

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



ITEM: 11.2
(ID # 20454)

MEETING DATE:

Tuesday, November 29, 2022

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 Hollaway Environmental and Communications Services, Inc. for Technical Assistance for the Murrieta Creek Flood Control, Environmental Restoration, and Recreation Project Economic Update Process and Post-Authorization Decision Document (Project No. 7-0-00021), District 3. [\$200,000 Total Cost – District Zone 7 Funds 100%]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Ratify and approve the Consulting Services Agreement ("Agreement") between the Riverside County Flood Control and Water Conservation District ("District") and Hollaway Environmental and Communications Services, Inc. ("Consultant") for Technical Assistance for the Murrieta Creek Flood Control, Environmental Restoration, and Recreation Project Economic Update Process and Post-Authorization Decision Document;
2. Authorize the Chair of the District's Board of Supervisors ("Board") to execute the same on behalf of the District;
3. Authorize the District's General Manager-Chief Engineer or designee to take all necessary steps to implement the Agreement, including, but not limited to, negotiating, approving, and executing any future non-substantive amendments to the Agreement that do not increase the total cost to the District or materially change the provisions of the Agreement, subject to approval as to form by County Counsel, and to have the delegated authority to terminate the Agreement in accordance with its terms and conditions if such action is desired by the District; and
4. Direct the Clerk of the Board to return two (2) executed Agreements to the District.

ACTION:Policy

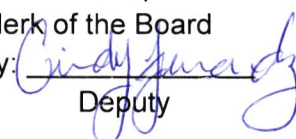
Jason Uhley, GENERAL MGR-CHF FLD CNTRL ENG 11/15/2022

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Spiegel, 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, Hewitt, and Perez
Nays: None
Absent: None
Date: November 29, 2022
xc: Flood

Kecia R. Harper
Clerk of the Board

By: 
Deputy

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FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 50,000	\$ 50,000	\$ 200,000	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS:			Budget Adjustment: No	
25170-947520-525440 Professional Services - Zone 7 (100%)			For Fiscal Year: 22/23-26/27	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The Agreement sets the terms and conditions by which the Consultant will provide technical assistance for the Murrieta Creek Flood Control, Environmental Restoration, and Recreation Project ("Project") economic update process and post-authorization decision document.

The Project (Project No. 7-0-00021) is a federally-authorized multi-purpose flood risk management, ecosystem restoration, and recreation project that is located in western Riverside County. The Project is divided into the following phases: Phase 1A, Phase 1, Phase 2A, Phase 2B, Phase 3, and Phase 4. Phases 1 and 2A have been constructed, and Phase 2B is designed.

The District, as the local non-federal sponsor for the Project, and the U.S. Army Corps of Engineers, Los Angeles District ("USACE") are currently collaborating to develop an Economic Reevaluation Report ("ERR") through an economic update process and a General Reevaluation Report ("GRR"), a post-authorization decision document, for the Project. The Consultant will, at the direction of the District, provide economic technical assistance to support the development of the ERR and GRR.

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

Impact on Residents and Businesses

The District's financial contribution toward the remittance of said costs associated with the Agreement is funded by ad valorem property tax revenue and entails no new fees, taxes, or bonded indebtedness to residents and businesses. The economic analyses that will be detailed in the ERR and GRR are required in support of future federal funding requests. Some of the proposed remaining benefits of the Project include: (i) the creation of a multi-purpose detention basin that contains flood risk management, ecosystem restoration, and recreation features, and (ii) the extension of the channel improvements that include an additional four miles of continuous habitat corridor.

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Additional Fiscal Information

Sufficient funding is available in the District's budget for Fiscal Year 2022-2023 and will be included in the District's recommended budget(s) for future fiscal years as appropriate and necessary.

Funding Summary

\$ 50,000	Fiscal Year 2022-2023 (Nine Months Only: October 2022 – June 2023)
\$ 50,000	Fiscal Year 2023-2024 (July 2023 – June 2024)
\$ 50,000	Fiscal Year 2024-2025 (July 2024 – June 2025)
\$ 40,000	Fiscal Year 2025-2026 (July 2025 – June 2026)
\$ 10,000	Fiscal Year 2026-2027 (Three Months Only: July 2026 – September 2027)
<hr/>	
\$ 200,000	Total Estimated District Cost

Contract History and Price Reasonableness


In August 2022, the District released the Request for Qualifications ("RFQ") for Technical Assistance for the Murrieta Creek Flood Control, Environmental Restoration, and Recreation Project Economic Update Process and Post-Authorization Decision Document in accordance with the purchasing guidelines. A public notice of the RFQ was published in The Press Enterprise, The Orange County Register, Inland Valley Daily Bulletin, and The San Bernardino Sun. The RFQ was also posted on the District's website. One firm responded, and a selection committee comprised of District employees reviewed the firm's qualifications. Holloway Environmental and Communications Services, Inc. was selected based on the overall responsiveness and general understanding of the RFQ requirements, firm's experience and ability, record of past performance, project team, scope of work, and overall impression.

ATTACHMENTS:

1. Consulting Services Agreement

RMG:ju

P8/246737



Jason Farin, Principal Management Analyst 11/21/2022



Kristine Bell-Valdez, Supervising Deputy County Counsel 11/15/2022

CONSULTING SERVICES AGREEMENT

for

Murrieta Creek Flood Control, Environmental Restoration, and Recreation Project

between

Riverside County Flood Control and Water Conservation District

and

Hollaway Environmental and Communications Services, Inc.



CONSULTING SERVICES AGREEMENT

Murrieta Creek Flood Control, Environmental Restoration, and Recreation Project

This Consulting Services Agreement ("Agreement") dated as of November 29, 2022 is entered into by and between the Riverside County Flood Control and Water Conservation District, a body politic ("DISTRICT"), and Hollaway Environmental and Communications Services, Inc., a Texas corporation ("CONSULTANT"). Sometimes hereinafter, DISTRICT and CONSULTANT may be referred to individually as a "Party" or collectively as the "Parties". The Parties hereby agree as follows:

1. SCOPE OF SERVICES – DISTRICT hereby retains CONSULTANT, as an independent contractor, to perform all technical and professional services including, but not limited to, expertise, labor, materials, equipment, transportation, supervision and other incidental services to fully and adequately perform and complete in a skillful and professional manner those consulting services set forth and described in the "Scope of Work", attached hereto as Attachment "A" and made a part hereof. CONSULTANT shall not perform any additional work, including any optional tasks, except as directed by DISTRICT in writing.
2. TIME FOR PERFORMANCE – The term of this Agreement shall become effective on October 1, 2022 and shall terminate on September 30, 2026. CONSULTANT shall not commence performance of any work or services, for any reason whatsoever, until DISTRICT has provided CONSULTANT with a written Notice to Proceed authorizing CONSULTANT to initiate work pursuant to this Agreement. No payment will be made for any work or services performed prior to the issuance of said Notice to Proceed.
3. COMPENSATION – DISTRICT shall pay CONSULTANT for actual services satisfactorily performed and expenses incurred under this Agreement for tasks

approved by DISTRICT (collectively referred to as "Tasks" and individually referred to as a "Task") in accordance with the "Scope of Work" (Attachment "A") and "Fee Schedule", attached hereto as Attachment "B" and made a part hereof. CONSULTANT shall invoice DISTRICT for completion of "Tasks" based on a time and materials basis upon delivery or performance of said Tasks.

The total amount of compensation paid to CONSULTANT under the terms of this Agreement shall not exceed the sum of Two Hundred Thousand Dollars (\$200,000.00).

4. PAYMENT – CONSULTANT shall submit invoice(s) to DISTRICT (Attention: Business Office – Accounts Payable) in arrears, no later than sixty (60) calendar days after completion of each Task. **The DISTRICT reserves the right to withhold payment for work that is not invoiced in a timely manner.** All invoices shall contain, at a minimum, the following information: invoice number, invoice date, invoice total amount, remittance address, DISTRICT's purchase order number, quantities, item descriptions, unit price, extensions and sales/use tax if applicable. Incomplete invoices will be returned to CONSULTANT for correction.

Upon satisfactory performance of CONSULTANT's services pursuant to DISTRICT approved Tasks, DISTRICT shall pay CONSULTANT within forty-five (45) days after DISTRICT's receipt of appropriate invoice(s) from CONSULTANT. Progress payments, if permitted in DISTRICT approved Tasks, shall be processed no more than once per month. DISTRICT shall not pay interest or finance charges on any outstanding balance(s).

Except as specifically provided for and stated in this Agreement or Attachment "B", DISTRICT shall not be responsible for payment of any of CONSULTANT's expenses related to this Agreement.

5. SUBCONTRACTING – CONSULTANT may, at CONSULTANT's own expense, employ special consultants to accomplish the work covered by this Agreement; however, except as specifically provided in Attachment "B" or as expressly identified in this Agreement, no portion of the services pertinent to this Agreement shall be subcontracted without prior written approval and authorization by DISTRICT.
6. LICENSES – At all times, while performing services under this Agreement, CONSULTANT, its employees, agents, contractors and subcontractors shall possess and maintain all necessary professional licenses, registrations, certificates, permits and other authorizations as required by the applicable federal, state and local laws, regulations, rules and ordinances.
7. STANDARD OF CARE – While performing the services, CONSULTANT shall exercise the reasonable professional care and skill customarily exercised by reputable members of CONSULTANT's profession practicing in the State of California, and shall use reasonable diligence and best judgment while exercising CONSULTANT's professional skill and expertise. By executing this Agreement, CONSULTANT represents and maintains that CONSULTANT has the necessary experience and expertise to skillfully perform all services, duties, and obligations required by this Agreement.

If, pursuant to this Agreement, CONSULTANT is engaged as a "Professional Engineer" pursuant to Section 6701 of the Professional Engineers Act (Chapter 7 of Division 3 of the Business and Professions Code), then CONSULTANT assumes responsible charge of the work pursuant to Section 6703 of the Professional Engineers Act; and shall be wholly responsible for the completeness and accuracy of all data, technical studies, reports, plans, specifications, and estimates prepared pursuant to this Agreement, and shall check all of its work product accordingly.

8. ERRORS AND OMISSIONS – In the event CONSULTANT's data, technical studies, reports, plans, specifications, estimates or any work products contain any errors or omissions that cause DISTRICT to incur additional expense beyond what would have otherwise resulted if there were no errors or omissions in CONSULTANT's data, technical studies, reports, plans, specifications, estimates or any work products, such additional expense shall be borne solely by CONSULTANT.
9. PREVAILING WAGE
- A. In the event that a portion of the work performed by CONSULTANT are by crafts affected by state labor laws, the following terms and conditions shall apply.
- i. CONSULTANT shall comply with all applicable provisions of the California State Labor Code regarding prevailing wages, Department of Industrial Relations Division of Apprenticeship Standards Labor and Labor Codes.
 - ii. All workers shall be paid not less than the general prevailing rate of wages and benefits for work of a similar character in the locality in which the work is performed, as provided in Labor Code Sections 1770 et seq.
 - iii. When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations ("DIR") as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.
- B. When all of the work performed by CONSULTANT is performed by crafts not affected by state labor laws or are not contemplated for use, the following terms

and conditions shall apply.

- i. The State of California's General Prevailing Wage Rates are not applicable to this Agreement.

10. NOTICES – Any and all notices sent or required to be sent to the Parties of this Agreement will be mailed by first class mail, postage prepaid, to the following addresses:

To DISTRICT: RIVERSIDE COUNTY FLOOD CONTROL AND
WATER CONSERVATION DISTRICT
1995 Market Street
Riverside, CA 92501
Attn: Federal Projects Section

To CONSULTANT: HOLLOWAY ENVIRONMENTAL AND
COMMUNICATIONS SERVICES, INC.
2500 Summer Street, Suite 1130
Houston, TX 77007
Attn: Carol Holloway

11. INSURANCE – Without limiting or diminishing 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 coverage's 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.

- A. Workers' Compensation: If 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 the Riverside County Flood Control and Water Conservation District and the County of Riverside.

- B. Commercial General Liability: Commercial General Liability insurance coverage, including but not limited to premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of CONSULTANT's performance of its obligations hereunder. Policy shall name DISTRICT as Additional Insured. Policy's limit of liability shall not be less than \$2,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the occurrence limit.
- C. Vehicle Liability: If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then 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 Insured.
- D. Professional Liability: 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.

E. General Insurance Provisions – All Lines:

- i. 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 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.
- ii. CONSULTANT 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 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.

- iii. CONSULTANT shall cause CONSULTANT's insurance carrier(s) to furnish 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 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 do 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.
- iv. In the event of a material modification, cancellation, expiration or reduction in coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto, evidencing coverage's set forth herein and the insurance required herein is in full force and effect. 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.

- v. 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.
- vi. 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, COUNTY reserves the right to adjust the types of insurance and the monetary limits of liability required under this Agreement if, in DISTRICT Risk Management's reasonable judgment, the amount or type of insurance carried by CONSULTANT has become inadequate.
- vii. CONSULTANT shall pass down the insurance obligations contained herein to all tiers of subconsultants working under this Agreement.
- viii. The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to DISTRICT.
- ix. 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.

12. INDEMNITY AND HOLD HARMLESS

A. Basic Indemnity

- i. To the fullest extent permitted by applicable law, CONSULTANT agrees to defend (through legal counsel reasonably acceptable to DISTRICT), indemnify, and hold harmless the Riverside County Flood Control and Water Conservation District and the County of Riverside, its Agencies, Districts, Departments and Special Districts, Board of Supervisors, elected and appointed officials, and each of their respective directors, members officers, employees, agents, volunteers and representatives ("Indemnitees") and each of them from any and all Losses that arise out of or relate to any act or omission constituting ordinary and not professional negligence (including, without limitation, negligent breach of contract), recklessness or willful misconduct on the part of CONSULTANT or its subconsultants or their respective employees, agents, representatives or independent contractors.
- ii. "Losses" shall mean any and all economic and non-economic losses, costs, liabilities, claims, damages, actions, judgements, settlements and expenses, including, without limitation, full and actual attorney's fees (including, without limitation, attorney's fees for trial and on appeal), expert and non-expert witness fees, arbitrator and arbitration fees and mediator and mediation fees.
- iii. CONSULTANT further agrees to and shall indemnify and hold harmless the Indemnitees from all liability arising from suits, claims, demands, actions or proceedings made by agents, employees or

subcontractors of CONSULTANT for salary, wages, compensation, health benefits, insurance, retirement or any other benefit not explicitly set forth in this contract and arising out of work performed for DISTRICT pursuant to this contract. The Indemnitees shall be entitled to the defense and indemnification provided for hereunder regardless of whether the Loss is in part caused or contributed to by the acts or omissions of an Indemnitee or any other person or entity; provided however, that nothing contained herein shall be construed as obligating CONSULTANT to indemnify and hold harmless any Indemnitee to the extent not required under the provisions of Paragraph B. below.

B. Indemnity for Design Professionals

- i. To the fullest extent permitted by Applicable Law, CONSULTANT agrees to defend (through legal counsel reasonably acceptable to DISTRICT), indemnify and hold harmless the Indemnitees, and each of them, against any and all Losses that arise out of, pertain to, or relate to, any negligence, recklessness or willful misconduct constituting professional negligence on the part of CONSULTANT or its Subconsultants, or their respective employees, agents, representatives, or independent contractors. The Indemnitees shall be entitled to the defense, and indemnification provided for hereunder regardless of whether the Loss is, in part, caused or contributed to by the acts or omissions of an Indemnitee or any other person or entity; provided, however, that nothing contained herein shall be construed as obligating CONSULTANT to indemnify and hold harmless any Indemnitee to the extent not required under the provisions of this section.

CONSULTANT shall defend and pay, all costs and fees, including, but not limited to, attorney fees, cost of investigation and defense, in any loss, suits, claims, demands, actions or proceedings to the extent and in proportion to the percentage, such costs and fees arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of CONSULTANT arising out of or from the performance of professional design services under this Agreement. The duty to defend applies to any alleged or actual negligence, recklessness, willful misconduct of CONSULTANT. The cost for defense shall apply whether or not CONSULTANT is a party to the lawsuit and shall apply whether or not CONSULTANT is directly liable to the plaintiffs in the lawsuit. The duty to defend applies even if Indemnitees are alleged or found to be actively negligent, but only in proportion to the percentage of fault or negligence of CONSULTANT.

- ii. Without affecting the rights of DISTRICT under any other provision of this Agreement, CONSULTANT shall not be required to indemnify or hold harmless or provide defense or defense costs to an Indemnitee for a loss due to that Indemnitee's negligence, recklessness or willful misconduct; provided, however, that such negligence, recklessness or willful misconduct has been determined by agreement of CONSULTANT and Indemnitee or has been adjudged by the findings of a court of competent jurisdiction.
- iii. CONSULTANT agrees to obtain or cause to be obtained executed defense and indemnity agreements with provisions identical to those set forth in this section from each and every Subconsultant of every Tier.

- iv. CONSULTANT's indemnification obligations under this Agreement shall not be limited by the amount or type of damages, compensation or benefits payable under any policy of insurance, workers' compensation acts, disability benefit acts or other employee benefit acts.
- v. The Indemnitees shall be entitled to recover their attorneys' fees, costs and expert and consultant costs in pursuing or enforcing their right to defense and/or indemnification under this Agreement.

13. RECORD RETENTION/AUDIT – CONSULTANT shall retain complete and accurate records relating to all reports, documents and related records documents including, but not limited to, records related to the nature and extent of CONSULTANT's costs incurred while providing services authorized under this Agreement for at least three (3) years from the date of final payment under this Agreement. These records shall, upon request, be made available for inspection by DISTRICT.

DISTRICT, the County of Riverside, the State of California or any of their duly authorized representatives shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. CONSULTANT agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records.

14. WORK PRODUCT – CONSULTANT shall provide DISTRICT with all applicable data, calculations, technical studies, plans, specifications, computer files, field notes, estimates, drawings, logs, maps, exhibits, analyses, documents, materials, policies and report(s) as set forth in Attachment "A". All work products or deliverables

furnished under this Agreement shall be and remain the sole property of DISTRICT. CONSULTANT shall not publish or transfer any material produced or resulting from activities supported by this Agreement without the written consent of the General Manager-Chief Engineer. If any such material is subject to copyright and/or trademark, the Parties agree that the right to any and all copyright and/or trademark in and to the material is expressly reserved to DISTRICT. If any such material is copyrighted, the Parties hereto understand and agree that DISTRICT reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish and use such material, in whole or in part, and to authorize others to do so provided written credit is given the author.

15. CONFIDENTIALITY OF DATA – All financial, statistical, personal, technical or other data and information made available to CONSULTANT shall not be disclosed (in whole or in part) by CONSULTANT to any third Parties and shall be protected by CONSULTANT from unauthorized use and disclosure. CONSULTANT shall refer all requests for information to DISTRICT. CONSULTANT shall observe all federal, state and county regulations concerning confidentiality of records.

16. ALTERATION – No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the Parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the Parties hereto.

CONSULTANT's key personnel for performance of this Agreement are as follows: Carol Hollaway, Project Manager / Senior Economist, and Ross Gordon, Deputy Project Manager / Planner/Economist. There shall be no change in CONSULTANT's key personnel without prior written approval by DISTRICT.

17. TERMINATION – At any time during the term of this Agreement, DISTRICT may:

- A. Terminate this Agreement without cause upon providing CONSULTANT thirty (30) calendar days written notice stating the extent and effective date of termination; or
 - B. Upon five (5) days written notice, terminate this Agreement for CONSULTANT default, if CONSULTANT refuses or fails to comply with the provisions of this Agreement or fails to make progress so as to endanger performance and does not cure such failure within a reasonable period of time.
- In the event of such termination, DISTRICT may proceed with the work in a manner deemed proper to DISTRICT.

In the event DISTRICT issues a Notice of Termination, CONSULTANT shall (i) stop all work under this Agreement on the date specified in the Notice of Termination; and (ii) transfer to DISTRICT and deliver in the manner and to the extent, if any, as directed by DISTRICT, any equipment, data or reports and any other documents which, if the Agreement had been completed, would have been required to be furnished to DISTRICT.

In the event DISTRICT terminates this Agreement, DISTRICT shall make payment for all services satisfactorily performed in accordance with this Agreement to the date of termination and at the rates as set forth in Attachment "B". Notwithstanding any of the other provisions of this Agreement, 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 duties hereunder; or if the Agreement is terminated pursuant to Section 26 (NON-DISCRIMINATION). In such event, CONSULTANT shall not be entitled to any further compensation under this

Agreement. 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 under this Agreement.

18. DISPUTES

A. In the event CONSULTANT considers any work demanded of CONSULTANT to be outside the requirements of this Agreement, or if CONSULTANT considers any order, instruction or decision of DISTRICT to be unfair, CONSULTANT shall promptly, upon receipt of such order, instruction or decision, ask for a written confirmation of the same whereupon CONSULTANT shall proceed without delay to perform the work or to conform to the order, instruction, or decision. However, if CONSULTANT finds such order, instruction or decision unsatisfactory, CONSULTANT shall, within twenty-one (21) calendar days after receipt of same, file a written protest with DISTRICT stating clearly and in detail its objections and reasons therefor. Except for such protests or objections as are made of record in the manner specified and within the time stated herein, and except for such instances where the basis of a protest could not reasonably have been foreseen by CONSULTANT within the time limit specified for protest, CONSULTANT hereby waives all grounds for protests or objections to orders, instruction or decisions of DISTRICT and hereby agrees that, as to all matters not included in such protests, the orders, instructions and decisions of DISTRICT will be limited to matters properly falling within DISTRICT's authority.

B. Any controversy or claim arising out of or relating to this Agreement which cannot be resolved by mutual agreement may be settled by arbitration,

provided that the Parties hereto mutually agree to submit to arbitration.

C. Neither the pendency of a dispute nor its consideration by arbitration shall excuse CONSULTANT from full and timely performance in accordance with the terms of this Agreement.

19. ASSIGNMENT – Neither this Agreement nor any part thereof shall be assigned by CONSULTANT without the prior written consent of DISTRICT.

20. CONFLICT OF INTEREST

A. CONSULTANT shall disclose any financial, business or other relationship with DISTRICT that may have an impact upon the outcome of this Agreement or any ensuing DISTRICT construction project. CONSULTANT shall also list current clients who may have a financial interest in the outcome of this Agreement or any ensuing DISTRICT construction project, which will follow.

B. CONSULTANT hereby certifies that it does not now have nor shall it acquire any financial or business interest that would conflict with the performance of services under this Agreement.

C. CONSULTANT hereby certifies that neither CONSULTANT nor any firm affiliated with CONSULTANT will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this Agreement. An affiliated firm is one, which is subject to the control of the same persons through joint ownership or otherwise.

D. Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this Agreement shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this Agreement.

21. INDEPENDENT CONTRACTOR – CONSULTANT and the agents and employees of CONSULTANT shall act at all times in an independent capacity during the term of this Agreement and in the performance of the services to be rendered hereunder and shall not act as, shall not be and shall not in any manner be considered employees or agents of DISTRICT or the County of Riverside.
22. FORCE MAJEURE – If either of the Parties cannot 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.
23. 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 Contractor(s) form DE 542 to the Employment Development Department ("EDD"). CONSULTANT agrees to furnish the required data and certifications to DISTRICT within 10 days of notification of award of Agreement when required by 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 contractor. In the event a contract has been issued, failure of CONSULTANT 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 CONSULTANT has any questions concerning this reporting requirement, please call 916.657.0529. CONSULTANT 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.

24. JURISDICTION/LAW/SEVERABILITY – This Agreement is to be construed in accordance with the laws of the State of California. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall be declared severable and shall be given full force and effect to the extent possible.

Any legal action in law or equity 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. Prior to the filing of any legal action, the Parties shall be obligated to attend a mediation session with a neutral mediator to try to resolve the dispute.

25. WAIVER – 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 any other term thereof. 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 hereof, or estopping DISTRICT from enforcement hereof.

26. NON-DISCRIMINATION – CONSULTANT represents that it is an equal opportunity employer and it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, disability, physical condition, marital status or age, 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 (California Government Code Section 12900 et seq.), the Federal Civil Rights Act of 1964 (P.L. 88-352), the American with Disabilities

Act of 1990 (42 U.S.C. Section 12101 et seq.), the Age Discrimination in Employment Act of 1967, the Age Discrimination Act of 1975, the Civil Rights Stabilization Act of 1987, Executive Orders 12898 and 13166, and all other applicable related laws, regulations and Executive Orders. Such nondiscrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff or termination.

27. NON-APPROPRIATION OF FUNDS – It is mutually agreed and understood that the obligations of DISTRICT are limited by and contingent upon the availability of DISTRICT funds for the reimbursement of CONSULTANT's fees. In the event that such funds are not forthcoming for any reason, DISTRICT shall immediately notify CONSULTANT in writing. This Agreement shall be deemed terminated and have no further force and effect immediately on receipt of DISTRICT's notification by CONSULTANT. In the event of such termination, CONSULTANT shall be entitled to payment for work already performed in accordance with Section 3 (COMPENSATION) and Section 4 (PAYMENT).
28. ENTIRE AGREEMENT – This Agreement constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof. Any modifications to the terms of this Agreement must be in writing and signed by the Parties herein.
29. DISCREPANCIES – In the event of any conflict between the terms of this Agreement and the terms in any of the Attachments, the terms of this Agreement shall govern.
30. COUNTERPARTS: ELECTRONIC SIGNATURES – This Agreement may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument. Each Party of this Agreement agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act ("CUETA" Cal.

Civ. Code §§ 1633.1 to 1633.17), for executing this Agreement. The Parties further agree that the electronic signatures of the Parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record pursuant to the CUETA as amended from time to time. The CUETA authorizes use of an electronic signature for transactions and contracts among parties in California, including a government agency. Digital signature means an electronic identifier, created by computer, intended by the Party using it to have the same force and effect as the use of a manual signature and shall be reasonably relied upon by the Parties. For purposes of this section, a digital signature is a type of "electronic signature" as defined in subdivision (i) of Section 1633.2 of the Civil Code.

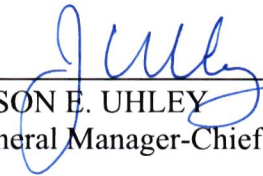
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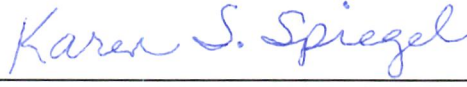
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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on
November 29, 2022
(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

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

By 
JASON E. UHLEY
General Manager-Chief Engineer


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

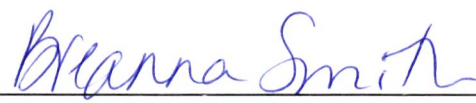
APPROVED AS TO FORM:

ATTEST:

County Counsel

KECIA HARPER
Clerk of the Board

By 
Deputy County Counsel

By 
Deputy

Consulting Services Agreement
Murrieta Creek Flood Control, Environmental Restoration, and Recreation Project
10/26/2022
RSM:RMG:ju

NOV 29 2022 1.2

**HOLLAWAY ENVIRONMENTAL AND
COMMUNICATIONS SERVICES, INC.,**
a Texas corporation

Leslie Hollaway Digitally signed by Leslie Hollaway
Date: 2022.11.04 10:33:09 -05'00'

LESLIE HOLLAWAY
Chief Executive Officer

Consulting Services Agreement
Murrieta Creek Flood Control, Environmental Restoration, and Recreation Project
10/26/2022
RSM:RMG:ju

ATTACHMENT "A"
SCOPE OF WORK

ATTACHMENT "A"

SCOPE OF WORK

Hollaway Environmental + Communication Services, Inc. (Hollaway), led by Senior Economist Carol Hollaway, proposes to assist the Riverside County Flood Control and Water Conservation District (District) in reestablishing Federal Interest and cost-share participation in the Murrieta Creek Flood Control, Environmental Restoration, and Recreation Project (Project). This effort is in collaboration with the Los Angeles District, U.S. Army Corps of Engineers (LAD), and includes development of an Economic Reevaluation Report (ERR) and a General Reevaluation Report (GRR) for the project.

Hollaway anticipates that the economic work will be primarily performed by LAD and that Hollaway will provide review and comment, as necessary, to advance the Project. Hollaway will assist with the Comprehensive Benefits analysis (OSE and RED assessments) for the District and will perform data collection, data analysis, and presentation of results, as needed, to further completion of the GRR.

Task:

- *Provide guidance on and assist with collecting technical data required for economic analyses of the Project.*
- *Review and provide written recommendations and edits on USACE economic work and work products, which may include, but is not limited to, short-term RED account analysis (REMI Model), USACE Hydrologic Engineering Center's Flood Damage Analysis (HEC-FDA) analyses, and the economic sections of the draft ERR and draft GRR.*

Hollaway will perform technical economic and planning oversight utilizing a Federal perspective for the work required. Hollaway will support the District with advice and recommendations based on review of the Corps' project planning process and products created by the PDT. Hollaway will explain and expound upon any issues posed by the District regarding aspects of the Corps planning process and Federal project justification. To that end, Hollaway will exercise its extensive knowledge of Federal project justification and requirements of the Corps' Post Authorization Change Reports in review of economic and cost estimation work and work products of the Project Delivery Team (PDT), comprised of LAD and District personnel. Hollaway is expert in identifying National Economic Development benefits for project justification and is capable of executing the Corps-required HEC-FDA program for economic benefit calculation, in a review capacity, if requested by the District.

Hollaway will review and provide written comments and recommendations on economic work products for technical accuracy and District agreement that are produced by the PDT. This effort reflects Hollaway' depth of knowledge of the components required for post authorization decision documents and its expertise in economic benefit analysis for project justification.

The ERR is aimed at assessing the economic contribution of the 2000 Authorized Design under current development conditions, price level, and discount rate. Updating the Authorized Design is a necessary exercise for inclusion in the subsequent GRR, which will compare, for Federal interest, the Authorized Design as a competing plan among other formulated alternative plans. Hollaway has been involved in assisting the District in this effort to date and will continue to do so. Analyzing the Authorized Design under current conditions will produce an updated benefit-cost ratio (BCR) that will be carried forward into the GRR. Reevaluating the Authorized Design will allow the PDT to better understand the economic performance of the Authorized Design's separable elements or components.

Hollaway has run the Corps' certified RECONS Model for short-term Regional Economic Development (RED) impacts on previous projects and can execute the program after receiving proper Corps approval, as desired

ATTACHMENT "A"

SCOPE OF WORK

by the District. The direct and secondary impacts of RECONS are measured in output, jobs, labor income, and gross regional product (value added) based on short-term construction expenditures associated with a project.

If requested, Hollaway proposes to run the REMI model for long-term economic impacts. Since REMI is a proprietary model, implementation of this model will require advance notice and input variables available from Project evaluation. Hollaway proposes to wait until the GRR's results are known to make the decision whether to run the REMI model. Furthermore, license costs for the REMI model are significant.

Hollaway also possesses expert knowledge of the components of life cycle cost accounting and the application of the time value of money, using the annually published Federal discount rate. Hollaway proposes to review and comment on construction cost estimates generated by MII, the Corps' certified Micro-Computer Aided Cost Estimating System (MCACES). Hollaway will provide an explanation of the Total Cost Project Summary (TCPS) allocation, including the appropriate allocation of environmental mitigation by project phase and contract categories. Hollaway has been involved in analyzing the TCPS within the Draft Limited Reevaluation Report (LRR) for the District and has been helpful in the exercise of allocating cost by Project construction phase. Issues such as the cost of the GRR as part of the TCPS and how interest during construction (IDC) is calculated as an economic cost have been topics of interest to the District in which Hollaway has participated in discussion.

In addition, Hollaway proposes to continue to support the District with Separable Costs/Remaining Benefits (SCRB) analysis for cost allocation across project purposes. The SCR method of cost allocation is a method for obtaining an equitable distribution of costs of a multipurpose project across project purposes. It provides for 1) assigning to each purpose its separable costs, i.e., the added costs of including the purpose in the project; and 2) assigning to each purpose a share of the residual or remaining joint costs in proportion to the remaining benefits. The method provides for an equitable sharing among the purposes of savings resulting from multi-purpose development. This exercise is especially important when evaluating the separable costs for the flood risk mitigation components of the Project.

Task:

- *Analyze USACE economic work and work products and determine if the Project's benefits are appropriately identified and captured in the economic analyses*
- *Conduct an update of an inventory of improvements for a wastewater treatment plant in coordination with the local water district.*
- *Recommend other pertinent data / analyses for inclusion in the economic analyses of Project, as necessary or as requested by District.*

Hollaway will provide guidance to the District regarding relevant and supportable National Economic Development (NED) benefit categories that can contribute to a positive benefit-to-cost ratio for the Project. Hollaway will review work by LAD regarding adequately captured and sufficiently presented benefit categories using a Federal perspective.

If necessary Hollaway will develop a stage-damage function to apply to the wastewater treatment plant for inclusion in the HEC-FDA analysis by inventorying its components and determining the flood risks associated with the operational components of the plant. Hollaway has worked with the District to identify relevant flood stages at which vulnerable components of the wastewater treatment plant would lose function. One outstanding question regarding the wastewater treatment plant is whether the levee surrounding the plant meets FEMA standards of protection. Another aspect of the investigation is the timeframe involved for the plant

ATTACHMENT "A"

SCOPE OF WORK

to regain operation and how the backflow from the plant could contaminate the surrounding neighborhoods or downstream water quality. If requested, Hollaway will investigate this issue and others to create a credible stage-damage function for the plant and damages-reduced benefits attributable to protecting the plant.

Task:

- *Assist with performing qualitative assessments of the Other Social Effects (OSE) account and the long-term Regional Economic Development (RED) account.*
- *Review and provide written recommendations and edits on the qualitative discussions for the OSE and long-term RED accounts, including any proposed comments or edits.*

Hollaway has a working knowledge of the analysis requirements for Comprehensive Benefits Analysis as described in the Interagency Guidelines, "Updated Principles, Requirements and Guidelines for Water and Land Related Resources Implementation Studies," CEQ, December 2014. These requirements are further explained in the January 5, 2021 policy directive "Comprehensive Documentation of Benefits in Decision Document". Hollaway understands the place that public benefits, such as those pertaining to Other Social Effects (OSE) and RED benefits, fit into overall project support and justification. Data pertaining to OSE, such as population demographics, low-to-moderate income (LMI) and Social Vulnerability Index (SVI) indicators, as examples, will be collected, analyzed, and integrated into a comprehensive benefits decision framework as requested by District. Hollaway is capable of preparing written qualitative discussions for the OSE and long-term RED accounts. Long-term RED impacts will be projected with the final design of the detention basin and potential recreational and other uses in the project area within or proximate to the detention basin that can contribute to the region's economic vitality. If requested, Hollaway will arrange to run the REMI Model for long-term impacts.

- **Examples of Potential Subtasks:**
 - Review of meeting agendas, documents, and conversations among the PDT.
 - Clarification of any process questions regarding the EER and the GRR, including how to maintain existing Congressional authorization for a revised plan.
 - Assistance with updating and displaying the Authorized Plan for consistency in the GRR.

Task

- *Attend virtual meetings related to the Project's economic update process or the Project's post-authorization decision document as needed or requested by District.*

At the request of the District, Hollaway will support the District by remotely attending meetings with the PDT. Hollaway will also participate in other remote meetings held by the District at their discretion. Hollaway will also be available to remotely attend meetings lead by the LAD, supporting the internal Corps review process for both the ERR and the GRR. Hollaway will support the District in upper-level review of the Project within the Corps of Engineers by preparing supporting documents and attending meetings.

Value-Added Task

- *Uphold Interest of the District*

In all matters related to this scope, the interests of the District will be promoted by Hollaway regarding completion of the ERR and GRR and the desired outcome. Hollaway recognizes and is responsible for upholding the interests of the District when communicating with LAD but is also responsible for maintaining objectivity regarding technical aspects of the work so that the Corps' upper-level review will concur with conclusions made. Hollaway will represent the District in day-to-day interactions with LAD as requested and will represent the District in all aspects of upper-level Corps review.

ATTACHMENT "A"
SCOPE OF WORK

Deliverables

At the request of the District, Hollaway will provide written documentation and discussion of pertinent topics. Hollaway will participate in briefings, written documentation via email or position papers, and review and comment on work products, depending on the topic at hand and the request of the District.

ATTACHMENT "B"
FEE SCHEDULE

ATTACHMENT "B"**FEE SCHEDULE****Key Personnel**

Title	Hourly Rate
Hollaway Environmental and Communications Services, Inc.	
Senior Principal	\$225.00
Senior Economist	\$225.00
Senior GIS Specialist	\$130.00
GIS Specialist	\$115.00
Account Manager	\$125.00
Gordon Consulting Group, LLC (Subconsultant)	
Planner/Economist	\$185.00

Direct Costs – Travel*

Item	Unit Price
GSA Lodging (per day/person)	\$144.00
GSA Per Diem (per day/person)	\$69.00
Mileage (per mile)	\$0.585
Air Travel (per round trip/person)	\$370.00
Parking/Tolls (each)	\$15.00
Car Rental (per day)	\$55.00
Truck/Van Rental (per day)	\$150.00

*Requires prior approval from Riverside County Flood Control and Water Conservation District