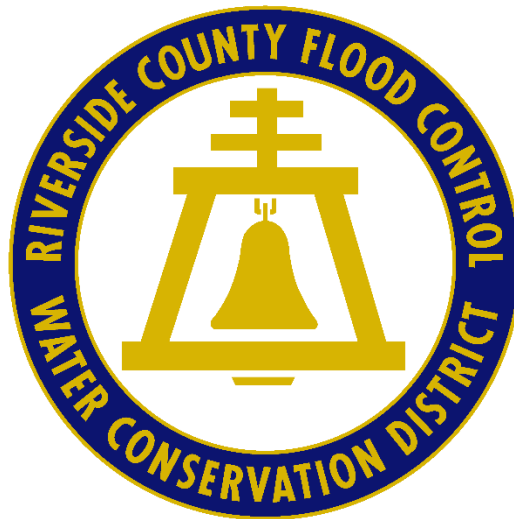


REQUEST FOR QUALIFICATIONS (RFQ)

for

Professional Technical, Planning and Legal Services for
Comprehensive Updates to the District's
California Environmental Quality Act Guidelines and Processes



Administrator:

Marilyn Weisenberg

Administrative Services Supervisor-Purchasing

Finance Division

Riverside County Flood Control
and Water Conservation District

1995 Market Street

Riverside, CA 92501

Telephone: 951.955.4348

Email: mcweisen@rivco.org

Riverside County Flood Control and Water Conservation District

Professional Technical, Planning and Legal Services for Comprehensive Updates to the District's California Environmental Quality Act Guidelines and Processes

RFA FCARC-00183

January 10, 2024

I. OVERVIEW and SCOPE OF SERVICES

The Riverside County Flood Control and Water Conservation District (District) is seeking qualified firms to provide specialized professional environmental planning technical services in support of the California Environmental Quality Act (CEQA). Specifically, the District is requesting qualification statements and summary approaches from firms with experience in completing comprehensive updates to CEQA Guidelines for agencies similar to the District. The selected consultant team will have a key role in updating the "Rules for the Riverside County Flood Control and Water Conservation District Implementing the California Environmental Quality Act (District Rules)." The scope of work performed under the contract will include:

- Examination of the existing and outdated District Rules (attached) and evaluation of the District's current business practices (i.e., issuing encroachment permits, constructing new facilities, maintaining existing facilities, entering into funding agreements, etc.) in order to develop a comprehensive approach to update and standardize the District's application of CEQA;
- Completion of a comprehensive update to the District Rules;
- Initial Study Checklist form that is custom tailored to the primary issues of concern for the District;
- Thresholds of significance for each topic in the environmental checklist;
- Templates for the notices required at the various stages of the environmental review and approval process;
- Completion of a CEQA document that accompanies the new District Rules (the District assumes that an EIR would be the appropriate document); and
- Findings and an SOC if needed.

The District last adopted the District Rules in 1982 as a supplement to the CEQA Statutes and Guidelines. Since that time, the CEQA Statutes and Guidelines have had several updates that are not considered in the District's current Rules for Implementing CEQA. With the new District Rules, the District intends to maximize the use for appropriate exemptions, tiering, and streamlining projects.

In your response to this Request For Qualifications (RFQ), please use your expertise and creativity to recommend a more comprehensive scope towards achieving the District's goals for this contract and the overall mission to responsibly manage stormwater in service of safe, sustainable, and livable communities.

Note: Typical "Projects" include executing agreements with various Cities, Agencies, and developers; design and construction of facilities such as open channels, basins, culverts, storm drains; new storm drain connections to an existing facility; borings under and connections to existing District facilities; installing over-head power lines in District right of way; emergency repairs; and maintenance and restoration of existing facilities.

We invite your firm to respond to this RFQ. Firms that submit a proper Statement of Qualifications (SOQ) Package in accordance with this RFQ will be evaluated and considered to enter into an agreement to provide such services. The agreement will be a multi-year agreement which covers the term, insurance, indemnity, and other global contracting requirements. The term of the contract will be thirty-six months and may be extended as needed, at the District's discretion, to complete the comprehensive update and associated CEQA documentation.

II. SELECTION SCHEDULE

The schedule and sequence of this RFQ is as follows:

Project Benchmarks	Date
Issuance of RFQ	January 10, 2024
Pre-submittal Meeting (Microsoft TEAMS) Non-Mandatory meeting. Please contact Marilyn Weisenberg via email (mcweisen@rivco.org) to request an invitation to the Teams meeting.	January 17, 2024 2:00 pm – 3:00 pm
Questions Due	January 23, 2024
Response to Questions Posted	February 5, 2024
Statement of Qualifications Due All qualification documents must be received and date stamped by the District by 1:30 pm Pacific Standard Time . Late qualification documents will not be accepted.	February 21, 2024
Shortlist for Interview	March 20, 2024
Consultant Interviews (in-person)	April 3, 2024
Final Ranking	April 10, 2024

III. POLICIES

- Firms are encouraged to carefully review this RFQ in its entirety prior to preparation of their Statement of Qualifications (SOQ). **All documents must be submitted in accordance with the instructions contained within this RFQ.**
- An SOQ may be scored lower or not scored at all if conditional, incomplete or if it contains alterations of forms, additions not called for, or other irregularities that, in the opinion of the evaluation teams, affect their ability to fairly evaluate the SOQ.
- Any firm who wishes to make modifications to an SOQ already received by the District must withdraw his/her SOQ in order to make the modifications. It is the responsibility of the firm to ensure that the modified SOQ is resubmitted in accordance with the terms and conditions of this solicitation before the SOQ submittal deadline. Firms may withdraw their SOQ at any time prior to the deadline for submission by submitting a notification of withdrawal signed by the firm's authorized agent. The SOQ cannot be changed or modified after the deadline for submission.
- Only work products specifically identified as "proprietary" will be considered confidential.
- The District reserves the sole right to judge the firm's representation, either written or oral.
- This solicitation does not commit the District to award any work nor to pay any cost incurred with the preparation of the SOQ. Firms responding to this RFQ will be solely responsible for all expenses incurred during the selection process.
- The District reserves the right to accept or reject any or all SOQs received in response to this request, limit the number of firms added to the On-Call List or cancel, in whole or part, this proposal process if it is in the best interest of the District to do so.
- Respondents should note that inclusion of any firm on the On-Call List and any agreements made pursuant to the On-Call List are dependent upon the recommendation of the District and the approval of the District's Board of Supervisors.

- The District may require any evidence it deems necessary relative to the respondent's financial stability before any agreement or task order is awarded.
- The District reserves the right to request clarification of information submitted and to request additional information from any respondent.
- All responses to this RFQ shall become property of the District.

IV. SUBMITTAL REQUIREMENTS

Each respondent must prepare a comprehensive SOQ package. Submittals must meet all of the following requirements or they may be deemed non-responsive and not scored or considered for inclusion on the On-Call List.

- A. **All elements of your SOQ Package must be submitted in Adobe Acrobat (PDF) format** on a single flash drive. Submit a flash drive in its own sealed envelope and include the firm's name clearly printed on the top surface label of the envelope and a label on the flash drive with the firm's name. No hard copies of the proposal are required.
- B. Each SOQ Package flash drive must have the following PDF files organized and named as shown below.



It is important (and required) that all submittals precisely follow these naming and organization requirements. Please insert the name of your firm in place of {FIRM NAME} shown below when naming your PDF files.

All respondents will have the following 2 PDFs:

Table 1: Minimum required PDF files

File Name Format	Content
{FIRM NAME}_SOQQ.pdf	Completed 'Statement of Qualifications Questionnaire' (SOQQ). See Section
{FIRM NAME}_SignatureAuth.pdf	Signature Authorization documentation. See Section VI.B below.

- C. **No other files** other than the above-mentioned PDF files should be included on the flash drive. All information must be incorporated into the applicable PDF(s) listed above. Additional files provided on flash drive will be disregarded and not considered in the evaluation or scoring. PDF files should be text searchable. If a document was scanned and the original electronic file is not available, 'Text Recognition' or 'OCR' tools should be run before submittal to make the scanned text within the PDF searchable. PDF page sizes must be 8.5" x 11" (or 11" x 17" for exhibits or work examples only) to facilitate printing by our evaluation teams, if needed. Font size must be 11 point or greater. Prepare a hard copy cover letter to accompany your SOQ Package flash drive. Upon receipt by the District of your cover letter and flash drive, this letter will be date and time stamped as evidence that the submittal was received before the Deadline for Submission.
- D. Your SOQ Package must be received by the Deadline for Submission at:

Riverside County Flood Control and Water Conservation District
 Attention: Marilyn Weisenberg
 RE: SOQ - Professional Technical, Planning, and Legal Services for Comprehensive Updates to the District's California Environmental Quality Act Guidelines
 1995 Market Street
 Riverside, CA 92501

- E. E-mail submissions of your SOQ package will NOT be accepted.

V. FORMS

This RFQ, including attachments and forms, can be viewed, and downloaded from the District's website at: *Under 'Public Notices' and 'Non-Construction Bids', on the District's website www.rcflood.org*

VI. SOQ PACKAGE REQUIREMENTS

This Section describes each of the elements that must be included in your SOQ Package.



Each of these elements must be submitted in the format and in the specific files required in Section IV of this RFQ. Information submitted that does not follow those requirements may not be evaluated.

A. Statement of Qualifications Questionnaire

Submit as: {FIRM NAME}_SOQQ.pdf

Each respondent must complete the 'Statement of Qualifications Questionnaire' (SOQQ) included as Attachment A to this RFQ.

Three specific notes about the SOQQ Form:

1. On the first page of the form, there is a section that asks for the name and title of the 'Agreement Signatory'. This *may* not be the person preparing the SOQ Package but rather the person that has the authority and authorization to execute Consulting Service Agreements on behalf of your company. See also the description in Section VI.B. below and the sample 'Master Agreement' provided in Attachment B.
2. The second page of the SOQQ form requires you to affirm your willingness and ability to provide the required insurance coverage and agreement to the District's standard required indemnification language. Both can be read in detail on the sample Master Agreement provided in Attachment B to this RFQ.

The insurance requirements are summarized below for reference:

- i. General Liability = **\$2,000,000/\$4,000,000 annual aggregate.**
- ii. Vehicle Liability = **\$1,000,000.**
- iii. Worker's Compensation Insurance covering all of the Contractor's employees shall be furnished in accordance with the Statutory Requirements of the District and shall include Employer's Liability Insurance with a limit of **\$1,000,000** for each accident for bodily injury or disease.
- iv. Professional Liability or Errors and Omissions = **\$1,000,000 per occurrence/\$2,000,000 annual aggregate.**
- v. **Aviation Liability** (if applicable) = \$2,000,000/\$4,000,000 annual aggregate.
- vi. **Cyber Liability** (if applicable) = \$2,000,000/2,000,000 annual aggregate.

Note:

- All insurance requirements apply both to your firm and to any sub-consultants you may use in providing services to the District.
 - Insurance forms are not required with your SOQ Package. Selected firms will be required to submit the actual insurance forms prior to execution of any Master Agreement.
3. If your firm will rely on sub-consultants to perform portions of any of the services identified in Section C, you will need to attach an additional page to the SOQQ form as required per Section VII below.

B. Signature Authorization

Submit as: {FIRM NAME}_SignatureAuth.pdf

Firms selected for inclusion on the On-Call List may be asked to execute a 'Master Agreement' with the District. The person identified as the 'Agreement Signatory' on the SOQQ form (Attachment A to this RFQ) will be the person to execute this agreement on behalf of your company.

Table 2: Signature Authority Documents

Company Formation Documents
Resolution or Applicable Documents evidencing the firm's authorized signatory

The document(s) to be included in the {FIRM NAME}_SignatureAuth.pdf file shall consist of any appropriate company documentation as identified in Table 1: *Signature Authority Documents* that affirms that the person identified as the 'Agreement Signatory' has been duly authorized to enter into Professional Service Agreements on behalf of the company.

C. Firm and Staff Experience

Provide the following information within this Section:

- **Organizational chart(s)** identifying key personnel and pertinent support staff that will be available to perform and/or assist with the tasks. **Maximum of two (2) pages and maximum page size 11" x 17".**
- **Key Personnel Table** identifying all key personnel that are be involved in performing the Tasks. For all listed personnel, identify names, job titles (job title refers to the function on this contract, not necessarily their company title), years of experience performing those specific Tasks, and licenses or certifications (as applicable). If sub-consultants are key to the completion of tasks you have selected, please include them in the Key Personnel Table. The Table below can be used as an example.

Table 3: Format for Key Personnel Table

Person 1		Yrs	Cert
Person 2		Yrs	Cert
Person 3		Yrs	Cert

- **Resumes** shall be provided for key personnel identified in the Key Personnel Table.

To be considered, the proposed team must include the following specialists as Key Personnel:

- Client/Contract/Project Manager experienced with water resources management, water agency, and public works projects;
- Environmental Law and Natural Resources attorney experienced with CEQA compliance and legal issues associated with water resources management, water agency, and public works projects;
- Experienced CEQA practitioners;
- Technical specialists experienced with completing technical studies and analysis pursuant to CEQA;
- Technical specialists experienced with the Western Riverside and Coachella Valley MSHCPs; and
- GIS specialists.

Include a statement of the overall approach to the professional services required, and why your team may be best able to perform the work required. Include information regarding the team's experience working together on similar scope items. While the District is not requiring a detailed scope of work with an itemization of all services and tasks to be provided, you must provide a summary of your team's proposed approach focusing on processes/steps to give the District maximum use of deliverables, including but not limited to information gathering, public participation, documents and deliverables, interface with District, and ultimately completion of defensible District Rules and CEQA documents. As stated previously, please use your expertise and creativity to recommend a more comprehensive scope and present the tailored approaches that your team will use to complete the work in an efficient and effective manner.

Include statements on how the team proposes to coordinate and interact with the District and how the team proposes to coordinate the workload within your team, including any subconsultants. Include a proposed schedule for completion of each major milestone and for the total services and a description of the team's commitment to, and level of availability for, the contracted tasks.

For each project or relevant experience, provide a name and phone number of a contact person familiar with the subject project who can act as a reference.

VII. PUBLIC WORKS AND THE DEPARTMENT OF INDUSTRIAL RELATIONS (DIR) REQUIREMENTS (If applicable):

Consultant work that is subject to compliance monitoring and enforcement by the California Department of Industrial Relations. The consultant and sub-consultants 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 other requirements including, but not limited to, Labor Code Sections 1771.4, 1773.1, 1774, 1775, and 1776.

Pursuant to Labor Code Section 1771.1, any consultant submitting a bid or sub-consultant listed in the Personnel Table must be currently registered with the Department of Industrial Relations and qualified to perform public work pursuant to Labor Code Section 1725.5. No agreement will be awarded without proof that the consultant and its proposed sub-consultant(s) is currently registered with the California DIR. This information is requested on the SOQQ form for the consultant only; a one-page list for sub-consultants and corresponding California DIR registration identification numbers will need to be attached to the SOQQ described in section VI A.

VIII. SOQ Evaluation Process Criteria

Criteria	Criteria Description	Weighted %
Submittal:	<ul style="list-style-type: none"> ▪ Organization ▪ Thoroughness ▪ Responsiveness ▪ Approach to the Work 	30
Project Team:	<ul style="list-style-type: none"> ▪ Team Org Chart ▪ Direct Experience ▪ Project Manager ▪ Staff Commitment ▪ Team Composition ▪ Proximity 	20
Qualifications:	<ul style="list-style-type: none"> ▪ Certifications ▪ Relevant Services ▪ Proven Ability and Capability to Perform 	10
Past Performance:	<ul style="list-style-type: none"> ▪ Level of Experience with Similar Scopes ▪ Demonstrated Record of Success ▪ Verified References for Quality of Work, Cost, and Schedule Control 	20
Overall Impression:	<ul style="list-style-type: none"> ▪ Understanding of the District's Needs ▪ Clear Intent ▪ Observance of Limitations ▪ Appropriateness/Competitive 	20

Note: The District will provide additional evaluation criteria to the short-listed firms, prior to the interviews.

ATTACHMENT A PAGE 1
STATEMENT OF QUALIFICATION QUESTIONNAIRE

INSTRUCTIONS

Electronically print or use black ink and print legibly. If the questionnaire is altered, is incomplete and or does not include the required attachments, the SOQ may be rejected for non-responsiveness.

Use additional sheets if space provided is not adequate, such as if there may be different project managers for different Service Categories.

Firm's Legal Name: _____

Firm's Legal Address: _____

(City) (State) (Zip)

Principal Telephone No.: _____ Principal Fax No.: _____

Web Address: _____

Firm is (check one):

Partnership Sole Proprietorship Other _____

Address from which contract shall be serviced: _____

(City) (State) (Zip)

Identify the person that would sign any Agreements with the District*:

Agreement Signatory: _____ Title: _____

**Appropriate signature authorization for this person is required. See Section VI.B of the RFQ.*

Project Manager responsible for the Firm's service, delivery, execution and performance of projects: Project Manager: _____

Telephone No.: _____ Ext.: _____ Fax No.: _____

Email Address: _____

CA Registration No. (if applicable): _____ Exp. Date (if applicable): _____

CA Department of Industrial Relations (DIR) No.: _____

Click here and stop if Project Manager is the same as the Contact Person.

Contact Person: _____

Telephone No.: _____ Ext. _____ Fax No.: _____

**ATTACHMENT A PAGE 2
STATEMENT OF COMPLIANCE**

The respondent shall read the Required Insurance and Indemnification (Sections 11 and 12) language of the Sample Consulting Services Agreement, included as Attachment B. The respondent is advised that the inability to conform with District contract requirements may be basis for exclusion in the RFQ.

INSURANCE		
Yes	No	<p>By checking "Yes", the respondent is affirming that it has read, is able and is willing to provide the required insurance as described in Attachment D. The District will request the actual insurance form when a task order is issued.</p> <p>If "No" is selected, the respondent shall attach an explanation. This explanation shall clearly indicate what alternate coverage can be provided and explain what impact the proposed alternate has on the services to be provided.</p>

INDEMNIFICATION		
Yes	No	<p>By checking "Yes", the respondent indicates that it is willing to accept the indemnification requirements as described in Attachment D.</p> <p>If "No" is selected, the respondent shall attach a list of exceptions. This list of exceptions must include suggested rewording/changes, reasons for submitting the proposed exception and any impact the proposed exception may have on the services to be provided.</p>

SIGNATURE

THE FOREGOING AND ALL INFORMATION IN THIS STATEMENT OF QUALIFICATIONS IS TRUE AND CORRECT.

Signature of authorized person preparing this SOQ:

Signature: _____ Date: _____

Printed or Typed Name and Title: _____

ATTACHMENT B

SAMPLE AGREEMENT

CONSULTING SERVICES AGREEMENT

for

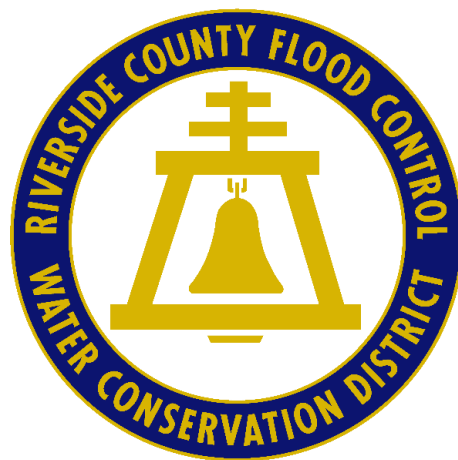
XXXXX

between

Riverside County Flood Control and Water Conservation District

and

[CONSULTANT NAME]



CONSULTING SERVICES AGREEMENT

XXXXXXX

For Fiscal Year 2024-2025 through Fiscal Year 2026-2027

This Consulting Services Agreement ("Agreement") dated as of _____ is entered into by and between the Riverside County Flood Control and Water Conservation District, a body politic ("DISTRICT"), and [CONSULTANT NAME] ("CONSULTANT"). Sometimes hereinafter, DISTRICT and CONSULTANT may be referred to 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 [the date the Agreement is executed by DISTRICT's Board of Supervisors - OR - START DATE] and shall terminate on [END DATE].

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 [AMOUNT] Dollars (\$XXX,XXX).

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. 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 "A" 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 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: [CONSULTANT NAME]
[CONSULTANT ADDRESS 1]
[CONSULTANT ADDRESS 2]
Attn: [CONTACT PERSON]

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 if 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 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 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 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 Indemnatee for a loss due to that Indemnatee's negligence, recklessness, or willful misconduct; provided, however, that such negligence, recklessness, or willful misconduct has been determined by agreement of CONSULTANT and Indemnatee 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.

There shall be no change in CONSULTANT's Key Personnel as listed in Attachment "A" 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 always act 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.

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

APPROVED AS TO FORM:

ATTEST:

County Counsel

Clerk of the Board

By _____
Deputy County Counsel

By _____
Deputy

Consulting Services Agreement

XXXXXX

MM/DD/YYYY

[CONSULTANT NAME]

[CONSULTANT AUTHORIZED SIGNATORY]

[JOB TITLE]

Consulting Services Agreement

XXXXX

MM/DD/YYYY