

AGREEMENT TO PERFORM PROFESSIONAL SERVICES

This agreement for the preparation of Watershed Sanitary Survey Reports (“Agreement”) is made and entered in this 19th day of November, 2019 (“Effective Date”), by and between the City of Redlands, a municipal corporation (“City”) and Palencia Consulting Engineers (“Consultant”). City and Consultant are sometimes individually referred to herein as a “Party” and, together, as the “Parties.” In consideration of the mutual promises contained herein, City and Consultant agree as follows:

ARTICLE 1 – ENGAGEMENT OF CONSULTANT

- 1.1 City hereby engages Consultant to prepare Watershed Sanitary Survey Reports for City (the “Services”).
- 1.2 The Services shall be performed by Consultant in a professional manner, and Consultant represents that it has the skill and the professional expertise necessary to provide the Services to City at a level of competency presently maintained by other practicing professional consultants in the industry providing like and similar types of Services.

ARTICLE 2 – SERVICES OF CONSULTANT

- 2.1 The Services that Consultant shall perform are more particularly described in Exhibit “A,” entitled “Scope of Services,” which is attached hereto and incorporated herein by reference.
- 2.2 Consultant shall comply with applicable federal, state and local laws and regulations in the performance of this Agreement including, but not limited to, State prevailing wage laws.

ARTICLE 3 – RESPONSIBILITIES OF CITY

- 3.1 City shall make available to Consultant information in its possession that may assist Consultant in performing the Services.
- 3.2 City designates Chris Boatman, Interim Municipal Utilities and Engineering Department Director, as City’s representative with respect to performance of the Services, and such person shall have the authority to transmit instructions, receive information, interpret and define City’s policies and decisions with respect to performance of the Services.

ARTICLE 4 – PERFORMANCE OF SERVICES

- 4.1 Consultant shall perform and complete the Services in a prompt and diligent manner in accordance with the schedule set forth in Exhibit “B,” entitled “Project Schedule,” which is attached hereto and incorporated herein by reference.

- 4.2 Consultant shall complete the Services by April 30, 2020, unless the Services are terminated earlier as provided for herein.
- 4.3 If Consultant's Services include deliverable electronic visual presentation materials, such materials shall be delivered in a form, and made available to the City, consistent with City Council adopted policy for the same. It shall be the obligation of Consultant to obtain a copy of such policy from City staff.

ARTICLE 5 – PAYMENTS TO CONSULTANT

- 5.1 Total compensation for Consultant's performance of the Services shall be in the amount of sixty six thousand three hundred twenty dollars (\$66,320). City shall pay Consultant in accordance with Exhibit "C," entitled "Fee Schedule," attached hereto and incorporated herein by reference.
- 5.2 Consultant shall submit monthly invoices to City describing the Services performed during the preceding month. Consultant's invoices shall include a brief description of the Services performed, the dates the Services were performed, the number of hours spent and by whom, and a description of reimbursable expenses related to the Services. City shall pay Consultant no later than thirty (30) days after receipt and approval by City of Consultant's invoice.
- 5.3 Any notice or other communication required, or which may be given, pursuant to this Agreement, shall be in writing. Any such notice shall be deemed delivered (i) on the date of delivery in person; (ii) five (5) days after deposit in first class registered mail, with return receipt requested; (iii) on the actual delivery date if deposited with an overnight courier; or (iv) on the date sent by facsimile, if confirmed with a copy sent contemporaneously by first class, certified, registered or express mail; in each case properly posted and fully prepaid to the appropriate address set forth below, or such other address as a Party may provide notice in accordance with this section:

City
 City Clerk
 City of Redlands
 35 Cajon Street
 P.O. Box 3005 (mailing)
 Redlands, CA 92373

Consultant
 Leslie S. Palencia, P.E. Principal
 Palencia Consulting Engineers
 2837 Lemonwood Court,
 Fullerton, Ca. 92835
 leslie@palenciaconsult.com
 (714) 293-7033

ARTICLE 6 – INSURANCE AND INDEMNIFICATION

- 6.1 The following insurance coverage required by this Agreement shall be maintained by Consultant for the duration of its performance of the Services. Consultant shall not perform any Services unless and until the required insurance listed below is obtained by Consultant. Consultant shall provide City with certificates of insurance and endorsements evidencing such insurance prior to commencement of the Services. Insurance policies

shall include a provision prohibiting cancellation or modification of the policy except upon thirty (30) days prior written notice to City.

- A. Workers' Compensation and Employer's Liability insurance in the amount that meets statutory requirements with an insurance carrier acceptable to City, or certification to City that Consultant is self-insured or exempt from the workers' compensation laws of the State of California. Consultant shall execute and provide City with Exhibit "D" entitled "Workers' Compensation Insurance Certification," which is attached hereto and incorporated herein by this reference prior to performance of the Services.
 - B. Comprehensive General Liability insurance with carriers acceptable to City in the minimum amount of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate, for public liability, property damage and personal injury is required. City shall be named as an additional insured and such insurance shall be primary and non-contributing to any insurance or self-insurance maintained by City.
 - C. Business Auto Liability coverage, with minimum limits of One Million Dollars (\$1,000,000) per occurrence, combined single limit bodily injury liability and property damage liability. This coverage shall include all Consultant owned vehicles used in connection with Consultant's provision of the Services, hired and non-owned vehicles, and employee non-ownership vehicles. City shall be named as an additional insured and such insurance shall be primary and non-contributing to any insurance or self-insurance maintained by City.
 - D. Consultant is expressly prohibited from assigning or subcontracting any of the Services without the prior written consent of City. In the event of mutual agreement by the Parties to assign or subcontract a portion of the Services, Consultant shall add such assignee or subcontractor as an additional insured to the insurance policies required hereby and provide City with the insurance endorsements prior to any Services being performed by the assignee or subcontractor.
- 6.2 Consultant shall defend, indemnify and hold harmless City and its elected officials, employees and agents from and against any and all claims, losses or liability, including attorneys' fees, arising from injury or death to persons or damage to property occasioned by any negligent act or omission by, or the willful misconduct of, Consultant, or its officers, employees and agents in performing the Services.

ARTICLE 7 – CONFLICTS OF INTEREST

- 7.1 Consultant covenants and represents that it does not have any investment or interest in any real property that may be the subject of this Agreement or any other source of income, interest in real property or investment that would be affected in any manner or degree by the performance of Consultant's Services. Consultant further covenants and represents that in the performance of its duties hereunder, no person having any such interest shall perform any Services under this Agreement.

- 7.2 Consultant agrees it is not a designated employee within the meaning of the Political Reform Act because Consultant:
- A. Does not make a governmental decision whether to:
 - (i) approve a rate, rule or regulation, or adopt or enforce a City law;
 - (ii) issue, deny, suspend or revoke any City permit, license, application, certification, approval, order or similar authorization or entitlement;
 - (iii) authorize City to enter into, modify or renew a contract;
 - (iv) grant City approval to a contract that requires City approval and to which City is a party, or to the specifications for such a contract;
 - (v) grant City approval to a plan, design, report, study or similar item;
 - (vi) adopt, or grant City approval of, policies, standards or guidelines for City or for any subdivision thereof.
 - B. Does not serve in a staff capacity with City and in that capacity, participate in making a governmental decision or otherwise perform the same or substantially the same duties for City that would otherwise be performed by an individual holding a position specified in City's Conflict of Interest Code under Government Code section 87302.
- 7.3 In the event City determines that Consultant must disclose its financial interests, Consultant shall complete and file a Fair Political Practices Commission Form 700, Statement of Economic Interests, with the City Clerk's office pursuant to the written instructions provided by the City Clerk.

ARTICLE 8 – GENERAL CONSIDERATIONS

- 8.1 In the event any action is commenced to enforce or interpret any of the terms or conditions of this Agreement the prevailing Party shall, in addition to any costs and other relief, be entitled to the recovery of its reasonable attorneys' fees, including fees for the use of in-house counsel by a Party.
- 8.2 Consultant shall not assign any of the Services, except with the prior written approval of City and in strict compliance with the terms and conditions of this Agreement. Any assignment or attempted assignment without such prior written consent may, in the sole discretion of City, result in City's immediate termination of this Agreement.
- 8.3 Consultant is for all purposes under this Agreement an independent contractor and shall perform the Services as an independent contractor. Neither City nor its agents shall have control over the conduct of Consultant or Consultant's employees, except as herein set forth. Consultant shall supply all necessary tools and instrumentalities required to perform the Services. Assigned personnel employed by Consultant are for its account only, and in no event shall Consultant or personnel retained by it be deemed to have been employed by City or engaged by City for the account of, or on behalf of City. Consultant

shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent, nor shall Consultant have any authority, express or implied, to bind City to any obligation.

- 8.4 This Agreement may be terminated by City, in its sole discretion, by providing not less than five (5) days prior written notice to Consultant of City's intent to terminate. If this Agreement is terminated by City, an adjustment to Consultant's compensation shall be made, but (1) no amount shall be allowed for anticipated profit or unperformed Services, and (2) any payment due Consultant at the time of termination may be adjusted to the extent of any additional costs to City occasioned by any default by Consultant. Upon receipt of a termination notice, Consultant shall immediately discontinue its provision of the Services and, within five (5) days of the date of the termination notice, deliver or otherwise make available to City, copies (in both hard copy and electronic form, where applicable) of project related data, design calculations, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by Consultant in performing the Services. Consultant shall be compensated on a pro-rata basis for Services completed up to the date of termination.
- 8.5 Consultant shall maintain books, ledgers, invoices, accounts and other records and documents evidencing costs and expenses related to the Services for a period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant pursuant to this Agreement. Such books shall be available at reasonable times for examination by City at the office of Consultant.
- 8.6 This Agreement, including the Exhibits incorporated herein by reference, represents the entire agreement and understanding between the Parties as to the matters contained herein, and any prior negotiations, written proposals or verbal agreements relating to such matters are superseded by this Agreement. Except as otherwise provided for herein, any amendment to this Agreement shall be in writing, approved by City and signed by City and Consultant.
- 8.7 This Agreement shall be governed by and construed in accordance with the laws of the State of California.
- 8.8 If one or more of the sentences, clauses, paragraphs or sections contained in this Agreement is declared invalid, void or unenforceable by a court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall not affect, impair or invalidate the remaining sentences, clauses, paragraphs or sections contained herein, unless to do so would deprive a Party of a material benefit of its bargain under this Agreement.

IN WITNESS WHEREOF, duly authorized representatives of City and Consultant have signed in confirmation of this Agreement.

CITY OF REDLANDS

By: 
Paul W. Foster, Mayor

PALENCIA CONSULTING ENGINEERS

By: 
Leslie S. Palencia, P.E. Principal

Attest:


Jeanne Donaldson, City Clerk

EXHIBIT "A"

SCOPE OF SERVICES

The watershed sanitary surveys shall include all applicable legal requirements specified in the California Code of Regulations, Article 7, Watershed Sanitary Surveys.

The survey and report shall include physical and hydrogeological description of the watershed, a summary of source water quality monitoring data, a description of any significant changes that have occurred since the last survey which could affect the quality of the source water, a description of watershed control and management practices, and evaluation of the system's ability to meet requirements of the chapter on the Surface Water Treatment Rule.

Task 1. Information Collection

Collect information and develop/input information into usable format. The Mill Creek Watershed Sanitary Survey will cover from January 2011 to December 2018, and the Santa Ana River Watershed Sanitary Survey will cover from January 2013 to December 2018.

1A. Utility Information

Develop an Agency Survey form to obtain water quality data from City of Redlands. The objectives are to collect data from the period of interest as efficiently as possible by utilizing a survey form and data request package for both the Tate WTP (Mill Creek) and Hinckley WTP (Santa Ana River). The survey form will collect various types of information including turbidity (source and treated), total coliforms and *E. coli* (source only), Long Term 2 Enhanced Surface Water Treatment Rule monitoring, total organic carbon (source and treated), total trihalomethanes, total haloacetic acids, UCMR3 and UCMR4 monitoring. The survey will also request information on actions taken by the City of Redlands (City) to address recommendations outlined in the previous report, as well as Consumer Confidence Reports, description of water supply system and changes, and identification of any treatability issues.

1B. Ambient Water Quality Data

Collect selected data for constituents of interest from the existing ambient monitoring programs located in the study area, if available. Limited monitoring data may be available from the Regional Water Quality Control Board's Surface Water Ambient Monitoring Program, and the California Environmental Data Exchange Network (CEDEN). Other monitoring programs will be incorporated if data is available.

1C. Contaminant Sources Information

Collect information on changes in watershed conditions and changes in regulation and management for selected potential contaminant sources. Various agencies within the watershed will be contacted to obtain information, search their websites for new programs, download maps, and query databases for various information such as water quality, spills, chemical usage, inspection reports, and permits.

Mill Creek contaminant sources to be investigated will include Wastewater, Recreation, Urban Runoff, Leaking Underground Storage Tanks, Floods/Erosion, Spills, Fires, and Invasive Plants. Santa Ana River contaminant sources to be investigated will include Wastewater, Recreation, Urban Runoff, Leaking Underground Storage Tanks, Seven Oaks Dam, Spills, Fires, Landfills, and Management of Big Bear Lake. Additional information will be provided on the Total Maximum Daily Loads for Big Bear Lake Watershed.

Task 2. Information Analysis - Contaminant Sources

2A. Water Quality/Treatment Review

A statistical evaluation will be completed for all water quality constituents listed in Task 1A. Additionally, temporal (historical and seasonal) and geographic trends will be presented for the water quality data. If data supports, findings could include relationships between source water quality and contaminant sources, and relationship of source water quality to treatability issues.

A regulatory compliance evaluation will be conducted for each plant and will include verification of compliance for:

- Primary and secondary drinking water standards, as presented in the Consumer Confidence Reports
- Effluent turbidity requirements for the Interim Enhanced Surface Water Treatment Rule or LT1 ESWTR
- Review of Long Term 2 Enhanced Surface Water Treatment Rule data
- Total organic carbon removal for Stage 1 Disinfectants/Disinfection Byproduct (D/DBP) Rule
- Locational running annual averages for trihalomethanes and haloacetic acids for Stage 2 D/DBP Rule
- Determine required level of treatment for *Giardia*, viruses, and *Cryptosporidium* under the Surface Water Treatment Rule.

Task 3. Development of Updated Watershed Map

The consultant team recommends a watershed map, a land ownership map and a land use map for each report. For cost saving purposes, the team assumes that the maps can be created in-house by City staff, with assistance from consultant team. The consultant team will provide direction to City staff on what information each map should include and map formatting. We assume that the City will locate the GIS layers needed to create the maps and will produce the maps.

Task 4. Evaluation and Recommendations

4A. Evaluation

Identify overall findings as they relate to the following topics:

- Water quality data trends
- Relationships between contaminant sources and water quality
- Treatability issues
- Regulatory compliance
- Significant watershed changes
- Current utility source water protection efforts related to previous recommendations

4B. Source Water Protection Recommendations

After Tasks 1 and 2 are completed, recommendations will be developed which are practical and implementable within the resources of the City. These recommendations will be considered by the City to be completed over the next five years until the next watershed sanitary survey is due.

This task will also entail reporting on the status of previous recommendations. The Mill Creek Third Update (2011 Report) contains a majority of the same recommendations as the Second Update (2006 Report) and the August 2015 Santa Ana River report did not have any recommendations, so this will mean addressing the status of recommendations from the 2006 Reports.

Task 5. Report

5A. Annotated Outline

An annotated outline will be provided for each report and submitted to DDW for approval.

5B. Draft Report

Develop a draft report for Mill Creek and Santa Ana River that reflects consultant work described herein as well as City of Redlands staff input. It is preferred to submit an electronic copy for review of each draft report.

5C. Final Report

Develop a final report for Mill Creek and Santa Ana River that reflects review comments on draft report. One electronic copy in both MS Word and pdf version will be provided to City of Redlands. Two hard copies will be printed for City of Redlands' submittal to the DDW.

Task 6. Project Management

6A. Project Management

Manage quality of the work, control budget and schedule, prepare for and lead meetings include agenda development, prepare meeting summaries and action items, and insure good communication with the client project manager.

6B. Technical Committee Meetings

Conduct three meetings to discuss the work in progress at key points and solicit input. Starr Consulting will participate via teleconference only.

- Kickoff Meeting for both reports (In person meeting)
- Presentation and discussion of information review for Mill Creek (In person meeting)
- Presentation and discussion of information review for Santa Ana River (In person meeting)
- Presentation of evaluation and source water protection recommendations for both reports (Teleconference only)

6C. Meeting with DDW

A presentation will be given to DDW on both the Mill Creek and Santa Ana River reports.

7. Contingency

Additional tasks to be determined by the City of Redlands if needed.

EXHIBIT "B"

PROJECT SCHEDULE

Task	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May
1A. Utility Information								
1B. Ambient Water Quality Data								
1C. Contaminant Sources Information								
2A. Water Quality Treatment/Review								
3. Assistance with Mapping								
4A. Evaluation								
4B. Source Water Protection Recommendations								
5A. Annotated Outline								
5B. Draft Report								
5C. Final Report								
6A. Project Management								
6B. Technical Committee Meetings								
6C. Meeting with DDW								

M1- Kickoff Meeting Last Week of Nov. 2019/First Week of Dec. (combined)

M2 - Information and Data Analysis Meeting mid-Feb (Santa Ana) /late Feb(Mill Creek)

M3 - Key Findings and Recommendations (combined) First/Second week of March 2020

Draft Report April 1-15, 2020, Final Report two weeks after receiving comments from City

M4 - Meeting with DDW (TBD)

Legend

City of Redlands

Consultant Work

EXHIBIT "C" **FEE SCHEDULE**

SANTA ANA RIVER WATERSHED SANITARY SURVEY

	Palencia Consulting Engineers	Starr Consulting	ODCs Other	TOTAL
Task 1. Information Collection				
1A. Utility Information	2	2		\$ 640
1B. Ambient Water Quality Data		10		\$ 1,600
1C. Contaminant Sources Information	50			\$ 8,000
Task 2. Information Analysis				\$ -
2A. Water Quality/Treatment Review	2	36		\$ 6,080
Task 3. Development of Updated Watershed Map				\$ -
Assistance with developing new maps	3			\$ 480
Task 4. Evaluation and Recommendations				\$ -
4A. Evaluation	4	4		\$ 1,280
4B. Source Water Protection Recommendations	4	4		\$ 1,280
Task 5. Report				\$ -
5A. Annotated Outline	2			\$ 320
5B. Draft Report	30	20		\$ 8,000
5C. Final Report	8	6	\$ 200	\$ 2,440
Task 6. Project Management				\$ -
6A. Project Management	8	4		\$ 1,920
6B. Technical Committee Meetings (3 meetings)	4	4	\$ -	\$ 1,280
6C. Meeting with DDW	1	1		\$ 320
Task 7. Contingency	1	1		\$ 320
TOTAL HOURS	119	92		
HOURLY RATE	\$160	\$ 160		
TOTAL	\$ 19,040	\$ 14,720	\$ 200	\$ 33,960

MILL CREEK WATERSHED SANITARY SURVEY

	Palencia Consulting Engineers	Starr Consulting	ODCs Other	TOTAL
Task 1. Information Collection				
1A. Utility Information	2	2		\$ 640
1B. Ambient Water Quality Data		10		\$ 1,600
1C. Contaminant Sources Information	40			\$ 6,400
Task 2. Information Analysis				\$ -
2A. Water Quality/Treatment Review	2	36		\$ 6,080
Task 3. Development of Updated Watershed Map				\$ -
Assistance with developing new maps	3			\$ 480
Task 4. Evaluation and Recommendations				\$ -
4A. Evaluation	4	4		\$ 1,280
4B. Source Water Protection Recommendations	4	4		\$ 1,280
Task 5. Report				\$ -
5A. Annotated Outline	2			\$ 320
5B. Draft Report	30	20		\$ 8,000
5C. Final Report	8	6	\$ 200	\$ 2,440
Task 6. Project Management				\$ -
6A. Project Management	8	4		\$ 1,920
6B. Technical Committee Meetings (3 meetings)	4	4	\$ -	\$ 1,280
6C. Meeting with DDW	1	1		\$ 320
Task 7. Contingency	1	1		\$ 320
TOTAL HOURS	109	92		
HOURLY RATE	\$160	\$ 160		
TOTAL	\$ 17,440	\$14,720	\$ 200	\$ 32,360

TOTAL SUM FOR BOTH REPORTS	\$ 66,320.00
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EXHIBIT "D"

WORKERS' COMPENSATION INSURANCE CERTIFICATION

Every employer, except the State, shall secure the payment of compensation in one or more of the following ways:

- (a) By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
- (b) By securing from the Director of Industrial Relations, a certificate of consent to self-insure, either as an individual employer, or as one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees.

CHECK ONE

_____ I am aware of the provisions of Section 3700 of the 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 I will comply with such provisions before commencing the performance of the work and activities required or permitted under this Agreement. (Labor Code §1861).

☒ I affirm that at all times, in performing the work and activities required or permitted under this Agreement, I shall not employ any person in any manner such that I become subject to the workers' compensation laws of California. However, at any time, if I employ any person such that I become subject to the workers' compensation laws of California, immediately I shall provide the City with a certificate of consent to self-insure, or a certification of workers' compensation insurance.

I certify under penalty of perjury under the laws of the State of California that the information and representations made in this certificate are true and correct.

Palencia Consulting Engineers

Date: 10/29/19

By: Leslie S. Palencia
Leslie S. Palencia, P.E. Principal