

DATE: September 21, 2017

TO: Watershed Conservation Authority Governing Board

FROM: Joseph Gonzalez, Project Manager

THROUGH: Mark Stanley, Executive Officer

SUBJECT: Item 20: Consideration of a resolution to 1) Approve an Engagement and Fee Agreement with the Law Office of Sima Salek to provide legal counsel to the Watershed Conservation Authority to cover services rendered in conjunction with the Labor Compliance Program; and 2) Establish a Labor Compliance Program.

RECOMMENDATION: That the Watershed Conservation Authority (WCA) Governing Board 1) Approve an engagement and fee agreement with the Law Office of Sima Salek to provide legal counsel to the Watershed Conservation Authority to cover services rendered in conjunction with the Labor Compliance Program; and 2) Establish a state-approved Labor Compliance Program upon approval from the State of California, Department of Industrial Relations (DIR).

PROJECT DESCRIPTION: Labor Compliance Programs (LCPs) are entities which are approved by the Director of Industrial Relations (DIR) to monitor and enforce compliance with state prevailing wage laws on public works projects. While the WCA is required to comply with California Labor Laws and regulations pertaining to payment of prevailing wages on all public works projects, only one state statute, Public Resource Code section 75075, requires an Agency to have an approved LCP (pursuant to subdivision (b) of Labor Code Section 1771.5) for any project funded in whole or in part by Proposition 84 (Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006). WCA has at least one project, the Duck Farm Riverfront Park, going into construction in 2018 that is using Prop 84 funding, and therefore WCA is required to establish a LCP.

One of the steps in the procedures to implement Labor Code Section 1771.5 is the adoption by the governing body of the WCA of a resolution to establish and implement a state-approved LCP upon approval from the State of California, DIR. Additionally, Title 8, California Code of Regulations section 16425, requires submission of evidence in the application that the Agency has the capacity and can operate an effective LCP with skilled staff, a detailed enforcement manual, and competent legal support.

The WCA will submit a LCP application, manual, and Board resolution establishing the LCP to DIR for them to evaluate under section 16425 of Title 8 of the California Code of Regulations. Ordinarily DIR decides to approve or deny the application within 60 days. Before denying an application, DIR usually gives the opportunity to correct any problems that may stand in the way of approval.

BACKGROUND: California Labor Code sections 1720 and 1771 define public works as work done under contract and paid for in whole or in part out of public funds that involves one or more of the following: construction, alteration, demolition, installation, repair work or maintenance work. Prevailing wages are

specific, minimum hourly wage rates determined by State or Federal government for trade workers on public works projects and include fringe benefit amounts for health insurance, vacation and pension.

LCPs are required, among other things, to inform contractors about their prevailing wage obligations, monitor compliance by obtaining and reviewing certified payroll reports, corroborate reported information from time to time, investigate complaints and other suspected violations, and take appropriate enforcement action when violations are found. Only a few state statutes, including those under Propositions 50 and 84, require Agencies or awarding bodies to establish and enforce a LCP with respect to certain public works projects. Prevailing wages must be paid on any public works project over \$1,000. However, if a LCP is established, the \$1,000 threshold rises to \$25,000 for construction work and \$15,000 for maintenance, repair, demolition or alteration work.

The implementation of a LCP requires the utilization of trained personnel which may be accomplished with in-house staff, a 3rd party consultant or a combination of both to monitor and enforce prevailing wage requirements. Implementing an established and state-approved LCP fulfills WCA's prevailing wage obligations under Propositions 50 and 84, as well as, modifies public works thresholds whereby construction contracts under \$25,000 and maintenance contracts under \$15,000 will not be subject to prevailing wages. It should be noted here that public work performed by California Conservation Corps and/or State certified local Conservation Corps are exempt from prevailing wages and by extension labor compliance monitoring.

To achieve a DIR-approved LCP, WCA must submit a completed DIR LCP Application (Exhibit A), a Labor Compliance Program Manual, and a resolution of the Governing Board's establishment of the program and its implementation once the Programs approved by DIR.

DIR's review and approval process to approve or deny an application is generally completed within 60 days of receipt of application and supporting documents. Once the LCP is approved by DIR, WCA can move forward with bid and award of public works jobs and the assignment of in-house and/or contracting with 3rd party consultants, by a firm or individual, to implement and enforce the LCP on a project by project basis.

As noted above, the LCP application requires: 1) identification of skilled staff, 2) a detailed labor compliance enforcement manual, 3) competent legal support, and 4) a Board Resolution from the Agency establishing the LCP.

1. Identification of skilled staff: An outline of the administrative activities of a Labor Compliance Officer (LCO) or administrator is provided as Exhibit B, and provides a basic scope of work for implementing the LCP. The LCO role can be fulfilled by in-house staff and/or a 3rd party labor compliance consultant/firm. WCA has requested and received three preliminary proposals from firms offering LCP implementation services for the Duck Farm, ranging in cost from \$27,364 to \$56,897—see table below. Staff is also exploring the option of a part-time project hire through a 1099 contract as the LCO to implement the program for Duck Farm and train staff to become skilled labor compliance officers/monitors to independently implement the program in the future.

Labor Compliance Firm/Individual	Estimate (\$)
The Solis Group (TSG)	\$27,364
GCAP	\$56,897
Hill International	\$52,387

LCO (1099 contract; 12 month - estimated Level of Service)	\$20,800
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Any future award of an LCP 3rd party consultant to implement the LCP will be brought before the Board for approval as warranted, in support of funded construction projects and prevailing wage compliance requirements.

2. Detailed Labor Compliance Enforcement Manual: The LCP enforcement manual must cover the responsibilities of the LCP and all of the necessary monitoring and enforcement procedures. It must cover the applicable sections of the California Labor Code as well as Title 8 regulations that govern public works requirements and LCPs. It also includes forms, procedures, and other guidelines that will be used by the LCP.

The manual being considered for adoption was provided by a labor compliance consultant (TSG), and has been reviewed to ensure that it is accurate and up to date. The LCP manual is 168 pages, and in lieu of attaching this document due to its size, it has been posted to the WCA's website and may be accessed as a PDF with the September Board Reports, and is summarized below.

The LCP Manual outlines the labor compliance standards required by State and Federal laws, regulations, and directives, as well as WCA policies and contract provisions, which include, but are not limited to, the following:

- a. Contractors' payment of applicable general prevailing wage rates.
- b. Contractors' employment of properly registered apprentices.
- c. Contractors' providing certified payroll records upon request but not less than weekly.
- d. Program's monitoring WCA construction sites for the verification of proper payments of prevailing wage rates and work classification.
- e. Program's conducting pre-job conferences with contractors/subcontractors.
- f. Program's withholding contract payments and imposing penalties for noncompliance.
- g. Program's preparation and submittal of annual reports.

Once established and approved, the LCP will be applicable to all public works projects which are funded under Public Resources Code Section 75075 and, in particular, to any projects funded in whole or in part by Prop 84 and/or Prop 50 (that is if costs exceed a certain threshold and/or the prime consultant is not a certified local Conservation Corps).

3. Competent Legal Support: DIR requires that an approved Agency must have legal support available through an attorney who is familiar with public works laws and enforcement procedures. Submittal of the LCP application will be subject to the identification of experienced legal counsel to provide legal support for the LCP, including the responsibilities of the administrative review and to represent the awarding body in any prevailing wage hearing conducted pursuant to Labor Code Section 1742(b).

WCA requested and received an Engagement and Fee Agreement Letter from the Law Office of Sima Salek, an experienced Attorney at Law dealing with labor code issues (Exhibit C). The Attorney will need to be approved by the DIR prior to LCP approval and will be working under the agreement on as needed basis to coordinate and support the WCA on the project for labor compliance issues—either as lead Attorney or as legal support to in-house counsel.

4. WCA Board Resolution establishing the LCP: One of the steps in the procedures to establish the LCP is the adoption by the governing body of the WCA of a resolution to establish and implement a state-approved LCP upon approval from the State of California, DIR.

Staff recommends the Governing Board of the WCA 1) Approve an Engagement and Fee Agreement with the Law Office of Sima Salek to provide legal counsel to the Watershed Conservation Authority to cover services rendered in conjunction with the Labor Compliance Program; and 2) establish a Labor Compliance Program, and the implementation of the LCP upon its approval by the Department of Industrial Relations.

FISCAL INFORMATION: There is no fiscal impact associated with the recommended action for establishing the LCP. Implementation of the LCP will be funded on a project by project basis and as part of the project budget, and thus will have no fiscal impact to Authority's annual fiscal operating budget.

**Suggested format of
Application to Director for Approval of Awarding Body's Labor Compliance Program
(8 CCR §16425)**

NOTE: If necessary, you may attach additional sheets.

The Director may ask for additional documentation as to any information provided or any other information that may have a bearing on your ability to do labor compliance enforcement.

Awarding Body Seeking Approval:

Watershed Conservation Authority
100 N Old San Gabriel Canyon Rd
Azusa, CA 91702

Awarding Body's Contact Person:

Debbie Enos
Supervising Project Manager
Watershed Conservation Authority
100 N Old San Gabriel Canyon Rd
Azusa, CA 91702
(626) 815-1019
denos@wca.ca.gov

- A. Identify the individuals who will be enforcing the Labor Compliance Program (LCP).
(Note: If using outside consultants or an approved third party contract provider, identify the awarding body personnel who will monitor or supervise the outside work as well as the individuals and affiliations of the individuals who will perform the enforcement work.)
1. Debbie Enos, Supervising Project Manager, WCA
Experience/training on public works/labor compliance issues (Please provide specific dates, details and examples of public works prevailing wage rate enforcement activities, including whether such experience involve federal, state, or local law. In addition, please include private sector experience on behalf of unions or contractors or on a joint labor management committee pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. section 175a). Furthermore, please include participation in any public works enforcement training provided by the Division of Labor Standards Enforcement (DLSE)):

As a former Construction and Project Manager, Ms. Enos has extensive experience managing both private and public construction projects, where among other matters, prevailing wage requirements are discussed with contractors and applicable prevailing wage determinations are provided and discussed. On public works projects, Ms. Enos possesses knowledge and practical experience interpreting and applying the language governing provisions for construction trades and classifications. Ms. Enos has received and filed certified payroll documents to DIR on previous projects.

- Walt Disney Imagineering, Construction/Project Manager, 1995-2001
- Landscape Contractor/Owner, 2001-2006
- Mountains Recreation and Conservation Authority, Project Manager, 2008-2010

- Watershed Conservation Authority, Project Manager, 2010-2013
- Watershed Conservation Authority, Deputy Executive Officer, 2013-current

LCP duties and responsibilities to be performed including percentage of time to be devoted to LCP work:

- Management and oversight of LCP Operations and Project Management
- Ensure that the provisions of the LCP requirements and the payment of prevailing rates are actively enforced.

3-5% (time dedicated to LCP work may increase over time)

2. Joseph Gonzalez, Associate Project Manager, WCA

Experience/training on public works/labor compliance issues (Please provide specific dates, details and examples of public works prevailing wage rate enforcement activities, including whether such experience involve federal, state, or local law. In addition, please include private sector experience on behalf of unions or contractors or on a joint labor management committee pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. section 175a). Furthermore, please include participation in any public works enforcement training provided by the Division of Labor Standards Enforcement (DLSE)):

Mr. Gonzalez has field experience overseeing contractors and volunteers on-site as a site administrator, including scheduling and managing work on-site and logging and filing of certified payrolls, having previously served as an assistant construction manager.

- Habitat for Humanity, Riverside, Assistant Construction Manager, built 10 homes (with local [CBG] and private funds), 2014-2015

LCP Duties/Responsibilities:

Oversee and assist Labor Compliance Program staff as well as assist with responsibilities of Labor Compliance Officer (whether in-house or consultant), as necessary.

Percentage of Time Devoted to LCP Work:

5-10%

3. Elizabeth Solís, Assistant Vice President of Operations

Experience/training on public works/labor compliance issues (Please provide specific dates, details and examples of public works prevailing wage rate enforcement activities, including whether such experience involve federal, state, or local law. In addition, please include private sector experience on behalf of unions or contractors or on a joint labor management committee pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. section 175a). Furthermore, please include participation in any public works enforcement training provided by the Division of Labor Standards Enforcement (DLSE)):

Elizabeth Solís of The Solís Group has 20 years of experience administering and monitoring Labor Compliance Programs on public works projects of all sizes. She has overseen the compliance and prevailing wage enforcement in over \$5 Billion worth of construction projects, including other Proposition 84 Grant Funded Projects. Ms. Solís has overseen and assessed over \$2 Million worth of underpayments and associated penalties to unruly contractors for violations of the California Labor Code and Davis-Bacon Federal Law. Her prevailing wage enforcement experience involves federal Davis-Bacon and state law. She manages a team who

has participated in DIR and DLSE trainings and has provided prevailing wage compliance trainings to labor/building trade representatives throughout California. She has served as a project manager for clients including the Los Angeles Department of Public Works, Long Beach Courthouse Design-Build Project, City of Garden Grove, Long Beach Community College District, Orange County Department of Education, Water Replenishment District of Southern California, West Hills Community College, as well as school districts throughout Los Angeles, Orange, and Riverside Counties in addition to other agencies in Central and Northern California.

LCP duties and responsibilities to be performed including percentage of time to be devoted to LCP work:

LCP Duties/Responsibilities:

- Serve as technical advisor to the Watershed Conservation Authority team;
- Management and oversight of TSG's Operations, Project Management, and Labor Compliance Analyst team;
- Ensuring all staff are adhering to the Watershed Conservation Authority's Labor Compliance Policies and Procedures Manual and managing the revision of policies and procedures as necessary;
- Ensuring Operations and labor compliance staff are adhering to compliance enforcement requirements and deadlines pertaining to payroll document submittals, auditing payroll information, violation notification and remediation, conducting on-site interviews, and reporting;
- Management of the hearing process including preparation for hearings, document control, and quality assurance/quality control of all correspondence and evidence used to support the finding of violations during the hearing.

4. Jeremy Turner, Project Manager

Jeremy Turner, of The Solís Group, has implemented, monitored, and enforced labor compliance programs on various public works construction projects across different industries including transit, municipalities, and water districts. In his fifth year with The Solís Group, Mr. Turner has extensive experience reviewing certified payroll, conducting underpayment investigations and audits, and conducting site visits. He has managed labor compliance programs for the following agencies: West Basin Municipal Water District, Upper San Gabriel Municipal Water District, Water Replenishment District of Southern California, and the Los Angeles County Department of Public Works. Jeremy has also assisted with the monitoring and enforcement for the following agencies: Azusa Unified School District, City of Fresno Department of Public Utilities, Port of Long Beach, El Monte Union High School District, Rio Hondo Community College, Exposition Metro Line Construction Authority, City of Santa Paula Housing Authority, and the Los Angeles County Metropolitan Transit Authority.

LCP duties and responsibilities to be performed including percentage of time to be devoted to LCP work:

LCP Duties/Responsibilities:

- Serve TSG's Operations team in the implementation of the Authority's Labor Compliance Program;
- Assist with Project Management and Labor Compliance monitoring and enforcement;
- Review of compliance documents

- Adhere to the Watershed Conservation Authority's Labor Compliance Policies and Procedures Manual and assist with the revision of policies and procedures as necessary;
- Adhere to compliance enforcement requirements and deadlines pertaining to payroll document submittals, auditing payroll information, violation notification and remediation, conducting on-site interviews, and reporting;
- Assist with the management of the hearing process including preparation for hearings, document control, and quality assurance/quality control of all correspondence and evidence used to support the finding of violations during the hearing.

Percentage of Time Devoted to LCP Work: 100%

5. Demetra Haloutsos - Analyst

Demetra supports the team with compliance data collection and analysis for use in labor compliance monitoring and enforcement. Demetra Haloutsos is detail-oriented with a keen eye for document maintenance and organization. She conducts payment verifications, audits certified payroll, and maintains project files. Demetra has supported operations for projects under the following agencies: West Basin Municipal Water District, City of Fresno Department of Public Utilities, Rio Hondo Community College District, Azusa Unified School District, City of Santa Paula Housing Authority, Long Beach Community College District, Cerritos Community College, and the Los Angeles County Department of Public Works.

LCP Duties/Responsibilities:

- Serve as support to TSG's operations team
- Data collection and review of certified payroll.
- Assist with Project Management and Labor Compliance monitoring and enforcement;
- Adhere to the Authority's Labor Compliance Policies and Procedures Manual and assist with the revision of policies and procedures as necessary;
- Adhere to compliance enforcement requirements and deadlines pertaining to payroll document submittals, auditing payroll information, violation notification and remediation, conducting on-site interviews, and reporting;

Percentage of Time Devoted to LCP Work: 100%

6. José Ruiz – Site Interviewer

José has over five years of direct experience participating in contract compliance investigations including prevailing wage, local-hire, and disadvantaged-worker programs. He specializes in the performance of on-site interviews with project workers to identify work classifications, corroborate payment of prevailing wages and aggregate verifiable data relative to the tracking of local/targeted worker and apprentice utilization. José has wide-ranging experience conducting site visits and field worker interviews (in Spanish or English) and is skilled at identifying potential compliance issues or underpayment issues. He has worked for agencies such as, West Basin Municipal Water District, Upper San Gabriel Valley Municipal Water District, Long Beach Community College District, Exposition Metro Line Construction Authority, Community Redevelopment Agency – Los Angeles, City of Santa Paula Housing Authority, El Monte Union High School District, Azusa Unified School District, Water Replenishment District of Southern California, Discovery Science Center, Orange County

Department of Public Works, Los Angeles County Department of Public Works, and the Los Angeles County Metropolitan Transit Authority.

LCP duties and responsibilities to be performed including percentage of time to be devoted to LCP work:

LCP Duties/Responsibilities:

- Serve as the primary site interviewer for TSG’s operations team
- Assist with Project Management and Labor Compliance monitoring and enforcement;
- Adhere to the Watershed Conservation Authority’s Labor Compliance Policies and Procedures Manual and assist with the revision of policies and procedures as necessary;
- Adhere to compliance enforcement requirements and deadlines pertaining to payroll document submittals, auditing payroll information, violation notification and remediation, conducting on-site interviews, and reporting;

Percentage of Time Devoted to LCP Work: 100%

B. State the average number of public work projects the awarding body annually administers:

Watershed Conservation Authority will administer approximately 2-4 projects a year with a total cost of \$1- 5 Million, part of the costs utilizing Proposition 84 funding.

C. State whether the proposed LCP is a joint or cooperative venture among awarding bodies; and, if so, how the resources and expanded responsibilities of the LCP compare to the awarding bodies involved:

The LCP is not a joint or cooperative venture among awarding bodies.

D. Describe the awarding body’s record of taking cognizance of Labor Code violations in the preceding five years, including any withholding of funds from public works contractors pursuant to LC 1726.

N/A. No construction projects conducted within the last 5 years.

E. Identify the attorney or law firm available to provide legal support for the LCP, including handling of the LCP’s responsibilities during the administrative review process set forth in Labor Code Section 1771.6.

Sima Salek
Law Office of Sima Salek
18375 Ventura Boulevard, Suite 774
Tarzana, California 91356
(310) 773-3998 phone

F. Identify the method by which the LCP will notify the Labor Commissioner of willful violations as defined in Labor Code Section 1777.1(d):

The Watershed Conservation Authority LCP shall notify the Labor Commissioner of willful violations via submittal of the following:

- Request for Approval of Forfeiture (DIR Appendix D)
- Audit Worksheet (summary worksheet) with correspondence narrative delineating why a violation was deemed willful as defined by Labor Code (§1777.1(c))
- Single Project Labor Compliance Review and Enforcement Report Form (DIR Appendix C)
- Annual Report Form (LCP-AR1)

- G. Indicate whether the Awarding Body has established its own Labor Compliance Program in accordance with the requirements of Labor Code Section 1771.5(b) and subchapter 4 of chapter 8 of Title 8 of California Code of Regulations or has contracted with a third party that has been approved by the Director to operate a Labor Compliance Program in accordance with the requirements of Labor Code Section 1771.5(b) and subchapter 4 of chapter 8 of Title 8 of California Code of Regulations. If the Awarding Body has contracted with one or more persons or entities to operate all or any part of the Awarding Body's Labor Compliance Program, please identify (name, address, telephone, and principal contact) all of those persons or entities.

The Watershed Conservation Authority has established its own Labor Compliance Program. The Watershed Conservation Authority will contract with The Solís Group to aid in operating its Labor Compliance Program.

Elizabeth Solís
The Solís Group
131 N. El Molino Ave. Suite 100
Pasadena, CA 91101
(626) 685-6989

- H. Indicate whether the Awarding Body intends to enforce labor compliance on all of its public works projects (*i.e.*, not limited to projects that are funded by bonds or other statutes that require the Awarding Body to have an LCP as a condition of funding). If not, please indicate the kinds of projects on which you intend to enforce labor compliance and whether you are required to have a labor compliance program as a condition for obtaining funding for the project or projects.

The Watershed Conservation Authority intends to monitor and enforce labor compliance on projects that are funded by State bonds and/or other statutes that require the Awarding Body to have an LCP as a condition of funding.

- I. Attach a copy of the Awarding Body's resolution adopting the LCP and, if applicable, any other resolution approving any contracts with persons or entities identified in G above.

A copy of the Watershed Conservation Authority's Board Resolutions adopting the attached Labor Compliance Program and approval of The Solís Group to administer the approved Labor Compliance Program is attached.

- J. Attach the proposed manual outlining the responsibilities and procedures of the LCP.

A copy of the Watershed Conservation Authority's proposed manual outlining the responsibilities and procedures of the LCP is attached.

Date Signed

Mail two copies of this form and attachments to:

**OFFICE OF THE DIRECTOR
DEPARTMENT OF INDUSTRIAL RELATIONS
455 GOLDEN GATE AVENUE, 10th FLOOR
SAN FRANCISCO, CA 94102
ATTENTION: EXECUTIVE ASSISTANT TO THE DIRECTOR**

LABOR COMPLIANCE OFFICER (LCO)**SCOPE OF SERVICES:**

The Labor Compliance Program (LCP) Officer/Manager will be required to provide all LCP required services, subject to modifications of those services, should Watershed Conservation Authority hire a 3rd Party Labor Compliance Administrator to assist in it oversight of the LCP. Example to those modifications might be to perform certain services such as; conduct interviews with its own forces or other field work audit services. In addition to the services outlined in this Scope of Work, it may be required to provide additional staffing to assist our in house labor compliance staff with labor compliance monitoring of other projects; this assistance would be under the direction of our own labor compliance staff and provided on an as-needed bases outside of any State Appropriated Funds requiring an Approved Labor Compliance Program.

Pre-award Activity

1. Review Public Works' contracts, general conditions, and bid advertisement language for update and compliance with LCP Program requirements.
2. Preconstruction Meeting. Conduct meetings and training, to provide handout materials for all contractors and subcontractors. All contractors and subcontractors in attendance are required to sign an acknowledgment of the labor law checklist. Topics to be covered will include, but are not limited to:

Proper payment of prevailing wages;
 Apprenticeship requirements;
 Required submittals/documentation (Division of Apprenticeship Standards (DAS) - 140, DAS-142, California Apprenticeship Council (CAC) 2, Public Works 26 and certified payroll forms);
 Potential penalties that can be assessed;
 Non discrimination in employment;
 Anti-kickback provisions;
 Acceptance of fees prohibition;
 Subcontractor listing law requirements;
 California Contractors State License Board (CSLB) licensing requirements;
 Unfair competition requirements;
 Worker's compensation;
 Insurance requirements;
 OSHA and Worker Safety Requirements;
 Proper use of certified or registered electricians;
 Requirements to provide employees with paycheck detail;
 And any other requirements as established by the DIR¹

3. Provide contractor with the correct prevailing wage determination (based on information provided as to Bid Advertisement dates).
4. Provide Contractor with sample blank forms for LCP Compliance.
5. Provide a phone line and e-mail contact where contractors and subcontractors can call for clarification/education on prevailing wage, certified payrolls, and apprenticeship and

¹ The DIR has recently sent to the Office of Administrative Law new regulations for Labor Compliance Programs, which, if approved, will become effective November 13, 2008. The new regulations include several changes to the requirements of LCP, including additional items to be included on the Labor compliance checklist.

compliance issues. Additional face-to-face training sessions are available on an as needed basis.

During Construction Phase

6. License check and confirmation with California Contractors State License Board (CSLB) of current and active license status and initial worker's compensation coverage of all contractors and all listed subcontractors.
7. Monitoring of all Apprenticeship Requirements. Collection and review of all DAS 140 and DAS 142 forms. Review of applicable apprenticeship ratios employed, correct wages paid, training contributions (CAC2 forms). Verify apprentice's enrollment in approved apprenticeship program.
8. Monthly audit of certified payrolls forms. This includes comparing the appropriate prevailing wage rate to the certified payrolls submitted (and fringe benefit documentation submitted).
9. Cross check Progress Payment Requests and Schedule of Values each month with certified payrolls submitted to reconcile or identify trades not listed on the certified payrolls.
10. Periodic review of Daily Jobsite Reports as a random check against the veracity of certified payroll reports.
11. Monthly jobsite audits and random interviews of workers (to cross check employee name, social security number and job site posting requirements).
12. Additional detailed audit of contractors through review of cancelled checks, time cards, and related records (as needed).

Enforcement Activity

13. Monthly report to Public Works, Contractor and applicable Subcontractor(s) regarding compliance issues, including missing or delinquent documentation and any corrective action needed.
14. Communication of potential violations to Public Works with recommended action. In the event that potential paperwork or compliance issues with a contractor cannot be resolved quickly, Public Works will be notified to retain a certain portion of the scheduled progress payment until the issue is resolved.
15. Communications with Contractors. Work with all contractors and subcontractors with the goal of amicable agreement on resolving issues related to violations, penalties, and compliance. All meetings and calls with contractors will be documented in the project folder.
16. Notification of Public Works, Contractor, and applicable Subcontractor(s) of wages underpaid and any potential penalties due.
17. At end of project, a final summary of items due by Contractor and applicable Subcontractor(s), including but not limited to applicable spreadsheets of wage violations and recommended penalties, along with a letter notifying the Contractor/Subcontractor of their right to obtain a review of assessment and/or request a settlement meeting.

18. The filing of all applicable Notices to Withhold. Copies to the Contractor/Subcontractor and Public Works (detailing wages and penalties being withheld on the project).
19. Transmittal of all Requests for Forfeiture to the Labor Commissioner and/or the processing of all other necessary closeout reports for the project with copies to Public Works and applicable Contractor/Subcontractor.
20. Assist, as needed, with wage restitution to affected employees.²
21. Conduct/Prosecute/Defend against any appeal to the DIR filed by a Contractor/Subcontractor for wages and penalties assessed. (A formal appeal is a contractor's final due process right if the contractor disagrees with the final wages and penalties assessed).
22. All copies of records are to be provided Public Works upon completion and acceptance of project. A copy of the records may be allowed to be kept by the 3rd Party Labor Compliance Program Manager but subject to County of Los Angeles protocol.
23. Labor Compliance Affidavits. The Labor Compliance Program Officer/Manager shall collect "certification" of all payment and payroll records. There is no requirement by the DIR for an LCP to administer or collect additional affidavits from contractors and subcontractors as part of a closeout process.
24. The Labor Compliance Program Manager will comply with all requirements set forth by the DIR for the implementation of a Labor Compliance Program, including any changes in laws or regulations which may affect LCP implementation.

Communication/Reports to Public Works

The Labor Compliance Program Officer/Manager will provide regular reports to WCA for the various LCP projects. These reports can be delivered in hard copy, by facsimile or email, or as requested.

The Labor Compliance Program Officer/Manager will maintain records for a minimum of three (3) years with all compliance and enforcement action notices.

The Labor Compliance Program Officer/Manager will also respond to any Requests for Public Records, including but not limited to requests for certified payrolls from third parties. Third parties requesting certified payrolls provide the statutory fee for this service to the Labor Compliance Program Officer/Manager and as required will ensure that the appropriate information to maintain employee privacy is redacted before that information is turned over to the third party who has requested payroll information.

The Labor Compliance Program Officer/Manager will cooperate and coordinate any requested investigation, complaint or action by the Labor Commissioner or DIR, including but not limited to complaints, investigations, enforcement actions, settlement meetings, and appeal hearings

The Labor Compliance Program Manager will provide WCA with a copy of the applicable Annual Report and send to the DIR listing all Public Works' projects and detailing projects, status, wage violations, restitution paid, penalties, and liquidated damages.

²The usual practice is for the affected contractor to make the wage restitution and provide proof of payment to the LCP. If no restitution is made, then Public Works has withheld the applicable wage funds which is turn must go to the affected employees. If employees cannot be located after a diligent effort, then there is a clear procedure whereby these wages are delivered to the Labor Commissioner for further action.

The Labor Compliance Program Officer/Manager will provide technical assistance and training to WCA employees on an as needed basis.

Anticipation of Potential Issues

Under this Scope of Work, WCA anticipates the Labor Compliance Program Officer/Manager procedures and activities for monitoring each month to be as follows:

- a) Set a specific date or dates each month to update WCA Management to potential issues of which the contractor has failed to respond or provide timely.
- b) Arrange for onsite monitoring, including retrieval of Daily Job Summaries from jobsite for comparison to certified payrolls and onsite monitoring reports. Includes random interviews of employees on jobsites.
- c) Report to contractors/subcontractors requesting missing or incomplete paperwork, detailing underpayment of wages or other LCP violation needing further explanation, clarification or correction.
- d) Report to WCA management by project and name of contractor/ subcontractor whether Labor Compliance has been met or whether payment should be withheld pending: a) the delivery and review of additional information; b) a meeting with the contractor/subcontractor; or, c) additional interview of workers or other investigation.
- e) Meeting with contractors to resolve outstanding prevailing wage or apprenticeship issues, including a recommendation to WCA Management regarding compliance and assessment of penalty.

LAW OFFICE OF SIMA SALEK

18375 VENTURA BOULEVARD, SUITE 774
TARZANA, CALIFORNIA 91356
(310) 773-3998 FAX (310) 773-3997

August 22, 2017

Mr. Joseph Gonzales
Project Manager
Watershed Conservation Authority
100 N. Old San Gabriel Canyon Rd.
Azusa, CA 91702

Re: Engagement and Fee Agreement Letter

Dear Mr. Gonzales:

It was wonderful speaking with you. As we discussed, the Watershed Conservation Authority (“WCA”) requires legal counsel as part of its Labor Compliance Program (“LCP”) in connection with the Duck Farm Project (“Project”), which may receive Proposition 84 funding (“Matter”). The proposed services are, upon request of WCA and as necessary and appropriate, providing legal guidance and representation on the Project for prevailing wage and LCP issues. This Engagement and Fee Agreement (“Agreement”) would cover services rendered in conjunction with the Matter.

Please be advised that this firm maintains errors and omissions insurance coverage applicable to the services to be rendered.

In order to proceed with this representation, we will need to reach an understanding concerning the payment for our legal services and the fees, costs and expenses incurred. This letter summarizes this firm's policy and practice in that regard and, when approved by WCA, signed by an authorized representative, and returned to us, will serve as the written contract required by law between WCA, as the client, and this firm, as its attorney, with respect to such services.

1. **Billing Procedures.** We will bill WCA monthly. Payment is due within thirty (30) days from the date of the billing statement. We believe that our billing procedures are simple and clear. However, we encourage WCA to ask any questions regarding the statements as soon as WCA receives them.

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Our fees are computed on an hourly basis and the rate depends upon the type of work involved. All services are billed hourly. I am providing WCA with a discounted public entity rate of **\$300 per hour** for my services.

All time spent in connection with this Matter shall be billed to WCA in increments of one-tenth (1/10) of an hour. Such time may include, for example, time spent in travel, meetings, telephone conferences, reviewing documents, researching matters, and representing WCA in hearings or other proceedings as needed.

In addition to fees for services, we will bill WCA monthly for costs and administrative charges such as filing fees, fees and expenses of accountants or experts retained on WCA's behalf, and charges for reproducing documents, facsimile, parking, travel and computerized legal research. We will obtain preapproval before incurring costs in excess of \$50, and may ask WCA to pay such expenses directly.

2. **Additional Matters.** Unless otherwise agreed in writing, the terms of engagement confirmed in this Agreement will also apply to any additional matters we handle on WCA's behalf or at WCA's direction.

3. **Communications and Other Matters.** In order to enable this firm to render effective legal services, WCA agrees to disclose all relevant information concerning the matters on which we are engaged and will keep us apprised of all developments regarding the same. WCA also agrees to cooperate with this firm in connection with this or any matter and shall have employees reasonably available to attend meetings and other proceedings as required by the relevant circumstances.

I will be communicating with WCA by telephone and by electronic mail. Communications lose their attorney-client privilege if disseminated to third parties by a client; therefore, please be aware that if WCA forwards to a third party any electronic mail sent to WCA by me, such communication will probably not be deemed to be a privileged communication.

Following the completion of the matter for which I am being retained, I will, if WCA so requests in writing at that time, deliver WCA's file to you. If WCA prefers that I retain the file, I will store the file. However, I will have the right to destroy the file three years after the matter for which I am retained is completed.

4. **Arbitration of Dispute.** In the unlikely event that there is any dispute between us about fees, the matter shall be resolved by mediation under the auspices of the Los Angeles County Bar Association, and if such controversy or claim is not resolved after two full days of

Watershed Conservation Authority
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Page 3

mediation, then the fee dispute shall be resolved by arbitration (by a person other than the mediator) under the auspices of the Los Angeles County Bar Association in accordance with its rules. In the unlikely event there is any controversy or claim arising out of or relating to this Agreement or any legal services performed pursuant to this Agreement, other than disputes regarding fees, it shall be resolved by mediation under the auspices of the Los Angeles County Bar Association, and if such controversy or claim is not resolved after two full days of mediation, then by binding arbitration (by a person other than the mediator) pursuant to American Arbitration Association rules.

5. **Retainer.** No retainer shall be required.

6. **Adverse Parties.** Under California law and as part of our professional conduct, attorneys may not represent adverse parties without their written consent. In this Matter, WCA is not engaged in any dispute, and we are not aware of any conflicts of interest. If it should arise that a matter in which the firm is involved involves any other, adverse, parties, please notify me so that we can confirm the absence of any conflict of interest.

7. **Termination of Services.** It is our intention to effectively represent WCA in this Matter. As our client, however, WCA retains the right to replace us at any time. To terminate our services hereunder, WCA must provide written notice to us. Our firm shall, immediately after receiving such notice, cease to render additional services. Such termination shall not, however, relieve WCA of the obligation to pay the fees due for services rendered and costs incurred prior to such termination.

We also retain the right to cease representing WCA if the circumstances warrant our withdrawal. If WCA fails to meet any of its obligations under this Agreement, we shall have the right to terminate this Agreement. Should this unlikely occasion arise, we will comply with all our legal and ethical obligations imposed on lawyers intending to terminate representation of a client. Additional, WCA shall take all steps necessary to free our firm of any obligation to perform further including, without limitation, the execution of any documents necessary to complete our firm's discharge or withdrawal.

Please confirm WCA's agreement to the terms of this engagement letter by having an authorized representative sign below. Please return the Agreement with an original signature to us.

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We look forward to representing WCA, and will endeavor to do so efficiently and effectively.

Very truly yours,
LAW OFFICE OF SIMA SALEK



SIMA R. SALEK

SRS/ss

ACCEPTANCE

The undersigned has read and understood the foregoing terms and agrees to them as of the date executed below.

[Signature]

Date: _____

[Name]

[Position]
Watershed Conservation Authority

September 21, 2017 - Item 20

RESOLUTION 2017-36

RESOLUTION OF THE WATERSHED CONSERVATION AUTHORITY TO APPROVE AN ENGAGEMENT AND FEE AGREEMENT WITH THE LAW OFFICE OF SIMA SALEK TO PROVIDE LEGAL COUNSEL TO THE WATERSHED CONSERVATION AUTHORITY TO COVER SERVICES RENDERED IN CONJUNCTION WITH THE LABOR COMPLIANCE PROGRAM.

WHEREAS, the Watershed Conservation Authority (WCA) has been established as a joint powers agency between the Rivers and Mountains Conservancy and the Los Angeles County Flood Control District; and

WHEREAS, the Watershed Conservation Authority (WCA) has further been established to focus on projects which will provide open space, habitat restoration, and watershed improvement projects in both the San Gabriel and Lower Los Angeles Rivers watershed; and

WHEREAS, the Watershed Conservation Authority (WCA) is required to comply with California Labor Compliance laws and regulations pertaining to payment of prevailing wages on public works projects; and

WHEREAS, one of the steps in the procedures to implement Labor Code Section 1771.5 is the adoption by the governing body of the Watershed Conservation Authority (WCA) of a resolution to establish a state-approved Labor Compliance Program (LCP) upon approval from the State of California, Department of Industrial Relations (DIR); and

WHEREAS the Agency needs skilled staff to monitor and enforce the LCP as required by DIR, with legal support available through an attorney who knows public works law and enforcement procedure; and

WHEREAS, this action will approve an engagement and fee agreement with the Law Offices of Sima Salek to provide legal services to the Watershed Conservation Authority to cover services rendered in conjunction with the Labor Compliance Program; and

WHEREAS, the proposed action is exempt from the provisions of the California Environmental Quality Act (CEQA);

Therefore, be it resolved that the WCA hereby:

1. FINDS that this action is consistent with the purposes and objectives of the WCA.
2. FINDS that the actions contemplated by this resolution are exempt from the environmental impact report requirements of the California Environmental Quality Act (CEQA).
3. ADOPTS the staff report dated September 21, 2017.
4. ESTABLISHES a Labor Compliance Program, as set forth above.

~ End of Resolution ~

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Motion _____ Second: _____

Ayes: _____ Nays: _____ Abstentions: _____

Passed and Adopted by the Board of the
WATERSHED CONSERVATION AUTHORITY
ON September 21, 2017

M. Janet Chin
Governing Board Chair

ATTEST: _____
David Edsall
Deputy Attorney General

September 21, 2017 - Item 20

RESOLUTION 2017-37

**RESOLUTION OF THE WATERSHED CONSERVATION AUTHORITY ESTABLISHING
A LABOR COMPLIANCE PROGRAM.**

WHEREAS, the Watershed Conservation Authority (WCA) has been established as a joint powers agency between the Rivers and Mountains Conservancy and the Los Angeles County Flood Control District; and

WHEREAS, the Watershed Conservation Authority (WCA) has further been established to focus on projects which will provide open space, habitat restoration, and watershed improvement projects in both the San Gabriel and Lower Los Angeles Rivers watershed; and

WHEREAS, the Watershed Conservation Authority (WCA) is required to comply with California Labor Compliance laws and regulations pertaining to payment of prevailing wages on public works projects; and

WHEREAS, one of the steps in the procedures to implement Labor Code Section 1771.5 is the adoption by the governing body of the Watershed Conservation Authority (WCA) of a resolution to establish a state-approved Labor Compliance Program upon approval from the State of California, Department of Industrial Relations; and

WHEREAS the Agency has prepared a Labor Compliance Policies and Procedures manual, which encompasses the Labor Compliance Program for all covered projects; and

WHEREAS, the Watershed Conservation Authority (WCA) is required to submit a Labor Compliance Program application to the Department of Industrial Relations in order to implement its Labor Compliance Program for oversight of Prevailing Wage requirement on certain design-build projects and construction projects utilizing Statewide bond funds; and

WHEREAS, the WCA intends to enforce its Labor Compliance Program for only those public works projects under the authority of the WCA that are subject to the provisions of Article 1 of Subchapter 4.5; and

WHEREAS, the proposed action is exempt from the provisions of the California Environmental Quality Act (CEQA);

Therefore, be it resolved that the WCA hereby:

1. FINDS that this action is consistent with the purposes and objectives of the WCA.
2. FINDS that the actions contemplated by this resolution are exempt from the environmental impact report requirements of the California Environmental Quality Act (CEQA).
3. ADOPTS the staff report dated September 21, 2017.
4. ESTABLISHES a Labor Compliance Program, as set forth above.

~ End of Resolution ~

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Motion _____ Second: _____

Ayes: _____ Nays: _____ Abstentions: _____

Passed and Adopted by the Board of the
WATERSHED CONSERVATION AUTHORITY
ON September 21, 2017

M. Janet Chin
Governing Board Chair

ATTEST: _____
David Edsall
Deputy Attorney General