



REQUEST FOR PROPOSALS

FOR

BIOLOGICAL MONITORING SERVICES

Proposal due by 5:00 pm on a March 22, 2018

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**WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY
REQUEST FOR PROPOSALS
BIOLOGICAL MONITORING SERVICES**

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I. INTRODUCTION

The Western Riverside County Regional Conservation Authority ("RCA") is requesting proposals from firms or qualified organizations (CONSULTANT) to provide biological monitoring services for the Western Riverside County Multiple Species Habitat Conservation Plan's (MSHCP) 146 Covered Species. The selected firm will provide services to implement required biological monitoring for the 146 species including, but not limited to: field surveys, data collection and report preparation.

All work will be prepared in accordance with MSHCP requirements and RCA regulations, policies, procedures, manuals, and standards, as appropriate. Work performed will be performed under a defined budget negotiated between RCA and CONSULTANT.

II. BACKGROUND

The RCA is a joint powers agency comprised of the County of Riverside and 18 cities in the western portion of Riverside County. RCA is responsible for overseeing and implementing the MSHCP. The MSHCP is one of the largest and the most comprehensive habitat conservation plan in the United States. The MSHCP is a framework for the assembly and management of a 500,000-acre reserve, to protect 32 federally-listed animal and plant species, and 114 additional species that occur in the same habitats and that may be listed in the future.

Three hundred forty-seven thousand (347,000) acres of the baseline reserve are currently in some form of conservation and managed by various federal, state and local agencies. Pursuant to the MSHCP, the Member Agencies of the RCA, the Riverside County Transportation Commission, Caltrans, County Flood Control and Water Conservation District, County Park and Open-Space District, County Department of Waste Resources, and State Parks – referred to as Permittees - are granted authorization to "take" or disturb the habitats of the covered species to accommodate development and public infrastructure. In return, the Permittees, in conjunction with Federal and State wildlife agencies, must acquire 153,000 acres of new conservation lands. (347,000 acres of existing conservation land, plus 153,000 acres of new lands achieves the 500,000-acre goal.) Local Permittees are responsible for the acquisition of 97,000 acres. Since the Plan's inception, a total of 58,271 acres of new conservation land has been acquired.

The precise boundaries of the balance of the 153,000 acres of new reserve lands are not specifically identified in the MSHCP. Rather, conservation land is contained in areas targeted for acquisition, called "criteria cells." The location of these cells accommodates both large habitat blocks and the necessary connections to link these blocks. As land is acquired over time within these cells, the reserve is formed. The assembly of the new reserve lands was anticipated to occur over the first 25 years of the program. When the reserve is completed it must be in a configuration that includes the habitats necessary for the conservation of the 146 covered species

The MSHCP requires that all Covered Species be monitored (surveyed for) at least once every eight years. The majority of species are included in the minimum eight year survey requirement (126). There are twenty species that require more frequent monitoring; eight species are every five years, seven species are every three years and five species are

every year. Species monitoring survey areas includes the 347,000 acres of baseline lands and all Additional Reserve Lands, currently 58,271 acres. The overall goal of the Biological Monitoring Program (Monitoring Program) is to collect data on the 146 Covered Species and associated habitats for the purpose of assessing the MSHCP's effectiveness at meeting conservation objectives and to provide information for adaptive management. Biological monitoring objectives are listed in Section 5.3 (Volume 1, Part 1) and in Tables 9-2 and 9-3 (Volume 1, Part 2) of the MSHCP (<http://www.wrc-rca.org/about-rca/multiple-species-habitat-conservation-plan/mshcp-volume-one-the-plan/>)

Additional information on the RCA and the MSHCP, including all Plan documents, studies, fees, procedures, acquisitions, annual reports, and other public documents and records can be found on the RCA Website (<http://www.wrc-rca.org>).

III. **PROPOSAL SUBMISSION**

Timeline	
Release of RFP	February 22, 2018
Deadline for submittal of Questions:	March 8, 2018
Response to Questions:	March 15, 2018
Proposal Submission Date:	March 22, 2018 (by 5:00 PM PST)
Interview of Finalists:	April 2018 (TBD)
Award contract:	April 2, 2018 (est.)

Inquiries concerning the RFP must be made to:

WRC Regional Conservation Authority
 Attn: Laurie Dobson Correa, Director of Management & Monitoring
 3403 10th Street, Suite 320
 Riverside, CA 92501

Email: ldcorrea@wrcrca.org
 Phone: (951) 955-9700
 Fax: (951) 955-8873

Contact with personnel of the RCA other than the above regarding this RFP may be grounds for elimination from the selection process.

Submission of Proposal: Three (3) hard copy original Proposals are required, along with an electronic copy of the Proposal in Adobe Portable Document Form (electronic copy may be emailed to ldcorrea@wrcrca.org by the deadline). All Proposals must be received in the RCA office by **March 22, 2018 at 5:00 PM. Late Proposals will not be accepted.** Proof of receipt before the deadline is an RCA date/time stamp.

IV. SERVICES REQUESTED

A. Covered Species Surveys

1. Plan, design and implement Covered Species surveys on required rotation per Section 5.3, Table 5-8 (MSHCP Volume 1, Part 1). Planning may include consideration of last survey year by species or species group, status of monitoring objectives, lands previously surveyed or now available for survey, habitat suitability models and staff availability.
2. Surveys of species that occur in similar habitats (e.g. upland birds) should be done concurrently.
3. The MSHCP provides listed species survey related “take”. Training is required for all field biologists. Testing is also required for listed species. CONSULTANT will be required to set up and implement a training and permitting program.

B. Annual Report/Survey Reports

1. Survey reports must be produced for most focused surveys annually for inclusion in the MSHCP Annual Report. Survey reports may cover multiple years depending on the species and how the survey season coincides with the fiscal year.
2. Monitoring Program Administrator (MPA) is responsible for preparing Monitoring section of the MSHCP Annual Report by annual by April 1st or as agreed to by the RCA. The MPA is also responsible for updating and maintaining a master Covered Species spreadsheet, published in the Annual Report as a table, documenting the status of monitoring objectives for all Covered Species.

C. Species Occurrence Dataset

1. Species occurrence data from species surveys and incidental observations (see IV.A) is entered annually into an Access database with 287,000 records (1.8 GB).
2. Generate cumulative dataset in spreadsheet and shapefile formats for delivery to RCA, State Biogeographic Information and Observation System (BIOS), and non-RCA land managers annually.

D. Annual Work Plan and Budget

1. Prepare work plan and budget annually. Work plans include planned species surveys and all associated costs for the next fiscal year for submittal to the RCA Board of Directors. Current and previous year work plans are available at <http://www.wrc-rca.org/about-rca/monitoring/biological-monitoring-program-work-plan/>.

E. Monthly and Quarterly Reports

1. Prepare monthly progress/status reports for coordination meetings with the RCA and Reserve Management staff. Prepare quarterly reports for RCA Executive Committee and Board.

F. Coordination with Reserve Management

1. Coordinate with MSHCP Reserve Management staff on adaptive management for Covered Species. Coordinate can include, but is not limited to, species occurrence dataset interpretation, specific adaptive management recommendations and assistance in the field on specific species management tasks

G. Collaboration with Land Managers & Organizations

1. Host monthly meetings of western Riverside County reserve managers. Meetings include selection of speakers of interest on biological and land management related topics, updates on current monitoring and management activities and preparation and distribution of agendas.
2. Participate in Covered Species local, sub regional or regional species or habitat specific groups.

V. PROPOSAL FORMAT

The purpose of the Technical Proposal is to demonstrate the qualifications, competence and capacity of the firm seeking to undertake Covered Species monitoring. As such, the substance of proposals will carry more weight than the form or manner of presentation. The Technical Proposal should demonstrate the qualifications of the CONSULTANT and of the particular staff to be assigned to this engagement. It should also specify an approach that will meet the request for proposals requirements. **Proposals are limited to 25 single sided pages excluding resumes.**

The Technical Proposal should address all points outlined in the RFP (**excluding any cost information which should only be included in the Sealed Dollar Cost Bid**). The proposal should be prepared simply and economically, providing a straightforward, concise description of the proposer's capabilities to satisfy the requirements of this request for proposals. While additional data may be presented, the following subjects must be included. They represent the criteria against which the proposal will be evaluated.

- A. Signature/Cover Page** - This page will include the title information and the signature of the Bidder. The signature shall constitute a warranty, the falsity of which shall entitle the RCA to pursue any remedy authorized by law, which shall include the right, at the option of the RCA, of declaring any contract made as a result thereof, to be void.

- B. Table of Contents**

C. Contents of Technical Proposal

1. Monitoring Program Approach

Proposal must detail CONSULTANT's approach to providing services requested to meet the requirements of Covered Species monitoring per the MSHCP. Proposal should demonstrate a clear understanding of the MSHCP, Covered Species and monitoring requirements. All CONSULTANTS are encouraged to review current and past workplans, survey reports and Annual Reports for reference.

2. CONSULTANT Qualifications and Experience

To qualify the CONSULTANT must have extensive experience in biological surveys for Covered Species, report preparation, data collection, database management and GIS mapping. CONSULTANT should state the size of the firm, the size of the firm's biology, administrative and technical staff, the location of the office from which the work on this engagement is to be performed and the number of the professional staff to be employed in this engagement on a full-time basis and the number and nature of the staff to be so employed on a part-time basis. Staff consistency is an important consideration.

Program Administrator, Supervising Biologist, and Biological Taxa Leads Qualifications and Experience

Monitoring program key personnel and staff structure as follows: monitoring program administrator, supervising biologist, lead biologists by taxa (mammal, plant, herp/aquatic), database manager and GIS lead. CONSULTANT should identify each staff member proposed for the listed positions. Note: avian lead biologist provided by dedicated California Department of Fish and Wildlife staff person and should be housed at the same location as other monitoring program staff. CONSULTANT also should provide information on the experience of each person listed above, including information current listed species survey permits, relevant continuing professional education for the past five (5) years and membership in professional organizations relevant to the performance of biological monitoring. Resumes must be provided for all key personnel. CONSULTANT also should indicate how the quality of staff over the term of the agreement would be assured.

Program administrator, supervising biologist, lead taxa biologists and database manager may be replaced if those personnel leave the firm. These personnel may also be changed for other reasons with the express prior written permission of the RCA. However, in either case, the RCA retains the right to approve or reject replacements.

Similar Engagements with Other Governmental Entities

- D. Evidence of Insurability/Business Licenses** – All Bidders shall submit evidence of all required insurance. An Accord cover page will suffice, and if awarded the contract, the Bidder has ten (10) calendar days to produce the required insurances including a certified endorsement naming the RCA as additionally insured. Do not purchase additional insurance until this bid has been awarded. Provide a copy of current business license or other applicable licenses.
- E. Clarification, Exceptions, or Variations** – All Bidders shall describe any exception or variation from the requirements of the RFP, including, but not limited to the Model Professional Services Agreement attached hereto as Exhibit “C.” If any exceptions are taken, such exceptions must be clearly noted in the Proposal and may be reason for rejection of the Proposal. As such, Bidder is directed to carefully review the proposed Professional Services Agreement and, in particular, the insurance and indemnification provisions therein.

VI. CONTENTS OF COST PROPOSAL

Place the cost proposal in a sealed envelope separate from the Technical Proposal.

A. Total All-Inclusive Maximum Price

Cost Proposal should contain all pricing information relative to performing the services per fiscal year as described in the request for proposals with the understanding that while budgets are adopted by fiscal year surveys may occur in multiple fiscal years.

The total all-inclusive maximum price to be bid is to contain all direct and indirect costs including out-of-pocket expenses.

Rates for all staff must be listed: Program Administrator, Supervising Biologist, Taxa Lead Biologists, Field Biologists, Database Manager, GIS staff and administrative support staff.

The cost proposal shall consist of a listing of proposed billing rates for various proposed job classifications and the analytical methodology used to develop the proposed billing rates. Rates must show breakdown of pay rate, benefits and overhead.

B. Rates for Additional Professional Services

If it should become necessary for the RCA to request any additional services to either supplement the services requested in this request for proposal or to perform additional work as a result of the specific recommendations included in any report issued on this engagement, then such additional work shall be performed only if set forth in an addendum to the contract between the RCA and the CONSULTANT. Additional professional services shall be performed at the same Hourly Rates set forth in the Schedule of Professional Fees and Expenses.

C. Manner of Payment

Progress payments will be made monthly on the basis of hours of work completed during the course the previous month in accordance with the CONSULTANT's dollar cost proposal. The monthly invoice should indicate the work completed and hours of services rendered by staff levels and by task.

Note: The RCA owns 5 field trucks that can be considered surplus and included in the cost proposal.

(1) 2015 Ford F150 4x4 Supercab (61,000, 65,000, 72,000, 73,000 miles)

(4) 2012 Ford F151 4x4 Styleside Crewcab (23,000 miles)

VII. EVALUATION CRITERIA

- A. Each proposal will be reviewed by an evaluation group to determine if it meets the proposal requirements for Services listed in Section IV (Approach, CONSULTANT Qualifications, Staff Qualifications and Experience) and in the format required listed in Section V. Failure to meet the requirements of the Request for Proposals will be cause for rejection of the Proposal.

The evaluation group may ask for formal oral presentations by the selected consultants. The number 1 ranked Consultant will then proceed to contract negotiation.

The Prospective Consultant is advised that should this RFP result in award of a contract, the contract will not be in force until it is approved and fully executed by the RCA Board of Directors.

VIII. ADDITIONAL TERMS

- A. Cancellation of RFP - The RCA reserves the right to cancel this RFP at any time prior to contract award without obligation in any manner for proposal preparation, interview, fee negotiation or other marketing costs associated with this RFP.
- B. No Commitment to Award - Issuance of this RFP and receipt of Proposals does not commit the RCA to award a contract. The RCA expressly reserves the right to postpone the proposal for its own convenience, to accept or reject any or all Proposals received in response to this RFP, to negotiate with more than one Proposer concurrently, or to cancel all or part of this RFP. The RCA reserves the right to waive any discrepancy or technicality and to split or award the contract in any manner determined to be the most advantageous to the agency.
- C. There is no expressed or implied obligation for the RCA to reimburse responding firms for any expenses incurred in preparing proposals in response to this request.

- D. The RCA reserves the right, where it may serve the RCA's best interest, to request additional information or clarifications from CONSULTANTS, or to allow corrections of errors or omissions.

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY
AND _____**

1. Parties and Date.

This Agreement is made and entered into this ___ day of _____ 20__, by and between the Western Riverside County Regional Conservation Authority, a Joint Powers Authority organized under the laws of the State of California with its principal place of business at 3403 Tenth Street, Suite 320 Riverside, California 92501 (“RCA”) and **[NAME OF FIRM]**, a/an **[LEGAL STATUS OF CONSULTANT]** with its/his/her principal place of business at **[ADDRESS OF CONSULTANT]**(“Consultant”). RCA and Consultant are sometimes individually referred to as “Party” and collectively as “Parties.”

2. Recitals.

2.1 Consultant. Consultant desires to perform and assume responsibility for the provision of certain professional services required by RCA on the terms and conditions set forth in this Agreement. Consultant represents that it is a professional consultant, experienced in providing **[INSERT TYPE OF SERVICES]** services to public clients, is licensed in the State of California, and is familiar with the plans of RCA.

2.2 Project. RCA desires to engage Consultant to render such services for the **[INSERT PROJECT DESCRIPTION]** (“Project”) as set forth herein.

3. Terms.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Consultant promises and agrees to furnish to RCA all labor, materials, tools, equipment, services and incidental and customary work necessary to fully and adequately supply the **[INSERT TYPE OF SERVICES]** services necessary for the Project (“Services”). The Services are more particularly described in Exhibit “A” attached hereto and incorporated herein by reference. Services shall include, but not be limited to, any duties and responsibilities assigned by the RCA Executive Director. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from the date first specified above to **[INSERT DATE]**, unless earlier terminated as provided herein. Consultant shall complete the Services within the term of this Agreement and shall meet any other established schedules and deadlines.

3.2 Responsibilities of Consultant.

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the

requirements of this Agreement. RCA retains Consultant on an independent contractor basis and Consultant is not an employee of RCA. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall not be employees of RCA and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, and workers' compensation insurance.

3.2.2 Schedule of Services. Consultant shall provide the Services expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services set forth in Exhibit "B" attached hereto and incorporated herein by reference. Consultant represents that it has the professional and technical expertise and personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the schedule, RCA shall respond to Consultant's submittals in a timely manner. Upon request of RCA, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of RCA.

3.2.4 RCA's Representatives. RCA hereby designates its Executive Director, or his or her designee, to act as its representative for the performance of this Agreement. All invoices for Consultant shall be submitted to the Executive Director. The Executive Director shall be responsible for directing Consultant's activities pursuant to this Agreement. The Executive Director shall have the power to act on behalf of RCA for all purposes under this Agreement. Consultant shall not accept direction or orders from any person other than the Executive Director or his or her designee.

3.2.5 Substitution of Key Personnel. Consultant has represented to RCA that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence and experience upon written approval of RCA. In the event that RCA and Consultant cannot agree as to the substitution of key personnel, RCA shall be entitled to terminate this Agreement for cause, pursuant to provisions of Section 3.5.1 of this Agreement. The key personnel for performance of this Agreement are as follows: **[INSERT NAME OR TITLE OF KEY PERSONNEL]**

3.2.6 Consultant's Representative. Consultant hereby designates **[INSERT NAME OR TITLE]**, or his or her designee, to act as its Representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his or her best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement. Consultant shall work closely and cooperate fully with RCA's Representative and any other agencies which may

have jurisdiction over, or an interest in, the Services. Consultant's Representative shall be available to the RCA staff at all reasonable times.

3.2.7 Coordination of Services. Consultant agrees to work closely with RCA staff in the performance of Services and shall be available to RCA's staff, consultants and other staff at all reasonable times.

3.2.8 Standard of Care; Performance of Employees. Consultant shall perform the Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Consultant represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Consultant shall perform, at its own cost and expense and without reimbursement from RCA, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein and shall be fully responsible to RCA for all damages and other liabilities arising from the Consultant's errors and omissions. Any employee of the Consultant or its sub-consultants who is determined by RCA to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to RCA, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.9 Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to RCA, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold RCA, its officials, directors, officers, employees, consultants, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.2.10 Insurance.

3.2.10.1 Time for Compliance. Consultant shall not commence work under this Agreement until it has provided evidence satisfactory to RCA that it has secured all insurance required under this section, in a form and with insurance companies acceptable to RCA. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to RCA that the subcontractor has secured all insurance required under this section.

3.2.10.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives, employees or subcontractors. Consultant shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(A) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001 or exact equivalent); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage (form CA 0001, code 1 (any auto) or exact equivalent); and (3) *If Consultant has employees, Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(B) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage; and (3) If Consultant has employees, Workers' Compensation and Employer's Liability: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of \$1,000,000 per accident for bodily injury or disease.

3.2.10.3 Professional Liability. Consultant shall procure and maintain, and require its sub-consultants to procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance appropriate to their profession. Such insurance shall be in an amount not less than \$2,000,000 per claim, and shall be endorsed to include contractual liability. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

3.2.10.4 Insurance Endorsements. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements to add the following provisions to the insurance policies:

(A) General Liability.

(i) Commercial General Liability
Insurance must include coverage for (1) Bodily Injury and Property Damage; (2) Personal Injury/Advertising Injury; (3) Premises/Operations Liability; (4) Products/Completed Operations Liability; (5) Aggregate Limits that Apply per Project; (6) Explosion, Collapse and Underground (UCX) exclusion deleted; (7) Contractual Liability with

respect to this Agreement; (8) Broad Form Property Damage; and (9) Independent Consultants Coverage.

(ii) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to the Agreement.

(iii) The policy shall give RCA, its directors, officials, officers, employees, and agents insured status using ISO endorsement forms 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(iv) The additional insured coverage under the policy shall be “primary and non-contributory” and will not seek contribution from RCA’s insurance or self-insurance and shall be at least as broad as CG 20 01 04 13, or endorsements providing the exact same coverage.

(B) Automobile Liability.

(i) The automobile liability policy shall be endorsed to state that: (1) RCA, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; and (2) the insurance coverage shall be primary insurance as respects RCA, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant’s scheduled underlying coverage. Any insurance or self-insurance maintained by RCA, its directors, officials, officers, employees, agents and volunteers shall be excess of the Consultant’s insurance and shall not be called upon to contribute with it in any way.

(C) Workers’ Compensation and Employers Liability Coverage.

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) The insurer shall agree to waive all rights of subrogation against RCA, its directors, officials, officers, employees, agents and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

(D) All Coverages.

(i) Defense costs shall be payable in addition to the limits set forth hereunder.

(ii) Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits set forth herein shall be available to RCA, its directors, officials, officers, employees and agents as additional insureds under said policies. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any Insurance policy or proceeds available to the named insured; whichever is greater.

(iii) The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of RCA (if agreed to in a written contract or agreement) before RCA's own insurance or self-insurance shall be called upon to protect it as a named insured. The umbrella/excess policy shall be provided on a "following form" basis with coverage at least as broad as provided on the underlying policy(ies).

(iv) Consultant shall provide RCA at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to RCA at least ten (10) days prior to the effective date of cancellation or expiration.

(v) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(vi) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by RCA, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(vii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, RCA has the right but not the duty to obtain the insurance it deems necessary and any premium paid by RCA will be promptly reimbursed by Consultant or RCA will withhold amounts sufficient to pay premium from

Consultant payments. In the alternative, RCA may cancel this Agreement. RCA may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(viii) Neither RCA nor any of its directors, officials, officers, employees or agents shall be personally responsible for any liability arising under or by virtue of this Agreement.

3.2.10.5 Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to RCA, its directors, officials, officers, employees, agents and volunteers.

3.2.10.6 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by RCA. If RCA does not approve the deductibles or self-insured retentions as presented, Consultant shall guarantee that, at the option of RCA, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects RCA, its directors, officials, officers, employees, agents and volunteers; or (2) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

3.2.10.7 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to RCA.

3.2.10.8 Verification of Coverage. Consultant shall furnish RCA with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to RCA. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by RCA before work commences. RCA reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.2.10.9 Reporting of Claims. Consultant shall report to RCA, in addition to Consultant's insurer, any and all insurance claims submitted by Consultant in connection with Services under this Agreement.

3.2.10.10 Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to RCA that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name RCA as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, RCA may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

3.2.11 Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules

and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and life saving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

3.3 Fees and Payments.

3.3.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit “B” attached hereto and incorporated herein by reference. The Total Compensation shall not exceed \$[INSERT WRITTEN DOLLAR AMOUNT] (\$[INSET NUMERICAL DOLLAR AMOUNT]), without written approval of RCA’s Executive Director. Reimbursable expenses shall include _____. Extra Work may be authorized, as described below, and, if authorized, will be compensated at the rates and manner set forth in this Agreement.

3.3.2 Payment of Compensation. Consultant shall submit to RCA a monthly itemized statement which indicates work completed and hours of Services rendered by Consultant. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. Said compensation shall be paid in accordance with an invoice submitted to RCA by Consultant within fifteen (15) days from the last day of each calendar month, and RCA shall, within 45 days of receiving such statement, review the statement and pay all approved charges thereon.

3.3.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by RCA.

3.3.4 Extra Work. At any time during the term of this Agreement, RCA may request that Consultant perform Extra Work. As used herein, “Extra Work” means any work which is determined by RCA to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from RCA’s Representative.

3.3.5 Prevailing Wages. By execution of this Agreement, Consultant certified that it is aware of the requirements of California Labor Code Sections 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. If the Services are being performed as part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. RCA shall provide Consultant with a copy of the prevailing rate of per diem

wages in effect at the commencement of this Agreement. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. Consultant shall defend, indemnify and hold RCA, its directors, officials, officers, consultants, employees, volunteers and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

3.3.6 Employment of Apprentices. This Agreement shall not prevent the employment of properly indentured apprentices in accordance with the California Labor Code, and no employer or labor union shall refuse to accept otherwise qualified employees as indentured apprentices on the work performed hereunder solely on the ground of race, creed, national origin, ancestry, color or sex. Every qualified apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade in which he or she is employed and shall be employed only in the craft or trade to which he or she is registered.

If California Labor Code Section 1777.5 applies to the Services, Consultant and any subcontractor hereunder who employs workers in any apprenticeable craft or trade shall apply to the joint apprenticeship council administering applicable standards for a certificate approving Consultant or any sub-consultant for the employment and training of apprentices. Upon issuance of this certificate, Consultant and any sub-consultant shall employ the number of apprentices provided for therein, as well as contribute to the fund to administer the apprenticeship program in each craft or trade in the area of the work hereunder.

The parties expressly understand that the responsibility for compliance with provisions of this Section and with Sections 1777.5, 1777.6 and 1777.7 of the California Labor Code in regard to all apprenticeable occupations lies with Consultant.

3.3.7 No Waiver. Failure of RCA to insist on any one occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant or condition, nor shall any waiver or relinquishment of any rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment of such other right or power at any other time or times.

3.3.8 Eight-Hour Law. Pursuant to the provisions of the California Labor Code, eight hours of labor shall constitute a legal day's work, and the time of service of any worker employed on the work shall be limited and restricted to eight hours during any one calendar day, and forty hours in any one calendar week, except when payment for overtime is made at not less than one and one-half the basic rate for all hours worked in excess of eight hours per day ("Eight-Hour Law"), unless Consultant or the Services are not subject to the Eight-Hour Law. Consultant shall forfeit to RCA as a penalty, \$50.00 for each worker employed in the execution of this Agreement by him or her, or by any sub-consultant under him or her, for each calendar day during which such workman is required or permitted to work more than eight hours in any calendar day and forty hours in any one

calendar week without such compensation for overtime violation of the provisions of the California Labor Code, unless Consultant or the Services are not subject to the Eight-Hour Law.

3.3.9 Contractor Registration. **[**IF RCA IS AWARE THAT THE CONSULTANT WILL PERFORM WORK SUBJECT TO PREVAILING WAGE LAW, PLEASE CONTACT LEGAL COUNSEL TO OBTAIN GUIDANCE REGARDING REVISING THE FOLLOWING PROVISION**]**Effective March 1, 2015, if the Services are being performed as part of an applicable “public works” or “maintenance” project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such Services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant’s sole responsibility to comply with all applicable registration and labor compliance requirements.

3.4 Accounting Records.

3.4.1 Maintenance and Inspection. Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred and fees charged under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of RCA during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.5 General Provisions.

3.5.1 Termination of Agreement.

3.5.1.1 Grounds for Termination. RCA may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those services which have been fully and adequately rendered to RCA through the effective date of the termination, and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause.

3.5.1.2 Effect of Termination. If this Agreement is terminated as provided herein, RCA may require Consultant to provide all finished or unfinished Documents and Data, as defined below, and other information of any kind prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such documents and other information within fifteen (15) days of the request.

3.5.1.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, RCA may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.5.2 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Consultant: _____

RCA: Western Riverside County Regional
Conservation Authority
Attention: Executive Director
3403 Tenth Street, Suite 320
Riverside, CA 92501

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.5.3 Ownership of Materials/Confidentiality.

3.5.3.1 Documents & Data. This Agreement creates an exclusive and perpetual license for RCA to copy, use, modify, reuse, or sub-license any and all copyrights and designs embodied in plans, specifications, studies, drawings, estimates, materials, data and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement (“Documents & Data”).

Consultant shall require all subcontractors to agree in writing that RCA is granted an exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement.

Consultant represents and warrants that Consultant has the legal right to grant the exclusive and perpetual license for all such Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or provided to Consultant by RCA.

RCA shall not be limited in any way in its use of the Documents & Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at RCA’s sole risk.

3.5.3.2 Intellectual Property. In addition, RCA shall have and retain all right, title and interest (including copyright, patent, trade secret and other proprietary rights) in all plans, specifications, studies, drawings, estimates, materials, data, computer programs or software and source code, enhancements, documents, and any and all works of authorship fixed in any tangible medium or expression, including but not limited to, physical drawings or other data magnetically or otherwise recorded on computer media (“Intellectual Property”) prepared or developed by or on behalf of Consultant under

this Agreement as well as any other such Intellectual Property prepared or developed by or on behalf of Consultant under this Agreement.

RCA shall have and retain all right, title and interest in Intellectual Property developed or modified under this Agreement whether paid for wholly or in part by RCA, whether or not developed in conjunction with Consultant, and whether or not developed by Consultant. Consultant will execute separate written assignments of any and all rights to the above referenced Intellectual Property upon request of RCA.

Consultant shall also be responsible to obtain in writing separate written assignments from any subcontractors or agents of Consultant of any and all right to the above referenced Intellectual Property. Should Consultant, either during or following termination of this Agreement, desire to use any of the above-referenced Intellectual Property, it shall first obtain the written approval of RCA.

All materials and documents which were developed or prepared by Consultant for general use prior to the execution of this Agreement and which are not the copyright of any other party or publicly available and any other computer applications, shall continue to be the property of Consultant. However, unless otherwise identified and stated prior to execution of this Agreement, Consultant represents and warrants that it has the right to grant the exclusive and perpetual license for all such Intellectual Property as provided herein.

RCA further is granted by Consultant a non-exclusive and perpetual license to copy, use, modify or sub-license any and all Intellectual Property otherwise owned by Consultant which is the basis or foundation for any derivative, collective, insurrectional, or supplemental work created under this Agreement.

3.5.3.3 Infringement Indemnification. Consultant shall defend, indemnify and hold RCA, its directors, officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, for any alleged infringement of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person or entity in consequence of the use on the Project by RCA of the Documents & Data, including any method, process, product, or concept specified or depicted.

3.5.4 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents & Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of RCA, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use RCA's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade

paper, newspaper, television or radio production or other similar medium without the prior written consent of RCA.

3.5.5 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.5.6 Attorney's Fees. If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and costs of such actions.

3.5.7 Indemnification. Consultant shall defend, indemnify and hold RCA, its directors, officials, officers, agents, consultants, employees, and volunteers free and harmless from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, damages or injuries, in law or in equity, to property or persons, including wrongful death, in any manner arising out of or incident to alleged negligent acts, omissions or willful misconduct of the Consultant, its officials, officers, employees, agents, consultants and contractors arising out of or in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of all consequential damages, attorneys' fees and other related costs and expenses. Consultant shall defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against RCA, its directors, officials, officers, agents, consultants, employees, and volunteers. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against RCA or its directors, officials, officers, agents, consultants, employees, and volunteers, in any such suit, action or other legal proceeding. Consultant shall reimburse RCA and its directors, officials, officers, employees, agents, consultants, and volunteers, for any and all legal expenses and costs, including reasonable attorney's fees, incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by RCA, its directors, officials, officers, agents, consultants, employees, and volunteers. Notwithstanding the foregoing, to the extent Consultant's Services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant. This Section 3.5.7 shall survive any expiration or termination of this Agreement.

3.5.8 Entire Agreement. This Agreement contains the entire Agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both Parties.

3.5.9 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County.

3.5.10 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.5.11 RCA's Right to Employ Other Consultants. RCA reserves the right to employ other consultants in connection with this Project.

3.5.12 Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of RCA. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.5.13 Successor and Assigns. This Agreement shall be binding on the successors and assigns of the Parties, and shall not be assigned by Consultant without the prior written consent of RCA.

3.5.14 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all directors, officials, officers, agents, consultants, employees, and volunteers of Consultant, except as otherwise specified in this Agreement. All references to RCA include its directors, officials, officers, agents, consultants, employees, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.5.15 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.5.16 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

3.5.17 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.5.18 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.5.19 Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, RCA shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of RCA, during the term of his or her service with RCA, shall

have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.5.20 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Consultant shall also comply with all relevant provisions of any RCA programs or guidelines concerning equal opportunity employment currently in effect or hereinafter enacted.

3.5.21 Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.5.22 Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.5.23 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.5.24 Subpoenas or Court Orders. Should Consultant receive a subpoena or court order related to this Agreement, the Services or the Project, Consultant shall immediately provide written notice of the subpoena or court order to RCA. Consultant shall not respond to any such subpoena or court order until notice to RCA is provided as required herein, and shall cooperate with RCA in responding to the subpoena or court order.

3.5.25 Incorporation of Recitals. The recitals set forth above are true and correct and are incorporated into this Agreement as though fully set forth herein.

3.5.26 Survival. All rights and obligations hereunder that by their nature are to be performed after any expiration or termination of this Agreement shall survive any such expiration or termination.

3.6 Subcontracting.

3.6.1 Prior Approval Required. Consultant shall not subcontract any portion of the work or Services required by this Agreement, except as expressly stated herein, without prior written approval of RCA. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

[Signatures on following page]

**SIGNATURE PAGE
TO
PROFESSIONAL SERVICES AGREEMENT**

RCA

CONSULTANT

By: _____
Charles V. Landry
Executive Director

By: _____
Name: _____

Title: _____

Approved as to form:

RCA General Counsel
Best Best & Krieger LLP