

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

9/31



FROM: Executive Office

SUBMITTAL DATE:
December 21, 2015

SUBJECT: Agreement between the County of Riverside and the Riverside County Habitat Conservation Agency (RCHCA) to Provide Staffing and Services - All Districts [\$450,000 Contract Revenue Reimbursement]

RECOMMENDED MOTION: That the Board of Supervisors approve the agreement between the County of Riverside and the RCHCA to provide staffing and services and authorize the Chairman to execute the same.

BACKGROUND:

Summary

The RCHCA is a public agency formed by a Joint Powers Agreement ("JPA") between the County of Riverside and ten cities located within Western Riverside County. The purpose of the formation of RCHCA is to provide an agency for the acquisition, administration, operation and maintenance of land and facilities for ecosystem conservation and habitat reserves for the Stephens' Kangaroo Rat in Western Riverside County under the Stephens' Kangaroo Rat Habitat Conservation Plan ("SKR HCP").

Continued on the next page.

Tina Grande

Tina Grande
Principal Management Analyst

FORM APPROVED COUNTY COUNSEL
BY: JAMES E. BROWN
DATE: 12/21/15
Departmental Concurrence

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 450,000	\$ 450,000	\$	\$ 450,000	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$	\$ 0	

SOURCE OF FUNDS: Reimbursement from RCHCA (Contract Revenue) **Budget Adjustment:** No

For Fiscal Year: 15/16-20/21

C.E.O. RECOMMENDATION: APPROVE

BY: *Debra Cournoyer*
Debra Cournoyer

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Tavaglione, Washington, Benoit and Ashley
Nays: None
Absent: None
Date: January 5, 2016
xc: E.O.

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

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

Prev. Agn. Ref.: 3.12 6/21/1999 | **District:** All | **Agenda Number:**

3-1

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
FORM 11: Agreement between the County of Riverside and the Riverside County Habitat
Conservation Agency (RCHCA) to Provide Staffing and Services - All Districts [\$0]**

DATE: December 21, 2015

PAGE: 2 of 3

BACKGROUND:

Summary (continued)

Since approximately August 1991, the RCHCA has contracted with the county under a Management Services Contract, by which the county has provided certain services, including providing a General Manager (Executive Director) and other staff to the RCHCA to serve the purposes of the RCHCA. The existing operative agreement is the Second Amended and Restated Management Services Contract between the County of Riverside and the RCHCA, dated August 15, 1999.

The current RCHCA Executive Director will be retiring in December 2015. In September 2015, representatives from the RCHCA requested a meeting with the Western Regional Council of Governments (WRCOG) to discuss the potential transfer of administration and management activities of the RCHCA to WRCOG with WRCOG's Executive Director, or his designee, serving as the RCHCA General Manager, instead of this position being held by a county employee. The institutional relationship between the agencies allow for RCHCA and WRCOG to currently remain as separate entities, transitioning to possible consolidation during 2016. On December 7, 2015, the WRCOG Executive Committee moved to support the proposal and approved a Management Services Agreement with the RCHCA for the WRCOG's Executive Director, or his designee, to serve as the RCHCA General Manager.

Although, the WRCOG will now provide a General Manager to assist the RCHCA in its obligations to implement the SKR HCP to ensure a regional perspective, the RCHCA further desires to keep contracting with county for the staffing of the four RCHCA county employees, excluding the General Manager, and for related human resources services that the county currently provides to the RCHCA for such RCHCA county employees because such RCHCA county employees are well versed in the day-to-day operations and administration of the SKR HCP. RCHCA staff and counsel have met with County of Riverside Human Resources to discuss the transition and develop the requisite agreement for such employee staffing and services.

Under the attached agreement, the county would continue to provide employee staffing and services to the RCHCA as requested by the RCHCA Board of Directors and the RCHCA General Manager, who is the WRCOG Executive Director or his designee operating through a separate agreement between the RCHCA and WRCOG. Such employee staffing shall be provided through the four RCHCA county employees who shall work under the direction of the RCHCA General Manager. The county shall remain the employer of record for the RCHCA county employees. Under the agreement, the RCHCA county employees shall work day-to-day under the direction of the RCHCA General Manager and the RCHCA General Manager shall administer, coordinate, and supervise the activities of the RCHCA county employees consistent with applicable county policies, labor agreements, and regulations regarding employee conduct, as applicable.

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
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DATE: December 21, 2015

PAGE: 3 of 3

In consideration for services provided by county pursuant to the agreement, the county shall be paid by RCHCA with such payments to be used for the county's share of the actual cost of RCHCA county employees' salaries and benefits. Additionally, the Riverside County Human Resources Department shall continue to provide RCHCA and its employees with those human resources services as requested or needed by RCHCA with RCHCA paying Riverside County Human Resources an annual fee of \$1,050 per employee that may be adjusted annually by action of the Riverside County Board of Supervisors.

The existing Second Amended and Restated Management Services Contract, dated August 15, 1999, between the RCHCA and the county will be terminated according to the terms in the contract once all parties have entered into the agreement for your consideration today.

The agreement has been approved as to form by County Counsel.

Impact on Residents and Businesses

The RCHCA is a stable Joint Powers Authority, with a three-year reserve in place. As is currently done, all costs for employee staffing and services described under the agreement shall be paid by the RCHCA. RCHCA receives its funding through SKR mitigation fees. This agreement will not have a fiscal impact on the county.

SUPPLEMENTAL:

Additional Fiscal Information

RCHCA will be reimbursing the county for all services. The estimated annual amount is \$450,000.

Contract History and Price Reasonableness

The current contract with RCHCA was executed on August 15, 1999, and shall be terminated upon execution of the proposed agreement to be considered today. The RCHCA Board of Directors approved the proposed agreement on December 18, 2015.

ATTACHMENTS:

- A. Agreement

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AGREEMENT
BETWEEN THE COUNTY OF RIVERSIDE
AND THE RIVERSIDE COUNTY HABITAT CONSERVATION AGENCY
TO PROVIDE STAFFING AND SERVICES

This Agreement (“Agreement”) is made and entered into by and between the County of Riverside (“County”) and the Riverside County Habitat Conservation Agency (“RCHCA”) and shall become effective upon the term set forth herein. County and RCHCA are sometimes referred to in this Agreement individually as a “party,” or collectively as “parties.”

RECITALS

A. WHEREAS, the RCHCA is a public agency formed by a Joint Powers Agreement (“JPA”) made and entered into on the 12th day of June 1990, pursuant to Government Code section 6500 et seq. and other pertinent provisions of law, by and between the County of Riverside and numerous cities located within Western Riverside County; and

B. WHEREAS, the purpose of the formation of RCHCA is to provide an agency for the acquisition, administration, operation and maintenance of land and facilities for ecosystem conservation and habitat reserves for the Stephens’ Kangaroo Rat in Western Riverside County under the Stephens’ Kangaroo Rat Habitat Conservation Plan (“SKR HCP”); and

C. WHEREAS, RCHCA now consists of the County of Riverside and the following member cities: City of Corona, City of Hemet, City of Lake Elsinore, City of Menifee, City of Moreno Valley, City of Murrieta, City of Perris, City of Riverside, City of Temecula, and City of Wildomar; and

D. WHEREAS, Section 3.3 of the JPA sets forth numerous powers of the RCHCA in carrying out its purposes, including the power to make and enter into contracts and to employ agents, consultants, attorneys and employees; and

E. WHEREAS, Section 3.8.3 of the RCHCA JPA authorizes the RCHCA through its Board of Directors (“Board”) to appoint a general manager (“General Manager”) and an attorney; and

1 F. WHEREAS, under Section 3.8.3 of the JPA, the RCHCA Board may also contract with its
2 member agencies for the use of employees of the member agencies on mutually agreeable terms and
3 conditions; and

4 G. WHEREAS, Section 3.8.4 of the JPA states that the “general manager, if appointed, or
5 such other officer or employee of the Agency to whom the Board delegates such authority, shall have the
6 power to appoint, demote and remove employees of the Agency subject to the provisions of the Agency’s
7 approved budget, and subject to such personnel policies as may have been adopted by the [RCHCA]
8 Board;” and

9 H. WHEREAS, since approximately August 1991, the RCHCA has contracted with the
10 County under a Management Services Contract, by which the County has provided certain services,
11 including providing a General Manager and other staff to the RCHCA to serve the purposes of the
12 RCHCA; and

13 I. WHEREAS, the existing operative agreement is the Second Amended and Restated
14 Management Services Contract between the RCHCA and the County, dated August 15, 1999; and

15 J. WHEREAS, as of the execution of this Agreement and excluding the General Manager,
16 RCHCA has a staff of four employees that are County of Riverside employees (hereinafter referred to as
17 “RCHCA Identified County Employees”). These RCHCA Identified County Employees include one
18 Administrative Services Officer, one Natural Resources Manager and two RCHCA Open Space Habitat
19 Technicians and are identified by name in Exhibit “A”; and

20 K. WHEREAS, the RCHCA Identified County Employees in the Administrative Services
21 Officer and Natural Resources Manager job classifications are covered by the County’s “Exempt
22 Management, Management, Confidential, and Other Unrepresented Employees” resolution
23 (“Resolution”), and the Open Space Habitat Technicians are covered by the Memorandum of
24 Understanding and side letters between the County and Laborer’s International Union of North America
25 Local 777 (“LIUNA MOU”); and

26 L. WHEREAS, the RCHCA now desires to contract with the Western Riverside Council of
27 Governments (“WRCOG”) to provide a General Manager to assist the RCHCA in its obligations to
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1 implement the Stephens' Kangaroo Rat Habitat Conservation Plan ("SKR HCP") to ensure a regional
2 perspective; and

3 M. WHEREAS, the RCHCA further desires to keep contracting with County for the staffing
4 of the RCHCA Identified County Employees and related human resources services that the County
5 currently provides to the RCHCA for such RCHCA Identified County Employees because such RCHCA
6 Identified County Employees are well versed in the day-to-day operations and administration of the SKR
7 HCP; and

8 N. WHEREAS, the County has expertise in the human resources management of
9 governmental entities; and the Parties wish to continue the relationship between the parties for employee
10 staffing and human resources management services subject to the terms set forth in this Agreement;

11 NOW, THEREFORE, the Parties agree as follows:

12 1. SERVICES – DESCRIPTION AND SCOPE OF SERVICES TO BE PROVIDED. The
13 RCHCA hereby retains the County to provide employee staffing and services to the RCHCA as requested
14 by the RCHCA Board of Directors and the RCHCA General Manager, who is the WRCOG Executive
15 Director or his designee operating through a separate agreement between the RCHCA and WRCOG.
16 Such employee staffing shall be provided through the four RCHCA Identified County Employees who
17 shall work under the direction of the RCHCA General Manager. The County shall remain the employer
18 of record for the RCHCA Identified County Employees. It is understood, and agreed to, by the County
19 that RCHCA Identified County Employees shall work day-to-day under the direction of the RCHCA
20 General Manager and the RCHCA General Manager shall administer, coordinate, and supervise the
21 activities of the RCHCA Identified County Employees consistent with applicable County policies and
22 regulations regarding employee conduct and with the terms of the Resolution and LIUNA MOU, as
23 applicable. The RCHCA General Manager shall have authority to handle all personnel matters including
24 but not limited to employee evaluations and disciplinary proceedings, consistent the terms of the
25 Resolution and LIUNA MOU with support from the County's Human Resources Service Manager
26 assigned to RCHCA. The RCHCA General Manager shall not, however, have final authority over pay
27 practices including, but not limited to salary, salary adjustments, and salary increases. The RCHCA
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1 General Manager may offer recommendations but all actions affecting salary shall comply with applicable
2 County policies and regulations and shall be approved by the County.

3 2. COMPENSATION. In consideration for services provided by County pursuant to this
4 Agreement, County shall be paid by RCHCA with such payments to be used for the County's share of the
5 actual cost of all RCHCA Identified County Employees salaries and benefits, including payout for leave
6 balances upon separation. The County Human Resources Department shall continue to provide RCHCA
7 and its employees with those human resources services as requested or needed by RCHCA. The RCHCA
8 shall pay County Human Resources an annual fee of \$1,050 per employee that may be adjusted annually
9 by action of the Riverside County Board of Supervisors. The first annual fee shall be prorated and billed
10 in January 2016 and annually thereafter.

11 The parties agree that the RCHCA General Manager may need additional staff to fulfill the needs
12 of the RCHCA, as may from time to time be necessary or convenient. Such additional staff may be
13 County employees, if desired by the RCHCA General Manager and if agreed upon by the County after
14 consultation with the County. If such additional staff are County employees, an amendment to this
15 Agreement shall be entered into between the RCHCA and the County with joint approval by the RCHCA
16 Board of Directors and the Riverside County Board of Supervisors.

17 Additionally, the RCHCA shall reimburse the County for the costs incurred by the County for
18 support functions that are RCHCA related, which may include but not be limited to, supplies, equipment,
19 staff expense reimbursements, payroll and purchasing services. The reimbursement of these costs will be
20 provided at the same rate charged to County departments.

21 County shall periodically, but no more frequently than monthly nor less frequently than
22 semiannually, provide an invoice to the RCHCA itemizing charges for the billing period. The RCHCA
23 shall provide prompt payment within thirty days to County by means of Journal Vouchers transferring
24 funds from the RCHCA to County.

25 3. TERM; TERMINATION. This Agreement shall be effective for a five-year term as of the
26 date of the termination of the Second Amended and Restated Management Services Contract between the
27 RCHCA and the County of Riverside, dated August 15, 1999, and only upon execution by both RCHCA
28 and County. Once effective, this Agreement shall continue thereafter for successive five-year terms

1 without further action by the RCHCA Board or County, unless earlier terminated earlier at any time by
2 either party giving the other party sixty (60) days prior written notice.

3 4. ADMINISTRATION. The RCHCA Board, or designee, shall administer this Agreement
4 on behalf of the RCHCA. The County Executive Officer, or designee, shall administer this Agreement on
5 behalf of the County with the Assistant County Executive Officer/Human Resources Director being the
6 main contact person.

7 5. INDEMNIFICATION. To the fullest extent permitted by law, the County shall indemnify,
8 hold harmless and defend the RCHCA, its directors, officers, employees, agents and authorized
9 volunteers, and each of them (collectively referred to as "Indemnified Parties") from and against any and
10 all claims, demands, causes of action, damages, penalties, judgments, awards, decrees, costs, expenses,
11 attorneys' fees, losses or liabilities, in law or in equity, of every kind or nature, including but not limited
12 to personal injury, bodily injury, wrongful death, and property damage including any damage to RCHCA
13 property, arising out of the RCHCA Identified County Employees' alleged negligence or wrongful acts
14 related to or in connection with the RCHCA Identified County Employees' performance of duties under
15 the terms and conditions of this Agreement.

16 While WRCOG's Executive Director or his designee is operating as the RCHCA's General
17 Manager through a separate agreement between WRCOG and RCHCA, to the fullest extent permitted by
18 law, the County shall indemnify, hold harmless and defend the WRCOG, its directors, officers,
19 employees, agents and authorized volunteers, and each of them (collectively referred to as "Indemnified
20 Parties") from and against any and all claims, demands, causes of action, damages, penalties, judgments,
21 awards, decrees, costs, expenses, attorneys' fees, losses or liabilities, in law or in equity, of every kind or
22 nature, including but not limited to personal injury, bodily injury, wrongful death, and property damage
23 including any damage to RCHCA property, arising out of the RCHCA Identified County Employees'
24 alleged negligence or wrongful acts related to or in connection with the RCHCA Identified County
25 Employees' performance of duties under the terms and conditions of this Agreement.

26 RCHCA shall indemnify, hold harmless and defend the County pursuant to the terms of
27 indemnification provisions set forth in Section 3.16 of the JPA.
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1 6. INSURANCE, BENEFITS AND PENSION OBLIGATIONS. As it does with other
2 County employees, the County shall continue to cover the RCHCA Identified County Employees through
3 the County's following insurance coverages: Worker's Compensation coverage, Commercial General and
4 Automobile Liability coverage, Unemployment coverage, and Public Officials Errors and Omissions
5 coverage. Further, the RCHCA Identified County Employees in the Administrative Services Officer and
6 Natural Resources Manager job positions are covered by the "Exempt Management, Management,
7 Confidential, and Other Unrepresented Employees" resolution ("Resolution") and the Open Space Habitat
8 Technicians are covered by the Memorandum of Understanding and side letters between the County and
9 Laborer's International Union of North America Local 777 ("LIUNA MOU"). Accordingly, the RCHCA
10 Identified County Employees receive, and shall continue to receive, all wages and other benefits
11 applicable to their job classifications and as provided in the Resolution and the LIUNA MOU. RCHCA
12 Identified County Employees are covered within the County's Miscellaneous CalPERS Retirement Plan
13 and the County is liable for the RCHCA Identified County Employees' pensions and other post-
14 employment benefits. However, RCHCA Identified County Employees are responsible for the employee
15 share payable to CalPERS, and RCHCA is responsible to reimburse the County for RCHCA Identified
16 County Employees' bi-weekly pension share, as determined by CalPERS yearly actuarial study.

17 7. TIME FOR PERFORMANCE. Unless specifically stated to the contrary, all references to
18 days herein shall be deemed to refer to calendar days. If the final date for payment of any amount or
19 performance of any act falls on a Saturday, Sunday or holiday, such payment shall be made or act
20 performed on the next succeeding business day.

21 8. ASSIGNMENT. This Agreement shall not be assigned by either party, in whole or in part,
22 without the prior written consent of the other party.

23 9. NOTICE. A party giving notice as required in this Agreement shall provide for personal
24 delivery of such notice or shall send such notice by United States mail, postage prepaid, to the agent and
25 address of the other party as set forth below:

26 If to the RCHCA: RCHCA c/o WRCOG
27 Attn: Rick Bishop
28 4080 Lemon Street, 3rd Floor MS 1032

Riverside, CA 92501

If to the County:

County of Riverside

Attn: Executive Officer

4080 Lemon Street, 4th Floor

Riverside, CA 92501

With a copy to:

County of Riverside

Attn: Assistant CEO – Human Resources Director

4080 Lemon Street

Riverside, CA 92501

10 10. AMENDMENT; ENTIRE AGREEMENT. This Agreement is intended by the parties to
11 be the final expression of their agreement with respect to respect to personnel provided by County to the
12 RCHCA, and is intended as a complete and exclusive statement of the terms of the agreement between the
13 parties. As such, this Agreement supersedes any prior understandings between the parties, whether oral or
14 written, unless such understanding is referenced herein. Any amendment or modification of the provisions
15 of this Agreement must be in writing and signed by each of the parties hereto.

16 11. WAIVER. Any waiver by either party of a breach of any of the terms of this Agreement
17 shall not be construed as a waiver of any succeeding breach of the same or other term of this Agreement.

18 12. SEVERABILITY. If any term, provision, covenant or condition of this Agreement is held
19 by a court of competent jurisdiction to be invalid, void or unenforceable, the rest of this Agreement shall
20 remain in full force and effect and shall in no way be affected, impaired or invalidated.

21 13. GOVERNING LAW AND VENUE. This Agreement and its construction and
22 interpretation as to validity, performance and breach shall be construed under the laws of the State of
23 California applicable to agreements both entered into and to be performed in California.

24 The provisions of the Government Claims Act (Government Code section 900 et seq.) shall be
25 applicable for any disputes under this Agreement.

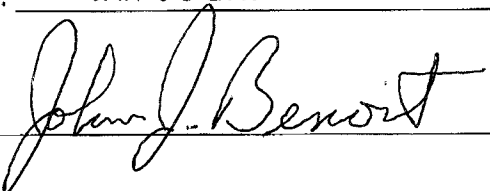

26 Venue shall be within the County of Riverside for any legal or equitable action to enforce the
27 terms of this Agreement, to declare the rights of the parties under this Agreement, or for any action which
28 relates to this Agreement in any manner.

1 14. APPROVAL/COUNTERPARTS. This Agreement must be approved by the RCHCA
2 Board of Directors and the Riverside County Board of Supervisors. Each party has had the opportunity to
3 participate in drafting and preparation of this Agreement. Any construction to be made in the Agreement
4 of any of its terms or provisions shall not be construed against any one party.


5 This Agreement may be executed in one or more counterparts, all of which together shall
6 constitute one and the same Agreement.

7 15. CERTIFICATION OF AUTHORITY TO EXECUTE THIS AGREEMENT. County and
8 RCHCA certify that the individuals signing below on behalf of the party has authority to execute this
9 Agreement on behalf of the party, and may legally bind the party to the terms and conditions of this
10 Agreement, and any attachments hereto.

11 IN WITNESS WHEREOF, the parties have executed this Agreement on the date or dates
12 indicated below.

13 COUNTY OF RIVERSIDE	RIVERSIDE COUNTY HABITAT
	CONSERVATION AGENCY
15 DATE: <u>JAN 05 2016</u>	DATE: <u>12/18/15</u>
17 BY: <u></u>	BY: <u></u>
19 NAME: <u>JOHN J. BENOIT</u>	NAME: <u>STEVEN MANDIS</u>

20 TNN:
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23 FORM APPROVED COUNTY COUNSEL
24 BY:  12/24/15
DATE

23 FORM APPROVED COUNTY COUNSEL
24 BY:  12/18/15
DATE


26 ATTEST:
27 KECIA HARPER-HEM, Clerk
28 By 
DEPUTY

EXHIBIT A

RCHCA IDENTIFIED COUNTY EMPLOYEES

<u>Name</u>	<u>Job Classification</u>
Francisco Gonzalez	RCHCA Open Space Habitat Technician
Princess Hester	Administrative Services Officer
Brian Shomo	Natural Resources Manager
Randy Solis	RCHCA Open Space Habitat Technician

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