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Board of Directors

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August 26, 2019

Board of Directors
Triunfo Water & Sanitation District
Ventura County, California

TWSD CORE MANAGEMENT SERVICE CONTRACTS NO. T19-004 – THE PRD GROUP, INC., T19-005 – CHI HERMANN CONSULTING, T19-006 – VICKIE DRAGAN CONSULTING

Summary

In an effort to eliminate conflict of interest concerns, the Triunfo Water & Sanitation District (TWSD) Board has directed staff to move forward with the development of a TWSD Core Management Team. This recommended team is comprised of individuals who are currently working as consultants (PRD) under Ventura Regional Sanitation District (VRSD), and soon to retire and retired employees who have previously had significant roles with TWSD.

The proposed management Team, in addition to the General Manager, Mark Norris, includes:

- 1) The PRD Group – Tim Doyle consultant (1600 hours/year)
- 2) Chi Hermann Consulting – soon to retire VRSD Management Analyst (1100 hours/year)
- 3) Vickie Dragan Consulting – former VRSD Finance Director (400 hours/year)

Management Team services would be facilitated via direct contracts with TWSD. VRSD would continue to provide office space in exchange for a 15% overhead markup on the subject contracts. In addition to office space, VRSD would also provide office equipment and supplies.

The scope of services and fees for PRD's contract is essentially unchanged from the current contract in place with VRSD. The only change would be that the contract is with TWSD instead of VRSD. Both Ms. Dragan and Ms. Hermann's contracts are structured in accordance with the General Manager contract. Hourly rates have, in part, been determined based on the current cost of these services provided by VRSD and include a reasonable allowance for benefits.

District Legal Counsel has drafted the respective contracts and has approved them as to form and content.

Please contact me at 805-658-4621 or email marknorris@vrsd.com if you have any questions or need additional information.

Fiscal Impact

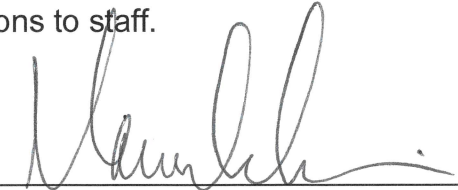
Funding for The PRD Group, Inc. and Chi Hermann contracts is included in the current FY2019-2020 Adopted Fiscal Budget. Based on cost-saving measures, the \$55,200 needed to fund for the contract for Vickie Dragan will only require a budget increase in the amount of \$17,500 to fund this new position.

Recommendation

It is recommended the Board:

- A. Authorize the Chair to sign TWSD Contract No. T19-004 for The PRD Group, Inc. to provide management, engineering, and analytical services for the District's projects and operations with a term to December 31, 2019; and
- B. Authorize the Chair to sign TWSD Contract No. T19-005 for Chi Hermann Consulting to provide management and analytical services for the District's projects with a term to June 30, 2020; and
- C. Authorize the Chair to sign TWSD Contract No. T19-006 for Vickie Dragan Consulting to provide financial oversight services for the District's projects with a term to June 30, 2020; and
- D. Approve a budget increase in the amount of \$17,500 to be applied to the general administration budget for the FY2019-2020 Adopted Budget; or
- E. Provide alternative directions to staff.

REVIEWED AND APPROVED:



Mark Norris - General Manager

Attachment: TWSD Contract Nos. T19-004, T19-005, T19-006

**TRIUNFO WATER & SANITATION DISTRICT
CONTRACT NO. _____
AGREEMENT FOR CONSULTING SERVICES
BETWEEN
TRIUNFO WATER & SANITATION DISTRICT
AND
THE PRD GROUP, INC.**

THIS AGREEMENT is made and entered into this 1st day of September 2019 by and between the TRIUNFO WATER & SANITATION DISTRICT, a public agency formed pursuant to California Health & Safety Code Section 4700 et seq. (“DISTRICT”) and THE PRD GROUP, INC., a California corporation (“CONSULTANT”). Together, DISTRICT and CONSULTANT shall be referred to herein as Parties.

RECITALS

- A. DISTRICT has a need to engage the specialized services of a CONSULTANT to provide DISTRICT with engineering services for DISTRICT projects and ongoing engineering work.
- B. CONSULTANT represents that it has the requisite skills, knowledge and experience to provide such wastewater related engineering services to the DISTRICT.
- C. DISTRICT and CONSULTANT mutually agree to be bound by the terms and conditions set forth below based upon the recitals herein and the valuable consideration stated below.

AGREEMENT

ARTICLE 1: WORK STATEMENT

- A. CONSULTANT shall provide the wastewater engineering consulting services to the DISTRICT as described in the Scope of Services, which is attached as Exhibit “A” to this Agreement and incorporated herein by reference.
- B. CONSULTANT agrees to devote its full and best professional time, attention, and efforts in providing services to DISTRICT in a timely, complete and responsive manner. CONSULTANT will cooperate fully with the DISTRICT and DISTRICT management personnel and provide the DISTRICT and DISTRICT management personnel with all available information and assistance in relation to assigned project(s). This means that CONSULTANT will at all times, including work for public or private entities who have contracted with the DISTRICT for wastewater related services, faithfully, industriously and to the best of CONSULTANT’S ability, experience, and talent, perform all CONSULTANT’S obligations as set forth in Exhibit A.
- C. The PARTIES acknowledge and agree that CONSULTANT owes the DISTRICT a fiduciary duty to conduct all affairs of and for the DISTRICT in accordance with all applicable federal and state laws and the highest standards of good faith, trust, confidence and candor, and to endeavor, to the best of CONSULTANT’S ability, to promote and protect the best interests of the DISTRICT.

ARTICLE 2: TERM OF CONTRACT

This Agreement shall commence as of September 1, 2019 and, unless otherwise earlier terminated, this Agreement shall continue in force until the services specified herein have been fully performed. Upon execution of

this Agreement by both parties, CONSULTANT shall diligently pursue work to assure completion on a timely basis. Unless otherwise extended in writing by both parties, this contract shall automatically terminate on December 31, 2019.

This Agreement may be extended annually, no more than four (4) times, by mutual agreement of the Parties. The DISTRICT General Manager, on behalf of the DISTRICT Board of Directors (“BOARD”), shall prepare, in a form approved by the DISTRICT Counsel, and sign the extension agreements at the beginning of each of the four fiscal years, if, and only if, the BOARD has approved the annual amount of each extension in the DISTRICT Operating Budget for that fiscal year. The annual amount for this Agreement and for each extension to this Agreement shall be established pursuant to Article 5 of this Agreement.

ARTICLE 3: INDEPENDENT CONTRACTOR RELATIONSHIP

A. It is expressly understood between the Parties that no employee/employer relationship is intended, the relationship of CONSULTANT to DISTRICT being that of an independent contractor. DISTRICT shall not be required to make any payroll deductions or provide Workers’ Compensation Insurance coverage or health benefits to CONSULTANT.

B. CONSULTANT is solely responsible for selecting the means, methods and procedures for performing its services hereunder as assigned by DISTRICT and for coordinating all portions of the work so the result will be satisfactory to the DISTRICT.

C. CONSULTANT, pursuant to this Agreement, is rendering professional services only and any payments made to it are compensation solely for such services as it may render and recommendations it may make in the performance of services.

ARTICLE 4: CONFIDENTIAL RELATIONSHIP/TITLE TO DOCUMENTS

CONSULTANT agrees that all dealings of the parties under this Agreement shall be confidential and no report, data, information or communication developed, prepared or assembled by CONSULTANT under this Agreement, or any information made available to CONSULTANT by DISTRICT, shall be revealed, disseminated or made available by CONSULTANT to any person or entity other than DISTRICT without the prior written consent of DISTRICT. All data, calculations, drawings and other documents developed, prepared, completed or acquired by CONSULTANT during the performance of its services hereunder shall be turned over to DISTRICT upon termination of this Agreement.

CONSULTANT shall provide copies of original source electronic files (e.g., Microsoft Word or Excel files, Autocad DWG files, etc.) of all work completed as part of this Agreement. Such files shall not be protected or otherwise restrict access.

ARTICLE 5: PAYMENT TO CONSULTANT

A. In consideration of CONSULTANT’s performance of services as described herein, DISTRICT shall pay CONSULTANT fees for his services at the hourly rates as shown in Exhibit A, plus any expenses which are pre-approved by DISTRICT. On or prior to the tenth day of each calendar month after actual work is started, CONSULTANT shall submit an invoice in sufficient detail to show the total amount of work done to the last day of the month preceding the one in which the invoice is submitted. DISTRICT shall review and approve CONSULTANT’s invoice for accuracy and agree with CONSULTANT on any adjustments that may be appropriate. Such approvals shall not be unreasonably withheld. DISTRICT shall pay CONSULTANT for all approved work and materials within 30 days of agreement on the amount of the invoice. In the event of disagreement with CONSULTANT on adjustments or disallowances, said amounts and disputes shall be withheld until resolved.

Upon resolution of the disagreements, payment of the approved amount shall be made within 30 days after deducting therefrom all previous payments and all sums to be retained under the terms of the agreement.

B. Should this Agreement be extended for one or more additional one-year periods in accordance with Article 2 of this Agreement, the annual amount of a given extension shall be established as the sum of the annual amount approved by the TSD Board of Directors in their approved annual operating budgets for that year, plus 10% for contingencies and other DISTRICT-specific services from CONSULTANT. CONSULTANT shall be entitled to an increased hourly rate for any of the four extensions, if, and only if, the increased hourly rate has been explicitly and specifically approved by the TSD Board of Directors in their approved annual operating budgets for that year.

ARTICLE 6: TERMINATION OF CONTRACT

All work shall be done in a diligent and professional manner to DISTRICT's satisfaction. CONSULTANT specifically acknowledges and agrees that DISTRICT may terminate CONSULTANT's services at any time with or without cause, regardless of whether CONSULTANT's services or the Project are completed. Any termination or any special instructions hereunder from DISTRICT shall be made in writing. In the event of such termination, CONSULTANT shall have the right to expend additional time (not to exceed 10% of the total fees payable under this Agreement) to assemble the work in progress for the purpose of proper filing and closing the job. Such additional time shall not increase CONSULTANT's total compensation beyond the maximum stated in Article 5.

ARTICLE 7: INDEMNIFICATION AND HOLD HARMLESS

CONSULTANT agrees to defend, indemnify and hold harmless DISTRICT, and its officers, agents and employees, from and against any and all liability, damages, costs, losses, claims and expenses, however caused, resulting directly or indirectly from or connected with CONSULTANT's negligent performance of this Agreement (including, but not limited to such liability, cost, damage, loss, claim or expense arising from the death of or injury to, or damage to property of CONSULTANT, DISTRICT, or their respective employees or agents), except to the extent that such liability, damages, costs, losses, claims or expenses are caused by the negligent or wrongful acts or omissions of DISTRICT or any of its agents or employees.

ARTICLE 8: INSURANCE

CONSULTANT shall provide and keep in effect during the term of this Agreement insurance as follows:

A. Commercial General Liability policies with combined single limit coverage of at least \$1,000,000 for any personal injury, death, or property damage.

B. Comprehensive Automobile Liability policies with combined single limit coverage of at least \$1,000,000 for personal injury, death, or property damage.

ARTICLE 9: SUBCONSULTANTS/ASSIGNMENT

This Agreement is a personal service contract and the consulting work hereunder shall not be delegated or assigned by CONSULTANT to any person or entity without the consent of DISTRICT, except that CONSULTANT may assign this agreement to an entity wholly owned and controlled by CONSULTANT. Breach of this provision shall be grounds for immediate termination of this Agreement.

ARTICLE 10: NOTICES

All notices or other official correspondence relating to contractual matters between the parties shall be made by depositing the same as first-class, postage paid mail addressed as follows:

To CONSULTANT: David M. Martin, P.E.
THE PRD GROUP, INC.
P.O. Box 8242
Oxnard, California 93031

To DISTRICT: General Manager
TRIUNFO WATER & SANITATION DISTRICT
1001 Partridge Drive, Suite 150
Ventura, California 93003-0704

or to such other address as either party may designate hereinafter in writing delivered to the other party. All notices shall be deemed to have been received three (3) days after mailing.

ARTICLE 11: NO WAIVER

No failure or delay by DISTRICT in asserting any of DISTRICT's rights and remedies as to any default of CONSULTANT shall operate as a waiver of the default, of any subsequent or other default by CONSULTANT, or of any of DISTRICT's rights or remedies. No such delay shall deprive DISTRICT of its right to institute and maintain any action or proceeding which may be necessary to protect, assert or enforce any rights or remedies arising out of this Agreement or the performance of this Agreement.

ARTICLE 12: PARTIAL INVALIDITY

If any term, covenant, condition, or provision of this Agreement is found by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated thereby.

ARTICLE 13: TERMS

No alteration or amendment of the terms of this Agreement shall be valid unless made in writing and signed by the parties. No oral understanding or agreement not incorporated herein shall be binding on any of the parties.

ARTICLE 14: CALIFORNIA LAW

This Agreement shall be interpreted and construed pursuant to the laws of the State of California. The parties agree that should litigation arising from this Agreement be commenced within California, such litigation shall occur within a court of competent jurisdiction within the County of Ventura.

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IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

TRIUNFO WATER & SANITATION DISTRICT

THE PRD GROUP, INC.

By _____
JANNA ORKNEY
Chairman, Board of Directors

By _____
DAVID M. MARTIN, P.E.
Principal

ATTEST

By _____
JULIET RODRIGUEZ
Clerk of the Board

APPROVED AS TO FORM:
ARNOLD, LAROCHELLE,
MATHEWS, VANCONAS & ZIRBEL, LLP

By _____
JOHN M. MATHEWS
Legal Counsel for District

APPROVED AS TO ADMINISTRATION:

By _____
MARK S. NORRIS CONSULTING, LLC
General Manager

DRAFT

EXHIBIT A

STATEMENT OF WORK AND RATE SHEET

The following, subject to DISTRICT modification, deletion or addition, specifies the work statement and scope of work to be performed by CONSULTANT and the rates to be charged in connection with CONSULTANT'S delivery of engineering services to DISTRICT.

STATEMENT OF WORK

Overall Project Description

CONSULTANT will provide engineering services for DISTRICT projects and to fulfill the DISTRICT's contractual obligations for engineering services to the Saticoy Sanitary District (SSD) and the Triunfo Water & Sanitation District (TSD), as outlined in the tasks and at the rates shown below. The total cost for these services shall not exceed \$53,000 unless mutually agreed to in writing by DISTRICT and CONSULTANT.

Task 1-Cooperative ventures for projects with outside agencies in the rehabilitation of water/wastewater/recycled water systems.

Task 2 - Project technical and administrative support for various public relations or DISTRICT outreach programs.

Task 3 - Provide technical support for DISTRICT-requested reporting or modifications to existing communications or manuals.

Task 4 - Maintain project coordination with DISTRICT staff and other consultants.

Task 5 - Provide support and coordination with DISTRICT ordinance modifications.

Task 6 - Provide support for DISTRICT Board document preparation and other services as requested by the DISTRICT General Manager.

Charges for the above services will be at a direct hourly rate based on the rates shown on the following page for the applicable classification for professional engineering/technical services.

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Hourly Service Rates

<u>Classification</u>	<u>Rate</u>
Engineering:	
Civil	\$130
Mechanical	\$130
Electrical	\$130
Controls	\$150
Structural	\$150
Geotechnical	\$150
Certified Engineering Geologist.....	\$130
Project Management:	
Project Manager	\$125
Construction Manager	\$110
Construction Inspector	\$100
Technical Services:	
Engineering Designer/Technician	\$100
GIS Specialist.	\$120
IT Specialist.	\$110
Registered Environmental Assessor	\$120
Technical Specialists - Process O&M	\$140
Administrative:	
Office Administrative Assistant	\$65
Other:	(By Agreement)

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**TRIUNFO WATER & SANITATION DISTRICT
CONTRACT NO. [REDACTED]
AGREEMENT FOR CONSULTING SERVICES
BETWEEN
TRIUNFO WATER & SANITATION DISTRICT
AND
CHI HERMANN CONSULTING**

THIS AGREEMENT (“Agreement”) is made and entered into this 1st day of September 2019 by and between the TRIUNFO WATER & SANITATION DISTRICT, a public agency formed pursuant to California Health & Safety Code Section 4700 et seq., (“DISTRICT”) and CHI HERMANN CONSULTING (“CONSULTANT”). Together, DISTRICT and CONSULTANT shall be referred to herein as Parties.

RECITALS

- A. DISTRICT has a need to engage the specialized services of a CONSULTANT to provide DISTRICT with management and analytical services.
- B. DISTRICT intends to engage and has selected CONSULTANT to provide such management and analytical services as its Board of Directors and General Manager directly to DISTRICT.
- C. DISTRICT and CONSULTANT intend to set forth the duties and obligations of each party under the terms of this Agreement.

AGREEMENT

ARTICLE 1: WORK STATEMENT

- A. CONSULTANT shall provide the consulting services described in the Scope of Services, which is attached as Exhibit “A” to this Agreement and incorporated herein by reference.
- B. CONSULTANT shall use its best efforts in providing services to DISTRICT and shall cooperate with DISTRICT and provide DISTRICT with all available information and assistance in relation to the Scope of Services.

ARTICLE 2: TERM OF CONTRACT

This Agreement shall commence as of September 1, 2019 and, unless otherwise earlier terminated, this Agreement shall continue in force until the services specified herein have been fully performed. Upon execution of this Agreement by both parties, CONSULTANT shall diligently pursue work to assure completion on a timely basis. Unless otherwise extended in writing by both parties, this contract shall automatically terminate on June 30, 2020.

This Agreement may be extended annually, no more than four (4) times, by mutual agreement of the parties. The CONSULTANT, on behalf of the DISTRICT’s Board of Directors (“BOARD”), shall prepare, in a form approved by the DISTRICT Counsel, and sign the extension agreement(s) at the beginning of each of the four fiscal years; if, and only if, the BOARD has

approved the annual amount of each contract extension in the DISTRICT Operating Budget for that fiscal year. The annual amount for this Agreement and for each contract extension to this Agreement shall be established pursuant to Article 5 of this Agreement. The DISTRICT recognizes that under certain circumstances, the CONSULTANT may be unable to continue in his role as General Manager or choose to terminate this Agreement for reasons beyond his control. In such an event, CONSULTANT will make a reasonable effort to provide the DISTRICT with ninety (90) days notice to terminate this Agreement.

ARTICLE 3: INDEPENDENT CONTRACTOR RELATIONSHIP

A. It is expressly understood between the parties that no employee/employer relationship is intended, the relationship of CONSULTANT to DISTRICT being that of an independent contractor. DISTRICT shall not be required to make any payroll deductions or provide Workers' Compensation insurance coverage or health benefits or retirement benefits to CONSULTANT.

B. CONSULTANT is solely responsible for selecting the means, methods and procedures for performing its services hereunder as assigned by DISTRICT and for coordinating all portions of the work so the result will be satisfactory to the DISTRICT.

C. CONSULTANT, pursuant to this Agreement, is rendering professional services only and any payments made to it are compensation solely for such services.

ARTICLE 4: CONFIDENTIAL RELATIONSHIP/TITLE TO DOCUMENTS

CONSULTANT agrees that all dealings of the parties under this Agreement shall be confidential and no report, data, information or communication developed, prepared or assembled by CONSULTANT under this Agreement, or any information made available to CONSULTANT by DISTRICT, shall be revealed, disseminated or made available by CONSULTANT to any person or entity other than DISTRICT, except those done in the ordinary course of business and within the scope of CONSULTANT acting as DISTRICT's General Manager. All data, calculations, drawings and other documents developed, prepared, completed or acquired by CONSULTANT during the performance of its services hereunder shall be turned over to DISTRICT upon termination of this Agreement. All documents and data referred to herein shall remain the property of the DISTRICT.

CONSULTANT shall provide, to DISTRICT, copies of original source electronic files (e.g., Microsoft Word or Excel files, AutoCAD DWG files, etc.) of all work completed as part of this Agreement. Such files shall not be protected or otherwise have restricted access.

ARTICLE 5: PAYMENT TO CONSULTANT

A. In consideration of CONSULTANT's performance of services as described herein for the initial term of this Agreement, which shall be deemed to be from September 1, 2019 until June 30, 2020, DISTRICT shall pay CONSULTANT fees for his services at the rate of \$95.00 per hour plus any reasonable expenses.

On or prior to the thirtieth (30th) day of each calendar month after actual work is started, CONSULTANT shall submit an invoice to the DISTRICT and VRSD (for processing only) in

sufficient detail to show the total amount of work done to the last day of the month preceding the one in which the invoice is submitted. DISTRICT shall review and approve CONSULTANT's invoice for accuracy and agree with CONSULTANT on any adjustments that may be appropriate. For purposes of this paragraph, the DISTRICT shall be deemed to be the Chair of this DISTRICT's Board of Directors or an individual designated by the Chair. Such approvals shall not be unreasonably withheld. In the event that the invoice is not approved within ten (10) days from the date of submission, it shall be deemed approved. DISTRICT shall pay CONSULTANT for all approved work and materials within 30 days of agreement on the amount of the invoice. In the event of disagreement with CONSULTANT on adjustments or disallowances, said amounts and disputes shall be withheld until resolved. Upon resolution of the disagreements, payment of the approved amount shall be made within 30 days after deducting therefrom all previous payments and all sums to be retained under the terms of the agreement.

B. The parties agree that before each fiscal year during the term of this Agreement, CONSULTANT shall provide to DISTRICT a budget of CONSULTANT's estimated total fees to be paid for that fiscal year. In the event that CONSULTANT anticipates that the amount budgeted will not be sufficient for the work to be done in a given fiscal year, the DISTRICT may consider a budget adjustment.

C. CONSULTANT shall be entitled to an increased hourly rate for any of the four extensions, if, and only if, the increased hourly rate has been explicitly and specifically approved by the DISTRICT Board of Directors in their approved annual operating budgets for that year.

D. The basic salary of \$95.00 per hour, provided for herein, shall be adjusted annually to reflect the increase in the cost of living during the previous year by adding to that basic salary an amount obtained by multiplying the basic salary by the percentage by which the level of the consumer price index for the Los Angeles-Long Beach-Anaheim metropolitan area as reported for the last day of that annual period by the Bureau of Labor Statistics of the United States Department of Labor has increased over its level as of June 1, 2019. However, in no event shall the basic salary be increased by more than five percent (5%) in any annual adjustment. In other words, the annual adjustment to the basic salary shall be the lesser of five percent (5%) or the increase in the consumer price index as calculated herein.

E. Following the end of each year of this Agreement, and within ten (10) days after the release by the Bureau of Labor Statistics of the figures for that year, the District shall pay to CONSULTANT the amount of any additional compensation to which CONSULTANT is entitled by reason of the adjustment provided above.

ARTICLE 6: TERMINATION OF CONTRACT

All work shall be done in a diligent and professional manner to DISTRICT's satisfaction. CONSULTANT specifically acknowledges and agrees that DISTRICT may terminate CONSULTANT's services at any time with or without cause, regardless of whether CONSULTANT's services are completed. Any termination or any special instructions hereunder from DISTRICT shall be made in writing. In the event of such termination, CONSULTANT shall have the right to expend additional time (payment of which is not to exceed 10% of the total fees payable under this Agreement) to assemble the work in progress for the purpose of proper filing and closing the job. Such additional time shall not increase CONSULTANT's total compensation beyond the maximum stated in Article 5.

ARTICLE 7: INDEMNIFICATION AND HOLD HARMLESS

CONSULTANT agrees to defend, indemnify and hold harmless DISTRICT, and its officers, agents and employees, from and against any and all liability, damages, costs, losses, claims and expenses, however caused, resulting directly or indirectly from or connected with CONSULTANT's negligence or wrongful acts in performance of this Agreement (including, but not limited to such liability, cost, damage, loss, claim or expense arising from the death of or injury to, or damage to property of CONSULTANT, DISTRICT, or their respective employees or agents), except to the extent that such liability, damages, costs, losses, claims or expenses are caused by the negligent or wrongful acts or omissions of DISTRICT or any of its agents or employees.

ARTICLE 8: INSURANCE

CONSULTANT shall provide and keep in effect during the term of this Agreement Comprehensive Automobile Liability insurance policies with combined single limit coverage of at least \$500,000 for personal injury, death, or property damage. CONSULTANT shall provide certificates of such insurance to DISTRICT prior to the start of work.

ARTICLE 9: SUBCONSULTANTS/ASSIGNMENT

This Agreement is a personal service contract and the consulting work hereunder shall not be delegated or assigned by CONSULTANT to any person or entity without the consent of DISTRICT, except that CONSULTANT may assign this agreement to an entity wholly owned and controlled by CONSULTANT. Breach of this provision shall be grounds for immediate termination of this Agreement.

ARTICLE 10: NOTICES

All notices or other official correspondence relating to contractual matters between the parties shall be made by depositing the same as first-class, postage paid mail addressed as follows:

To CONSULTANT: CHI HERMANN CONSULTING

To DISTRICT: ARNOLD LAROCHELLE MATHEWS VANCONAS & ZIRBEL LLP
 Attn: Triunfo Water & Sanitation District, John Mathews, General Counsel
 300 E. Esplanade Drive, Suite 2100
 Oxnard, California 93036

With a copy to: TRIUNFO BOARD OF DIRECTORS, CHAIR
c/o Arnold LaRoche Mathews VanConas & Zirbel LLP
300 E. Esplanade Drive, Suite 2100
Oxnard, CA 93036

or to such other address as either party may designate hereinafter in writing delivered to the other party. All notices shall be deemed to have been received three (3) days after mailing.

ARTICLE 11: NO WAIVER

No failure or delay by DISTRICT in asserting any of DISTRICT's rights and remedies as to any default of CONSULTANT shall operate as a waiver of the default, of any subsequent or other default by CONSULTANT, or of any of DISTRICT's rights or remedies. No such delay shall deprive DISTRICT of its right to institute and maintain any action or proceeding which may be necessary to protect, assert or enforce any rights or remedies arising out of this Agreement or the performance of this Agreement.

ARTICLE 12: PARTIAL INVALIDITY

If any term, covenant, condition, or provision of this Agreement is found by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated thereby.

ARTICLE 13: TERMS

No alteration or amendment of the terms of this Agreement shall be valid unless made in writing and signed by the parties. No oral understanding or agreement not incorporated herein shall be binding on any of the parties.

ARTICLE 14: CALIFORNIA LAW

This Agreement shall be interpreted and construed pursuant to the laws of the State of California. The parties agree that should litigation arising from this Agreement be commenced within California, such litigation shall occur within a court of competent jurisdiction within the County of Ventura.

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IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

TRIUNFO WATER & SANITATION
DISTRICT

CHI HERMANN CONSULTING

By: _____
JANNA ORKNEY, Chair
Board of Directors

By: _____
CHI HERMANN,
its President

ATTEST

By: _____
JULIET RODRIGUEZ,
Clerk of the Board

APPROVED AS TO FORM:
ARNOLD LAROCHELLE MATHEWS
VANCONAS & ZIRBEL LLP

By: _____
JOHN M. MATHEWS,
Legal Counsel for District

DRAFT

EXHIBIT A
Scope of Services

STATEMENT OF WORK FOR CHI HERMANN CONSULTING

The following, subject to District modification, deletion or addition, specifies the work statement and scope of work to be performed by Consultant.

- Consultant shall receive direction from the General Manager and provide for professional administrative and analytical support. Duties include, but may not be limited to, the following:
- Analyzes practices and procedures and makes recommendations for organization, operational, policy, and procedural improvements
- Assists in developing policies, procedures, and administrative control systems
- Develops, summarizes, and maintains administrative and fiscal records
- Prepares financial and statistical reports including budget analysis and tracking
- Maintains and updates various District plans, policies and ordinances
- Provides statistical analysis on various fiscal and operational parameters
- Provides support on regulatory related issues
- Task 1 -Analyze and summarize VRSD's annual contract services budget
- Task 2-Track and analyze VRSD's monthly contract services budget
- Task 3 - Develop, revise and update District ordinances, policies and plans
- Task 4 - Develop, revise and update standardized District forms and templates
- Task 5 - Provide support to the General Manager for document preparation and other services

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**TRIUNFO WATER & SANITATION DISTRICT
CONTRACT NO. [REDACTED]
AGREEMENT FOR CONSULTING SERVICES
BETWEEN
TRIUNFO WATER & SANITATION DISTRICT
AND
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RECITALS

- A. DISTRICT has a need to engage the specialized services of a CONSULTANT to provide DISTRICT with financial and analytical services.
- B. DISTRICT intends to engage and has selected CONSULTANT to provide such financial and analytical services as its Board of Directors and General Manager directly to DISTRICT.
- C. DISTRICT and CONSULTANT intend to set forth the duties and obligations of each party under the terms of this Agreement.

AGREEMENT

ARTICLE 1: WORK STATEMENT

- A. CONSULTANT shall provide the consulting services described in the Scope of Services, which is attached as Exhibit “A” to this Agreement and incorporated herein by reference.
- B. CONSULTANT shall use its best efforts in providing services to DISTRICT and shall cooperate with DISTRICT and provide DISTRICT with all available information and assistance in relation to the Scope of Services.

ARTICLE 2: TERM OF CONTRACT

This Agreement shall commence as of September 1, 2019 and, unless otherwise earlier terminated, this Agreement shall continue in force until the services specified herein have been fully performed. Upon execution of this Agreement by both parties, CONSULTANT shall diligently pursue work to assure completion on a timely basis. Unless otherwise extended in writing by both parties, this contract shall automatically terminate on June 30, 2020.

This Agreement may be extended annually, no more than four (4) times, by mutual agreement of the parties. The CONSULTANT, on behalf of the DISTRICT’s Board of Directors (“BOARD”), shall prepare, in a form approved by the DISTRICT Counsel, and sign the extension agreement(s) at the beginning of each of the four fiscal years; if, and only if, the BOARD has

approved the annual amount of each contract extension in the DISTRICT Operating Budget for that fiscal year. The annual amount for this Agreement and for each contract extension to this Agreement shall be established pursuant to Article 5 of this Agreement. The DISTRICT recognizes that under certain circumstances, the CONSULTANT may be unable to continue in his role as General Manager or choose to terminate this Agreement for reasons beyond his control. In such an event, CONSULTANT will make a reasonable effort to provide the DISTRICT with ninety (90) days notice to terminate this Agreement.

ARTICLE 3: INDEPENDENT CONTRACTOR RELATIONSHIP

A. It is expressly understood between the parties that no employee/employer relationship is intended, the relationship of CONSULTANT to DISTRICT being that of an independent contractor. DISTRICT shall not be required to make any payroll deductions or provide Workers' Compensation insurance coverage or health benefits or retirement benefits to CONSULTANT.

B. CONSULTANT is solely responsible for selecting the means, methods and procedures for performing its services hereunder as assigned by DISTRICT and for coordinating all portions of the work so the result will be satisfactory to the DISTRICT.

C. CONSULTANT, pursuant to this Agreement, is rendering professional services only and any payments made to it are compensation solely for such services.

ARTICLE 4: CONFIDENTIAL RELATIONSHIP/TITLE TO DOCUMENTS

CONSULTANT agrees that all dealings of the parties under this Agreement shall be confidential and no report, data, information or communication developed, prepared or assembled by CONSULTANT under this Agreement, or any information made available to CONSULTANT by DISTRICT, shall be revealed, disseminated or made available by CONSULTANT to any person or entity other than DISTRICT, except those done in the ordinary course of business and within the scope of CONSULTANT acting as DISTRICT's General Manager. All data, calculations, drawings and other documents developed, prepared, completed or acquired by CONSULTANT during the performance of its services hereunder shall be turned over to DISTRICT upon termination of this Agreement. All documents and data referred to herein shall remain the property of the DISTRICT.

CONSULTANT shall provide, to DISTRICT, copies of original source electronic files (e.g., Microsoft Word or Excel files, AutoCAD DWG files, etc.) of all work completed as part of this Agreement. Such files shall not be protected or otherwise have restricted access.

ARTICLE 5: PAYMENT TO CONSULTANT

A. In consideration of CONSULTANT's performance of services as described herein for the initial term of this Agreement, which shall be deemed to be from September 1, 2019 until June 30, 2020, DISTRICT shall pay CONSULTANT fees for his services at the rate of \$120.00 per hour plus any reasonable expenses.

On or prior to the thirtieth (30th) day of each calendar month after actual work is started, CONSULTANT shall submit an invoice to the DISTRICT and VRSD (for processing only) in

sufficient detail to show the total amount of work done to the last day of the month preceding the one in which the invoice is submitted. DISTRICT shall review and approve CONSULTANT's invoice for accuracy and agree with CONSULTANT on any adjustments that may be appropriate. For purposes of this paragraph, the DISTRICT shall be deemed to be the Chair of this DISTRICT's Board of Directors or an individual designated by the Chair. Such approvals shall not be unreasonably withheld. In the event that the invoice is not approved within ten (10) days from the date of submission, it shall be deemed approved. DISTRICT shall pay CONSULTANT for all approved work and materials within 30 days of agreement on the amount of the invoice. In the event of disagreement with CONSULTANT on adjustments or disallowances, said amounts and disputes shall be withheld until resolved. Upon resolution of the disagreements, payment of the approved amount shall be made within 30 days after deducting therefrom all previous payments and all sums to be retained under the terms of the agreement.

B. The parties agree that before each fiscal year during the term of this Agreement, CONSULTANT shall provide to DISTRICT a budget of CONSULTANT's estimated total fees to be paid for that fiscal year. In the event that CONSULTANT anticipates that the amount budgeted will not be sufficient for the work to be done in a given fiscal year, the DISTRICT may consider a budget adjustment.

C. CONSULTANT shall be entitled to an increased hourly rate for any of the four extensions, if, and only if, the increased hourly rate has been explicitly and specifically approved by the DISTRICT Board of Directors in their approved annual operating budgets for that year.

D. The basic salary of \$120.00 per hour, provided for herein, shall be adjusted annually to reflect the increase in the cost of living during the previous year by adding to that basic salary an amount obtained by multiplying the basic salary by the percentage by which the level of the consumer price index for the Los Angeles-Long Beach-Anaheim metropolitan area as reported for the last day of that annual period by the Bureau of Labor Statistics of the United States Department of Labor has increased over its level as of June 1, 2019. However, in no event shall the basic salary be increased by more than five percent (5%) in any annual adjustment. In other words, the annual adjustment to the basic salary shall be the lesser of five percent (5%) or the increase in the consumer price index as calculated herein.

E. Following the end of each year of this Agreement, and within ten (10) days after the release by the Bureau of Labor Statistics of the figures for that year, the District shall pay to CONSULTANT the amount of any additional compensation to which CONSULTANT is entitled by reason of the adjustment provided above.

ARTICLE 6: TERMINATION OF CONTRACT

All work shall be done in a diligent and professional manner to DISTRICT's satisfaction. CONSULTANT specifically acknowledges and agrees that DISTRICT may terminate CONSULTANT's services at any time with or without cause, regardless of whether CONSULTANT's services are completed. Any termination or any special instructions hereunder from DISTRICT shall be made in writing. In the event of such termination, CONSULTANT shall have the right to expend additional time (payment of which is not to exceed 10% of the total fees payable under this Agreement) to assemble the work in progress for the purpose of proper filing and closing the job. Such additional time shall not increase CONSULTANT's total compensation beyond the maximum stated in Article 5.

ARTICLE 7: INDEMNIFICATION AND HOLD HARMLESS

CONSULTANT agrees to defend, indemnify and hold harmless DISTRICT, and its officers, agents and employees, from and against any and all liability, damages, costs, losses, claims and expenses, however caused, resulting directly or indirectly from or connected with CONSULTANT's negligence or wrongful acts in performance of this Agreement (including, but not limited to such liability, cost, damage, loss, claim or expense arising from the death of or injury to, or damage to property of CONSULTANT, DISTRICT, or their respective employees or agents), except to the extent that such liability, damages, costs, losses, claims or expenses are caused by the negligent or wrongful acts or omissions of DISTRICT or any of its agents or employees.

ARTICLE 8: INSURANCE

CONSULTANT shall provide and keep in effect during the term of this Agreement Comprehensive Automobile Liability insurance policies with combined single limit coverage of at least \$500,000 for personal injury, death, or property damage. CONSULTANT shall provide certificates of such insurance to DISTRICT prior to the start of work.

ARTICLE 9: SUBCONSULTANTS/ASSIGNMENT

This Agreement is a personal service contract and the consulting work hereunder shall not be delegated or assigned by CONSULTANT to any person or entity without the consent of DISTRICT, except that CONSULTANT may assign this agreement to an entity wholly owned and controlled by CONSULTANT. Breach of this provision shall be grounds for immediate termination of this Agreement.

ARTICLE 10: NOTICES

All notices or other official correspondence relating to contractual matters between the parties shall be made by depositing the same as first-class, postage paid mail addressed as follows:

To CONSULTANT: VICKIE DRAGAN CONSULTING

To DISTRICT: ARNOLD LAROCHELLE MATHEWS VANCONAS & ZIRBEL LLP
Attn: Triunfo Water & Sanitation District, John Mathews, General Counsel
300 E. Esplanade Drive, Suite 2100
Oxnard, California 93036

With a copy to: TRIUNFO BOARD OF DIRECTORS, CHAIR
c/o Arnold LaRochele Mathews VanConas & Zirbel LLP
300 E. Esplanade Drive, Suite 2100
Oxnard, CA 93036

or to such other address as either party may designate hereinafter in writing delivered to the other party. All notices shall be deemed to have been received three (3) days after mailing.

ARTICLE 11: NO WAIVER

No failure or delay by DISTRICT in asserting any of DISTRICT's rights and remedies as to any default of CONSULTANT shall operate as a waiver of the default, of any subsequent or other default by CONSULTANT, or of any of DISTRICT's rights or remedies. No such delay shall deprive DISTRICT of its right to institute and maintain any action or proceeding which may be necessary to protect, assert or enforce any rights or remedies arising out of this Agreement or the performance of this Agreement.

ARTICLE 12: PARTIAL INVALIDITY

If any term, covenant, condition, or provision of this Agreement is found by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated thereby.

ARTICLE 13: TERMS

No alteration or amendment of the terms of this Agreement shall be valid unless made in writing and signed by the parties. No oral understanding or agreement not incorporated herein shall be binding on any of the parties.

ARTICLE 14: CALIFORNIA LAW

This Agreement shall be interpreted and construed pursuant to the laws of the State of California. The parties agree that should litigation arising from this Agreement be commenced within California, such litigation shall occur within a court of competent jurisdiction within the County of Ventura.

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IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

TRIUNFO WATER & SANITATION
DISTRICT

VICKIE DRAGAN CONSULTING

By: _____
JANNA ORKNEY, Chair
Board of Directors

By: _____
VICKIE DRAGAN,
its President

ATTEST

By: _____
JULIET RODRIGUEZ,
Clerk of the Board

APPROVED AS TO FORM:
ARNOLD LAROCHELLE MATHEWS
VANCONAS & ZIRBEL LLP

By: _____
JOHN M. MATHEWS,
Legal Counsel for District

DRAFT

EXHIBIT A
Scope of Services

STATEMENT OF WORK FOR VICKIE DRAGAN CONSULTING

The following, subject to District modification, deletion or addition, specifies the work statement and scope of work to be performed by Consultant.

- Consultant shall receive direction from the General Manager and provide for professional financial support. Duties include, but may not be limited to, the following:
- Oversees financial aspects for the District (i.e., rate setting, long range financial planning and forecasting, debt management, and budget planning)
- Provides general oversight of VRSD financial services (i.e., cost of services, indirect cost development and allocation, and budget development)

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