

September 1, 2021

The Riverside Local Agency Formation Commission (LAFCO) in conjunction with the Imperial Local Agency Formation Commission is soliciting proposals from experienced and qualified consultants with proven ability in the analysis of municipal special district governance structures and provision of electricity services by a special district.

Responses must be received by 5:00 p.m. Tuesday, September 28, 2021 either electronically or as a hard copy. Confirmation of receipt is the responsibility of the sender. Responses may be emailed to info@lafco.org or delivered to our office at the following address at 6216 Brockton Avenue, Suite 111-B, Riverside, CA 92506. If delivering by hand delivery, call ahead to ensure we are available to accept the submittal- (951) 369-0631.

Note to all Proposers

Award of a contract is contingent upon receipt of funds from the State of California currently authorized in the State Budget.

REQUEST FOR PROPOSALS

ALTERNATIVE GOVERNANCE STRUCTURES AND ALTERNATIVE ELECTRICITY SERVICE PROVISION

IMPERIAL IRRIGATION DISTRICT



The Riverside Local Agency Formation Commission in conjunction with the Imperial Local Agency Formation Commission is soliciting proposals from qualified consultants to prepare an analysis of alternative governance structures and alternative electricity services provided by the Imperial Irrigation District (“Study”). This Study is a joint effort with the Imperial Local Agency Formation Commission as required to be undertaken by state legislation contained within AB 1021.

REQUEST FOR PROPOSALS

Alternative Governance Structures and Alternative Electricity Service Provision

Imperial Irrigation District

I. OBJECTIVE

The Riverside Local Agency Formation Commission (Riverside LAFCO) in conjunction with the Imperial Local Agency Formation Commission (Imperial LAFCO) is seeking proposals from professional consulting firms to prepare an “Alternative Governance Structures and Alternative Electricity Service Provision Study” (Study) for provision of electricity services by the Imperial Irrigation District (IID) within its current service delivery area, including within Riverside County, and proportional representation of the Riverside County customers on the IID Board of Directors for electricity service items only. This work is to be completed in compliance with applicable California Government Code Sections, Public Utility Code Sections, any related Statutes, recent legislation contained in AB 1021, and local Riverside LAFCO and Imperial LAFCO Policies. The purpose of this Study is to provide for an analysis of options for future governance of the IID to include proportional representation of Riverside County electricity customers being served by IID, and options for future electrical service provision by alternative public agencies if IID desires to terminate the service to Riverside and/or Imperial Counties. **NOTE- This Study is to focus on governance options and electricity service options for electricity only, and not water service.**

II. BACKGROUND

Local Agency Formation Commissions:

In 1963, the State Legislature established Local Agency Formation Commissions (LAFCOs) in each county to help direct and coordinate California’s growth in a logical, efficient and orderly manner. LAFCOs are local public regulatory and planning bodies with specific authority to coordinate the orderly development of local agencies, such as cities and special districts, and associated provision of public services. This is accomplished primarily through the regulation of public agency boundaries. This authority extends to all cities and dependent and independent special districts within each county in the state. Riverside LAFCO and Imperial LAFCO cover Riverside County and Imperial County respectively.

Imperial Irrigation District:

Established by a vote of the people in 1911, IID is one of the nation’s largest irrigation districts, providing water to 520,000 acres of land through over 3,000 miles of canals. IID possesses rights

to 2.6 million acre-feet of water from the Colorado River, which is 60 percent of the 4.4 million acre feet allocated to California. IID entered the electric power business in 1936 in conjunction with the construction of the All-American Canal. IID anticipated that hydroelectric power generated from five falling water drops on the All-American Canal would enable them to set power rates considerably lower than the competition at that time. Congress authorized construction of the All-American Canal to Coachella Valley.

However, in negotiating repayment contracts with the United States, it was necessary that both the water and power rights of IID and the Coachella Valley Water District be determined. According to the terms of a 1934 agreement between Imperial and Coachella, IID was given first rights to water delivered through the All-American Canal and a 99-year lease on any power rights Coachella had on the canal. As rental for power rights, IID agreed to pay Coachella Valley Water District a percentage of the net proceeds from its power system and Coachella in turn authorized IID to provide power service to the Coachella Valley.

Currently, IID's district boundaries encompass all of Imperial County. IID also provides electrical service to parts of San Diego County, as well as the cities of Indio, Coachella, Desert Mirage, La Quinta and a large area and several communities in unincorporated areas in the Coachella Valley, located in Riverside County. IID's energy sales dwarf their water sales by an order of magnitude: in 2019, energy sales revenues totaled \$421 million, compared to \$50 million in water sales. As of 2018, about 239,000, or 55%, of IID's energy customers resided in Riverside County, outside the boundaries of IID, and the Riverside County share of electric customers has grown since.

The Alternative Governance Structures and Alternative Electricity Service Provision Study:

One of the functions authorized for LAFCOs to perform are special studies for review of potential governance and services scenarios for areas where such a study will provide for potential future options available for governance and services to a specific area. Since 1934, under the previously noted services agreement, IID has been providing electrical service to a large area of Riverside County. However, as the actual IID jurisdictional boundaries do not extend into Riverside County, no Riverside County registered voters are eligible to serve on IID's Board of Directors. Over the last several years dating back to 2003, efforts to provide a proportional level of representation by Riverside County customers in the decision-making process via various avenues, including legislative efforts have been unsuccessful.

Assembly Bill 1021 requires Riverside LAFCO and Imperial LAFCO to conduct a joint study and, by July 1, 2022, publish the results of the study on their websites for the two items outlined as follows:

- “Options for providing continued publicly owned and managed electrical service in perpetuity to Imperial Irrigation District electrical service area customers prior to, and after, the expiration of the 99-year lease for power rights made between the Imperial Irrigation District and the Coachella Valley water District in 1934.”

- "Options for alternative governance structures that would extend voting rights to registered voters who reside within the Imperial Irrigation District electrical service area to provide for proportional representation on a governing board that will have primary jurisdiction on all electrical service matters. Any findings shall isolate water rights and management as the sole responsibility of the current Imperial Irrigation District board of directors and shall not affect the water service area boundaries of the Imperial Irrigation District."

III. SCOPE OF SERVICES

A draft Scope of Services is attached with this RFP as Attachment A. A final Scope of Services will be negotiated with the consulting firm selected to conduct the service review and will be included as part of the professional services agreement. Maps depicting the IID service boundaries and electrical services areas are included in Attachment B. A copy of Riverside LAFCO's standard Professional Services Agreement is included as Attachment C. Other relevant information, including links to AB 1021, are included in Section XIV- Reference Information in this RFP.

IV. BUDGET

Proposals that demonstrate that the final product will meet the requirements of this RFP and provide useful information in a concise format at a low cost will be looked upon most favorably. A final budget amount for this project will be negotiated with the firm selected for the work prior to execution of an agreement.

V. SCHEDULE

RFP Issue Date	September 1, 2021
Proposal Due	September 28, 2021
Screening	October 2021
Commission's Consideration of Contract Award	October 28, 2021
Consultant Work Begins (Notice to Proceed)	October 28, 2021
Initial Draft Study Due (Mandatory Date)	Feb 2022
Final Study Due (Mandatory Date)	May 2022
LAFCO Commission Presentations	June 2022
LAFCOs Publish Study	July 1, 2022

The overall schedule is mandatory for completing the Study in time to support the July 1, 2022 date mandated by the state legislature for the study to be finalized for official publication. There

will be no extensions of internal milestones unless significant documentation is provided that any delays were beyond the selected consultant's control.

VI. PROPOSAL REQUIREMENTS

Riverside LAFCO will act as the contracting authority for this project. The award of the contract to the successful proposer and all contractual documents, project invoicing, and payments for services will be processed by Riverside LAFCO. Imperial LAFCO will provide additional oversight of the work along with invoice review in conjunction with Riverside LAFCO.

If there are any questions on this RFP they are to be submitted either electronically or hard copy mail/delivery and received by Riverside LAFCO no later than 14 days prior to proposal submittal due date.

Responses to this RFP must include all the following:

1. A statement about the firm that describes history, as well as the competencies and resumes of the project manager and lead professionals who will be involved in the work. This statement should address the following:
 - Experience in municipal and special district governmental organization, including evaluating government structure options and related advantages and disadvantages of these options.
 - Expertise in electricity service provision, including evaluating service options to be provided by a public utility for an area that loses its electricity service provider, including related advantages and disadvantages of these options.
 - Ability to present information in an organized format, understandable by professionals and laypersons.
 - Ability to facilitate and synthesize input from stakeholders.
 - Familiarity with public input processes and experience presenting and disseminating public information for review and comment in a public setting.
 - Experience in identifying and fostering multi-agency partnerships and cooperative problem-solving.
 - Ability to provide flexible and creative alternatives where necessary to resolve service and policy issues.
 - Ability to work cooperatively with divergent interests.
2. Identification of any sub-consulting firms who will be involved. If sub-consultant firms are proposed, describe the work they will perform and include the same information for each sub-consultant as required for item 1 above.
3. Documentation of similar or related experience accomplished in the last five years and references for a minimum of (3) three such projects, including the contact name, address and telephone number. Electronic copies of, or links to, such analyses must be provided.

4. Description of the anticipated approach for this project, explicitly discussing and identifying any suggested changes to the Scope of Services.
5. Disclosure of potential conflicts of interest with the Imperial Irrigation District or landowners or developers in Riverside and/or Imperial Counties that have an interest in the Study.
6. The anticipated project cost, including:
 - i A not-to-exceed total budget amount.
 - ii The cost and budgeted hours for each Task and major Sub-Task identified in the draft Scope of Services.
 - iii The hourly rates for each person who will be involved in the work, including the rates for any sub-consultants.

VII. Insurance Requirements

The chosen consultant will be required to comply with the Riverside LAFCO standard insurance provisions for professional services agreements.

Evidence of Insurance – Within 15 days after receipt of a Notice to Proceed under the contract, the successful proposer shall furnish the Riverside LAFCO with a Certificate of Insurance (listing Riverside LAFCO and Imperial LAFCO as “additional insured”) and copies of all applicable endorsements evidencing compliance with the above insurance requirements and that such insurance will not be canceled or materially changed without thirty (30) days advance written notice.

<u>Insurance Type</u>	<u>Coverage Limit</u>
General Liability	\$1,000,000
Professional Liability	\$1,000,000
Motor Vehicle Liability	\$1,000,000
Worker’s Compensation	Statutory

VIII. Conflict of Interest

Proposers warrant and covenant that no official or employee of the Riverside LAFCO or Imperial LAFCO, nor any business entity in which an official of the Riverside LAFCO or Imperial LAFCO has an interest, has been employed or retained to solicit or aid in the procuring of the resulting contract, nor that any such person will be employed in the performance of such contract without immediate divulgence of such fact to the Riverside LAFCO and Imperial LAFCO. Proposers will notify Riverside LAFCO and Imperial LAFCO of any potential conflict of interest regarding other work or third-party contracts.

IX. Non-Discrimination & Equal Opportunity

CONTRACTOR shall not discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

X. Proposal Submittal

Confirmation of receipt is the responsibility of the sender. Proposals received after the deadline will not be considered. Responses may be emailed to info@lafco.org or delivered to our office.

DUE DATE: Fully completed responses must be received by 5:00 p.m., September 28, 2021

DELIVER TO:

Riverside LAFCO
Attn: Gary Thompson, Executive Officer
6216 Brockton Av., Suite 111-B
Riverside, CA 92506

Email- info@lafco.org

Note: If delivery is to be in person, please first call the Riverside LAFCO office (951) 369-0631 to arrange a delivery time.

- Each proposal shall be submitted in a sealed envelope that is clearly marked with the title of the RFP. (Unless submitted by email- The email should clearly identify the RFP and Proposal.
- All proposals will become property of the Riverside LAFCO and Imperial LAFCO.
- Cost of preparation of proposals shall be borne by the proposers.
- Proposals shall be signed by an authorized employee or officer of the consulting firm in order to receive consideration.
- Riverside LAFCO and Imperial LAFCO are not responsible for proposals delivered to a person/location other than that specified herein.

XI. Selection Process (Jointly- Riverside LAFCO and Imperial LAFCO)

Based on relevant work experience, the completeness of the responses, cost and the overall project approach identified in the proposals received, up to three (3) firms may be selected for follow-up interviews. Tentatively, interviews will be scheduled within two weeks following submittal of proposals.

The selection committee may use some or all the criteria listed below to evaluate the proposals. Additional criteria may be used. At the discretion of the selection committee, additional information may be requested to clarify and explain proposals.

- Applicability of overall experience and qualifications relating to required services.
- Evaluation of quality and comparability of previous related work products on which the proposer was the sole or lead consultant. Successful recent related experience is highly desirable. Successful experience is defined as that which was completed to the satisfaction of the client, on time and within budget.
- Cost. Proposals that demonstrate that the final product will best meet the requirements outlined in the Scope of Services and provide requisite information and recommendations in a concise format at a low cost will be looked upon favorably. A final budget will be negotiated with the selected firm.

Riverside LAFCO reserves the right to award a contract to the firm(s) that presents the proposal which, in the sole judgment of Riverside LAFCO and Imperial LAFCO, best accomplishes the desired results. Riverside LAFCO and Imperial LAFCO reserves the right to not proceed with the project, to reject any or all proposals, to waive minor irregularities in said proposals, or to negotiate deviations with the successful firm. After the award of the contract, the Riverside LAFCO and Imperial LAFCO, jointly, may revise the work program to meet budget constraints.

XII. Riverside LAFCO and Imperial LAFCO Contacts

Gary Thompson, Executive Officer, Riverside LAFCO
6216 Brockton Avenue St. Suite 111-B
Riverside, CA 92506
(951) 369-0631
Email: info@lafco.org

Jurg Heuberger, Executive Officer, Imperial LAFCO
1122 State St., Ste D
El Centro, CA 92243
(760) 353-4115
jurgh@iclafco.com

XIII. Attachments

- A. Draft Scope of Services
- B. Maps of Study Area Boundaries
- C. Riverside LAFCO Standard Professional Services Agreement

XIV. Reference Information

AB 1021: [Bill Text - AB-1021 Imperial Irrigation District. \(ca.gov\)](#)

For general information about LAFCOs, visit the CALAFCO website: <http://www.calafco.org>

For information about Riverside LAFCO, please visit: <http://www.lafco.org>

For information about Imperial LAFCO, please visit: <http://www.iclafco.com>

For information about Imperial Irrigation District, please visit: <http://www.iid.com>

Attachment A

Scope of Services

Scope of Services

The Study shall review the current conditions relative to the electricity service provision by the Imperial Irrigation District and address two requirements contained in AB 1021 regarding the objectives of the Study:

- “Options for providing continued publicly owned and managed electrical service in perpetuity to Imperial Irrigation District electrical serve area customers prior to, and after, the expiration of the 99-year lease for power rights made between the Imperial Irrigation District and the Coachella Valley water District in 1934.”
- “Options for alternative governance structures that would extend voting rights to registered voters who reside within the Imperial Irrigation District electrical service area to provide for proportional representation on a governing board that will have primary jurisdiction on all electrical service matters. Any findings shall isolate water rights and management as the sole responsibility of the current Imperial Irrigation District board of directors and shall not affect the water service area boundaries of the Imperial Irrigation District.”

Objectives/Expectations of the Consultant

In completing all tasks and work products the consultant recognizes that it is the express desire of Riverside LAFCO and Imperial LAFCO to:

- Comply with the specific requirements of AB 1021 with regard to the Study parameters.
- Conduct the required analyses in the most cost-effective manner possible.
- Utilize information that is currently available rather than initiate new analyses.
- Conduct the analyses in a collaborative fashion with opportunities for input and review by each LAFCO and IID.
- Create a product that will be useful to each LAFCO Commission, the Imperial Irrigation District, Riverside and Imperial Counties, the State Legislature, and the general public in making conclusions and decisions regarding the recommendations and options presented in the Study.
- Have all published work products be readily accessible to, and easily understandable by, the general public.

The consultant is expected to use any and all available information relevant to development of the Study including interviews, surveys, previous research reports, engineering reports, adopted IID budgets and electricity customer(connection) data, and audit reports, etc. Enough data and information should be collected to construct a clear, concise and comprehensive report.

Scope of Work Tasks & Deliverables

TASK 1 – Preparation

- a. Conduct a joint “kick off” meeting by video/audio teleconferencing within 5 days after receipt of the Notice to Proceed to discuss in detail the schedule, data collection, report format, deliverables, and other matters relevant to the project.
- b. Establish direct contact links for information dissemination to each LAFCO.

TASK 2 – Information Collection and Verification

- a. Collect relevant source documents such as applicable state statutes, service area maps, master service plans, agreements, audits, budgets, demographic and electricity connection/customer data, electricity rate data, and other information relevant to completing the Study.
- b. Contact or meet as necessary with the appropriate representative(s) of IID and other relevant agencies to ensure that all necessary information has been collected in a consistent format.
- c. Review and verify data and other information obtained is sufficient to complete the Study.
- d. Notify Riverside LAFCO and Imperial LAFCO immediately of any delays in obtaining requested information and data from any agency contacted.

TASK 3 – Administrative/Agency Draft Study Report

- a. Prepare an Administrative Draft Study Report that includes:
 - i. An Executive Summary that includes background information on the Study, an overview of the two required options to be analyzed, and the different scenarios developed for each option with recommendations for potential implementation.
 - ii. An Analysis section that includes a detailed discussion for each of the scenarios developed for each of the two options required to be studied. This section shall include as a minimum, a matrix delineating the pros and cons and implementation recommendations for each scenario, any applicable maps, tables and graphs, and a general analysis of costs associated with any of the scenarios related to electricity services, including a general rate comparison discussion.
 - iii. A Conclusion and Recommendations section that synthesizes the analysis into an overall recommendation for the most cost effective and efficient implementation scenario for each required option.
- b. Provide one electronic copy each to Riverside LAFCO and Imperial LAFCO for review and distribution to affected public agencies and stakeholders for comment, and meet via video/audio teleconferencing as necessary with key agencies and each LAFCO staff to discuss. As a minimum, assume each LAFCO and IID will require a meeting.

Deliverable- Electronic copy of Administrative Draft Study Report submitted to Riverside LAFCO and Imperial LAFCO for distribution to affected public agencies, for comments.

TASK 4 - Final Study Report

- a. Based on the comments received on the Administrative Draft Study, prepare a Final Study Report including all updated information from Task 3.
- b. Identify status of comments received and adjudication of each comment.
- c. Provide one electronic copy each to Riverside LAFCO and Imperial LAFCO of the Final Study Report for distribution to affected public agencies and stakeholders, and to each respective Commission.
- d. Provide a Presentation of the Final Study Report individually to the IID board of Directors and each LAFCO Commission at a regularly scheduled meeting during June of 2022.

Deliverable- Electronic copy of Final Study Report submitted to Riverside LAFCO and Imperial LAFCO for distribution to public agencies, each LAFCO Commission, and final publication.

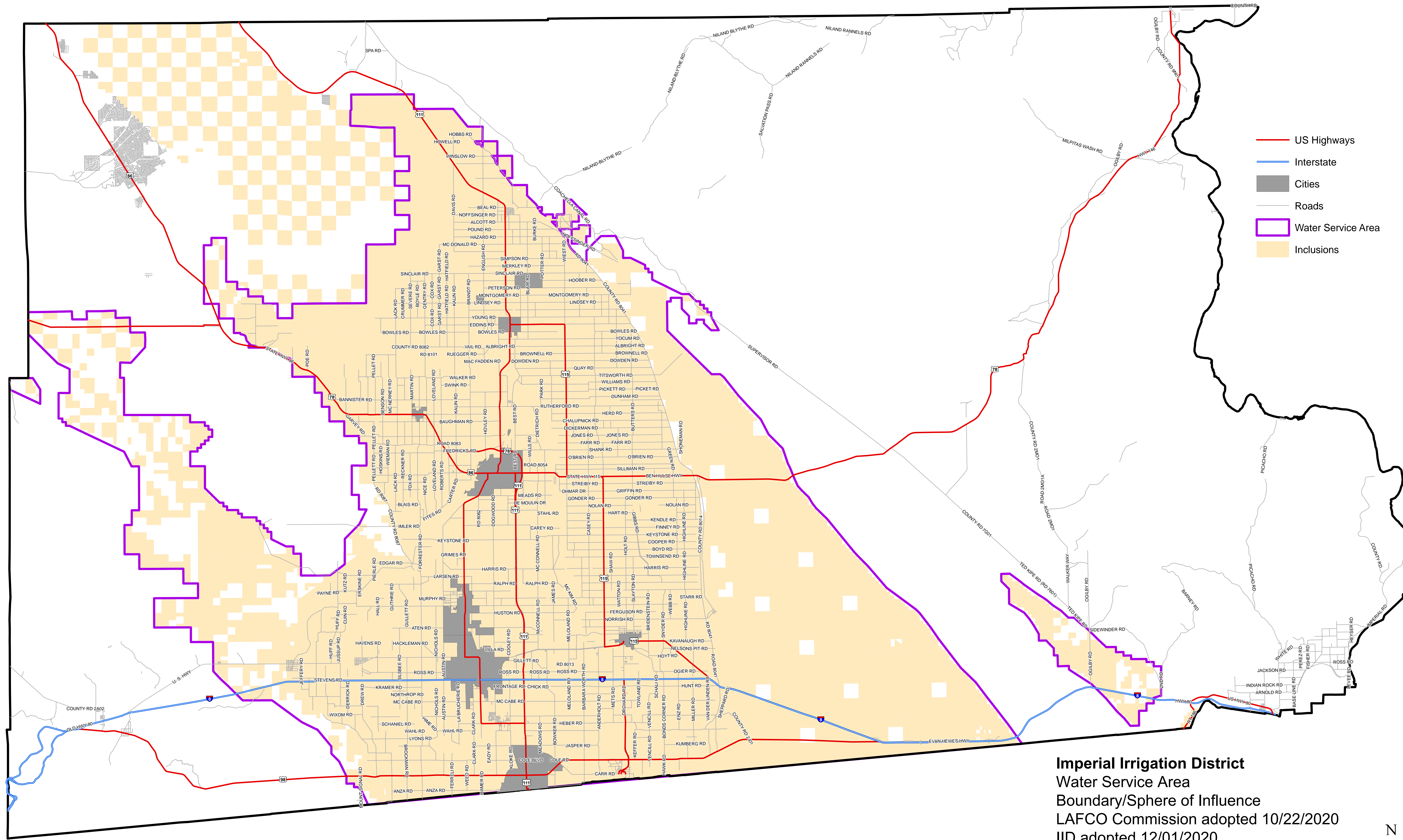
Attachment B

Imperial Irrigation District Boundary Map and Electricity Service Area Maps

Map 1: IID Jurisdictional Boundary Map (Water Service Area)

Map 2: IID Electricity Service Area Map

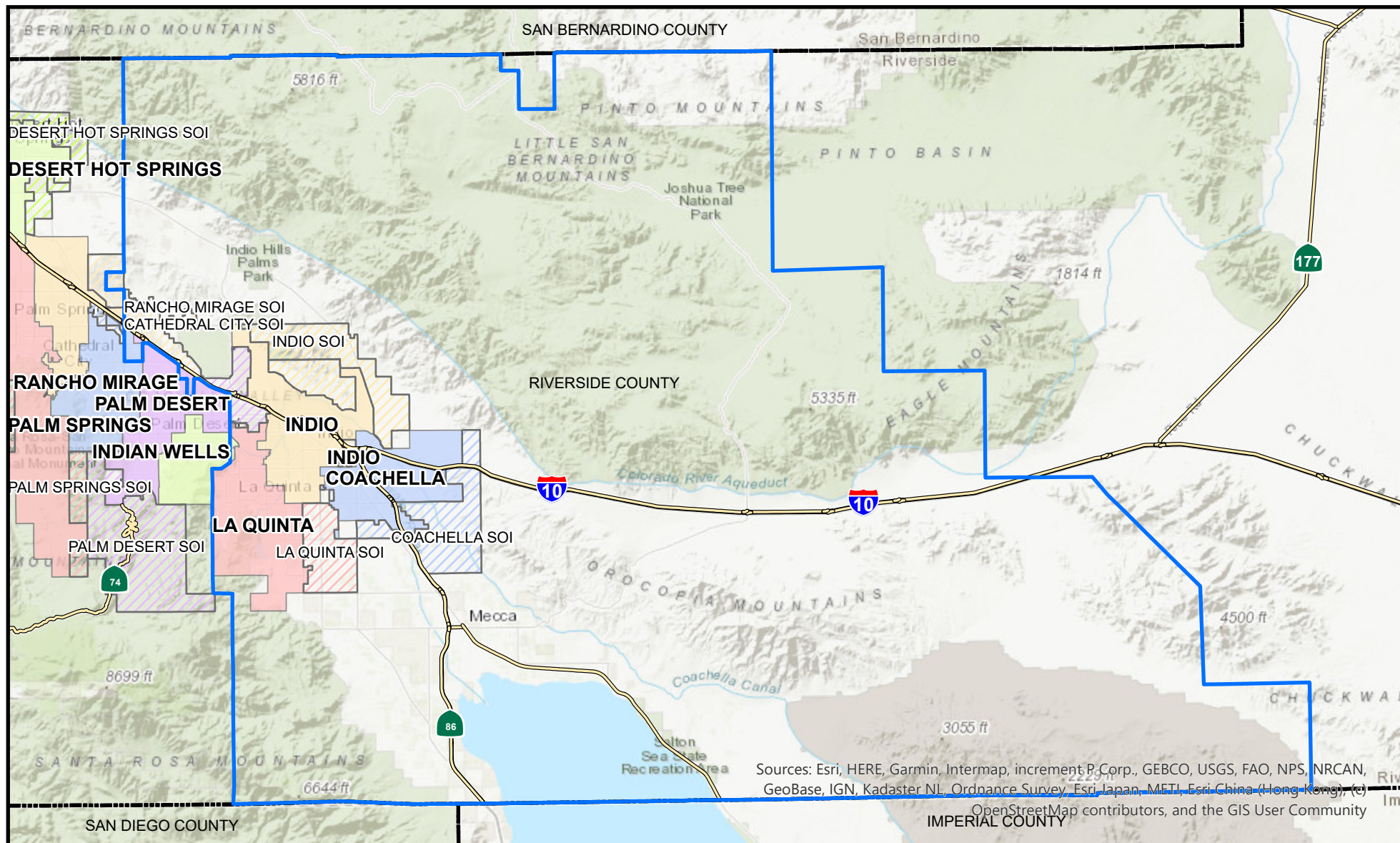
Map 3: IID Electricity Service Area Map (Inside Riverside County)



Imperial Irrigation District
Water Service Area
Boundary/Sphere of Influence
LAFCO Commission adopted 10/22/2020
IID adopted 12/01/2020

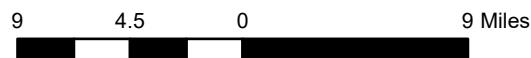
IID Water Service Area and Inclusions

Imperial Irrigation District and Sphere of Influence



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

Data Sources: County of Riverside; District, LAFCO



Disclaimer: The information shown is intended to be used for reference and general display purposes only and is not to be used as an official map.

Electricity only
provided by District

Legend

IID Electrical Service Area Only in Riverside County**

** Electric service only provided by District in SOI area. SOI includes IID's electricity service area.

Commission Reviewed & Confirmed SOI: April 23, 2020

Author: Crystal M. Craig

Map Created on 7/1/20

Attachment C

Riverside LAFCO Standard Professional Services Agreement (PSA)

NOTE- The highlighted areas in the standard PSA will be filled in after selection of the successful contractor.

It is highly recommended that a review of the PSA be conducted and any comments concerning the PSA be provided with the proposal.

Professional Service Agreement between the Riverside Local
Agency Formation Commission and _____

This Agreement, made and entered into this ____ day of _____, 20____, by and
between _____ (herein referred to as "CONTRACTOR"), and the Riverside
Local Agency Formation Commission, a commission created within the County of Riverside by the
provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, set forth
in Government Code section 56000 et seq. (herein referred to as "LAFCO").

WHEREAS, Government Code section 56375 authorizes LAFCO to contract for
professional services with a person who is trained and experienced, and who is competent to perform
the services required so as to carry out and effect the functions of the commission; and

WHEREAS, CONTRACTOR has the expertise, special skills, knowledge and experience to
perform tasks set out herein.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties
hereto agree as follows:

1. Description of Services

1.1 CONTRACTOR, at the request of LAFCO, shall analyze and prepare _____
_____ reports for _____ Services as outlined and
specified in Exhibit _____, consisting of _____ (#) pages, attached hereto and
by this reference incorporated herein.

1.2 CONTRACTOR represents and maintains that it is skilled to perform all services,
duties, and obligations required by this Agreement to fully and adequately complete
the project. CONTRACTOR shall perform the services and duties in conformance
with and consistent with the standards generally recognized as being employed by
professionals in the same discipline in the State of California. CONTRACTOR
further represents and warrants that it has all licenses, permits, qualifications and
approvals of whatever nature that are legally required to practice its
profession/service. CONTRACTOR further represents that it shall keep all such

licenses and approvals in effect during the term of this Agreement. **Contractor is not to perform services for LAFCO outside of this Agreement.**

2. Period of Performance

2.1 Unless terminated as specified in Section 8 TERMINATION, this Agreement shall be effective upon execution and continue in effect through _____. Extension of this Agreement shall require mutual written consent by the CONTRACTOR and LAFCO and shall be considered an amendment to this Agreement to be processed in accordance with Section 10 ALTERATION. CONTRACTOR shall commence performance of the requested services upon notification and shall diligently perform such services.

3. Compensation

3.1 LAFCO shall pay CONTRACTOR for services performed and expenses incurred in accordance with the terms of Exhibit _____ attached hereto. Maximum payments by LAFCO to CONTRACTOR shall not exceed \$_____. LAFCO is not responsible for any fees or costs incurred above or beyond the contracted amount and shall have no obligation to purchase any specified amount of service or products.

3.2 Said compensation shall be paid in accordance with an invoice submitted to LAFCO by CONTRACTOR within fifteen (15) days from the last day of each calendar month, and LAFCO shall pay the invoice within thirty (30) working days from the date of receipt of the invoice. Payments are to be made to _____.

3.3 It is mutually agreed and understood that the obligation of LAFCO is limited by and contingent upon the availability of LAFCO funds for the reimbursement of CONTRACTOR's fees. In the event that such funds are not forthcoming for any reason, LAFCO shall immediately notify CONTRACTOR in writing, and this Agreement shall be deemed terminated and have no further force and effect immediately upon receipt of LAFCO'S notification by CONTRACTOR. In the event of such termination, CONTRACTOR shall be entitled to reimbursement of its costs in accordance with Section 8 TERMINATION.

1 **4. Assignment**

2 CONTRACTOR shall not delegate or assign any interest in this Agreement and shall not
3 transfer any interest in the same, whether by operation of law or otherwise, without the prior written
4 consent of LAFCO.

5 **5. Hold Harmless/Indemnification**

6 **5.1** CONTRACTOR shall indemnify and hold harmless LAFCO, its Commissioners,
7 employees, agents and representatives from any liability whatsoever, based or
8 asserted upon any services of CONTRACTOR, its officers, employees,
9 subcontractors, agents or representatives arising out of or in any way relating to this
10 Agreement, including but not limited to property damage, bodily injury, or death or
11 any other element of any kind or nature whatsoever and resulting from any reason
12 whatsoever arising from the performance of CONTRACTOR, its officers, agents,
13 employees, subcontractors, agents or representatives from this Agreement;
14 CONTRACTOR shall defend and be responsible for, at its sole expense, all costs and
15 fees, including but not limited to attorneys' fees, costs of investigation, defense and
16 settlements or awards in any claim or action based upon such alleged acts or
17 omissions.

18 **5.2** With respect to any action or claim subject to indemnification herein by
19 CONTRACTOR, CONTRACTOR shall, at its sole cost, have the right to use counsel
20 of its own choice and shall have the right to adjust, settle, or compromise any such
21 action or claim without the prior consent of LAFCO; provided, however, that any
22 such adjustment, settlement or compromise in no manner whatsoever limits or
23 circumscribes CONTRACTOR's indemnification to LAFCO as set forth herein.
24 CONTRACTOR's obligation to defend, indemnify and hold harmless LAFCO shall
25 be subject to LAFCO having given CONTRACTOR written notice within a
26 reasonable period of time of the claim or the commencement of the related action, as
27 the case may be, and information and reasonable assistance, at the CONTRACTOR's
28 expense, for the defense or settlement thereof. CONTRACTOR's obligation

hereunder shall be satisfied when CONTRACTOR has provided to LAFCO the appropriate form of dismissal relieving LAFCO from any liability for the action or claim involved. Section 5 shall survive the termination of this Agreement.

5.3 The specified insurance limits required in the Agreement shall in no way limit or circumscribe CONTRACTOR's obligations to indemnify and hold harmless LAFCO herein from third party claims.

6. Waiver of Default

Any waiver by LAFCO of any breach of any one or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term hereof. Failure on the part of LAFCO to require exact, full and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms hereof, or estopping LAFCO from enforcement hereof.

7. Availability of Funding

LAFCO's obligation for payment of any contract beyond the current fiscal year end is contingent upon the availability of funding from which payment can be made. No legal liability on the part of LAFCO shall arise for payment beyond June 30 of the calendar year unless funds are made available for such performance. If funds will not be available, LAFCO shall provide notice to CONTRACTOR as soon as this fact is known.

8. Termination

8.1 LAFCO may terminate this Agreement without cause upon 30 days' written notice served upon CONTRACTOR stating the extent and effective date of termination.

8.2 LAFCO may, upon five (5) days' written notice, terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the provisions of this Agreement or fails to make progress so as to endanger performance and does not cure such failure within a reasonable period of time. In the event of such termination, LAFCO may proceed with the work in any manner deemed proper to LAFCO.

1 **8.3** After receipt of the Notice of Termination pursuant to paragraph 8.1 or 8.2 above,
2 CONTRACTOR shall:

3 a.) Stop all work under this Agreement on the date specified in the Notice of
4 Termination.

5 b.) Transfer to LAFCO and deliver in the manner, and to the extent, if any, as
6 directed by LAFCO, any equipment, information, data or reports which, if the
7 Agreement had been completed, would have been required to be furnished to
8 LAFCO;

9 **8.4** After termination pursuant to paragraph 8.1 or 8.2 above, LAFCO shall make
10 payment for all services performed in accordance with this Agreement as of the date
11 of termination, a total amount which bears the same ratio to the total maximum fee
12 otherwise payable under this Agreement as the services actually bear to the total
13 services necessary for performance of this Agreement.

14 **8.5** Notwithstanding any of the provisions of this Agreement, CONTRACTOR's rights
15 under this Agreement shall terminate (except for fees accrued prior to the date of
16 termination) upon dishonesty, a willful or material breach of this Agreement by
17 CONTRACTOR, or in the event of CONTRACTOR's unwillingness or inability for
18 any reason whatsoever to perform the duties hereunder. In such event,
19 CONTRACTOR shall not be entitled to any further compensation under this
20 Agreement.

21 **8.6** The rights and remedies of LAFCO provided in this section shall not be exclusive
22 and are in addition to any other rights and remedies provided by law or under this
23 Agreement.

24 **9. Disputes**

25 Except as otherwise provided in this Agreement, any dispute concerning a question of fact
26 arising under this Agreement which is not disposed of by agreement shall be decided by the
27 Executive Officer, who shall furnish the decision in writing. The decision of the Executive Officer
28 shall be final and conclusive unless determined by a court of competent jurisdiction to have been

1 fraudulent or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith.
2 CONTRACTOR shall proceed diligently with the performance of the Agreement pending the
3 Executive Officer's decision.

4 **10. Alteration**

5 Modifications or changes to the scope of work or this Agreement may only be made by
6 written amendment to this Agreement signed by either the LAFCO Chair or the Executive Officer
7 and CONTRACTOR.

8 **11. Independent Contractor**

9 **11.1** CONTRACTOR is, for purposes arising out of this Agreement, an independent
10 contractor and shall not be deemed an employee of LAFCO. It is expressly
11 understood and agreed that CONTRACTOR shall in no event, as a result of this
12 Agreement, be entitled to any benefits to which LAFCO employees are entitled,
13 including but not limited to overtime, any retirement benefits, worker's compensation
14 benefits, and injury leave or other leave benefits. CONTRACTOR hereby holds
15 LAFCO harmless from any and all claims that may be made against LAFCO based
16 upon any contention by any third party that an employer-employee relationship exists
17 by reason of this Agreement.

18 **11.2** It is further understood and agreed by the parties hereto that CONTRACTOR, in the
19 performance of its obligations hereunder, is subject to the control or direction of
20 LAFCO merely as to the result to be accomplished by the services hereunder agreed
21 to be rendered and performed and not as to the means and methods for accomplishing
22 the results.

23 **11.3** CONTRACTOR shall provide and maintain, throughout the term of this Agreement,
24 CONTRACTOR's own workplace, tools, equipment, and supplies necessary to
25 perform the duties set forth under this Agreement. Notwithstanding the foregoing,
26 LAFCO may, in its sole discretion, and with its prior written consent, provide access
27 to LAFCO facilities, offices, or meeting rooms during regular work hours for
28 meetings, conferences, or other work of CONTRACTOR.

1 **11.4** CONTRACTOR has the right to perform services for other clients during the term
2 of this Agreement as long as such services are not in direct conflict with the services
3 provided to LAFCO.

4 **12. Subcontract for Work or Services**

5 No Agreement shall be made by CONTRACTOR with any party for furnishing any of the
6 work or services herein contained without the prior written approval of the Executive Officer, but
7 this provision shall not require the approval of contracts of employment between CONTRACTOR
8 and personnel assigned for services thereunder, or for parties named in the proposal and agreed to
9 under any resulting contract. The following individuals are acknowledged as subcontractors to
10 _____ for this project: _____.

11 **13. Interest of Contractor**

12 CONTRACTOR covenants that it presently has no interest in, including but not limited to,
13 other projects, and independent contracts, and shall not acquire any such interest, direct or indirect,
14 which would conflict in any manner or degree with the performance of services required to be
15 performed under this Agreement. CONTRACTOR further covenants that in the performance of this
16 Agreement, no person having any such interest shall be employed or retained by it.

17 **14. Conduct of Contractor**

18 **14.1** CONTRACTOR agrees to inform LAFCO of all CONTRACTOR's and
19 subcontractors' interest(s), if any, which are or which CONTRACTOR believes to
20 be incompatible with any interest of LAFCO.

21 **14.2** CONTRACTOR and subcontractors shall not act, under any circumstances, in a
22 manner that might reasonably be interpreted as an attempt to influence the recipient
23 in the conduct of its duties, or accept any gratuity or special favor from individuals
24 or organizations with whom CONTRACTOR or subcontractors are doing business
25 or proposing to do business, in accomplishing the work under the Agreement.

26 **14.3** CONTRACTOR, subcontractors or employees thereof shall not offer gifts, gratuity,
27 favors and/or entertainment directly or indirectly to LAFCO employees.

28 //

1 **15. Disallowance**

2 In the event CONTRACTOR receives payment for services under this Agreement that is
3 later disallowed by LAFCO for nonconformance with the terms and conditions herein, and LAFCO
4 provides written notice to CONTRACTOR of same, CONTRACTOR shall promptly refund the
5 disallowed amount to LAFCO on request, or at its option, LAFCO may offset the amount disallowed
6 from any payment due to CONTRACTOR under any agreement with LAFCO.

7 **16. Governing Law; Jurisdiction; Severability**

8 This Agreement and its construction and interpretation as to validity, performance and
9 breach shall be construed under the laws of the State of California. Any legal action related to this
10 Agreement shall be filed in the Superior Court of the State of California located in Riverside,
11 California. In the event any provision in this Agreement is held by a court of competent jurisdiction
12 to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full
13 force without being impaired or invalidated in any way.

14 **17. Insurance**

15 Without limiting or diminishing CONTRACTOR's obligation to indemnify or hold LAFCO
16 harmless, CONTRACTOR shall procure and maintain or cause to be maintained, at its sole cost and
17 expense, the following insurance coverages during the term of this Agreement.

18 **17.1 Workers' Compensation**

19 If CONTRACTOR has employees as defined by the State of California,
20 CONTRACTOR shall maintain statutory Workers' Compensation Insurance
21 (Coverage A) as prescribed by the laws of the State of California. Policy shall include
22 Employers' Liability (Coverage B) including Occupational Disease with limits not
23 less than one million dollars (\$1,000,000) per person per accident. The policy shall
24 be endorsed to waive subrogation in favor of LAFCO, and, if applicable, to provide
25 a Borrowed Servant/Alternate Employer Endorsement.

26 **17.2 Commercial General Liability**

27 CONTRACTOR shall procure and maintain Commercial General Liability insurance
28 coverage, including but not limited to, premises liability, contractual liability,

products and completed operations liability, personal and advertising injury covering claims which may arise from or out of CONTRACTOR's performance of its obligations hereunder. Policy shall name LAFCO and all its commissioners, employees, agents or representatives as Additional Insureds. Policy's limit of liability shall not be less than one million dollars (\$1,000,000) per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the occurrence limit.

17.3 Vehicle Liability

If CONTRACTOR's vehicle or mobile equipment are used in the performance of the obligations under this Agreement, then CONTRACTOR shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than one million dollars (\$1,000,000) per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the occurrence limit. Policy shall name LAFCO and all its commissioners, employees, agents or representatives as Additional Insureds.

17.4 Professional Liability Insurance

CONTRACTOR shall maintain Professional Liability Insurance providing coverage for CONTRACTOR's performance of work included within this Agreement, with a limit of liability of not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) annual aggregate. If CONTRACTOR's Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of this Agreement and CONTRACTOR shall purchase at its sole expense either 1) an Extended Reporting Endorsement (also known as Tail Coverage); or 2) Prior Dates Coverage from new insurer with a retroactive date back to the date of, or prior to, the inception of this Agreement; or 3) demonstrate through Certificates of Insurance that

CONTRACTOR has maintained continuous coverage with the same or original insurer. Coverage provided under items 1), 2) or 3) shall continue for a period of three (3) years beyond the termination of this Agreement, if available.

17.5 General Insurance Provisions – All Lines

17.5.1 Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an AM BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by the LAFCO Risk Manager. If the LAFCO Risk Manager waives a requirement for a particular insurer, such waiver is only valid for that specific insurer and only for one policy term.

17.5.2 CONTRACTOR's insurance carrier(s) must declare its insurance deductibles or self-insured retentions. If such deductibles or self-insured retentions exceed five hundred thousand dollars (\$500,000) per occurrence, such deductibles and/or retentions shall have the prior written consent of the LAFCO Risk Manager before the commencement of operations under this Agreement. Upon notification of deductibles or self-insured retentions unacceptable to LAFCO, and at the election of the LAFCO Risk Manager, CONTRACTOR's carriers shall either; 1) reduce or eliminate such deductibles or self-insured retentions with respect to this Agreement with LAFCO, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

17.5.3 CONTRACTOR shall cause CONTRACTOR's insurance carrier(s) to furnish LAFCO with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, or 2) if requested to do so orally or in writing by the LAFCO Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall

1 contain the covenant of the insurance carrier(s) that thirty (30) days' written
2 notice shall be given to LAFCO prior to any material modification, cancellation,
3 expiration or reduction in coverage of such insurance. In the event of a material
4 modification, cancellation, expiration, or reduction in coverage, this Agreement
5 shall terminate forthwith, unless LAFCO receives, prior to such effective date,
6 another properly executed original Certificate of Insurance and original copies
7 of endorsements or certified original policies, including all endorsements and
8 attachments thereto evidencing coverage's set forth herein, and the insurance
9 required herein is in full force and effect. ***CONTRACTOR shall not commence***
10 ***operations until LAFCO has been furnished original Certificate(s) of***
11 ***Insurance and certified original copies of endorsements or policies of***
12 ***insurance including all endorsements and any and all other attachments as***
13 ***required in this Section. An individual authorized by the insurance carrier to***
14 ***do so on its behalf shall sign the original endorsements for each policy and***
15 ***the Certificate of Insurance.***

16 **17.5.4** It is understood and agreed to by the parties hereto and the insurance company(s)
17 that CONTRACTOR's Certificate(s) of Insurance and policies shall so covenant
18 and shall be construed as primary insurance, and LAFCO'S insurance and/or
19 deductibles and/or self-insured retentions or self-insured programs shall not be
20 construed as contributory.

21 **17.5.5** LAFCO'S Reserved Rights-Insurance. If, during the term of this Agreement or
22 any extension thereof, there is a material change in the scope of services,
23 LAFCO reserves the right to adjust the types of insurance required under this
24 Agreement and the monetary limits of liability for the insurance coverage
25 currently required herein, if, in the LAFCO Risk Manager's reasonable
26 judgment, the amount or type of insurance carried by CONTRACTOR has
27 become inadequate.

28 **17.5.6** CONTRACTOR shall pass down the insurance obligations contained herein to

all tiers of subcontractors working under this Agreement.

17.5.7 The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to LAFCO.

18 Licensing and Permits

18.1 All offerors and contractors shall be licensed, if required, in accordance with the laws of this State and any offeror or contractor not so licensed is subject to the penalties imposed by such laws.

18.2 CONTRACTOR further warrants that it has all necessary permits, approvals, certificates, waivers and exemptions necessary for the provision of services hereunder and required by the laws and regulations of the United States, State of California, the County of Riverside and all other appropriate governmental agencies, and shall maintain these throughout the term of this Agreement.

19 Contractor's Responsibility

19.1 It is understood that CONTRACTOR has the skills, experience and knowledge necessary to perform the services agreed to be performed under this Agreement, and that LAFCO relies upon CONTRACTOR's representations about its skills, experience and knowledge to perform CONTRACTOR's services in a competent manner. Acceptance by LAFCO of the services to be performed under this Agreement does not operate as a release of said CONTRACTOR from responsibility for the work performed.

19.2 It is further understood and agreed that CONTRACTOR is apprised of the scope of the work to be performed under this Agreement, and CONTRACTOR agrees that said work can and shall be performed in a fully competent manner.

20 Conflict of Interest

CONTRACTOR shall have no interest, and shall not acquire any interest, direct or indirect, which will conflict in any manner or degree with the performance of services required under this Agreement.

//

1 **21 Non-Discrimination**

2 CONTRACTOR shall not discriminate in the provision of services, allocation of benefits,
3 accommodation in facilities, or employment of personnel on the basis of ethnic group identification,
4 race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital
5 status or sex in the performance of this Agreement, and, to the extent they are found to be applicable
6 hereto, shall comply with the provisions of the California Fair Employment Practices Act
7 (commending with Section 1410 of the Labor Code), the Federal Civil Rights Act of 1964 (P.L. 88-
8 352), the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.), and all other
9 applicable laws and regulations.

10 **22 Assurances**

11 CONTRACTOR will comply with LAFCO policies and procedures where applicable. In
12 the event that the policies and procedures promulgated by LAFCO are more restrictive than, but not
13 in conflict with, Federal or State policies and procedures, those issued by LAFCO will prevail.

14 **23 Records and Documents**

15 CONTRACTOR shall make available, upon written request by LAFCO and any duly
16 authorized Federal, State or County agency, a copy of this Agreement and such books, documents
17 and records as are necessary to certify the nature and extent of the costs of the services provided by
18 CONTRACTOR. All such books and records shall be maintained by CONTRACTOR for at least
19 five (5) years from the termination of this Agreement and be available for audit by LAFCO.
20 CONTRACTOR shall provide LAFCO with reports and information relative to this Agreement and
21 in accordance with terms set forth herein, as requested by LAFCO. All work papers prepared by
22 CONTRACTOR shall remain the property of CONTRACTOR.

23 **24 Confidentiality**

24 CONTRACTOR shall protect from unauthorized disclosure names and other identifying
25 information concerning persons receiving services pursuant to this Agreement, except for statistical
26 information not identifying any client. CONTRACTOR shall not use such information for any
27 purpose other than carrying out CONTRACTOR's obligations under this Agreement.
28 CONTRACTOR shall promptly transmit to LAFCO all requests for disclosure of such information

1 not emanating from the client. CONTRACTOR shall not disclose, except as otherwise specifically
2 permitted by this Agreement or authorized by the client, any such information to anyone other than
3 LAFCO. For purposes of this paragraph, identity shall include, but not be limited to, name,
4 identifying number, symbol, or other identifying particular assigned to the individual, such as
5 fingerprint or voiceprint or a photograph. CONTRACTOR in this Agreement is subject to all
6 relevant requirements contained in the Health Insurance Portability and Accountability Act of 1996
7 (HIPAA), Public Law 104-191, enacted August 21, 1996, and the laws and regulations promulgated
8 subsequent thereto. CONTRACTOR hereto agrees to cooperate in accordance with the terms and
9 intent of this Agreement for implementation of relevant law(s) and/or regulations(s) promulgated
10 under this Law. CONTRACTOR further agrees that it shall be in compliance, and shall remain in
11 compliance with the requirements of HIPAA, and the laws and regulations promulgated subsequent
12 hereto, as may be amended from time to time.

13 **25 Administration/Contract Liaison**

14 The Executive Officer, or designee, shall administer this Agreement on behalf of LAFCO.

15 **26 Notices**

16 All correspondence and notices required or contemplated by this Agreement shall be
17 delivered to the respective parties at the addresses set forth below and are deemed submitted one (1)
18 day after their deposit in the United States mail, postage prepaid:

19
20 Riverside Local Agency Formation Commission

(Consultant)

21 Attn: _____, Executive Officer

22 6216 Brockton Avenue, Suite 111-B

23 Riverside, CA 92506

24
25 **27 Force Majeure**

26 **27.1** In the event CONTRACTOR is unable to comply with any provision of this
27 Agreement due to causes beyond its control, such as acts of God, acts of war, civil
28 disorders, or other similar acts, CONTRACTOR shall not be held liable to LAFCO

for such failure to comply.

27.2 In the event LAFCO is unable to comply with any provision of this Agreement due to causes beyond its control relating to acts of God, acts of war, civil disorders, or other similar acts, LAFCO shall not be held liable to CONTRACTOR for such failure to comply.

28 Mutual Cooperation

LAFCO agrees to cooperate with CONTRACTOR in CONTRACTOR's performance of services for LAFCO under this Agreement, including providing CONTRACTOR with reasonable facilities and timely access to LAFCO data, information and personnel. LAFCO shall be responsible for the performance of its employees and agents and for the accuracy and completeness of all data and information provided to CONTRACTOR.

29 EDD Reporting Requirements

In order to comply with child support enforcement requirements of the State of California, LAFCO may be required to submit a Report of Independent Contractor(s) form **DE 542** to the Employment Development Department.

It is expressly understood that this data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders and for no other purposes and will be held confidential by those agencies. Failure of CONTRACTOR to timely submit the data and/or certificates required may result in contract being awarded to another contractor. In the event a contract has been issued, failure of CONTRACTOR to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignments Orders and Notices of Assignment shall constitute a material breach of the Agreement. Failure to cure such breach within sixty (60) calendar days' notice from LAFCO shall constitute grounds for termination of the Agreement.

If you have any questions concerning this reporting requirement, please call (916) 657-0529. You may also contact your local Employment Tax Customer Service Office listed in your telephone directory in the State Government section under "Employment Development Department," or you may access its internet site at www.edd.ca.gov.

1 **30 Entire Agreement**

2 This Agreement, including any Exhibits attached hereto and Scope(s) of Work entered into
3 pursuant to it, constitutes the entire Agreement of the parties hereto with respect to its subject matter
4 and supersedes all prior and contemporaneous representations, proposals, discussions and
5 communications, whether oral or in writing. This Agreement may be modified only in writing and
6 shall be enforceable in accordance with its terms when signed by each of the parties hereto.

7
8 IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to
9 execute this Agreement.

10
11 LAFCO

(Consultant)

12 Riverside Local Agency Formation Commission

13
14
15 _____
16 Print Name:

Print Name:

17 Title:

Title:

18 Date:

Date:

19 //

20 //

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