreement, the COUNTY shall have the right to require the CONTRACTOR to perform the services or provide the products in conformance with the terms of the Agreement at no additional cost to the COUNTY. When the services to be performed or the products to be provided are of such nature that the difference cannot be corrected, the COUNTY shall have the right to: (1) require the CONTRACTOR immediately to take all necessary steps to ensure future performance in conformity with the terms of the Agreement; and/or (2) reduce the Agreement price to reflect the reduced value of the services performed or products provided. The COUNTY may also terminate this Agreement for default and charge to CONTRACTOR any costs incurred by the COUNTY because of the CONTRACTOR's failure to perform.

8.2 CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY representative or other regulatory official to monitor, assess, or evaluate CONTRACTOR's performance under this Agreement at any time upon reasonable notice to CONTRACTOR.

9. Independent Contractor

9.1 The CONTRACTOR is, for purposes relating to this Agreement, an independent contractor and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents, and subcontractors) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no

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employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.

9.2 CONTRACTOR shall provide and maintain, throughout the term of this Agreement, their own workspace, tools, equipment and supplies necessary to perform the duties set forth under this Agreement. Notwithstanding the foregoing, COUNTY may, in its sole discretion, and with its prior written consent, provide access to COUNTY facilities, offices or meeting rooms during regular work hours for meetings, conferences or other work of CONTRACTOR.

9.3 CONTRACTOR has the right to perform services for other clients during the term of this Agreement as long as such services are not in direct conflict with the services provided to COUNTY.

10. <u>Subcontract for Work or Services</u>

No contract shall be made by the CONTRACTOR with any other party for furnishing any of the work or services under this Agreement without the prior written approval of the COUNTY; but this provision shall not require the approval of contracts of employment between the CONTRACTOR and personnel assigned under this Agreement, or for parties named in the proposal and agreed to under this Agreement.

11. <u>Disputes</u>

11.1 The parties shall attempt to resolve any disputes amicably at the working level. If that is not successful, the dispute shall be referred to the senior management of the parties. Any dispute relating to this Agreement, which is not resolved by the parties, shall be decided by the COUNTY's Purchasing Department's Compliance Contract Officer who shall furnish the decision in writing. The decision of the COUNTY's Compliance Contract Officer shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith. The CONTRACTOR shall proceed diligently with the performance of this Agreement pending the resolution of a dispute.

11.2 Prior to the filing of any legal action related to this Agreement, the parties shall be obligated to attend a mediation session in Riverside County before a neutral third party mediator. A second mediation

session shall be required if the first session is not successful. The parties shall share the cost of the mediations.

12. Licensing and Permits

CONTRACTOR shall comply with all State or other licensing requirements, including but not limited to the provisions of Chapter 9 of Division 3 of the Business and Professions Code. All licensing requirements shall be met at the time proposals are submitted to the COUNTY. CONTRACTOR warrants that it has all necessary permits, approvals, certificates, waivers and exemptions necessary for performance of this Agreement as required by the laws and regulations of the United States, the State of California, the County of Riverside and all other governmental agencies with jurisdiction, and shall maintain these throughout the term of this Agreement.

13. Use By Other Political Entities

The CONTRACTOR agrees to extend the same pricing, terms, and conditions as stated in this Agreement to each and every political entity, special district, and related non-profit entity in Riverside County. It is understood that other entities shall make purchases in their own name, make direct payment, and be liable directly to the CONTRACTOR; and COUNTY shall in no way be responsible to CONTRACTOR for other entities' purchases.

14. Non-Discrimination

CONTRACTOR shall not be discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

15. Records and Documents

CONTRACTOR shall make available, upon written request by any duly authorized Federal, State, or COUNTY agency, a copy of this Agreement and such books, documents and records as are necessary to certify the nature and extent of the CONTRACTOR's costs related to this Agreement. All such books, documents and records shall be maintained by CONTRACTOR for at least five years following termination

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of this Agreement and be available for audit by the COUNTY. CONTRACTOR shall provide to the COUNTY reports and information related to this Agreement as requested by COUNTY.

16. Confidentiality

16.1 The CONTRACTOR shall not use for personal gain or make other improper use of privileged or confidential information which is acquired in connection with this Agreement. The term "privileged or confidential information" includes but is not limited to: unpublished or sensitive technological or scientific information; medical, personnel, or security records; anticipated material requirements or pricing/purchasing actions; COUNTY information or data which is not subject to public disclosure; COUNTY operational procedures; and knowledge of selection of contractors, subcontractors or suppliers in advance of official announcement.

16.2 The CONTRACTOR shall protect from unauthorized disclosure names and other identifying information concerning persons receiving services pursuant to this Agreement, except for general statistical information not identifying any person. The CONTRACTOR shall not use such information for any purpose other than carrying out the CONTRACTOR's obligations under this Agreement. The CONTRACTOR shall promptly transmit to the COUNTY all third party requests for disclosure of such information. The CONTRACTOR shall not disclose, except as otherwise specifically permitted by this Agreement or authorized in advance in writing by the COUNTY, any such information to anyone other than the COUNTY. For purposes of this paragraph, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.

17. Administration/Contract Liaison

The COUNTY Purchasing Agent, or designee, shall administer this Agreement on behalf of the COUNTY. The Purchasing Department is to serve as the liaison with CONTRACTOR in connection with this Agreement.

18. Notices

All correspondence and notices required or contemplated by this Agreement shall be delivered to the respective parties at the addresses set forth below and are deemed submitted two days after their deposit in the United States mail, postage prepaid:

COUNTY OF RIVERSIDE
Transportation Land Management Agency
4080 Lemon Street, 12th Floor
Riverside, CA 92501
Attn: Frank Coyle

CONTRACTOR
Pacific Municipal Consultants (PMC)
2729 Prospect Park Drive, Suite 220
Rancho Cordova, CA 95670
Attn: Philip O. Carter

County Purchasing and Fleet Services
2980 Washington Street
Riverside, CA 92504
Attn: Walter Mack

19. Force Majeure

If either party is unable to comply with any provision of this Agreement due to causes beyond its reasonable control, and which could not have been reasonably anticipated, such as acts of God, acts of war, civil disorders, or other similar acts, such party shall not be held liable for such failure to comply.

20. EDD Reporting Requirements

In order to comply with child support enforcement requirements of the State of California, the COUNTY may be required to submit a Report of Independent Contractor(s) form **DE 542** to the Employment Development Department. The CONTRACTOR agrees to furnish the required data and certifications to the COUNTY within 10 days of notification of award of Agreement when required by the EDD. This data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders. Failure of the CONTRACTOR to timely submit the data and/or certificates required may result in the contract being awarded to another contractor. In the event a contract has been issued, failure of the CONTRACTOR to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignments Orders and Notices of Assignment shall constitute a material breach of Agreement. If CONTRACTOR has any questions concerning this reporting requirement, please call (916) 657-0529. CONTRACTOR should also contact its local Employment Tax Customer Service Office listed in the telephone directory in the State Government section under "Employment Development Department" or access their Internet site at www.edd.ca.gov.

21. Hold Harmless/Indemnification

21.1 CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively

hereinafter referred to as Indemnitees) from any liability whatsoever, based or asserted upon any services of CONTRACTOR, its officers, employees, subcontractors, agents or representatives to the extent caused by any negligent act, error, omission or willful misconduct of CONTRACTOR under this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of CONTRACTOR, its officers, employees, subcontractors, agents or representatives in any such action or claim from this Agreement. CONTRACTOR shall defend, at its sole expense, all costs, and fees including, but not limited, to - attorney fees, cost of investigation, defense and settlements or awards, the Indemnitees in any claim or action based upon such alleged acts or omissions.

21.2 With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR'S indemnification to Indemnitees as set forth herein.

21.3 CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.

21.4 The specified insurance limits required in this Agreement shall in no way limit or circumscribe CONTRACTOR'S obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

21.5 In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the CONTRACTOR from indemnifying the Indemnitees to the fullest extent allowed by law.

21.6 To the extent COUNTY has treated CONTRACTOR as an independent contractor, then CONTRACTOR further agrees to indemnify and hold harmless Indemnitees from all liability arising from suits, claims, demands, actions, or proceedings made by agents, employees or subcontractors of CONTRACTOR for salary, wages, compensation, health benefits, insurance, retirement or any other benefit not explicitly set forth in this Agreement and arising out of work performed for COUNTY pursuant to this Agreement or any Work Assignment.

22. <u>Insurance</u>

22.1 Without limiting or diminishing the CONTRACTOR'S obligation to indemnify or hold the COUNTY harmless, CONTRACTOR shall procure and maintain or cause to be maintained, at its sole cost

and expense, the following insurance coverage's during the term of this Agreement. As respects to the insurance section only, the COUNTY herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents, or representatives as Additional Insureds.

A. Workers' Compensation:

If the CONTRACTOR has employees as defined by the State of California, the CONTRACTOR shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than $1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of The County of Riverside.

B. Commercial General Liability:

Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of CONTRACTOR'S performance of its obligations hereunder. Policy shall name the COUNTY as Additional Insured. Policy's limit of liability shall not be less than $1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

C. Vehicle Liability:

If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then CONTRACTOR shall maintain liability insurance for all owned, non-owned, or hired vehicles so used in an amount not less than $1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the COUNTY as Additional Insureds.

D. Professional Liability CONTRACTOR shall maintain Professional Liability Insurance providing coverage for the negligent acts, error or omissions in the CONTRACTOR's performance of work included within this Agreement, with a limit of liability of not less than $1,000,000 per occurrence and $2,000,000 annual aggregate. If CONTRACTOR's Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of this Agreement and CONTRACTOR shall purchase at his sole expense either 1) an Extended Reporting Endorsement (also, known as Tail Coverage); or 2) Prior Dates Coverage from new insurer with a retroactive date back to the date of, or prior to, the inception of this Agreement; or 3) demonstrate through

Certificates of Insurance that CONTRACTOR has Maintained continuous coverage with the same or original insurer. Coverage provided under items; 1), 2), or 3) will continue as long as the law allows.

E. General Insurance Provisions - All lines:

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

2) The CONTRACTOR must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceeds $500,000 per occurrence each such retention shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the COUNTY, and at the election of the Country's Risk Manager, CONTRACTOR'S carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

3) CONTRACTOR shall cause CONTRACTOR'S insurance carrier(s) to furnish the County of Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the County of Riverside prior to any cancellation, expiration, ~~or~~ non-renewal or reduction ~~in~~ of coverage of such insurance. CONTRACTOR shall provide a thirty (30) day advance notice to the County of Riverside for any material changes for which advance notice would not be provided by insurance carriers. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. CONTRACTOR shall not commence operations until the COUNTY has been furnished original Certificate (s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.

4) It is understood and agreed to by the parties hereto that the CONTRACTOR'S insurance shall be construed as primary insurance, and the COUNTY'S insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

5) If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work; or, the term of this Agreement, including any extensions thereof, exceeds five (5) years; the COUNTY reserves the right to adjust the types of insurance and the monetary limits of liability required under this Agreement, if in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONTRACTOR has become inadequate.

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

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

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

23. <u>General</u>

23.1 CONTRACTOR shall not delegate or assign any interest in this Agreement, whether by operation of law or otherwise, without the prior written consent of COUNTY. Any attempt to delegate or assign any interest herein shall be deemed void and of no force or effect.

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

23.3 In the event the CONTRACTOR receives payment under this Agreement, which is later disallowed by COUNTY for nonconformance with the terms of the Agreement, the CONTRACTOR shall promptly refund the disallowed amount to the COUNTY on request; or at its option the COUNTY may offset the amount disallowed from any payment due to the CONTRACTOR.

23.4 CONTRACTOR shall not provide partial delivery or shipment of services or products unless specifically stated in the Agreement.

23.5 CONTRACTOR shall not provide any services or products subject to any chattel mortgage or under a conditional sales contract or other agreement by which an interest is retained by a third party. The

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CONTRACTOR warrants that it has good title to all materials or products used by CONTRACTOR or provided to COUNTY pursuant to this Agreement, free from all liens, claims, or encumbrances.

23.6 Nothing in this Agreement shall prohibit the COUNTY from acquiring the same type or equivalent equipment, products, materials or services from other sources, when deemed by the COUNTY to be in its best interest. The COUNTY reserves the right to purchase more or less than the quantities specified in this Agreement.

23.7 The COUNTY agrees to cooperate with the CONTRACTOR in the CONTRACTOR's performance under this Agreement, including, if stated in the Agreement, providing the CONTRACTOR with reasonable facilities and timely access to COUNTY data, information, and personnel.

23.8 CONTRACTOR shall comply with all applicable Federal, State and local laws and regulations. CONTRACTOR will comply with all applicable COUNTY policies and procedures. In the event that there is a conflict between the various laws or regulations that may apply, the CONTRACTOR shall comply with the more restrictive law or regulation.

23.9 CONTRACTOR shall comply with all air pollution control, water pollution, safety and health ordinances, statutes, or regulations, which apply to performance under this Agreement.

23.10 CONTRACTOR shall comply with all requirements of the Occupational Safety and Health Administration (OSHA) standards and codes as set forth by the U.S. Department of Labor and the State of California (Cal/OSHA).

23.11 This Agreement shall be governed by the laws of the State of California. Any legal action related to the performance or interpretation of this Agreement shall be filed only in the Superior Court of the State of California located in Riverside, California, and the parties waive any provision of law providing for a change of venue to another location. In the event any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

23.12 This Agreement, including any attachments or exhibits, constitutes the entire Agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both parties.

COUNTY:
Board of Supervisors
County Administration Center
4080 Lemon Street, 4th Floor
Riverside, CA 92501

Signature: Jeff Stone

Print Name: JEFF STONE

Title: Chairman of the Board of Supervisors

Dated: JAN 07 2014

ATTEST:
KECIA HARPER-IHEM, Clerk
By Rachel Rosel
DEPUTY

CONTRACTOR:
Pacific Municipal Consultants (PMC)
2729 Prospect Park Drive, Suite 220
Rancho Cordova, CA 95670

Signature: [illegible]

Print Name: Philip D. Carter

Title: President

Dated: 12-10-13

FORM APPROVED COUNTY COUNSEL
BY: M. Victor 12/18/13
MARSHA L. VICTOR DATE

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EXHIBIT A
SCOPE OF SERVICE

Services provided under this Agreement will be performed on an on-call basis to the Riverside County Planning Department and Airport Land Use Commission (ALUC) for planning related work assignments located throughout Riverside County. CONTRACTOR/Consultant shall furnish all technical and professional services including labor, transportation, and expertise to fully and adequately perform the services generally described in Exhibit A, Scope of Services, and more specifically described in Work Assignments to be negotiated and executed in the future as services are required. Work Assignments shall be initiated at the request of the COUNTY Planning Department and Airport Land Use Commission (ALUC). All services and deliverables associated with the performance and accomplishment of the covenants described in approved Work Assignments is hereinafter collectively referred to as the "WORK ASSIGNMENTS".

Current Assignment is Major and Minor Plot Plans

I. MAJOR PERMIT REVIEW

a. Requires current planning analysis for general plan amendments, , changes of zones, tentative parcel maps and tracts, plot plans, conditional use permits, etc.; development of written reports, preparation of Initial Studies (Environmental Assessments) including the preparation of conditions of approval using LMS; preparation of PowerPoint presentations and making oral/visual presentations before the Planning Commission, Director's Hearing and COUNTY Board of Supervisors; interaction with COUNTY Departments and the public.

b. Tasks: Perform analysis of development proposals including conformity with the General Plan and applicable COUNTY Ordinances and State rules and regulations including all environmental rules and regulations; prepare written reports for the cases under review and provide oral presentations on development projects before the Planning Commission.

II ENVIRONMENTAL REVIEW

a. Special knowledge requirement in CEQA guidelines and procedures.

b. Requires Environmental research and analysis, review environmental documents of all the type identified in I, synthesis of environmental information from many sources; clear, straight-forward writing skills.

c. Tasks: Preparing environmental impact reports, preparing environmental assessments using a form and procedures that is mutually acceptable to the COUNTY and the CONTRACTOR, preparation and review of miscellaneous environmental documents, reviewing documents prepared by projects in other jurisdictions for their impact on the COUNTY.

III. SITE PLAN REVIEW

a. Special knowledge requirement: COUNTY Ord. Nos. 348 and 460, COUNTY wide Design Standards and Guidelines, special area design standards, COUNTY specific plan requirements and methods of efficient architectural and design review of subdivisions. Develop operational functionality relative to any new or upcoming COUNTY rules or regulations, such as, but not limited to, Landscaping Ord., Noise Ord., updated General Plan Policies such as Cultural Resources, Healthy Communities, and the COUNTY's 8-year review cycle.

b. Requires reading evaluating determining consistency of contour elevations, subdivision map design, floor plans, materials boards and site layouts against COUNTY standards.

c. Tasks: reviewing formal site plans for adequacy in terms of Ord. No. 348, specific plan requirements (if applicable), design guidelines and General Plan incentive requirements, as applicable.

IV PLANNING LANDSCAPE PLAN REVIEW

a. Special knowledge requirement: Plant materials and irrigation systems, drought tolerant landscaping, COUNTY Ordinance Nos. 859 and 348, COUNTY Design Guidelines and special area design standards.

b. Requires Reading landscaping plans, reading irrigation plans, creating/evaluating landscape water budgets, certified water auditor, determining whether proposed plant materials are suitable for the locations, use and irrigation proposed. Also must have skill in reading and interpreting Conditions of Approval; developing specialized Conditions of Approval; and clear, straight-forward writing skills.

c. Tasks: Complete review and inspection of landscaping plans on private property in commercial, industrial, and residential settings. Compare proposed landscaping to; 1) Ordinance No. 348 requirements for landscaping - generally by zone, 2) Ensure that landscape plans comply with the landscape provisions with Ordinance No. 859, 457, 460, and 461, and Riverside COUNTY Guide to California Friendly Landscaping; 3) Conditions of approval associated with the approved tract, CUP or Plot Plan on the property, 4) Good landscaping practice for the location and irrigation proposed 5) Meet with project applicants and their field representatives and resolve landscape issues in conjunction with the Principal Planner in charge.

V. PROJECT MANAGEMENT

a. Special requirement: Highly proficient and experienced in budget and project management skills.

b. Requires use and experience with computerized project management programs, working efficiently to project task time standards and managing project finances. Will need to be able to complete specific development review subtasks with the COUNTY upon their establishment.

c. Tasks: Maintain, track and control of caseloads using the COUNTY's Land Management System (LMS) and/or other appropriate tracking system; maintain, track and control of each project's case balance with reports from the COUNTY Oasis Financial system; maintain positive cash flows; ensure each case assigned to the CONTRACTOR is completed with a positive ending balance; and when necessary, coordinate landscape inspections with separate landscape inspector based in the desert.

VI. OTHER SERVICES

a. CONTRACTOR personnel may work on site in Riverside or the Desert as needed, otherwise they shall work from their own facilities.

b. To account for "billable hours" time should be recorded in 1/4 of an hour increment basis.

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c. The CONTRACTOR will arrange with their accounting function to calculate billing statements to the COUNTY on projects worked every single (1) week. This is to insure charges get billed to projects and posted to accounts in a timely manner. Billing statements from the CONTRACTOR to the COUNTY should show, in detail, by person, work time expended on each project, during each day. Contract personnel must use the COUNTY project numbers and task coding to insure proper case billing. Provide an accounting system whereby certain assigned Planning Department and Airport Land Use Commission (ALUC) staff can obtain, at any time, daily financial accounting data (no older than 24 hours) for each contract personnel relative to dates and amounts cases are billed, as well as task codes worked, in order to provide a means for the Department to quickly respond to fee appeal requests. Any charges found by the Planning Department and Airport Land Use Commission (ALUC) to be erroneous or unjustified may be reversed for projects still active; or for projects already finalized, a credit against future Consultants charges may be made.

d. **Failure to submit timely billings during a projects lifespan may result in non-payment by the COUNTY. The COUNTY may also elect to reserve the right to deduct from future consultant invoices, costs to cover negative case balances from closed cases that were assigned to contract personnel.**

e. **Airport Land Use Commission (ALUC) may utilize services on an as needed basis.**

EXHIBIT B
PAYMENT PROVISIONS

ALL INCLUSIVE HOURLY RATES

1. PLANNER 3 AT $80.00 PER HOUR

2. CULTURAL RESOURCE AT $130.00 PER HOUR

ANY CHANGES IN THESE RATES MUST BE APPROVED BY THE COUNTY BY WRITTEN AMENDMENT.

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b. Tasks: Perform analysis of development proposals including conformity with the General Plan and applicable COUNTY Ordinances and State rules and regulations including all environmental rules and regulations; prepare written reports for the cases under review and provide oral presentations on development projects before the Planning Commission.

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c. Tasks: reviewing formal site plans for adequacy in terms of Ord. No. 348, specific plan requirements (if applicable), design guidelines and General Plan incentive requirements, as applicable.

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c. Tasks: Complete review and inspection of landscaping plans on private property in commercial, industrial, and residential settings. Compare proposed landscaping to; 1) Ordinance No. 348 requirements for landscaping - generally by zone, 2) Ensure that landscape plans comply with the landscape provisions with Ordinance No. 859, 457, 460, and 461, and Riverside COUNTY Guide to California Friendly Landscaping; 3) Conditions of approval associated with the approved tract, CUP or Plot Plan on the property, 4) Good landscaping practice for the location and irrigation proposed 5) Meet with project applicants and their field representatives and resolve landscape issues in conjunction with the Principal Planner in charge.

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d. **Failure to submit timely billings during a projects lifespan may result in non-payment by the COUNTY. The COUNTY may also elect to reserve the right to deduct from future consultant invoices, costs to cover negative case balances from closed cases that were assigned to contract personnel.**

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