

## CITY OF MENIFEE

### PROFESSIONAL SERVICES AGREEMENT FOR TRAFFIC ANALYSIS SERVICES FOR THE ECONOMIC DEVELOPMENT CORRIDOR, NORTHERN GATEWAY AREA

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is made and effective this 27th day of March, 2024 (“Effective Date”) by and between the CITY OF MENIFEE, a California municipal corporation, (“City”) and KIMLEY-HORN AND ASSOCIATES, INC., a North Carolina Corporation (“Consultant”). City and Consultant may sometimes herein be referred to individually as a “Party” and collectively as the “Parties.”

#### SECTION 1. SERVICES.

Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in the Scope of Services, attached hereto as Exhibit A and incorporated herein by this reference (the “Services”). Consultant will perform subsequent task orders as requested by the Contract Administrator (as defined below), in accordance with the Scope of Services. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, this Agreement shall prevail.

1.1 Term of Services. The term of this Agreement shall begin on March 27, 2024 and shall end on December 31, 2024 unless the term of this Agreement is otherwise terminated or extended as provided for in Section 8. The time provided to Consultant to complete the Services required by this Agreement shall not affect City’s right to terminate this Agreement, as provided for in Section 8.

1.2 Standard of Performance. Consultant represents and warrants that Consultant is a provider of first class work and services and Consultant is experienced in performing the Services contemplated herein and, in light of such status and experience, Consultant shall perform the Services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices its profession and to the sole satisfaction of the Contract Administrator.

1.3 Assignment of Personnel. Consultant shall assign only competent personnel to perform the Services pursuant to Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.

1.4 Time. Consultant shall devote such time to the performance of the Services pursuant to this Agreement as may be reasonably necessary to satisfy Consultant’s obligations hereunder.

1.5 Authorization to Perform Services. Consultant is not authorized to perform any of the Services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

1.6 Warranty. By executing this Agreement, Consultant warrants that Consultant (i) has thoroughly investigated and considered the Services, (ii) has carefully considered how the Services should be performed, and (iii) fully understands the facilities, difficulties, and restrictions attending performance of the Services.

1.7 Covid-19 Safety. If Consultant enters City property or meets in person with City employees during the performance of the Services, Consultant shall comply with all applicable emergency orders, directives, protocols, and best practices related to the COVID-19 pandemic, including, but not limited to: (A) wearing facial coverings, (B) maintaining adequate physical distancing when possible, (C) regular hand washing, and (D) regular hand sanitizing.

1.8 City of Perris Agreement. The Parties acknowledge that the City of Perris and Consultant shall enter a contract for identical compensation and Services to those provided under this Agreement (“Perris Agreement”). City shall have no obligations pursuant to the Perris Agreement, including to compensate Consultant thereunder. However, in the event that Consultant requires direction or clarification relating to any Services performed under this Agreement, Consultant shall seek such direction and clarification from both the City, pursuant to this Agreement, and the City of Perris, pursuant to the Perris Agreement. Further, any such direction and clarification shall require the approval of both the City and the City of Perris.

## **SECTION 2. COMPENSATION.**

City hereby agrees to pay Consultant a sum not to exceed **ONE HUNDRED TWENTY-FOUR THOUSAND SEVEN HUNDRED FIFTY DOLLARS AND ZERO CENTS (\$124,750.00)** notwithstanding any contrary indications that may be contained in Consultant’s proposal, for the Services to be performed and reimbursable costs incurred under this Agreement. The parties understand and agree that this Agreement obliges City to pay for only one half of the total cost of the Services to be provided by Consultant, with the remaining one half to be paid by the City of Perris. The obligations of the City of Menifee and the City of Perris to pay for the Services are not joint and several; each city shall be solely responsible for payment of its half of the costs of the Services. In the event of a conflict between this Agreement and Exhibit A, regarding the amount of compensation, this Agreement shall prevail. City shall pay Consultant for the Services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Consultant for the Services rendered pursuant to this Agreement. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized in advance by City, Consultant shall not bill City for duplicate services performed by more than one person.

2.1 Invoices. Consultant shall submit invoices monthly during the term of this Agreement, based on the cost for the Services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- a. Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
- b. The beginning and ending dates of the billing period;

c. A “Task Summary” containing the original contract amount, the amount of prior billings, the total due this period, the balance available under this Agreement, and the percentage of completion;

d. At City’s option, for each item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person performing the Services, the hours spent by each person, a brief description of the Services, and each reimbursable expense;

e. The total number of hours of work performed under this Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing the Services hereunder necessary to complete the Services described in Exhibit A;

f. Receipts for expenses to be reimbursed;

g. For each invoice, one half of the costs of the Services will be billed to the City of Menifee, and a concurrent invoice for the remaining one half of the costs of the Services will be delivered to the City of Perris.

h. The Consultant Representative’s signature.

Invoices shall be submitted to:

City of Menifee  
Attn: Accounts Payable  
29844 Haun Road  
Menifee, CA 92586

2.2 Monthly Payment. City shall make monthly payments, based on invoices received, for the Services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.

2.3 Retention of Funds, Final Payment. Consultant hereby authorizes City to retain and deduct from any amount payable to Consultant not exceeding five percent (5%) of the total compensation. The retained funds shall be paid to Consultant within sixty (60) days after final acceptance of the Services by the City and after Consultant has furnished City with full release of all undisputed payments under this Agreement. In the event there are any claims specifically excluded by Consultant from the operation of the release, City may retain proceeds of up to one hundred fifty percent (150%) of the amount in dispute. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of Consultant to insure, indemnify, and protect City as provided in this Agreement. City shall pay the last five percent (5%) of the total amount due pursuant to this Agreement within sixty (60) days after completion of the Services and submittal to City of a final invoice, if all of the Services required have been satisfactorily performed.

2.4 Total Payment. City shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering the Services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.

In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entirety of the Services performed pursuant to this Agreement, unless this Agreement is modified in writing prior to the submission of such an invoice.

2.5 Hourly Fees. Fees for the Services performed by Consultant on an hourly basis shall not exceed the amounts shown on the fee schedule included with Exhibit A.

2.6 Reimbursable Expenses. Reimbursable expenses are included within the maximum amount of this Agreement.

2.7 Payment of Taxes. Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any federal or state taxes.

2.8 Payment upon Termination. In the event that City or Consultant terminates this Agreement pursuant to Section 8, City shall compensate Consultant for all outstanding costs and reimbursable expenses incurred for Services satisfactorily completed and for reimbursable expenses as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets in order to verify costs and reimbursable expenses incurred to that date.

### **SECTION 3. FACILITIES AND EQUIPMENT.**

Except as otherwise provided, Consultant shall, at its sole cost and expense, provide all facilities and equipment necessary to perform the services required by this Agreement. City shall make available to Consultant only physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of City. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of City. In no event shall City be required to furnish any facility or equipment that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

### **SECTION 4. INSURANCE REQUIREMENTS.**

Before beginning any work under this Agreement, Consultant, at its own cost and expense, shall procure the types and amounts of insurance listed below and provide certificates of insurance, indicating that Consultant has obtained or currently maintains insurance that meets the requirements of this Section and which is satisfactory, in all respects, to City. Consultant shall maintain the insurance policies required by this Section throughout the term of this Agreement. The cost of such insurance shall be included in Consultant's compensation. Consultant shall not allow any subcontractor, consultant or other agent to commence work on any subcontract until Consultant has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. Consultant acknowledges the insurance policy must cover inter-insured suits between City and other insureds. Consultant agrees that the requirement to provide insurance shall not be construed as limiting in any way the extent to which Consultant may be held responsible for the payment of damages to any persons or property resulting from

Consultant activities or the activities of any person or persons for which Consultant is otherwise responsible nor shall it limit Consultant's indemnification liabilities as provided in Section 5.

4.1 Workers' Compensation. Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant pursuant to the provisions of the California Labor Code. Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per accident, ONE MILLION DOLLARS (\$1,000,000.00) disease per employee, and ONE MILLION DOLLARS (\$1,000,000.00) disease per policy. In the alternative, Consultant may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the California Labor Code shall be solely in the discretion of the Contract Administrator. The insurer, if insurance is provided, or Consultant, if a program of self-insurance is provided, shall waive all rights of subrogation against City and its officers, officials, employees, and authorized volunteers for loss arising from the Services performed under this Agreement.

4.2 Commercial General and Automobile Liability Insurance.

a. General requirements. Consultant, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence, combined single limit coverage, for risks associated with the Services contemplated by this Agreement, TWO MILLION DOLLARS (\$2,000,000.00) general aggregate, and TWO MILLION DOLLARS (\$2,000,000.00) products/completed operations aggregate. If a Commercial General Liability Insurance or an Automobile Liability Insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the Services to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from the Services contemplated under this Agreement, including the use of hired, owned, and non-owned automobiles.

b. Minimum Scope of Coverage. Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 Code 2, 8, and 9. No endorsement shall be attached limiting the coverage.

c. Additional Requirements. Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

(i) The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.

(ii) Any failure of Consultant to comply with reporting provisions of the policy shall not affect coverage provided to City and its officers, employees, agents, and volunteers.

#### 4.3 Professional Liability Insurance.

a. General Requirements. Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing the Services pursuant to this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) covering the licensed professionals' errors and omissions. Any deductible or self-insured retention shall be shown on the Certificate. If the deductible or self-insured retention exceeds TWENTY-FIVE THOUSAND DOLLARS (\$25,000), it must be approved in writing by City.

b. Claims-Made Limitations. The following provisions shall apply if the professional liability coverage is written on a claims-made form:

(i) The retroactive date of the policy must be shown and must be no later than the commencement of the Services.

(ii) Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after the expiration or termination of this Agreement or completion of the Services, so long as commercially available at reasonable rates.

(iii) If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the Effective Date of this Agreement, Consultant must provide extended reporting coverage for a minimum of five (5) years after the expiration or termination of this Agreement or the completion of the Services. Such continuation coverage may be provided by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement insurance with a retroactive date no later than the commencement of the Services under this Agreement. City shall have the right to exercise, at Consultant's sole cost and expense, any extended reporting provisions of the policy, if Consultant cancels or does not renew the coverage.

(iv) A copy of the claim reporting requirements must be submitted to City prior to the commencement of the Services under this Agreement.

#### 4.4 All Policies Requirements.

a. Acceptability of Insurers. All insurance required by this Section is to be placed with insurers with a Bests' rating of no less than A:VII and admitted in California.

b. Verification of Coverage. Prior to beginning the Services under this Agreement, Consultant shall furnish City with certificates of insurance, additional insured endorsement or policy language granting additional insured status complete certified copies of all policies, including complete certified copies of all endorsements. All copies of policies and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. The certificate of insurance must include the following reference:

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The name and address for additional insured endorsements, certificates of insurance and notice of cancellation is: City of Menifee, 29844 Haun Road, Menifee, CA 92586. City must be endorsed as an additional insured for liability arising out of ongoing and completed operations by or on behalf of Consultant.

c. Notice of Reduction in or Cancellation of Coverage. Consultant shall provide written notice to City within ten (10) working days if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self insured retention is increased. In the event any of said policies of insurance are cancelled, Consultant shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Section 4 to the Contract Administrator.

d. Additional Insured; Primary Insurance. City and its officers, employees, agents, and authorized volunteers shall be covered as additional insureds with respect to each of the following: liability arising out of the Services performed by or on behalf of Consultant, including the insured's general supervision of Consultant; products and completed operations of Consultant, as applicable; premises owned, occupied, or used by Consultant; and automobiles owned, leased, or used by Consultant in the course of providing the Services pursuant to this Agreement. The coverage shall contain no special limitations on the scope of protection afforded to City or its officers, employees, agents, or authorized volunteers. The insurance provided to City as an additional insured must apply on a primary and non-contributory basis with respect to any insurance or self-insurance program maintained by City. Additional insured status shall continue for one (1) year after the expiration or termination of this Agreement or completion of the Services.

A certified endorsement must be attached to all policies stating that coverage is primary insurance with respect to City and its officers, officials, employees, and volunteers, and that no insurance or self-insurance maintained by City shall be called upon to contribute to a loss under the coverage.

e. Deductibles and Self-Insured Retentions. Consultant shall obtain the written approval of City for the self-insured retentions and deductibles before beginning any of the Services.

During the term of this Agreement, only upon the prior express written authorization of the Contract Administrator, Consultant may increase such deductibles or self-insured retentions with respect to City, its officers, employees, agents, and volunteers. The Contract Administrator may condition approval of an increase in deductible or self-insured retention levels with a requirement that Consultant procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.

f. Subcontractors. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

g. Variation. The Contract Administrator may, but is not required to, approve in writing a variation in the foregoing insurance requirements, upon a determination that the coverage, scope, limits, and forms of such insurance are either not commercially available, or that City's interests are otherwise fully protected.

4.5 Remedies. In addition to any other remedies at law or equity City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option, exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

a. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under this Agreement;

b. Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or

c. Terminate this Agreement.

## **SECTION 5. INDEMNIFICATION.**

5.1 Indemnification for Professional Liability. Where the law establishes a professional standard of care for performance of the Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend (with counsel selected by City), and hold harmless City and any and all of its officers, employees, officials, volunteers, and agents from and against any and all claims, losses, costs, damages, expenses, liabilities, liens, actions, causes of action (whether in tort, contract, under statute, at law, in equity, or otherwise) charges, awards, assessments, fines, or penalties of any kind (including reasonable consultant and expert fees and expenses of investigation, costs of whatever kind and nature and, if Consultant fails to provide a defense for City, the legal costs of counsel retained by City) and any judgment (collectively, "Claims") to the extent same are caused in whole or in part by any negligent or wrongful act, error, or omission of Consultant, its officers, agents, employees, or subcontractors (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.

5.2 Indemnification for Other than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, protect, defend (with counsel selected by City), and hold harmless City, and any and all of its officers, employees, officials, volunteers, and agents from and against any and all Claims, where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to officers, agents, employees or subcontractors of Consultant.

5.3 Limitation of Indemnification for Design Professionals. Notwithstanding any provision of this Section 5 to the contrary, design professionals, as that term is defined in Civil Code Section 2782.8, are required to defend and indemnify City only to the extent permitted by

Civil Code Section 2782.8. The term “design professional” as defined in Section 2782.8, is limited to licensed architects, licensed landscape architects, registered professional engineers, professional land surveyors, and the business entities that offer such services in accordance with the applicable provisions of the California Business and Professions Code. This Subsection 5.3 shall only apply to Consultant if Consultant is a “design professional” as that term is defined in Civil Code Section 2782.8.

5.4 Limitation of Indemnification. The provisions of this Section 5 do not apply to claims occurring as a result of City’s sole or active negligence. The provisions of this Section 5 shall not release City from liability arising from gross negligence or willful acts or omissions of City or any and all of its officers, officials, employees, and agents acting in an official capacity.

## **SECTION 6. INDEPENDENT CONTRACTOR.**

At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City. City shall have the right to control Consultant only insofar as the results of the Services rendered pursuant to this Agreement and assignment of personnel pursuant to Subsection 1.3; however, otherwise City shall not have the right to control the means by which Consultant accomplishes the Services rendered pursuant to this Agreement. The personnel performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant’s exclusive direction and control. Consultant shall not at any time or in any manner represent that it is or any of its officers, employees, or agents are in any manner officers, officials, employees, or agents of City. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against City, or bind City in any manner. Except for the fees paid to Consultant as provided in this Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing the Services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing the Services hereunder. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (“PERS”) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

## **SECTION 7. LEGAL REQUIREMENTS.**

7.1 Governing Law. The laws of the State of California shall govern this Agreement.

7.2 Compliance with Applicable Laws. Consultant and any subcontractor shall comply with all applicable local, state, and federal laws and regulations applicable to the performance of the work hereunder. Consultant shall not hire or employ any person to perform work within City or allow any person to perform the Services required under this Agreement unless such person is properly documented and legally entitled to be employed within the United States. Consultant acknowledges and agrees that it shall be independently responsible for reviewing the applicable laws and regulations and effectuating compliance with such laws. Consultant shall require the same of all subcontractors.

7.3 Prevailing Wages. Consultant acknowledges and agrees that it shall be independently responsible for reviewing the applicable prevailing wage laws and regulations and effectuating compliance with such laws, including, but not limited to the prevailing wage and related requirements set forth in this Subsection 7.3. Consultant shall bear all risks of payment or non-payment of prevailing wages under California law and/or the implementation of Labor Code Section 1781, as the same may be amended from time to time, and/or any other similar law.

a. Public Work. Consultant hereby expressly acknowledges and agrees that City has never previously affirmatively represented to Consultant, its employees or agents in writing or otherwise that the Services are not a “public work,” as defined in Section 1720 of the Labor Code. It is agreed by the Parties that, in connection with the development, construction (as defined by applicable law) and operation of the Services, including, without limitation, any public work (as defined by applicable law), if any, Consultant shall bear all risks of payment or non-payment of state and/or federal prevailing wages and/or the implementation of Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, and/or any other provision of law. To the extent applicable, City will enforce all penalties required by law for Consultant’s failure to pay prevailing wages.

b. Labor Code of California. The Consultant’s attention is directed to Division 2, Part 7, Chapter 1 of the Labor Code of the State of California and especially to Article 2 (Wages); and Article 3 (Working Hours), thereof.

(i) In accordance with Sections 1773 and 1773.2 of the Labor Code, City has found and determined the general prevailing rates of wages in the locality in which the public work is to be performed are those determined by the Director of Industrial Relations and available at <https://www.dir.ca.gov/OPRL/2022-1/PWD/Southern.html>. Copies of the prevailing rates of wages are maintained with City’s principal office and are available to any interested party on request. Consultant shall post a copy of the prevailing rate of per diem wages at each job site.

(ii) Consultant is aware of and will comply with the provisions of Labor Code Section 1776, including the keeping of payroll records and furnishing certified copies thereof in accordance with said Section. Pursuant to Labor Code Section 1771.4, Consultant must submit certified payroll records to the Labor Commissioner using the Department of Industrial Relations’ electronic certified payroll reporting (eCPR) system.

(iii) Pursuant to Labor Code Section 1810, it is stipulated hereby that eight (8) hours labor constitutes a legal day’s work hereunder.

(iv) Pursuant to Labor Code Section 1815, work performed by employees of contractors in excess of eight (8) hours per day, and 40 hours during any one week, shall be permitted upon public work upon compensation for all hours worked in excess of eight (8) hours per day at not less than 1 ½ times the basic rate of pay.

(v) Pursuant to Labor Code Section 1813, it is stipulated hereby that Consultant shall, as a penalty to City, forfeit twenty-five dollars (\$25) for each worker employed in the execution of this Agreement by Consultant or by any subcontractor hereunder for each calendar day during which such worker is required or permitted to work more than eight (8) hours

in any one calendar day and forty (40) hours in any one (1) calendar week in violation of the provisions of Article 3 (commencing with Section 1810), Chapter 1, Part 7, Division 2 of the Labor Code.

(vi) Consultant is aware of and will comply with the provisions of Labor Code Sections 1777.5 and 1777.6 with respect to the employment of apprentices. Pursuant to Section 1777.5 it is hereby stipulated that Consultant will be responsible for obtaining compliance therewith on the part of any and all sub-consultants or subcontractors employed by Consultant in connection with this Agreement.

(vii) Pursuant to Labor Code Section 1775, it is hereby stipulated that Consultant shall, as a penalty to City, forfeit not more than two-hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for the work or craft in which the worker is employed for the Services by Consultant or any sub-consultant or subcontractor.

c. Bidding Eligibility. Pursuant to Labor Code Section 1771.1, no contractor or subcontractor (or consultant or subconsultant) may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations.

d. DIR Monitoring. Pursuant to Labor Code Section 1771.4, Consultant is hereby notified that this project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

e. Indemnification Related to Prevailing Wages. Section 5, Indemnification, specifically encompasses Claims arising from or related to (i) the noncompliance by Consultant or any party performing the Services of any applicable local, state, and/or federal law, including, without limitation, any applicable federal and/or state labor laws (including, without limitation, the requirement to pay state prevailing wages and hire apprentices); (ii) the implementation of Labor Code Sections 1726 and 1781, as the same may be amended from time to time, or any other similar law; and/or (iii) failure by Consultant or any party performing the Services to provide any required disclosure or identification as required by Labor Code Section 1781, as the same may be amended from time to time, and/or any other similar law.

7.4 Licenses and Permits, Fees and Assessments. Consultant represents, warrants, and covenants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions, and perform the Services. Consultant represents, warrants, and covenants to City that Consultant and its employees, agents, and subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions, and perform the Services. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid business licenses from City. Consultant shall have the sole obligation to pay for any fees, assessments, and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for Consultant's performance of the Services, and shall indemnify, defend and hold harmless City, its officers,

employees or agents of City, against any such fees, assessments, taxes, penalties or interest levied, assessed, or imposed against City hereunder.

7.5 Conflicts of Interest, Political Reform Act. Consultant represents, warrants, and covenants that Consultant presently has no interest, direct or indirect, which would interfere with or impair in any manner or degree the performance of Consultant's obligations and responsibilities under this Agreement. Consultant further agrees that while this Agreement is in effect, Consultant shall not acquire or otherwise obtain any interest, direct or indirect, that would interfere with or impair in any manner or degree the performance of Consultant's obligations and responsibilities under this Agreement. Consultant acknowledges that pursuant to the provisions of the Political Reform Act (Government Code Section 87100 *et seq.*), City may determine the Consultant to be a "consultant" as that term is defined by 2 California Code of Regulations Section 18700.3. In the event City makes such a determination, Consultant agrees to complete and file a "Statement of Economic Interest" with the City Clerk to disclose such financial interests as required by City. In such event, Consultant further agrees to require any other person doing work under this Agreement to complete and file a "Statement of Economic Interest" to disclose such other person's financial interests as required by City.

7.6 Annual Appropriation of Funding. In accord with Article 16 Section 18 of the California Constitution, payment of compensation under this Agreement is contingent upon annual appropriation of funds by City for that purpose. Consultant acknowledges and agrees that to the extent that the Services extend beyond one (1) fiscal year, payment for such Services is expressly conditioned on City's annual appropriation of funds for such Services for each year. If no funds are appropriated then this Agreement shall be terminated. City pledges and agrees to process such appropriation requests annually and in good faith. Nothing in this Subsection shall be construed to limit the right of either Party to terminate this Agreement as provided herein.

## **SECTION 8. TERMINATION AND MODIFICATION.**

8.1 Termination. City may cancel this Agreement at any time and without cause upon written notification to Consultant.

8.2 Termination by Consultant. Consultant may cancel this Agreement upon 30 days' written notice to City.

8.3 Consequences of Termination. In the event of termination, Consultant shall be entitled to compensation for the Services performed up to the date of termination; City, however, may condition payment of such compensation upon Consultant delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or City in connection with this Agreement.

8.4 Extension. City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless

authorized by the Contract Administrator, City shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.

8.5 Amendments. The Parties may amend this Agreement only by a writing signed by all the Parties.

8.6 Assignment and Subcontracting. City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in Consultant's proposal, without prior written approval of the Contract Administrator. In the event that key personnel leave Consultant's employ, Consultant shall notify City immediately.

8.7 Survival. All obligations arising prior to the expiration or termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant shall survive the expiration or termination of this Agreement.

8.8 Options upon Breach by Consultant. If Consultant materially breaches any of the terms of this Agreement, City's remedies shall include, but not be limited to, any or all of the following:

- a. Immediately terminate this Agreement;
- b. Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
- c. Retain a different consultant to complete the Services described in Exhibit A; and/or
- d. Charge Consultant the difference between the cost to complete the Services described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Consultant pursuant to Section 2 if Consultant had completed the Services.

## **SECTION 9. KEEPING AND STATUS OF RECORDS.**

9.1 Records Created as Part of Consultant's Performance. All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of City. Consultant hereby agrees to deliver those documents to City upon the expiration or termination of this Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for City and are not necessarily suitable for any future or other use. Any use of such documents for other projects by City shall be without liability to Consultant. City and

Consultant agree that, until final approval by City, all data, plans, specifications, reports, and other documents are confidential and will not be released to third parties without prior written consent of both Parties unless required by law.

9.2 Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for City to copy, use, modify, reuse, or sublicense any and all copyrights, designs, rights of reproduction, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, test data, survey results, models, renderings, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings, digital renderings, or data stored digitally, magnetically, or in any other medium, which are prepared or caused to be prepared by Consultant under this Agreement (“Documents and Data”). Consultant shall require all subcontractors to agree in writing that City is granted a non-exclusive and perpetual license for any Documents and Data the subcontractor prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents and Data. Consultant makes no such representation and warranty in regard to Documents and Data which were prepared by design professionals other than Consultant or provided to Consultant by the City. City shall not be limited in any way in its use of the Documents and Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at City’s sole risk.

9.3 Consultant’s Books and Records. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for the Services or expenditures and disbursements charged to City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to Consultant under this Agreement. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible.

9.4 Inspection and Audit of Records. Any records or documents that Subsection 9.3 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds TEN THOUSAND DOLLARS (\$10,000.00), this Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under this Agreement.

## **SECTION 10. MISCELLANEOUS PROVISIONS.**

10.1 Attorneys’ Fees. If either Party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing Party shall be entitled to reasonable attorneys’ fees and expenses including costs, in addition to any other relief to which that Party may be entitled; provided, however, that the attorneys’ fees awarded pursuant to this Subsection shall not exceed the hourly rate paid by City for legal services multiplied by the reasonable number of hours spent by the prevailing Party in the conduct of the litigation. The court may set such fees in the same action or in a separate action brought for that purpose.

10.2 Applicable Law, Venue. The laws of the State of California shall govern this Agreement. In the event that either Party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in Riverside County.

10.3 Severability. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

10.4 Section Headings and Subheadings. The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

10.5 No Implied Waiver of Breach. Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

10.6 Successors and Assigns. The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.

10.7 Consultant Representative. All matters under this Agreement shall be handled for Consultant by Trevor Briggs, P.E. (“Consultant’s Representative”). The Consultant’s Representative shall have full authority to represent and act on behalf of Consultant for all purposes under this Agreement. The Consultant’s Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences, and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

10.8 City Contract Administration. This Agreement shall be administered by City’s City Manager, or his or her designee (“Contract Administrator”). All correspondence shall be directed to or through the Contract Administrator or his designee. The Contract Administrator shall have the power to act on behalf of City for all purposes under this Agreement. Unless otherwise provided in this Agreement, Consultant shall not accept direction or orders from any person other than the Contract Administrator or his designee.

10.9 Notices. Any written notice to Consultant shall be sent to:

Kimley Horn and Associates, Inc.  
Attn: Trevor Briggs  
3801 University Avenue, Suite 300  
Riverside, CA 92501

Any written notice to City shall be sent to the Contract Administrator at:

City of Menifee  
29844 Haun Road  
Menifee, CA 92586  
Attn: Armando Villa, City Manager

with a copy to:

City Clerk  
City of Menifee  
29844 Haun Road  
Menifee, CA 92586

10.10 Professional Seal. Where applicable in the determination of the Contract Administrator, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation. The stamp/seal shall be in a block entitled “Seal and Signature of Registered Professional with report/design responsibility,” as in the following example.

Seal and Signature of Registered Professional with report/design responsibility.
---

10.11 Rights and Remedies. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

10.12 Integration. This Agreement, including the scope of services attached hereto and incorporated herein as Exhibit A, represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

10.13 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

10.14 Execution of Contract. The persons executing this Agreement on behalf of each of the Parties hereto represent and warrant that (i) such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) that entering into this Agreement does not violate any provision of any other agreement to which said Party is bound.

10.15 Nondiscrimination. Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that in the performance of this Agreement there shall be no discrimination against or segregation of, any person or group of persons on account of any impermissible classification including, but not limited to, race, color, creed, religion, sex, marital status, sexual orientation, national origin, or ancestry.

10.16 No Third Party Beneficiaries. There are no intended third-party beneficiaries under this Agreement and no such other third parties shall have any rights or obligations hereunder. The City of Perris is not a third party beneficiary under this Agreement.

10.17 Nonliability of City Officers and Employees. No officer, official, employee, agent, representative, or volunteer of City shall be personally liable to Consultant, or any successor in interest, in the event of any default or breach by City or for any amount which may become due to Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

10.18 No Undue Influence. Consultant declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of City in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of City shall receive compensation, directly or indirectly, from Consultant, or from any officer, employee, or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement.

10.19 No Benefit to Arise to City Employees. No member, officer, or employee of City, or their designees or agents, and no public official who exercises authority over or has responsibilities with respect to this Agreement during his/her tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for the Services to be performed under this Agreement.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Parties hereto have executed and entered into this Agreement as of the Effective Date.

**CITY OF MENIFEE**

**CONSULTANT**

\_\_\_\_\_  
Armando Villa, City Manager

\_\_\_\_\_  
John Pollock, Associate

Attest:

\_\_\_\_\_  
Stephanie Roseen, Acting City Clerk

\_\_\_\_\_  
Davie Cowan, Vice President

Approved as to Form:

[Note: 2 officer's signatures required if  
Consultant is a corporation, unless provided  
with a certificate of secretary in-lieu]

\_\_\_\_\_  
Jeffrey T. Melching, City Attorney

## EXHIBIT A

### SCOPE OF SERVICES

Services shall include **TRAFFIC ANALYSIS SERVICES FOR THE ECONOMIC DEVELOPMENT CORRIDOR, NORTHERN GATEWAY AREA** in the amount not to exceed **ONE HUNDRED TWENTY-FOUR THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$124,750)** as further detailed in the following page(s). For the avoidance of doubt, the City of Menifee shall have responsibility for one half of the total amount specified on the following pages, i.e., the total amount is two hundred forty-nine thousand five hundred dollars (\$249,500), of which the City of Menifee shall have responsibility to pay one hundred twenty-four thousand seven hundred fifty dollars (\$124,750).

Further, the “Master Circulation Plan Traffic Study”, as referenced in the following pages, shall not be commenced until the City of Perris and the City of Menifee have agreed and approved in writing a “Scoping Agreement”, which will detail the manner in which the “Master Circulation Plan Traffic Study” will be conducted.



November 27, 2023

Cheryl Kitzerow, AICP  
 Community Development Director  
 City of Menifee  
 29844 Haun Road  
 Menifee, CA 92586

**Re: Menifee Economic Development Corridor – Master Circulation Plan**

Dear Ms. Kitzerow:

Kimley-Horn and Associates, Inc. (“Kimley-Horn” or “Consultant”) is pleased to submit this letter agreement (the “Agreement”) to the City of Menifee (“Client”) for providing engineering services for a Master Circulation Plan Study for truck access from the I-215 Ethanac Road Interchange to the proposed industrial developments located south of Ethanac Road, between Barnett Road and Goetz Road in the County of Riverside, City of Menifee.

**Project Understanding**

The Client, along with multiple industrial real estate developers, is in the process of facilitating the development of multiple industrial projects in the Menifee Economic Development Corridor-Northern Gateway (EDC-NG) area. The parcels and roadways located within the EDC-NG are summarized as follows, from west to east:

**TABLE 1: EDC-NG Area Land Uses and Roadways**

Zone	Acres	Potential SF	High-Cube Fulfillment		North/South Street	ROW	St. Classification
			Warehouse SF (ITE 150) <sup>1</sup>	Center Sort SF (ITE 155) <sup>1</sup>			
Island 1	±56.22 AC	±1,005,965 SF	±502,982 SF	±502,982 SF	Goetz Road	64' East H/W - Menifee/ 56' West H/W - Perris	Arterial
Island 2	±56.22 AC	±982,095 SF	±491,047 SF	±491,047 SF	Wheat Street	74'	Mod. Industrial Collector
Island 3	±56.54 AC	±1,170,877 SF	±585,438 SF	±585,438 SF	Byers Road	78'	Industrial Collector
Island 4	±56.22 AC	±1,010,633 SF	±505,317 SF	±505,317 SF	Geary Street	74'	Mod. Industrial Collector
Island 5	±55.90 AC	±1,083,759 SF	±541,880 SF	±541,880 SF	Murrieta Road	100'	Secondary
Island 6	±63.64 AC	±1,292,680 SF	±646,340 SF	±646,340 SF	Hull Street	74'	Mod. Industrial Collector
Island 7	±56.22 AC	±1,095,043 SF	±547,522 SF	±547,522 SF	Evans Road	78'	Industrial Collector
<b>Total</b>	<b>±400.96 AC</b>	<b>±7,641,051 SF</b>	<b>±3,820,526 SF</b>	<b>±3,820,526 SF</b>	Barnett Road	50' West H/W - Menifee/ 47' East H/W - Perris	Secondary

<sup>1</sup> The Warehouse SF & High-Cube Fulfillment Center - Sort SF are both calculated at 50% of the Potential SF.

The Client is currently exploring to master-plan the circulation routes for the entire EDC-NG (±401 acres with potential ±7.64 MSF of industrial).

A Truck Corridor immediately north of the SCE transmission corridor has been identified as a means to mitigate the traffic impacts. This alignment would border the SCE right-of-way on the side between Wheat Street and Barnett Road. Barnett Road would be widened, and the Ethanac Road and Barnett Road / Case Road intersection would be realigned.

This alignment would cross the access road to the 76 Truck Stop (Patricia Lane) and require reconfiguration of the truck stop access. In addition, truck access utilizing Evans Road, Hull Street, Murrieta Road, Geary Street, Byers Road, and Wheat Street will be explored.

Based on other studies in the area, the following intersections are anticipated to be signalized in the future: (1) Ethanac Road & Evans Road, (2) Ethanac Road & Byers Road, (3) Ethanac Road & Green Valley Parkway, while Ethanac Road & Murrieta Road is signalized in the existing condition.

The access would require the modification of the current intersections and left-turn pockets.

City staff has requested that the Master Circulation Plan Traffic Study include the following scenarios under Future Build-Out conditions of the EDC-NG area land uses:

- **Option 1 – No Build Condition (No Truck Corridor)**
  - Inbound and outbound trucks would access the industrial sites within the EDC-NG area via Ethanac Road.
  - 100% of inbound and outbound trucks would access the EDC-NG area via the Ethanac Road/I-215 freeway interchange.
- **Option 2 – One-Way Inbound Truck Corridor (Westbound Only)**
  - Inbound trucks would access the industrial sites within the EDC-NG area via the proposed Truck Corridor as noted in the Project Understanding”. Trucks would access the proposed Truck Corridor via Barnett Road from Ethanac Road.
  - Outbound trucks would exit the industrial sites within the EDC-NG area via Ethanac Road.
  - 100% of inbound and outbound trucks would access the EDC-NG area via the Ethanac Road/I-215 freeway interchange.
- **Option 3 – Two-Way Truck Corridor (10% of Inbound Trucks from Case Road)**
  - Inbound and outbound trucks would access the industrial sites within the EDC-NG area via the proposed Truck Corridor. Trucks would enter/exit the proposed Truck Corridor via Barnett Road or Evans Road from Ethanac Road. It is assumed that a majority of truck traffic will access the EDC-NG via Barnett Road from Ethanac Road. Only development projects with direct access to Evans Road within the EDC-NG will assume truck traffic access to the EDC-NG via Evans Road from Ethanac Road.
  - 90% of inbound trucks would access the EDC-NG area via the Ethanac Road/I-215 freeway interchange.
  - 10% of inbound trucks would access the EDC-NG area via the Bonnie Drive/I-215 freeway interchange just north the EDC-NG area and Case Road north of Ethanac Road.

- 100% of outbound trucks would exit the EDC-NG area via the Ethanac Road/I-215 freeway interchange.
- **Option 4 – Two-Way Truck Corridor (100% of Trucks from Ethanac Road/I-215 Interchange)**
  - Inbound and outbound trucks would access the industrial sites within the EDC-NG area via the proposed Truck Corridor. Trucks would enter/exit the proposed Truck Corridor via Barnett Road or Evans Road from Ethanac Road. It is assumed that a majority of truck traffic will access the EDC-NG via Barnett Road from Ethanac Road. Only development projects with direct access to Evans Road within the EDC-NG will assume truck traffic access to the EDC-NG via Evans Road from Ethanac Road.
  - 100% of inbound and outbound trucks would exit the EDC-NG area via the Ethanac Road/I-215 freeway interchange.

**Scope of Services**

Kimley-Horn will provide the services specifically set forth below.

**Task 1.1 Traffic Volume Development**

Obtain recent (within one year) weekday morning and evening peak hour traffic count data at up to eight (8) study intersections listed below:

1. Ethanac Road at Goetz Road
2. Ethanac Road at Murrieta Road
3. Ethanac Road at Barnett Road/Case Road
4. Ethanac Road at I-215 SB Ramps
5. Ethanac Road at I-215 NB Ramps
6. Case Road at Mapes Road
7. Bonnie Drive/Metrolink Station Road at Mapes Road
8. Bonnie Drive at I-215 SB Ramps

Obtain recent (within one year) weekday daily counts at seven (7) roadway segments listed below:

1. Ethanac Road – between Goetz Road and Murrieta Road
2. Ethanac Road – between Murrieta Road and Barnett Road/Case Road
3. Ethanac Road – between Barnett Road/Case Road and I-215 SB Ramps
4. Ethanac Road – between I-215 SB Ramps and I-215 NB Ramps
5. Murrieta Road - between Ethanac Road and McLaughlin Road
6. Barnett Road - between Ethanac Road and McLaughlin Road
7. Case Road - between Watson Road and Ethanac Road

After accounting for square footages of projects currently in process, assume standardized site plans for the potential projects within the Economic Development Corridor-Northern Gateway (EDC-NG) zoning just south of Ethanac Road between Barnett Road to the east and Goetz Road to the west, including building square footages and uses, site layout, site driveways, parking supply,

and any other site features that will affect the traffic analysis. This traffic analysis will assume four (4) project driveways on each north/south street and two (2) project driveways along the Truck Corridor within each of the seven (7) Islands.

Provide existing volumes and develop project trip generation estimates for the proposed projects based land use assumptions noted in Table 1 (see Page 1), using the Institute of Transportation Engineers (ITE) Trip Generation Manual (11th Edition) trip rates. Passenger car equivalent (PCE) factors will be applied for trucks.

Develop trip distribution assumptions for the project traffic for the four (4) options noted in the "Project Understanding" section of this proposal, based on likely origins and destinations of trucks, as well as current traffic patterns in the area. Project traffic will be distributed through the study intersections, and the project traffic contribution to each intersection will be identified for each of the four (4) options. The study area and preliminary trip distribution assumptions are shown in **Exhibit 1** attached.

Develop future buildout volumes for the four options at the following study locations (see Exhibit 1):

#### Intersections

1. Ethanac Road at Goetz Road
2. Ethanac Road at Wheat Street
3. Ethanac Road at Byers Road
4. Ethanac Road at Geary Street
5. Ethanac Road at Murrieta Road
6. Ethanac Road at Hull Street
7. Ethanac Road at Evans Road
8. Ethanac Road at Green Valley Parkway
9. Ethanac Road at Barnett Road/Case Road
10. Ethanac Road at I-215 SB Ramps
11. Ethanac Road at I-215 NB Ramps
12. Truck Corridor at Wheat Street
13. Truck Corridor at Byers Road
14. Truck Corridor at Geary Street
15. Truck Corridor at Murrieta Road
16. Truck Corridor at Hull Street
17. Truck Corridor at Evans Road
18. Truck Corridor at Barnett Road
19. Case Road at Mapes Road
20. Bonnie Drive/Metrolink Station Road at Mapes Road
21. Bonnie Drive at I-215 SB Ramps

**Roadway Segments**

1. Ethanac Road - between Goetz Road and Wheat Street
2. Ethanac Road - between Wheat Street and Byers Road
3. Ethanac Road - between Byers Road and Geary Street
4. Ethanac Road - between Geary Street and Murrieta Road
5. Ethanac Road - between Murrieta Road and Hull Street
6. Ethanac Road - between Hull Street and Evans Road
7. Ethanac Road - between Evans Road and Green Valley Parkway
8. Ethanac Road – between Green Valley Parkway and Barnett Road/Case Road
9. Ethanac Road - between Barnett Road/Case Road and I-215 SB Ramps
10. Ethanac Road - between I-215 SB Ramps and I-215 NB Ramps
11. Truck Corridor - between Wheat Street and Byers Road
12. Truck Corridor - between Byers Road and Geary Street
13. Truck Corridor - between Geary Street and Murrieta Road
14. Truck Corridor - between Murrieta Road and Hull Street
15. Truck Corridor - between Hull Street and Evans Road
16. Truck Corridor - between Evans Road and Barnett Road
17. Goetz Road – between Ethanac Road and Truck Corridor (passenger only)
18. Goetz Road – between Truck Corridor and McLaughlin Road (passenger only)
19. Wheat Street – between Ethanac Road and Truck Corridor
20. Byers Road – between Ethanac Road and Truck Corridor
21. Byers Road – between Truck Corridor and McLaughlin Road (passenger cars only)
22. Geary Street – between Ethanac Road and Truck Corridor
23. Murrieta Road – between Ethanac Road and Truck Corridor
24. Murrieta Road – between Truck Corridor and McLaughlin Road (passenger cars only)
25. Hull Street – between Ethanac Road and Truck Corridor
26. Evans Road – between Ethanac Road and Truck Corridor
27. Evans Road – between Truck Corridor and McLaughlin Road (passenger cars only)
28. Barnett Road – between Ethanac Road and Truck Corridor
29. Barnett Road – between Truck Corridor and McLaughlin Road (passenger cars only)
30. Case Road - between Watson Road and Ethanac Road

**Off-Ramp Queuing**

1. I-215 SB Off-Ramp at Ethanac Road
2. I-215 NB Off-Ramp at Ethanac Road
3. I-215 WB Off-Ramp at Bonnie Drive

The future background growth will be determined based on the addition of traffic from Cumulative Projects within a 2-mile radius. One consolidated list of Cumulative Projects (for both City of Menifee and City of Perris) will be provided to the Consultant for assumptions of Cumulative Project traffic. The project trips within the EDC-NG area will be added based on the trip generation and trip distribution assumptions.

The future volume forecasts, trip generation estimates, and trip distribution assumptions for the four (4) options with the EDC-NG area will be submitted to the City of Menifee and the City of Perris for concurrence prior to proceeding with Tasks 1.2 through 1.4.

### **Task 1.2 Left-Turn Queuing Analysis**

Conduct a left-turn pocket queuing analysis (using the SimTraffic software) at the following signalized intersection locations to determine adequacy of existing left-turn queuing capacity along Ethanac Road under Option 1 (No Build; No Truck Corridor) and Option 2 (One-Way Inbound Truck Corridor) conditions:

1. Ethanac Road at Goetz Road
  - a. Westbound Left Turn
2. Ethanac Road at Byers Road
  - a. Westbound Left Turn
3. Ethanac Road at Murrieta Road
  - a. Westbound Left Turn
4. Ethanac Road at Hull Street
  - a. Westbound Left Turn
5. Ethanac Road at Evans Road
  - a. Westbound Left Turn
6. Ethanac Road at Green Valley Parkway
  - a. Eastbound Left Turn
7. Ethanac Road at Barnett Road
  - a. Westbound Left Turn
8. Ethanac Road at I-215 SB Ramps
  - a. Westbound Left Turn
  - b. Southbound Right Turn
9. Ethanac Road at I-215 NB Ramps
  - a. Eastbound Left Turn
  - b. Northbound Left Turn

Conduct a focused westbound left-turn pocket queuing analysis at the intersection of Ethanac Road at Barnett Road, under future buildout conditions for the four options, to evaluate the distribution of project truck traffic using Barnett Road to access the Economic Development Corridor-Northern Gateway (EDC-NG).

The queuing analysis will determine the maximum inbound truck traffic that can be routed down Barnett Road (97 foot right of way) as a limiting factor. The queuing analysis assumes up to three additional (4) iterations for up to four (4) options (up to 16 total iterations) to assign the rest of the inbound truck traffic to Evans Road, Murrieta Road, and Byers Road subject to the existing westbound left turn capacity at each of those intersections.

Identify recommended improvements (as applicable) to the following intersections to address left-turn queuing of truck traffic for the four (4) options:

1. Ethanac Road at Barnett Road
2. Ethanac Road at Evans Road
3. Ethanac Road at Hull Street
4. Ethanac Road at Murrieta Road
5. Ethanac Road at Byers Road
6. I-215 NB Ramp at Ethanac Road
7. I-215 SB Ramp at Ethanac Road
8. Murrieta Road at Truck Corridor

### **Task 1.3 Safety Review**

Conduct a safety review for the proposed truck route following Caltrans standards. The safety assessment requirements for the truck route will be limited to the following elements:

- Review of sight distance requirements at intersections along the truck route. Sight distance triangles for corner clearance will be provided at all the intersections along the proposed truck route.
- Driveway and intersection spacing review
- Queuing exceeding turn pocket that impedes through-traffic
- Pedestrian and bicycle conflict points caused by turning vehicles
- Provide recommendations for safety improvements, if applicable.

### **Task 1.4 Truck Corridor Analysis and Report**

Confirm appropriate cross sections along the Truck Corridor and review traffic control and potential queuing at the study intersections along the Truck Corridor.

Summarize operating conditions at the 21 study intersections, 30 roadway segments and 3 off-ramp queues noted in Task 1.1 under Future Build-Out conditions for the following scenarios as noted in the “Project Understanding” section of this proposal:

- Option 1 – No Build Condition (No Truck Corridor)
- Option 2 – One-Way Inbound Truck Corridor (Westbound Only)
- Option 3 – Two-Way Truck Corridor (10% of Inbound Trucks from Case Road)
- Option 4 – Two-Way Truck Corridor (100% of Trucks from Ethanac Road/I-215 Interchange)

Identify recommended improvements.

Prepare a stand-alone traffic report to document the methods and results of the analyses performed in this task.

Revise the traffic report to respond to up to two (2) rounds of consolidated review comments, to the extent that the revisions are within the approved scope of services and that no new data collection or additional analysis is required. The City of Menifee will compile review comments from both the

City of Menifee and the City of Perris and provide consolidated comments for the Consultant to address.

The traffic analysis and report will address the impacts of a single development scenario. Analysis of project alternatives, phased development, additional analysis scenarios, or revised analysis to address revisions to the site plan will require additional fee.

### **Task 1.5 Preliminary Alignment Study – Truck Access Road**

Consultant will prepare a preliminary alignment study based on standard cross-sections identified in Table 1 for discussion purposes with the client to identify the horizontal geometry of the EDC Truck Access Road. The Preliminary Alignment Study will show access from Ethanac Road to Barnett Road, Evans Road, Hull Street, Murrieta Road, Geary Street, Byers Road, and Wheat Street, and will identify the horizontal geometry of the EDC access from Ethanac Road at Barnett Road, Evans Road, Hull Street, Murrieta Road, Geary Street, Byers Road, and Wheat Street.

The Consultant will develop a draft alignment based on impacts to the proposed industrial developments, constructability, right-of-way requirements, utilities, and other restrictions.

Consultant will evaluate truck turning templates on up to 17 intersections and adjust design as needed to accommodate truck turning movements.

Consultant will obtain and review as-builts and right-of-way information for the existing crossing of the Riverside County Flood Control and Water Conservation District Channel on Barnett Road. Consultant will evaluate up to 2 alignment options of Barnett Road crossing the channel. Width of new roadway, angle of crossing, and permitting process will be considered in evaluation.

Plans will be 24" x 36" roll plots at 1" = 150' scale.

Deliverable:

- Center line alignment study – Electronic full-size copy of the plans

### **Task 2.0 Project Management and Coordination**

Trevor Briggs, P.E. will be Kimley-Horn's project manager and sole point of contact. He will lead project management coordination, which will consist of schedules, progress reports, invoicing and administration.

Consultant will provide coordination and attend project meetings as required by agencies and/or requested by the Client. As the level of effort associated with preparation for, attendance at and documentation of meeting discussions is difficult to predict, it will be completed on an hourly basis with an initial budget estimate provided below. Consultant assumes the following coordination and/or meetings will be required:

- a) Project Team Meetings: We've found that it is beneficial to hold coordination meetings with the client and other team members. The initial budget estimate assumes up to 40 hours for project team meetings.

- b) Meetings with governmental/local agencies: We've assumed that agency meetings, including City of Menifee Engineering Departments, City of Perris Engineering Departments, Riverside County Flood Control and Utilities regarding the design is helpful in expediting the project schedule. The initial budget estimate assumes up to 10 hours for agency meetings.

**Fee and Expenses**

Kimley-Horn will perform the services in Tasks 1.1 thru 1.4 for the total lump sum fee below. Individual task amounts are informational only.

Services in Tasks 2.0 a and b will be performed on a labor fee plus expense basis. Labor fee will be billed on an hourly basis according to our then-current rates.

All permitting, application, and similar project fees will be paid directly by the Client. Should the Client request Kimley-Horn to advance any such project fees on the Client's behalf, a separate invoice for such fees, with a ten percent (10%) markup, will be immediately issued to and paid by the Client.

Description	Lump Sum	Estimated
<b>TASK 1.1 Traffic Volume Development</b>	\$49,500	
<b>TASK 1.2 Left-Turn Queuing Analysis</b>	\$32,000	
<b>Task 1.3 Safety Review</b>	\$15,000	
<b>Task 1.4 Truck Corridor Analysis and Report</b>	\$67,500	
<b>TASK 1.5 Preliminary Alignment Study - Truck Access Road and Additional Truck Access from Ethanac Road</b>	\$57,000	
<b>TASK 2.0a Project Team Meetings</b>		\$12,500
<b>TASK 2.0b Meetings with governmental/local agencies</b>		\$2,600
<b>Expenses (Data Collection and Office Expenses)</b>		\$13,400
<b>TOTAL</b>	<b>\$221,000</b>	<b>\$28,500</b>

Lump sum labor fees will be invoiced monthly based upon the overall percentage of services performed. Reimbursable expenses will be invoiced based upon expenses incurred. Payment will be due within 30 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

Direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses will be billed at 1.10 times cost. A percentage of labor fee will be added to each invoice to cover certain other expenses such as telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Administrative time related to the project will be billed hourly. All permitting, application, and similar project fees will be paid directly by the Client. Should the Client request Kimley-Horn to advance any such project fees on the Client's behalf, a separate invoice for such fees, with a ten percent (10%) markup, will be immediately issued to and paid by the Client.

### Services Not Included

Any other services, including but not limited to the following, are not included in this Agreement: Therefore, said tasks are excluded from Kimley-Horn scope of services.

1. VMT analysis
2. Traffic design plans
3. CEQA documentation
4. Design for areas outside of limit of work
5. Graphics/Signage package
6. Design of Dry Utilities, i.e. telephone, electric, gas and communications
7. Pavement thickness design
8. Structural Design / Retaining Wall / Sound Wall Design
9. Project utility systems not described herein
10. Potholing of Existing Utilities
11. Property Title Search, Property Appraisal and Acquisition
12. Conditional Use Permit, Zone Change, Specific Plan Amendment and/or Area Plan
13. ALTA Survey
14. Record of Survey
15. Archeologist & Paleontologist Certification
16. Geotechnical Investigation
17. Services related to Hazardous Wastes and Hazardous Material Abatement
18. Any other services not specifically set forth in the foregoing Scope of Services

**Information Provided By Client**

We shall be entitled to rely on the completeness and accuracy of all information provided by the Client or the Client's consultants or representatives. The Client shall provide all information requested by Kimley-Horn during the project, including but not limited to the following:

1. Access to Site plans and Owner archives of EDC corridor development and existing as-builts (hardcopy and/or CAD).
2. Consolidated list of Cumulative Projects within a two-mile radius of the EDC-NG area
3. Topographic survey utilized for initial design.
4. Survey/Mapping support to finalize design
5. Geotechnical reports

**Responsibilities of Client**

In addition to other responsibilities set out in this Agreement, the Client shall: pay all fees for processing of plans and exhibits through the City for review and approval.

**Schedule**

We will provide our services as expeditiously as practicable within the mutually agreed upon schedule. A tentative timeline

- Preliminary traffic analysis results: 4 weeks from NTP and receipt of all necessary information
- Draft Traffic Report: 2 weeks from review of traffic analysis results by Client
- Final Traffic Report: 2 weeks from receipt of comments on Draft Traffic Report

Closure

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the attached Standard Provisions, which are incorporated by reference. As used in the Standard Provisions, "Consultant" shall refer to Kimley-Horn and Associates, Inc., and "Client" shall refer to City of Menifee.

Kimley-Horn, in an effort to expedite invoices and reduce paper waste, submits invoices via email in an Adobe PDF format. We can also provide a paper copy via regular mail if requested. Please include the invoice number and Kimley-Horn project number with all payments. Please provide the following information:

\_\_\_\_ Please email all invoices to \_\_\_\_\_

\_\_\_\_ Please copy \_\_\_\_\_

If you concur in all the foregoing and wish to direct us to proceed with the services, please have authorized persons execute both copies of this Agreement in the spaces provided below, retain one copy, and return the other to us. We will commence services only after we have received a fully-executed agreement. Fees and times stated in this Agreement are valid for sixty (60) days after the date of this letter.

To ensure proper set up of your projects so that we can get started, please complete and return with the signed copy of this Agreement the attached Request for Information. Failure to supply this information could result in delay in starting work on your project.

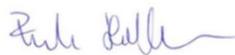
We appreciate the opportunity to provide these services to you. Please contact me if you have any questions.

Very truly yours,

KIMLEY-HORN AND ASSOCIATES, INC.



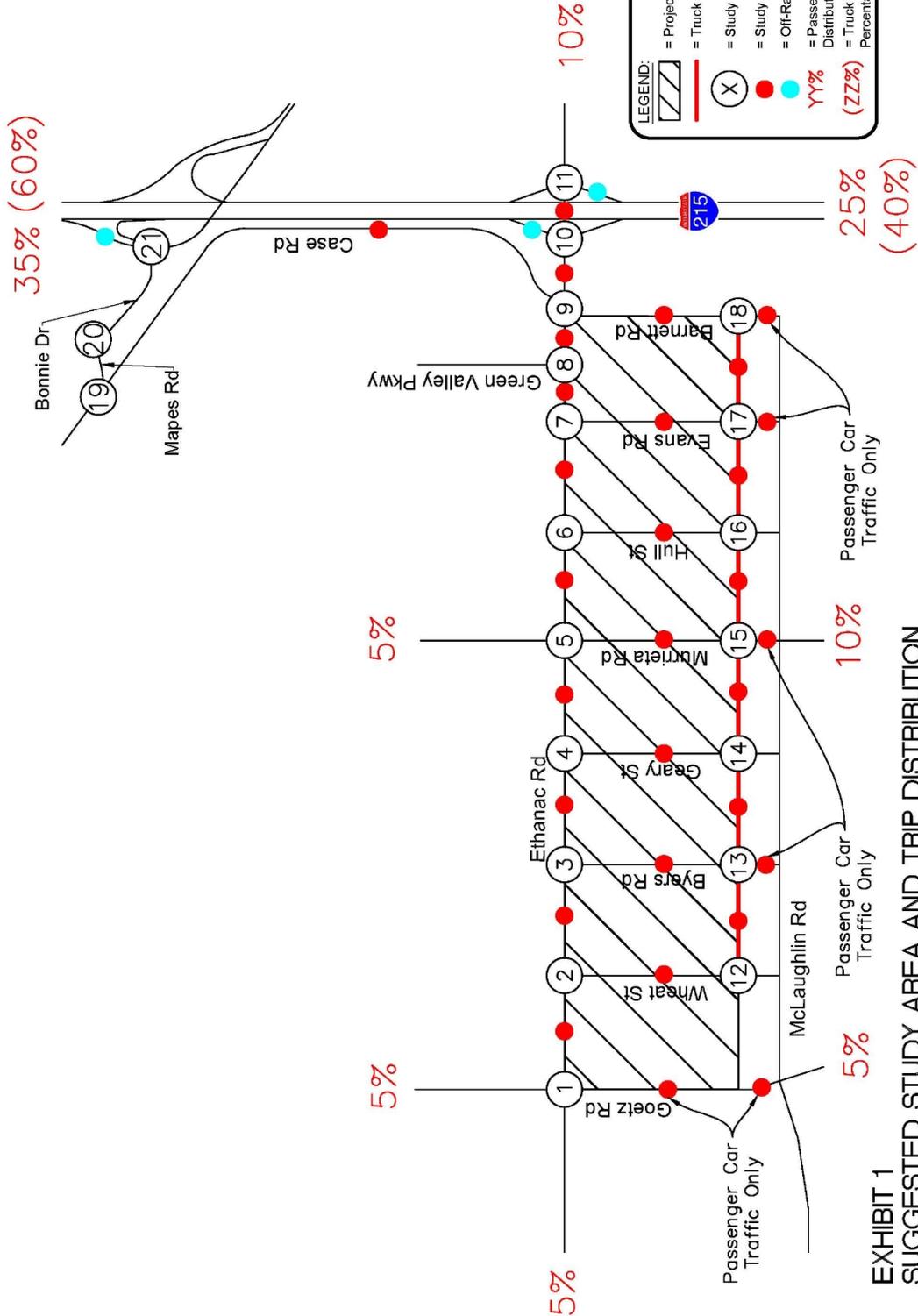
Trevor Briggs, P.E.  
Project Manager  
P.E. No. C87664



Frank Hoffmann, P.E.  
Associate  
P.E. No. C61839



NOT TO SCALE



**EXHIBIT 1  
SUGGESTED STUDY AREA AND TRIP DISTRIBUTION**