

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



ITEM: 11.1  
(ID # 12150)

**MEETING DATE:**  
Tuesday, April 21, 2020

**FROM:** FLOOD CONTROL DISTRICT:

**SUBJECT:** FLOOD CONTROL DISTRICT: Approval of the Consulting Services Agreement Between the Riverside County Flood Control and Water Conservation District and David Taussig and Associates, Inc. for Administration of National Pollutant Discharge Elimination System Benefit Assessment Programs, Fiscal Years 2019/2020-2024/2025, All Districts. [Total Cost \$236,950 - District Funds 100%]

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Approve the Consulting Services Agreement ("Agreement") between the Riverside County Flood Control and Water Conservation District ("District") and David Taussig and Associates, Inc. for Administration of National Pollutant Discharge Elimination System Benefit Assessment Programs for Fiscal Years 2019/2020-2024/2025;
2. Authorize the Chairwoman of the Board to execute the same on behalf of the District;
3. Authorize the District's General Manager-Chief Engineer to sign future amendments that do not change the substantive terms of the Agreement, subject to County Counsel approval; and
4. Direct the Clerk of the Board to return two (2) executed Agreements to the District.

**ACTION: Policy**

Jason Uhley, GENERAL MGR-CHF FLD CNTRL ENG

4/7/2020

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**MINUTES OF THE BOARD OF SUPERVISORS**

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

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt  
Nays: None  
Absent: None  
Date: April 21, 2020  
xc: Flood

Kecia R. Harper  
Clerk of the Board

By   
Deputy

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

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$ 42,200	\$ 47,390	\$ 236,950	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS:</b> See Additional Fiscal Information			<b>Budget Adjustment: No</b>	
			<b>For Fiscal Year: 19/20-24/25</b>	

**C.E.O. RECOMMENDATION:** Approve

**BACKGROUND:**

**Summary**

The Agreement sets the terms and conditions by which David Taussig and Associates, Inc. ("Consultant") will provide services for the administration of the District's National Pollutant Discharge Elimination System ("NPDES") Benefit Assessment Programs.

The Board of Supervisors for the Riverside County Flood Control and Water Conservation District (District), through adoption of Resolutions No. F91-21, -22 and -23 on May 14, 1991, established the Santa Ana, Santa Margarita and Whitewater Watershed Benefit Assessment Areas for the purpose of complying with the provisions of municipal NPDES Permits in order to legally discharge stormwater from its flood control and stormwater drainage facilities. The NPDES Permits require the District to develop, implement and manage specific compliance programs dealing with stormwater runoff that will benefit all properties within the Benefit Assessment Areas. The Benefit Assessments are levied annually to pay the District's annual costs associated with the NPDES Permits. As such, the Benefit Assessments for the Santa Ana, Santa Margarita and Whitewater Watersheds require administrative services for the calculation, apportionment and collection of assessments levied in those watersheds.

County Counsel has approved the Agreement as to legal form. The Consultant has executed the Agreement.

**Impact on Residents and Businesses**

This Agreement will allow the District to call upon additional expertise and resources to support the administration of the NPDES Benefit Assessment Programs. Execution of the Agreement will help to protect, preserve and enhance the quality of the water and the natural environment of the Santa Ana, Santa Margarita and Whitewater watersheds and imposes no additional impacts to residents and businesses.

**Additional Fiscal Information**

Costs incurred under this Agreement will be funded by the existing Benefit Assessments for the Santa Ana, Santa Margarita and Whitewater watersheds, as appropriate.

**Contract Term      Annual Budget (not to exceed)**

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FY 19/20	\$42,200
FY 20/21	\$47,390
FY 21/22	\$47,390
FY 22/23	\$47,390
FY 23/24	\$47,390
FY 24/25	\$5,190
<hr/>	
TOTAL	\$236,950

Sufficient funding is available in the District's budget for Fiscal Year 2019-2020 and will be included in the District's recommended budget(s) for Fiscal Years 2020-2021 through 2024-2025, as appropriate and necessary.

**SOURCE OF FUNDS:** (Continued)

- 25180 947540 525440 NPDES Whitewater Professional Services
- 25190 947560 525440 NPDES Santa Ana Professional Services
- 25200 947580 525440 NPDES Santa Margarita Professional Services

**Contract History and Price Reasonableness**

In accordance with the purchasing guidelines, on October 13, 2019, the District released Request for Proposal #FCARC-00158 for the Administration of NPDES Assessment Programs on the District's website from October 13, 2019 to November 13, 2019. Two firms responded, and a selection committee comprised of District employees reviewed each firm's qualifications. David Taussig and Associates, Inc. was selected as the lowest, responsive bidder with a not to exceed cost of \$236,950.

**ATTACHMENTS:**

1. Consulting Services Agreement
2. Area Maps of each Assessment Area

RKM:blm  
P8/230359



Jason Farin, Senior Management Analyst

4/14/2020



Gregory H. Priamos, Director County Counsel

4/9/2020

**CONSULTING SERVICES AGREEMENT**

**for**

**Administration of NPDES Assessment Programs**

**between**

**Riverside County Flood Control and Water Conservation District**

**and**

**David Taussig and Associates, Inc.**



APR 21 2020 (11.)

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This Agreement, made and entered into this 21<sup>st</sup> day of April, 2020, by and between David Taussig and Associates, Inc., a California corporation (herein referred to as "CONSULTANT"), and the RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, a body politic (herein referred to as "DISTRICT"). The parties agree as follows:

**1. Description of Services**

**1.1** CONSULTANT shall provide all services as outlined and specified in Exhibit A, Scope of Services, consisting of two pages at the prices stated in Exhibit B, Payment Provisions, consisting of one page, which are attached hereto and incorporated by this reference.

**1.2** CONSULTANT represents that it has the skills, experience and knowledge necessary to fully and adequately perform under this Agreement, and DISTRICT relies upon this representation. CONSULTANT shall perform to the satisfaction of 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** CONSULTANT affirms this it is fully apprised of all of the work to be performed under this Agreement; and the CONSULTANT agrees it can properly perform this work at the prices stated in Exhibit B. CONSULTANT is not to perform services or provide products outside of the Agreement.

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

**2. Period of Performance**

**2.1** This Agreement shall be effective as defined herein and continue in effect through 11:59 pm Pacific Time on June 30, 2025, unless terminated earlier. CONSULTANT shall commence performance upon the Effective Date of this Agreement and shall diligently and continuously perform thereafter.

**3. Compensation**

**3.1** DISTRICT shall pay CONSULTANT for services performed, products provided and expenses incurred in accordance with the terms of Exhibit B, Payment Provisions. Maximum payments by DISTRICT to CONSULTANT shall not exceed the total sum of Two Hundred Thirty-Six Thousand Nine Hundred Fifty Dollars (\$236,950) over the entire term of this Agreement, based on the availability of sufficient funding. 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, DISTRICT shall not be responsible for payment of any of CONSULTANT'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 CONSULTANT offers lower prices to another governmental entity) will automatically be extended to DISTRICT. 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 U.S. Department of Labor Consumer Price Index for All Urban Consumers (CPI-U); Riverside-San Bernardino-Ontario, CA; All Items, not seasonally adjusted, December 2017=100 reference base and be subject to satisfactory performance review by DISTRICT and approved (if needed) for budget funding by the Board of Supervisors.

**3.3** CONSULTANT shall be paid only in accordance with an invoice submitted to DISTRICT by CONSULTANT 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 CONSULTANT only after services have been rendered or delivery of materials or products, and acceptance has been made by DISTRICT. CONSULTANT shall prepare invoices and submit in duplicate. For this Agreement, send the original and duplicate copies of invoices to:

RIVERSIDE COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT  
1995 Market Street  
Riverside, CA 92501  
Attn: Finance Division

- 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; purchase order

number for the approved task order; quantities; item descriptions, unit prices, extensions, sales/use tax if applicable, and an invoice total.

- b) Invoices shall be submitted monthly in arrears.
- c) In accordance with California Government Code Section 926.10, DISTRICT is not allowed to pay excess interest and late charges.

3.4 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 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 has the right to terminate this Agreement and shall immediately notify CONSULTANT in writing. This Agreement shall be deemed terminated and have no further force and effect on the date of such notice. In the event of such termination, CONSULTANT shall be entitled to payment for work already performed in accordance with this Agreement.

#### **4. Alteration or Changes to the Agreement**

4.1 The Board of Supervisors and DISTRICT General Manager-Chief Engineer and/or designee are the only authorized DISTRICT representatives who may at any time, by written order, make alterations to this Agreement. If any such alteration causes an increase or decrease in the cost of, or the time required for the performance under this Agreement, an equitable adjustment shall be considered. Any agreed upon adjustment in the price or delivery schedule, or both, shall be reflected in a written amendment to this Agreement.

4.2 Any claim by CONSULTANT for additional payment related to this Agreement shall be made in writing by CONSULTANT within 30 days of when CONSULTANT has or should have notice of any actual or claimed change in the work which results in additional and unanticipated cost to CONSULTANT. CONSULTANT shall submit backup documentation satisfactory to DISTRICT with any claim asserted for additional payment. If DISTRICT General Manager-Chief Engineer and/or designee determines that the facts provide sufficient justification, he may authorize additional payment to CONSULTANT pursuant to the claim. Nothing in this section shall excuse CONSULTANT 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 CONSULTANT stating the extent and effective date of termination.

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

5.3 After receipt of the notice of termination, CONSULTANT 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.

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

5.5 CONSULTANT'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 CONSULTANT; or in the event of CONSULTANT's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement. In such event, CONSULTANT shall not be entitled to any further compensation under this Agreement.

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

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## **7. Conduct of Consultant**

**7.1** The CONSULTANT 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 CONSULTANT's performance under this Agreement. CONSULTANT further covenants that no person or subconsultant having any such interest shall be employed or retained by CONSULTANT under this Agreement. CONSULTANT agrees to inform DISTRICT of all CONSULTANT's interests, if any, which are or may be perceived as incompatible with DISTRICT's interests.

**7.2** CONSULTANT 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 CONSULTANT is doing business or proposing to do business, in accomplishing the work under this Agreement.

**7.3** CONSULTANT 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 DISTRICT or other regulatory agencies at all times. CONSULTANT shall provide adequate cooperation to any inspector or other DISTRICT representative to permit him/her to determine CONSULTANT's conformity with the terms of this Agreement. If any services performed or products provided by CONSULTANT are not in conformance with the terms of this Agreement, DISTRICT shall have the right to require CONSULTANT to perform the services or provide the products in conformance with the terms of the Agreement at no additional cost to DISTRICT. When the services to be performed or the products to be provided are of such nature that the difference cannot be corrected, DISTRICT shall have the right to: (1) require CONSULTANT 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. DISTRICT may also terminate this Agreement for default and charge to CONSULTANT any costs incurred by DISTRICT because of CONSULTANT's failure to perform.

**8.2** CONSULTANT 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 CONSULTANT's performance under this Agreement at any time upon reasonable notice to CONSULTANT.

## **9. Independent Contractor**

CONSULTANT 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 CONSULTANT (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 CONSULTANT 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 CONSULTANT 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.

## **10. Subcontract for Work or Services**

No contract shall be made by CONSULTANT with any other party for furnishing any of the work or services under this Agreement without the prior written approval of DISTRICT; but this provision shall not require the approval of contracts of employment between CONSULTANT 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 DISTRICT's Compliance Contract Officer who shall furnish the decision in writing. The decision of 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 as necessarily to imply



bad faith. CONSULTANT 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**

CONSULTANT 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. CONSULTANT 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**

CONSULTANT 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 CONSULTANT; and DISTRICT shall in no way be responsible to CONSULTANT for other entities' purchases.

**14. Non-Discrimination**

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

**15. Records and Documents**

CONSULTANT 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 CONSULTANT's costs related to this Agreement. All such books, documents and records shall be maintained by CONSULTANT for at least five years following termination of this Agreement and be available for audit by DISTRICT. CONSULTANT shall provide to DISTRICT reports and information related to this Agreement as requested by DISTRICT.

**16. Confidentiality**

**16.1** CONSULTANT 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** CONSULTANT 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. CONSULTANT shall not use such information for any purpose other than carrying out CONSULTANT's obligations under this Agreement. CONSULTANT shall promptly transmit to DISTRICT all third party requests for disclosure of such information. CONSULTANT shall not disclose, except as otherwise specifically permitted by this Agreement or authorized in advance in writing by DISTRICT, any such information to anyone other than DISTRICT. For purposes of this paragraph, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.

**17. Administration/Contract Liaison**

DISTRICT's General Manager-Chief Engineer, or designee, shall administer this Agreement on behalf of DISTRICT. The Watershed Protection Division is to serve as the liaison with CONSULTANT 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 FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT  
1995 Market Street  
Riverside, CA 92501  
Attn: Watershed Protection Division

**CONSULTANT**

David Taussig and Associates, Inc.  
3390 University Avenue, #450  
Riverside, CA 92501  
Attn: David Taussig

**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, DISTRICT may be required to submit a Report of Independent CONSULTANT(s) form **DE 542** to the Employment Development Department. CONSULTANT agrees to furnish the required data and certifications to 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 CONSULTANT to timely submit the data and/or certificates required may result in the contract being awarded to another Consultant. In the event a contract has been issued, failure of 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](http://www.edd.ca.gov).

**21. Hold Harmless/Indemnification**

**21.1** CONSULTANT shall indemnify and hold harmless DISTRICT and the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability whatsoever, based or asserted upon any services of CONSULTANT, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of CONTRACTOR, its officers, employees, subcontractors, agents or representatives Indemnitors from this Agreement. CONSULTANT shall defend, at its sole cost and 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. With respect to any action or claim subject to indemnification herein by CONSULTANT, CONSULTANT shall, at its sole cost, have the right to use counsel of its 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 CONSULTANT's indemnification to Indemnitees as set forth herein. CONSULTANT's obligation hereunder shall be satisfied when CONSULTANT has provided to DISTRICT the appropriate form of dismissal relieving DISTRICT from any liability for the action or claim involved. The specified insurance limits required in this Agreement shall in no way limit or circumscribe CONSULTANT's obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

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

**21.3** CONSULTANT's indemnification obligations shall also apply to any action or claim regarding actual or alleged intellectual property infringement related to any material or product provided to DISTRICT pursuant to this Agreement. In the event of any such action or claim, CONSULTANT shall provide immediate notice to DISTRICT of the

action or claim. CONSULTANT may defend or settle the action or claim as CONSULTANT deems appropriate; however, CONSULTANT shall be required to obtain for DISTRICT the right to continue to use the material or product (or a similar non-infringing material or product with the same function) on terms identical to those stated in this Agreement.

## **22. Insurance**

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

### **22.1 Workers' Compensation**

If the CONSULTANT has employees as defined by the State of California, CONSULTANT 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 DISTRICT.

### **22.2 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 CONSULTANT's performance of its obligations hereunder. Policy shall name DISTRICT as Additional Insureds. 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.

### **22.3 Vehicle Liability**

If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then CONSULTANT 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 DISTRICT as Additional Insureds.

### **22.4 Professional Liability Insurance**

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

### **22.5 General Insurance Provisions - All lines**

a) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an AM BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by the DISTRICT Risk Manager. If 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.

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

c) CONSULTANT shall cause CONSULTANT's insurance carrier(s) to furnish DISTRICT with 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 DISTRICT 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 a minimum of thirty

(30) days written notice shall be given to DISTRICT prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. If CONSULTANT's insurance carrier(s) policies does not meet the minimum notice requirement found herein, CONSULTANT shall cause CONSULTANT's insurance carrier(s) to furnish a 30 day Notice of Cancellation Endorsement.

d) 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. ***CONSULTANT shall not commence operations until 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 to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.***

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

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

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

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

i) CONSULTANT 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** CONSULTANT 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 CONSULTANT receives payment under this Agreement which is later disallowed by DISTRICT for nonconformance with the terms of the Agreement, CONSULTANT shall promptly refund the disallowed amount to DISTRICT on request; or at its option DISTRICT may offset the amount disallowed from any payment due to CONSULTANT.

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

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

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

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

**23.8** CONSULTANT shall comply with all applicable Federal, State and local laws and regulations. CONSULTANT 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, CONSULTANT shall comply with the more restrictive law or

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regulation.

**23.9** CONSULTANT 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** CONSULTANT 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 the County of Riverside, California, and the parties waive any provision of law providing for a change of venue to another location. In the event any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

**23.12** The Effective Date of this Agreement is the date the parties sign the Agreement. If the parties sign the Agreement on more than one date, then the last date the Agreement is signed by a party shall be the Effective Date.

**23.13** 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.

**23.14** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

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


APR 21 2020

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By   
JASON E. UHLEY  
General Manager-Chief Engineer

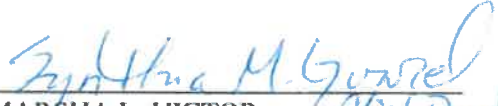
By   
KAREN SPIEGEL, Chairwoman  
Riverside County Flood Control and Water  
Conservation District Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

GREGORY P. PRIAMOS  
County Counsel

KECIA HARPER  
Clerk of the Board

By   
*for* MARSHA L. VICTOR *Chief Deputy*  
Deputy County Counsel

By   
Deputy

(SEAL)

Professional Services Agreement with David Taussig and Associates, Inc.  
Administration of NPDES Assessment Programs  
RKM:blm  
03/25/2020

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

\_\_\_\_\_  
(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By   
JASON E. UHLEY  
General Manager-Chief Engineer

By \_\_\_\_\_  
KAREN SPIEGEL, Chairwoman  
Riverside County Flood Control and Water  
Conservation District Board of Supervisors

APPROVED AS TO FORM:

ATTEST:

GREGORY P. PRIAMOS  
County Counsel

KECIA HARPER  
Clerk of the Board

By \_\_\_\_\_  
MARSHA L. VICTOR  
Deputy County Counsel

By \_\_\_\_\_  
Deputy

(SEAL)

Professional Services Agreement with David Taussig and Associates, Inc.  
Administration of NPDES Assessment Programs  
RKM:blm  
03/25/2020

**DAVID TAUSSIG AND ASSOCIATES, INC.**

By:   
DAVID TAUSSIG  
President

By:   
CECILY BURKE  
Secretary

Professional Services Agreement with David Taussig and Associates, Inc.  
Administration of NPDES Assessment Programs  
RKM:blm  
03/25/2020



**EXHIBIT A**  
**SCOPE OF SERVICES**

**3.1 SCOPE OF SERVICES / GENERAL**

Scope of services generally applicable to the NPDES Programs Benefit Assessment Program.

**3.1.1 TASK 1: ANNUAL ASSESSMENT LISTING**

Prepare annual special assessment listing by parcel in tape or other format acceptable to the Riverside County Auditor-Controller. The debt service schedule will be prepared on the basis of the configuration of the lands as they exist on the first day of January in the year the schedule is prepared.

**3.1.2 TASK 2: PREPARE ASSESSMENT APPORTIONMENTS**

Prepare assessment apportionments, including preparation of and recording of the amended assessment diagram, apportionment of assessment to divided parcels, preparation and mailing of Notice of Original Bond Buyer, and amendment of the debt service roll.

**3.1.3 TASK 3: PREPARE REPORTS OF DELINQUENCIES**

Check for and prepare reports of delinquencies in payment of taxes for the properties affected by the bond debt service schedule(s) at appropriate intervals as requested by the District. Assist in letter preparation to property owners regarding delinquencies and coordinate judicial foreclosure proceedings with special counsel (Optional – requires District Approval).

**3.1.4 TASK 4: PUBLIC INFORMATION AND DISCLOSURE REPORTING**

Prepare a public information report setting forth the improvements for which the assessment was levied and the method used in apportioning the costs of the improvements to the lands within the District or watershed area (optional but recommended).

**3.1.5 TASK 6: PROPERTY OWNER INFORMATION**

Provide property owners with information relating to special assessment proceedings and costs which were assessed to their lands.

**3.1.6 TASK 9: OTHER TASKS**

Perform such other tasks in relation to special assessment proceedings as may be requested by the District.

**3.1.7 TASK 10: PROJECT-RELATED SERVICES NOT LISTED**

Perform services related to the project, which are not listed herein upon request by the Finance Director or designee.

**3.2 SCOPE OF SERVICES / NPDES**

Scope of services for the NPDES Benefit Assessment Program – Santa Ana, Santa Margarita, and Whitewater Watershed Areas.

**3.2.1 TASK 11: DATA REVIEW**

Collect and review data germane to the annual levy of the District including, but not limited to:

- Prior years' Engineer's Reports;
- Prior years' resolutions;
- Prior years' benefit assessment units (BAU's);
- Current year's budget;
- List of new parcels;
- Changes in land use classification for assignment of BAU; and
- Field check (if necessary).

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**3.2.2 TASK 12: COORDINATION WITH DISTRICT STAFF**

Meet with District staff to obtain and discuss complaints and corrections received from prior year. This information will be compared to the information collected in Data Review. Determine a schedule to meet necessary time frames for preparation of the Forms 11, Resolutions, Engineer's Reports, Board Meeting, and Public Hearing.

**3.2.3 TASK 13: RECOMMEND BENEFIT ASSESSMENTS**

Prepare spreads based on Tasks 1 and 2 to determine the appropriate benefit assessment units per Watershed Area. Coordinate a meeting with District staff to confirm the analysis and to determine the agreed upon Benefit Assessment Unit (BAU) cost.

**3.2.4 TASK 14: PROVIDE DATA IN COMPATIBLE FORMAT**

Upon determination of format needs, provide data in a compatible format for use appropriate by District staff (if necessary). At minimum, District staff usually requests BAU counts by municipal jurisdiction.

**3.2.5 TASK 15: PREPARATION OF THE ANNUAL ENGINEER'S REPORT**

Prepare the Engineer's Reports including the assessment roll for the current Fiscal Year for District staff and County Counsel review and approval.

**3.2.6 TASK 16: REPORT FILING AND NOTICING**

Upon approval of each preliminary Engineer's Report and Notice of Public Hearing, file with the necessary designated posting locations as determined by the District.

**3.2.7 TASK 17: PUBLIC SERVICE/INFORMATION**

At the public hearing, be available to respond to property owners' concerns about the Watershed Areas. Also be available to make adjustments to assessment spreads necessary or as directed by the District staff.

**3.2.8 TASK 18: ANNUAL LEVY SUBMITTAL**

Submit the Annual Levy to the Riverside County Auditor-Controller.

**3.2.9 TASK 19: MAINTAIN DELINQUENCY**

Receive from the Riverside County Auditor-Controller the current delinquencies within each year and establish and maintain a delinquency database, if necessary, on behalf of the District.

**EXHIBIT B  
PAYMENT PROVISIONS**



**Cost Proposal**

Tasks	Task Title	Managing Director \$290		Vice President \$225		Manager \$185		Associate I \$150		Research Associate I \$125		Total Hours No. of Hours	Total Cost (\$)
		No. of Hours	No. of Hours	No. of Hours	No. of Hours	No. of Hours	No. of Hours	No. of Hours	No. of Hours				
<b>General Scope of Work for Annual Administration</b>													
Task 1	Annual Assessment Listing	1	5					1		0		12	\$2,490
Task 2	Prepare Assessment Appointments	6	6			7		3		0		22	\$4,835
Task 3	Prepare Reports of Delinquencies	4	4			5		1		0		14	\$3,135
Task 4	Public Information and Disclosure Reporting	4	5			10		3		0		22	\$4,585
Task 6	Property Owner Information	1	2			2		0		5		10	\$1,735
Task 9	Other Tasks	3	3			3		3		3		15	\$2,925
Task 10	Project-Related Services, Not Listed	1	1			1		1		1		5	\$975
<b>NPDES Scope of Work for Annual Administration</b>													
Task 11	Data Review	3	5			10		10		0		28	\$5,345
Task 12	Coordination with District Staff	1	2			3		0		0		6	\$1,295
Task 13	Recruitment Benefit Assessments	5	10			15		0		0		30	\$6,475
Task 14	Provide Data in Compatible Format	0	1			2		0		0		3	\$595
Task 15	Preparation of the Annual Engineer's Report	7	10			15		5		0		37	\$7,805
Task 16	Report Filing and Noticing	1	3			3		0		0		7	\$1,520
Task 17	Public Service/Information	1	3			3		0		5		12	\$2,145
Task 18	Annual Levy Submittal	0	2			1		0		0		3	\$635
Task 19	Maintain Delinquency	0	1			2		2		0		5	\$895
<b>Total Hours (#)</b>		<b>38</b>	<b>63</b>			<b>87</b>		<b>29</b>		<b>14</b>		<b>231</b>	<b>N/A</b>
<b>Total Cost (\$)</b>		<b>\$11,020</b>	<b>\$14,175</b>			<b>\$16,095</b>		<b>\$4,350</b>		<b>\$1,750</b>		<b>N/A</b>	<b>\$47,390</b>