

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



ITEM
13.1
(ID # 9449)

MEETING DATE:

Tuesday, April 16, 2019

FROM : Regional Parks and Open Space District:

SUBJECT: RIVERSIDE COUNTY REGIONAL PARK AND OPEN-SPACE DISTRICT: Duties of the General Manager; Delegation of Authority to Bind the District Pursuant to Public Resources Code Section 5549 ; All Districts,

RECOMMENDED MOTION: That the Board of Directors:

1. Authorize the General Manager to bind the District within the limits set by the Public Resources Code Section 5549 as it may be amended from time to time, and
2. Approve the attached Service Agreement for services under \$50,000, subject to approval as to form by County Counsel.

ACTION:Policy

Scott Bangle, Director, General Manager / Park Director

3/27/2019

MINUTES OF THE BOARD OF DIRECTORS

On motion of Director Jeffries, seconded by Director Perez and duly carried, IT WAS ORDERED that the above matter is received and filed as recommended.

Ayes: Jeffries, Washington, Perez and Hewitt
Nays: None
Absent: Spiegel
Date: April 16, 2019
xc: Parks

Kecia Harper
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	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: N/A			Budget Adjustment:	No
			For Fiscal Year:	18/19

BACKGROUND:

Summary

The Riverside County Regional Park and Open-Space District (District) was formed on December 11, 1990 and began operating with an operating fund separate from the County general fund on July 1, 1991. The District operates as a Special District and is bound by certain State laws which are sometimes in conflict with County Policies and Ordinances which are constantly reviewed and updated as needed. Under California Public Resources Code Section 5549, the General Manager is authorized to negotiate any and all contracts with other agencies which he/she must then present to the Board of Directors for approval.

In 2018, the District recommended to the Board of Supervisors that the California Public Resources Code Section 5549 be modified to align with County Ordinance No.459, in order to meet changes in Government code and to address District operational needs. The proposed changes were included in the Riverside County 2018 legislative platform which was approved by the Board, and ultimately addressed by the California Legislature and signed by the Governor in late 2018. Public Resources Code Section 5549 provides that with the approval of the Board, the General Manager may bind the District, without advertising for the payment of supplies, materials, labor, or other valuable consideration for any purpose, including new construction of a building, structure, or improvement, in amounts not exceeding fifty thousand dollars (\$50,000). All expenditures made using this authority shall be reported to the Board at its next regular meeting.

In addition to the powers and duties granted in Public Resources Code Section 5549, the District requests contracting authority to the fullest extent permitted in Section 5549 in order to more fully align with other County Departments which will allow the District to operate more efficiently and effectively in contracting for required supplies, materials and services. Requirements for supplies, materials, labor, structures and/or improvements that exceed the above limits will be purchased in accordance with County Policies. Enclosed is a sample Professional Services Agreement that has been approved as to form by County Counsel.

Impact on Citizens and Businesses

Over time, general cost increases have effectively reduced the District's purchasing power. Currently, any contract exceeding \$25,000 that is not advertised requires Board approval. Each bid requiring Board approval costs the District an average of \$8,459 in associated administrative


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and processing functions. Increasing the District's purchasing authority to \$50,000 means the District can put those administrative costs to better use in support of the District's mission.

ATTACHMENTS:

PSA Sample with District limit of \$50k


Nehini Macina, Principal Management Analyst 4/8/2019


Gregory L. Priamos, Director County Counsel 4/4/2019

SERVICES AGREEMENT

for

(Service to be Rendered)

Between

RIVERSIDE COUNTY REGIONAL PARK AND OPEN SPACE DISTRICT

and

(Name of Vendor)



TABLE OF CONTENTS

<u>SECTION HEADING</u>	<u>PAGE NUMBER</u>
1. Description of Services.....	3
2. Period of Performance	3
3. Compensation.....	3
4. Alteration or Changes to the Agreement	4
5. Termination	5
6. Ownership/Use of Contract Materials and Products	6
7. Conduct of Contractor	6
8. Inspection of Service: Quality Control/Assurance	7
9. Independent Contractor/Employment Eligibility	7
10. Subcontract for Work or Services	9
11. Disputes	9
12. Licensing and Permits	9
13. Use by Other Political Entities	9
14. Non-Discrimination	10
15. Records and Documents	10
16. Confidentiality	10
17. Administration/Contract Liaison.....	11
18. Notices.....	11
19. Force Majeure.....	11
20. EDD Reporting Requirements.....	11
21. Hold Harmless/Indemnification.....	12
22. Insurance	12
23. General	14
Exhibit A-Scope of Service	
Exhibit B- Payment Provisions	

This Agreement, made and entered into this ___ day of ____, ____, by and between (**INSERT VENDOR NAME and LEGAL CAPACITY**) (herein referred to as "CONTRACTOR"), and the **RIVERSIDE COUNTY REGIONAL PARK AND OPEN SPACE DISTRICT**, a special District, (herein referred to as "DISTRICT"). The parties agree as follows:

1. Description of Services

1.1 CONTRACTOR shall provide all services as outlined and specified in Exhibit 'A', Scope of Services, at the prices stated in Exhibit 'B', Cost Summary.

1.2 CONTRACTOR represents that it has the skills, experience, and knowledge necessary to perform under this Agreement and the DISTRICT relies upon this representation. CONTRACTOR shall perform to the satisfaction of the DISTRICT 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 DISTRICT 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 (Optional if On-Call Services Agreement) This Agreement shall permit the issuance of Work Assignments until < date >. This contract may be extended for up to two (2) additional one (1) year terms following the close of the initial three (3) year term by approval of the General Manager for the purpose of authorizing Work Assignments. All covenants set forth in this contract shall be completed by < date >, unless extended by supplemental agreement. In the event that a Work Assignment is issued, the following terms shall apply:

1.5.1 This contract shall begin upon notification to proceed by the DISTRICT GENERAL MANAGER.

1.5.2 CONTRACTOR is advised that any recommendation for contract award is not binding on DISTRICT until the proposed contract is fully executed and approved by DISTRICT.

1.5.4 Where CONTRACTOR is required to prepare and submit studies, reports, plans, etc., to DISTRICT, these shall be submitted in draft as scheduled, and the opportunity provided for DISTRICT to offer comments prior to final submission.

1.5.5 When DISTRICT determines that CONTRACTOR has satisfactorily completed the PROJECT services, DISTRICT may give CONTRACTOR a written Notice of Final Acceptance. CONTRACTOR shall not incur any further costs hereunder unless so specified in the Notice of Final Acceptance. CONTRACTOR may request a Notice of Final Acceptance determination when, in its opinion, it has satisfactorily completed all covenants as stipulated in this contract.

1.5.6 Time is of the essence in this contract.

1.6 CONTRACTOR shall perform the Services in accordance with the provisions set forth in Exhibit A, Scope of Services, which is attached hereto and incorporated herein by reference.

2. Period of Performance

2.1 This Agreement shall be effective upon signature of this Agreement by both parties and continue in effect for (Term of Agreement), unless terminated earlier. CONTRACTOR shall commence performance upon signature of this Agreement by both parties and shall diligently and continuously perform thereafter. The District may extend the agreement to allow for payments on balance of contract only; total amount shall not exceed the original contract amount, with no obligation by the District to purchase any specified amount of services. The Riverside County Regional Park and Open Space District's Board of Director's is the only authority that may obligate the District for a non-cancelable multi-year agreement.

2.2 The District retains an option to renew on an "as-needed" basis with no obligation by the DISTRICT to purchase any specified amount of services.

3. Compensation

3.1 The DISTRICT shall pay the CONTRACTOR for services performed, products provided and expenses incurred in accordance with the terms of Exhibit 'B', Cost Summary. Maximum payments by DISTRICT to CONTRACTOR shall not exceed (Max Contract Amount) annually including all expenses. The DISTRICT 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', Cost Summary, DISTRICT 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. All price decreases (for example, if CONTRACTOR offers lower prices to another governmental entity) will automatically be extended to the DISTRICT. The DISTRICT requires written proof satisfactory to DISTRICT 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 DISTRICT. 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 and be subject to satisfactory performance review by the DISTRICT and approved (if needed) for budget funding by the Board of Directors.

3.3 CONTRACTOR shall be paid only in accordance with an invoice submitted to DISTRICT by CONTRACTOR within fifteen (15) days from the last day of each calendar month, and DISTRICT 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 DISTRICT. Prepare invoices in duplicate. For this Agreement, send the original and duplicate copies of invoices to:

Riverside County Regional Park and Open-Space District
Attn: Finance
4600 Crestmore Road, Jurupa Valley, CA 92509
OR: Email invoices to: parcs-finance@rivcoparks.org

- 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 < PKARC-xxx >; 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 DISTRICT obligation for payment of this Agreement beyond the current fiscal year end is contingent upon and limited by the availability of DISTRICT funding from which payment can be made. No legal liability on the part of the DISTRICT 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, DISTRICT 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 General Manager, or his designee, is the only authorized DISTRICT representative who may at any time, by written order, alter this Agreement. If any such alteration causes an unanticipated 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 DISTRICT Purchasing Agent decides that the facts provide sufficient justification, 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. DISTRICT 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 CONTRACTOR may terminate this Agreement without cause upon 180 days written notice served upon the DISTRICT stating the intent and effective date of termination. CONTRACTOR will return funds to DISTRICT on a pro-rata basis, if applicable.

5.3 DISTRICT 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 that may endanger performance and does not immediately cure such failure. In the event of such termination, the DISTRICT may proceed with the work in any manner deemed proper by DISTRICT.

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

5.5 After termination, DISTRICT shall make payment only for CONTRACTOR's performance up to the date of termination in accordance with this Agreement.

5.6 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.

5.7 CONTRACTOR is not debarred from the System for Award Management (SAM). If the Agreement is federally or State funded, CONTRACTOR must notify the DISTRICT immediately of a debarment. Reference: System for Award Management (SAM) at <https://www.sam.gov> for Central

Contractor Registry (CCR), Federal Agency Registration (Fedreg), Online Representations and Certifications Application, and Excluded Parties List System (EPLS)). Excluded Parties Listing System (EPLS) (<http://www.epls.gov>) (Executive Order 12549, 7 CFR Part 3017, 45 CFR Part 76, and 44 CFR Part 17). The System for Award Management (SAM) is the Official U.S. Government system that consolidated the capabilities of CCR/FedReg, ORCA, and EPLS.

5.8 The rights and remedies of DISTRICT 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 DISTRICT pursuant to this Agreement shall be the sole property of the DISTRICT. The material, reports or products may be used by the DISTRICT for any purpose DISTRICT deems to be appropriate, including, but not limit to, duplication and/or distribution within the DISTRICT 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 DISTRICT.

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 DISTRICT of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the DISTRICT'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 DISTRICT 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 DISTRICT or other regulatory agencies at all times. The CONTRACTOR shall provide

adequate cooperation to any inspector or other DISTRICT 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 DISTRICT 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 DISTRICT. When the services to be performed or the products to be provided are of such nature that the difference cannot be corrected; the DISTRICT 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 DISTRICT may also terminate this Agreement for default and charge to CONTRACTOR any costs incurred by the DISTRICT 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 DISTRICT representative or other regulatory official to monitor, assess, or evaluate CONTRACTOR's performance under this Agreement at any time, upon reasonable notice to the CONTRACTOR.

9. Independent Contractor/Employment Eligibility

9.1 The CONTRACTOR is, for purposes relating to this Agreement, an independent contractor and shall not be deemed an employee of the DISTRICT. 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 DISTRICT 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 DISTRICT harmless from any and all claims that may be made against DISTRICT 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 DISTRICT merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.

9.2 CONTRACTOR warrants that it shall make its best effort to fully comply with all federal and state statutes and regulations regarding the employment of aliens and others and to ensure that employees performing work under this Agreement meet the citizenship or alien status requirement set forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended.

CONTRACTOR shall retain all such documentation for all covered employees, for the period prescribed by the law.

9.3 Ineligible Person shall be any individual or entity who: Is currently excluded, suspended, debarred or otherwise ineligible to participate in the federal health care programs; or has been convicted of a criminal offense related to the provision of health care items or services and has not been reinstated in the federal health care programs after a period of exclusion, suspension, debarment, or ineligibility.

9.4 CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement. CONTRACTOR shall not hire or engage any Ineligible Person to provide services directly relative to this Agreement. CONTRACTOR shall screen all current Covered Individuals within sixty (60) days of execution of this Agreement to ensure that they have not become Ineligible Persons unless CONTRACTOR has performed such screening on same Covered Individuals under a separate agreement with DISTRICT within the past six (6) months. Covered Individuals shall be required to disclose to CONTRACTOR immediately any debarment, exclusion or other event that makes the Covered Individual an Ineligible Person. CONTRACTOR shall notify DISTRICT within five (5) business days after it becomes aware if a Covered Individual providing services directly relative to this Agreement becomes debarred, excluded or otherwise becomes an Ineligible Person.

9.5 CONTRACTOR acknowledges that Ineligible Persons are precluded from providing federal and state funded health care services by contract with DISTRICT in the event that they are currently sanctioned or excluded by a federal or state law enforcement regulatory or licensing agency. If CONTRACTOR becomes aware that a Covered Individual has become an Ineligible Person, CONTRACTOR shall remove such individual from responsibility for, or involvement with, DISTRICT business operations related to this Agreement.

9.6 CONTRACTOR shall notify DISTRICT within five (5) business days if a Covered Individual or entity is currently excluded, suspended or debarred, or is identified as such after being sanction screened. Such individual or entity shall be promptly removed from participating in any activity associated with this Agreement.

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 DISTRICT; 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 DISTRICT's Purchasing Department's Compliance Contract Officer who shall furnish the decision in writing. The decision of the DISTRICT'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 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 DISTRICT. 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 DISTRICT 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. §1210 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 DISTRICT 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 DISTRICT. CONTRACTOR shall provide to the DISTRICT reports and information related to this Agreement as requested by DISTRICT.

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; DISTRICT information or data which is not subject to public disclosure; DISTRICT 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 DISTRICT 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 DISTRICT, any such information to anyone other than the DISTRICT. For purposes of this paragraph, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particulars assigned to the individual, such as finger or voice print or a photograph.

17. Administration/Contract Liaison

The DISTRICT Purchasing Agent, or designee, shall administer this Agreement on behalf of the DISTRICT. The Purchasing Agent 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:

DISTRICT

RIVERSIDE COUNTY REGIONAL PARK

CONTRACTOR

AND OPEN-SPACE DISTRICT
4600 Crestmore Road
Jurupa Valley, CA 92509

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 DISTRICT 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 DISTRICT 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 DISTRICT, County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Directors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability, action, claim or damage 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. 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 DISTRICT; 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 DISTRICT the appropriate form of dismissal relieving DISTRICT 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.

For Architects/Engineers

21.5 The ARCHITECT/ENGINEER agrees to and shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Departments and Special Districts, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (hereinafter individually and collectively referred to as "Indemnitees") from all liability, including, but not limited to loss, suits, claims, demands, actions, or proceedings to the extent caused by any alleged or actual negligence, recklessness, willful misconduct, error or omission of ARCHITECT/ENGINEER, its directors, officers, partners, employees, agents or representatives or any person or organization for whom ARCHITECT/ENGINEER is responsible, arising out of or from the performance of services under this Agreement.

21.6 As respects each and every indemnification herein ARCHITECT/ENGINEER shall defend and pay, at its sole expense, all costs and fees including but not limited to attorney fees, cost of investigation, and defense and settlements or awards against the Indemnitees.

21.7 With respect to any action or claim subject to indemnification herein by ARCHITECT/ENGINEER, ARCHITECT/ENGINEER 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 ARCHITECT'S/ENGINEER'S indemnification to Indemnitees as set forth herein.

21.8 ARCHITECT'S/ENGINEER'S obligation hereunder shall be satisfied when ARCHITECT/ENGINEER has provided to Indemnitees the appropriate form of dismissal relieving Indemnitees from any liability for the action or claim involved.

21.9 The specified insurance limits required in this Agreement shall in no way limit or circumscribe ARCHITECT'S/ENGINEER'S obligations to indemnify and hold harmless Indemnitees from third party claims.

22. Insurance

22.1 Without limiting or diminishing the CONTRACTOR'S obligation to indemnify or hold the DISTRICT 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 DISTRICT herein refers to the Riverside County Regional Park and Open-Space District, its Divisions, Departments, their respective directors, officers, Board of Directors, 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 District.

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 DISTRICT 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 is 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 DISTRICT as Additional Insureds.

D. 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 District Risk Manager. If the District'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 DISTRICT Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the DISTRICT, and at the election of the DISTRICT's Risk Manager, CONTRACTOR'S carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the DISTRICT, 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 District 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 DISTRICT's 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 DISTRICT prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the DISTRICT 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 DISTRICT 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 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 DISTRICT'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 DISTRICT reserves the right to adjust the types of insurance and the monetary limits of liability

required under this Agreement, if in the District 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 DISTRICT.

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

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 DISTRICT. Any attempt to delegate or assign any interest herein shall be deemed void and of no force or effect.

23.2 Any waiver by DISTRICT 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 DISTRICT 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 DISTRICT 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 DISTRICT for nonconformance with the terms of the Agreement, the CONTRACTOR shall promptly refund the disallowed amount to the DISTRICT on request; or at its option the DISTRICT 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 DISTRICT pursuant to this Agreement, free from all liens, claims, or encumbrances.

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

23.7 The DISTRICT 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 DISTRICT 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 DISTRICT 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.

[Signature Provisions on Following Page]

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.

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this Agreement.

DISTRICT
RIVERSIDE COUNTY REGIONAL
PARK AND OPEN-SPACE DISTRICT
4600 Crestmore Rd,
Jurupa Valley, CA 92509

SERVICE PROVIDER

Signature: _____
Scott Bangle
General Manager

Signature: _____
Print Name: _____
Title: _____

Dated: _____

Dated: _____