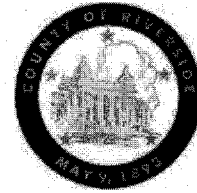


**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM
12.3
(ID # 4061)

MEETING DATE:
Tuesday, May 2, 2017

FROM : DEPARTMENT OF WASTE RESOURCES:

SUBJECT: DEPARTMENT OF WASTE RESOURCES: Approval of the Professional Services Agreement between the County of Riverside and Riverside County Habitat Conservation Agency, All Districts [\$85,000 – Department of Waste Resources Enterprise Funds]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Professional Services Agreement between the County of Riverside (County) and the Riverside County Habitat Conservation Agency (RCHCA); and
2. Authorize the General Manager-Chief Engineer of the Riverside County Department of Waste Resources to execute the agreement and sign amendments or extensions that do not significantly modify or expand the scope of services or extend the financial terms of the agreement by more than ten percent (10%).

ACTION: Policy

Hans Kemkamp, General Manager - Chief Engineer 4/13/2017

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Tavaglione, 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 and Ashley
Nays: None
Absent: None
Date: May 2, 2017
xc: Waste

Kecja Harper-Ihem
Clerk of the Board
By:
Deputy

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

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 85,000	\$ 85,000	\$ 170,000	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: Waste Resources Enterprise Funds			Budget Adjustment: No	
			For Fiscal Year: 17/18	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The Riverside County Department of Waste Resources (RCDWR) uses qualified biologists for a variety of projects at its landfill sites including, but not limited to, pre-construction surveys, habitat management, MSHCP compliance reporting, construction monitoring, and other specialized services such as focused surveys, small mammal trappings, and document review.

Since 2009, the RCDWR has contracted with the Environmental Programs Division (EPD) of the Transportation & Land Management Agency (TLMA) for biological services. As EPD no longer provides these services, the RCDWR has been working with qualified biologists (former EPD biologists) from the Riverside County Habitat Conservation Agency (RCHCA).

At the request of the RCHCA, a Professional Services Agreement (Agreement) has been prepared to formalize the on-going working relationship between the RCDWR and RCHCA. This Agreement merely memorializes existing practices and provides flexibility in obtaining biological services needed to address critical projects in a timely manner.

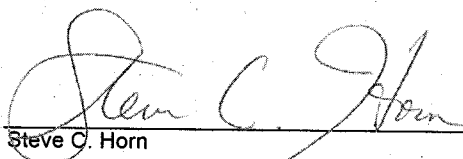
Impact on Residents and Businesses

The Project will not have any impacts on residents or businesses.

Contract History and Price Reasonableness

The RCDWR currently uses RCHCA for biological services as needed. The RCDWR anticipates that costs for services provided under the Agreement will not exceed \$85,000 per year. The rate provided in the Agreement is consistent with the existing rate.

ATTACHMENT A. AGREEMENT


 Steve C. Horn 4/24/2017

PROFESSIONAL SERVICE AGREEMENT

For

BIOLOGICAL SERVICES

Between

RIVERSIDE COUNTY HABITAT CONSERVATION AGENCY

And

COUNTY OF RIVERSIDE

(RIVERSIDE COUNTY DEPARTMENT OF WASTE RESOURCES)



Riverside County Habitat Conservation Agency
4080 Lemon Street, 3rd Floor, MS-1082
Riverside, CA 92501
(951) 955-8320
www.skrplan.org

MAY 02 2017 12.30

Table of Contents

INTRODUCTION	- 4 -
RECITALS.....	- 4 -
SECTION 1 - RECITALS INCORPORATED.....	- 5 -
SECTION 2 - ADMINISTRATION.....	- 6 -
SECTION 3 - SCOPE OF SERVICES	- 6 -
SECTION 4 - REQUESTS FOR SERVICES	- 6 -
SECTION 5 - APPROVAL OF REQUESTS	- 6 -
SECTION 6 - DANGEROUS CONDITION EXCEPTION.....	- 7 -
SECTION 7 - PERTINENT INFORMATION	- 7 -
SECTION 8 - PERSONNEL	- 7 -
SECTION 9 - COST OF SERVICES.....	- 8 -
SECTION 10 - RECORDS AND BILLING.....	- 8 -
SECTION 11 - PAYMENTS.....	- 8 -
SECTION 12 - DUTY TO INFORM AND RESPOND	- 8 -
SECTION 13 - NOTICES.....	- 9 -
SECTION 14 - CONFIDENTIALITY	- 9 -
SECTION 15 - INDEMNIFICATION.....	- 9 -
SECTION 16 - INSURANCE	- 10 -
SECTION 17 - IMMUNITIES.....	- 10 -
SECTION 18 - MODIFICATIONS	- 10 -
SECTION 19 - WAIVER	- 10 -
SECTION 20 - SEVERABILITY.....	- 11 -
SECTION 21 - TERM	- 11 -
SECTION 22 - ENTIRE AGREEMENT.....	- 11 -
SECTION 23 – CERTIFICATION OF AUTHORITY TO EXECUTE THIS AGREEMENT....	- 11 -

INTRODUCTION

This Agreement ("Agreement") is made and entered into by and between the Riverside County Habitat Conservation Agency ("RCHCA") and the County of Riverside (COUNTY) on behalf of the Riverside County Department of Waste Resources ("RCDWR") and shall become effective upon the term set forth herein. RCHCA and COUNTY are sometimes referred to in this Agreement individually as a "party" or collectively as "parties." The parties hereby agree as follows:

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, 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
- D. 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
- E. WHEREAS, Section 3.8.4 of the JPA states that the "general manager, if appointed, or such other officer or employee of the Agency to whom the Board delegates such authority, shall have the power to appoint, demote and remove employees of the Agency subject to the provisions of the Agency's approved budget, and subject to such personnel policies as may have been adopted by the [RCHCA] Board;" and
- F. WHEREAS, on approximately December 18, 2015, the Board entered into a Management Services Agreement with the Western Riverside Council of Governments ("WRCOG") to

provide a General Manager to assist the RCHCA in its obligations to implement the SKR HCP to ensure a regional perspective; and

- G. WHEREAS, the December 2015 Management Services Agreement between the RCHCA and WRCOG gives the Executive Director of WRCOG, acting as the General Manager of the RCHCA, the ability to exercise all powers and responsibilities of the RCHCA enumerated in Section 3.3 of the RCHCA JPA and of the General Manager enumerated in Section 3.8.4 of the RCHCA JPA, including the ability to retain and appoint additional staff as may from time to time be necessary or convenient to fulfill the needs of the RCHCA; and
- H. WHEREAS, the December 18, 2015 Management Services Agreement between the RCHCA and WRCOG recognizes that such additional staff may be retained as WRCOG employees and that RCHCA will pay WRCOG for the services of such employees; and
- I. WHEREAS, WRCOG has retained a full time Senior Ecological Resource Specialist to work for the RCHCA in managing RCHCA's Reserve Lands which is paid for by RCHCA;
- J. WHEREAS, RCDWR is a department of the COUNTY that oversees active, inactive and closed landfill sites, as well as solid waste management services and other programs; and
- K. WHEREAS, RCDWR, as a department of the COUNTY, desires that the RCHCA provide certain biological services by the Senior Ecological Resource Specialist to RCDWR, and
- L. WHEREAS, WRCOG's Executive Director, acting as RCHCA's General Manager, is agreeable to the Senior Ecological Resource Specialist doing such work for RCDWR through the terms of this Agreement between the RCHCA and COUNTY since the Senior Ecological Resource Specialist position is a WRCOG position that is fully funded by the RCHCA; and
- M. WHEREAS, other services by RCHCA, or by WRCOG as General Manager for RCHCA, are not the subject of this Agreement.
- N. WHEREAS, RCHCA and COUNTY desire to define the scope of the biological services to be provided to RCDWR and the terms and conditions pursuant to which RCHCA will provide the biological services.

NOW THEREFORE, the parties hereto mutually agree as follows:

SECTION 1 - RECITALS INCORPORATED

The foregoing recitals are incorporated herein and made a part of this Agreement by this reference.

SECTION 2 - ADMINISTRATION

The RCHCA General Manager shall administer this Agreement on behalf of RCHCA (hereinafter "RCHCA's contract administrator"). The RCDWR General Manager, or his designee, shall administer this Agreement on behalf of COUNTY (hereinafter "RCDWR's contract administrator").

SECTION 3 - SCOPE OF SERVICES

Upon RCDWR's request and RCHCA's approval as set forth herein, RCHCA will provide the professional services described in Attachments A to this Agreement. RCHCA shall work directly with RCDWR and its staff in providing the professional services. RCHCA staff shall consult with RCDWR staff if RCDWR staff desires such consultation. RCHCA shall not be required to, and shall not, respond to any person or entity other than RCDWR concerning the professional services it provides to RCDWR. RCDWR shall be responsible for responding to all such persons or entities as set forth herein.

SECTION 4 - REQUESTS FOR SERVICES

RCDWR may use any desired means or process to decide whether to request professional services. RCDWR may request professional services for a single project or a group or class of projects. RCDWR shall make all requests for professional services in writing and RCDWR's contract administrator shall send such requests to RCHCA's contract administrator. Before requesting professional services, RCDWR's contract administrator may ask RCHCA's contract administrator for a written estimate of the cost of the services.

SECTION 5 - APPROVAL OF REQUESTS

If RCHCA agrees to provide the professional services requested, RCHCA's contract

administrator shall notify RCDWR's contract administrator in writing. RCHCA shall not provide professional services if the request for such services is not made and approved in writing.

SECTION 6 - DANGEROUS CONDITION EXCEPTION

Notwithstanding the provisions of Sections 4. and 5. of this Agreement, RCHCA is hereby authorized to immediately remedy any dangerous condition it encounters in the course of providing professional services, and COUNTY hereby agrees to pay the costs incurred by RCHCA for such remediation. For purposes of this Agreement, a dangerous condition shall be any condition that may result in imminent personal injury or property damage. RCHCA's contract administrator shall promptly notify RCDWR contract administrator of any dangerous condition remedied pursuant to this exception.

SECTION 7 - PERTINENT INFORMATION

Once a request for professional services has been made and approved in the manner described above, RCDWR's contract administrator shall promptly transmit to RCHCA's contract administrator all pertinent information concerning the project or group or class of projects. Such information shall include, but not be limited to, project description, project number, case file(s); relevant policies and procedures; location maps and plans; and any reports or mitigation measures relating to biology, cultural resources, paleontology or geology.

SECTION 8 - PERSONNEL

In providing the professional services described in this Agreement, RCHCA and its staff shall be considered independent contractors and shall not be considered COUNTY employees for any purpose. RCHCA staff shall at all times be under RCHCA's exclusive direction and control. RCHCA shall pay all wages, salaries and other amounts due such personnel in connection with their provision of the professional services and as required by law. RCHCA staff shall be located at RCHCA facilities.

SECTION 9 - COST OF SERVICES

COUNTY shall pay RCHCA for all such services, including staff-to-staff consultations, at the hourly rates set forth in Attachment A to this Agreement. COUNTY shall pay RCHCA for each hour of services it provides, or each fraction of an hour billed at 1/10th increments, including any required travel time.

SECTION 10 - RECORDS AND BILLING

RCHCA's contract administrator shall submit to RCDWR's contract administrator a monthly invoice which shall include an itemized accounting of all services performed and the cost thereof.

SECTION 11 - PAYMENTS

COUNTY shall pay each monthly invoice within thirty (30) days of the date RCDWR's contract administrator receives the invoice from RCHCA's contract administrator. COUNTY, through the RCDWR contract administrator, may dispute any monthly invoice by submitting a written description of the dispute to RCHCA's contract administrator within ten (10) days of the date RCDWR's contract administrator receives the invoice from RCHCA's contract administrator. COUNTY may defer the payment of any portion of the invoice in dispute until such time as the dispute is resolved; however, all portions of the invoice not in dispute must be paid within the thirty (30)-day period set forth herein.

SECTION 12 - DUTY TO INFORM AND RESPOND

RCDWR's contract administrator shall promptly transmit to RCHCA's contract administrator all inquiries, complaints, and correspondence that RCDWR receives concerning RCHCA's professional services. RCHCA's contract administrator shall promptly transmit to RCDWR's contract administrator all inquiries, complaints, and correspondence that RCHCA receives in the course of providing professional services to RCDWR. RCDWR shall be responsible for responding to all such inquiries, complaints and correspondence.

SECTION 13 - NOTICES

Any notices required or permitted to be sent to either party shall be deemed given when personally delivered to the individuals identified below or when addressed as follows and deposited in the U.S. Mail, postage prepaid:

Riverside County Habitat
Conservation Agency

4080 Lemon Street, 3rd Floor
MS-1082
Riverside CA 92501
Attn: Contracts Administrator

Riverside County Department of
Waste Resources

14310 Frederick Street
Moreno Valley CA 92553
Attn: Contracts Administrator

SECTION 14 - CONFIDENTIALITY

RHCHCA shall observe all Federal and State regulations concerning the confidentiality of records.

SECTION 15 - INDEMNIFICATION

A. Indemnification by RCHCA. Excepted as provided below in the paragraph entitled "Special Circumstances", RCHCA shall indemnify, defend and hold harmless COUNTY, its officials, officers, employees and agents from all claims and liability for loss, damage, or injury to property or persons, including wrongful death, based on RCHCA's negligent acts, omissions or willful misconduct arising out of or in connection with the performance of professional services under this Agreement including, without limitation, the payment of attorney's fees.

B. Indemnification by COUNTY. COUNTY shall indemnify, defend and hold harmless RCHCA, its officials, officers, employees and agents from all claims and liability for loss, damage, or injury to property or persons, including wrongful death, based on RCDWR negligent acts, omissions or willful misconduct arising out of or in connection with the performance of professional services under this Agreement including, without limitation, the payment of attorney's fees.

C. Special Circumstances. Notwithstanding the above, RCHCA shall not indemnify, defend and hold harmless COUNTY, its officials, officers, employees and agents, and RCDWR shall

indemnify, defend, and hold harmless RCHCA, its officials, officers, employees and agents, from all claims and liability resulting from any of the following:

1. The invalidity of COUNTY departmental policies and procedures.
2. The invalidity or challenge to any mitigation measures that are a requirement of COUNTY which RCDWR is asking RCHCA to implement.
3. How COUNTY decides to address, or prioritize actions, maintenance, and management, and/or implementation of mitigation measures on COUNTY owned property.
4. The design of COUNTY facilities.
5. RCDWR failure to provide pertinent information and inform as provided in Sections 7. and 12. of this Agreement.

SECTION 16 - INSURANCE

The parties agree to maintain the types of insurance and liability limits that are expected for entities of their size and diversity. The types of insurance maintained and the limits of liability for each insurance type shall not limit the indemnification provided by each party to the other.

SECTION 17 - IMMUNITIES

Nothing in this Agreement is intended to nor shall it impair the statutory limitations and/or immunities applicable or available to the parties under State laws and regulations.

SECTION 18 - MODIFICATIONS

This Agreement may be amended or modified only by mutual agreement of the parties. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

SECTION 19 - WAIVER

Any waiver by a party of any breach of 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 hereof. Failure on the part of either party to require exact, full and complete compliance with any terms of this Agreement shall not be construed as changing in any manner the terms hereof, or estopping that party from enforcing the terms hereof.

SECTION 20 - SEVERABILITY

If 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.

SECTION 21 - TERM

This Agreement shall become effective upon its approval by both parties and shall remain in effect until June 30, 2018. This Agreement may be terminated by either party upon thirty (30) days written notice to the other party. This Agreement may be extended for up to an additional twelve (12) months if the parties, through their respective governing bodies, mutually agree to the extension in writing and mutually agree on the hourly rate to be charged for services.

SECTION 22 - ENTIRE AGREEMENT

This Agreement is intended by the parties as a final expression of their understanding with respect to the subject matter hereof and supersedes any and all prior and contemporaneous agreements and understandings, written or oral.

SECTION 23 – CERTIFICATION OF AUTHORITY TO EXECUTE THIS AGREEMENT

RCHCA and COUNTY certify that the individuals signing below on behalf of the party has authority to execute this Agreement on behalf of the party, and may legally bind the party to the terms and conditions of this Agreement, and any attachments hereto.

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

APPROVALS

RIVERSIDE COUNTY HABITAT
CONSERVATION AGENCY

Dated: 3-22-17

By: Rick Bishop
Rick Bishop,
RCHCA General Manager/WRCOG
Executive Director

APPROVED AS TO FORM:
Tiffany North
Chief Deputy County Counsel

By: Jane [Signature] 3/9/17
RCHCA General Counsel

COUNTY OF RIVERSIDE, a political
subdivision of the State of California

Dated: MAY 02 2017

By: [Signature]
John Tavaglione
Chairman, Board of Supervisors

RECOMMENDED FOR APPROVAL:
By: [Signature]
Hans Kernkamp
General Manager-Chief Engineer

ATTEST:
Kecia Harper-Ihem
Clerk of the Board

By: [Signature]
Deputy

(Seal)

APPROVED AS TO FORM:
Greg Priamos
County Counsel

By: [Signature] 4/4/17
Synthia M. Gunzel
Deputy County Counsel

ATTACHMENT A

PROFESSIONAL SERVICES TO BE PROVIDED:

Upon request and approval as set forth in this Agreement, the RCHCA will do any of the following biological services through its Senior Ecological Resource Specialist:

Habitat restoration, biological surveying, monitoring and repairs, of RCDWR's sites.

HOURLY RATES FOR PROFESSIONAL SERVICES

Senior Ecological Resource Specialist \$110 per hour.