

**CITY OF MENIFEE**  
**PROFESSIONAL SERVICES AGREEMENT**

CIP 13-04 Bradley Road Bridge Design

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and effective this 2<sup>nd</sup> day of Sept., 2015 ("Effective Date") by and between the CITY OF MENIFEE, a California municipal corporation, ("City") and NV5, Inc. a California 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 September 2, 2015 and shall end on September 2, 21017 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.

## SECTION 2. COMPENSATION.

City hereby agrees to pay Consultant a sum not to exceed **SEVEN HUNDRED TWENTY NINE THOUSAND FIVE HUNDRED ELEVEN DOLLARS** (\$729,511.00) 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. 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. The Consultant Representative's signature.

Invoices shall be submitted to:

City of Menifee  
Attn: Accounts Payable  
29714 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 Final Payment. City shall pay the last ten percent (10%) 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 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 checked 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.

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:

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

b. 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 by City.

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

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

b. 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.

c. 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.

d. 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: **CIP 13-04 Bradley Road Bridge Design**. The name and address for Additional Insured endorsements, Certificates of Insurance and Notice of Cancellation is: City of Menifee, 29714 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.

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 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.

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. STATUS OF CONSULTANT.**

6.1 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 Subparagraph 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 or any of its officers, employees, or agents is 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. Any and all work subject to prevailing wages, as determined by the Director of Industrial Relations of the State of California, will be the minimum paid to all laborers, including Consultant's employee and subcontractors. It is understood that it is the responsibility of Consultant to determine the correct scale. The State Prevailing Wage Rates may be obtained from the California Department of Industrial Relations ("DIR") pursuant to California Public Utilities Code, Sections 465, 466, and 467 by calling 415-703-4774. Appropriate records demonstrating compliance with such requirement shall be maintained in a safe and secure location at all times, and readily available at City's request. Consultant shall indemnify, defend, and hold City and its elected and appointed boards, members, officials, officers, agents, representatives, employees, and volunteers harmless from and against any liability, loss, damage, cost or expenses (including but not limited to reasonable attorneys' fees, expert witness fees, court costs, and costs incurred related to any inquiries or proceedings) 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 Section 1781 of the Labor Code, 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, or any other similar law. It is agreed by the Parties that, in connection with performance of the Services, including, without limitation, any and all public works (as defined by applicable law), 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. 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 Licenses and Permits. Consultant represents and warrants 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. Consultant represents and warrants 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. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.

## **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 Section 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 Section 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 internal laws of the State of California shall govern the interpretation and enforcement of 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. The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term 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 **Jack L. Abcarius, 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 a City employee, **Nino Abad, P.E.** ("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:

Jack L. Abcarius, P.E. Project Manager  
NV5, Inc.  
15070 Avenue of Science, Suite 100,  
San Diego, CA 92128

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

City of Menifee  
29714 Haun Road  
Menifee, CA 92586  
Attn: Nino Abad, P.E.

with a copy to:

City Clerk  
City of Menifee  
29714 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.

<p>Seal and Signature of Registered Professional with report/design responsibility.</p>
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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. With the exception of the specific provisions set forth in this Agreement, there are no intended third-party beneficiaries under this Agreement and no such other third parties shall have any rights or obligations hereunder.

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.

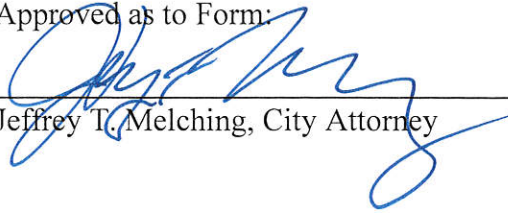
**CITY OF MENIFEE**

  
\_\_\_\_\_  
Scott A. Mann, Mayor


Attest:

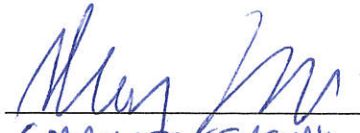
  
\_\_\_\_\_  
Kathy Bennett, City Clerk

Approved as to Form:

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

**CONSULTANT**

  
\_\_\_\_\_  
Regional Manager, 8-20-15

  
\_\_\_\_\_  
CORPORATE SECRETARY 8/20/15

[Note: 2 officer's signatures required if Consultant is a corporation]

**EXHIBIT A**  
**SCOPE OF SERVICES**

Provide full range of design services necessary to complete the design and permitting of the Bradley Road Bridge Project (per attached "Project Approach and Scope")

**Total Contract Cost Not to Exceed \$729,511.00**

Total contract cost includes base items, construction support and optional tasks 1 thru 4, optional task 5 is excluded from the contract.

Extra work or optional task will be performed, only when authorized, per lump sum prices in "Project Approach and Scope" or on a Time and Materials basis per the attached rate sheet. Extra work shall only be performed with prior written authorization from the City of Menifee.

# PROJECT APPROACH AND SCOPE

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## *PROJECT OVERVIEW*

This project consists of improving Bradley Road between Rio Vista Drive, and Potomac Drive within the City of Menifee. This improvement consists of providing an all-weather crossing at Salt Creek in lieu of the existing two-pipe culvert. Such an improvement is necessary for the surrounding communities that get stranded after a 5-year storm event as the roadway gets completely flooded, and becomes impassable. This is a safety concern to the senior citizen community because emergency vehicles cannot reach them without having to go through a lengthy detour.

NV5 studied four different alternatives, using different storm events. While there are numerous possibilities that could be implemented for different levels of storm events, it became evident, after meeting with Riverside County Flood Control & Water Conservation District staff, that the only acceptable alternatives for them would be ones that would not cause objectionable backwater effects. In other words, any alternative that would cause the water surface elevations to rise to a point where the one foot freeboard to the top of their levees is jeopardized would be rejected. Therefore, given that criterion along with the existing site constraints, we determined that a two-span bridge, approximately 250 feet long would be capable of conveying the 100-year flows within Salt Creek, while maintaining the current freeboard to RCFC&CD's levee. Therefore, this proposal is based on the implementation of Alternative 1A which represents the 2-span bridge option.

For the most part, the site is challenging due to site constraints and water conveyance. Some of the key issues are listed below:

- ✓ Creek hydraulics
- ✓ Drainage design
- ✓ Overhead and underground utilities
- ✓ Low profile of the approach roadways and intersections
- ✓ Construction General Permit requirements
- ✓ BMP requirements
- ✓ Potential dewatering permit
- ✓ Agency coordination



In essence, the key to success on this worthy project is the implementation and design of the solution that strikes the right balance between environmental concerns, community and agency concerns and overall project cost.

## *PROJECT APPROACH AND SCOPE*

Having a team that is intimately familiar with the project setting, the preliminary work done to-date, the necessary experience and expertise, and the excitement of performing our work will undoubtedly lead to a successful completion of this project. The schedule shown in red next to each task or deliverable is based on an NTP date of May 21, 2015.

NV5 proposes a four-phased approach to this project.

**PHASE I – PRELIMINARY DESIGN PHASE (MAY 21, 2015 – JUNE 12, 2015)** \_ During this phase, our team will review and re-visit all available documentation, to determine the optimum solution in terms of bridge length, flow conveyance, and overall cost, using the lower 100-year discharge value adopted by FEMA, in lieu of the larger one used in the Preliminary Engineering Analysis. We will study the feasibility of lowering the vertical alignment such that the construction work at the major intersections could be minimized.

*Deliverables: - Potential Revisions to Alternative 1A*

**Fixed Fee \$5,000**

**PHASE II – DESIGN AND CONSTRUCTION DOCUMENTS** \_ Roadway design will be prepared in accordance with the City of Menifee and Riverside County standards as required, and the bridge design will be prepared in accordance with Caltrans standards. All our drawings will be prepared in AutoCAD Civil 3D.

Throughout Phases I and II, the Project Manager will monitor the activities of the project team, tracking progress and ensuring compliance with the schedule. He will conduct regular team meetings and maintain communications with the client through periodic progress meetings and progress reports. Following is a detailed summary of activities.

**TASK 1.0 – Management & Coordination (May 21, 2015 – Dec. 30, 2016).** This task includes overall management of the project, the design team, administration and coordination of the work. Some of the basic tasks include:

1. Kick-Off Meeting with client to set expectations.
2. Progress Meetings – Monthly meetings with City and affected agencies.
3. Scheduling – Preparing, updating and maintaining the overall schedule.
4. Preparing progress reports.
5. Coordinating and directing the activities of the project team.
6. Monitoring and controlling the project budget.
7. Preparing meeting agendas and minutes.
8. Maintaining a project correspondence file.
9. Reviewing, approving, and submitting invoices.
10. Ensuring contractual requirements are met and fulfilled.

Part of the project manager's responsibilities will be the QA/QC task, which includes an independent review of all documents (plans, reports, and estimates) prior to each formal submittal

(70%, 90%, and Final), to control the quality and correctness of the product, and ensure that the client's expectations are met or exceeded.

**Fixed Fee \$35,242**

**TASK 2.0 – Data Gathering (May 21, 2015 – April 29, 2016).** This task incorporates all the up-front field work that needs to be done in support of the design project, including Surveying and Mapping, Data Collection, Geotechnical Investigations, and Environmental Documentation.

2.1 Surveying & Mapping \_ NV5 will provide topographic mapping from aerial photogrammetry for the project site. The aerial topographic mapping will include all visible site improvements and spot elevations. The aerial topography will be flown to 1" = 40' standards with 1' contour intervals. The work shall include field surveying services to set aerial ground control, compilation of controlled digital stereo paired imagery, and delivery of a Digital Terrain Model (DTM). Supplemental field surveys at specific join locations near Potomac Drive and Rio Vista Drive will be conducted. Join conditions include locations of existing curb and gutter, cross gutters, headwalls, existing sewer and storm drain manholes, curb inlets and cleanouts, and other above ground utility features. The survey may include locations of existing street or property monuments as needed to tie the survey to record boundaries. Any monuments found will be located as topographic features only and will not constitute a boundary survey of the project site. Locations of underground utilities by potholing, or excavation are specifically excluded from this scope of services.

2.2 Data Collection \_ Our team will research and obtain all available as-builts for the facilities within the project's footprint. This information will include as-builts for the roadway or recent pavement rehabilitation, if available; Utility as-builts, wet and dry; Pipe culvert as-builts; As-Builts for adjacent developments; As-Builts for Salt Creek; Existing survey records through the County of Riverside, and any existing easements.

2.3 Geotechnical Report \_ Subsurface field investigations will be performed under this task. Laboratory tests will be conducted and a Geotechnical Design Report will be prepared for the roadway improvements and for the proposed bridge over Salt Creek.

The field investigation program will be prepared in consultation with the City, and is expected to include 3 deep borings (up to 100 feet). Undisturbed samples of the subsurface materials will be obtained at approximately five-foot intervals. Bulk samples of representative soil types will also be obtained. Standard Penetration Tests will be performed in accordance with ASTM D-1586-84. Disturbed samples of subgrade soils will be obtained for pavement design recommendations.

Laboratory tests will be performed to assess the engineering properties of the soils and for preparing construction recommendations. At a minimum, the following tests are anticipated:

TEST	PARAMETER
Moisture Density	General soil properties
Compaction Test	Shrinkage / bulking / moisture requirements



Direct Shear / Undisturbed	Slope stability, foundations
Consolidation (Undisturbed)	Removal depths, foundations
Sand Equivalent	Backfill suitability
Sieve Analysis	Classification, scour, dewatering
Chemical Test	Cement type and steel protection

The Geotechnical Report will be prepared in accordance with Caltrans' Bridge Design Aids Sections 15-2 and 15-3, and will include recommendations for foundation types, footing elevations where appropriate, address anticipated fill settlement periods, dewatering, and any potential construction issues. The report will also include descriptions of the materials encountered, assessment of liquefaction potential, seismic design data in accordance with Caltrans' current Seismic Design Criteria, and scour potential. Recommendations for pavement design, cut slopes, fill placement and creek improvements will also be included. Log of test boring sheets shall be included in an Appendix.

*Deliverables:* - Preliminary Geotechnical Design Report  
- Log of Test Borings (June 5 – August 14, 2015)

**2.4 Environmental Documentation** \_ NV5's Team will prepare all the Technical Studies, prepare and process the Environmental Document, and the Wetlands Regulatory Agency Permitting.

*Deliverables:* - Biological Resources Survey Report  
- Cultural Resources Technical Report  
- CEQA Document (June 5 – April 8, 2016)

**Fixed Fee \$143,107**

**TASK 3.0 – Drainage Study.** NV5 will prepare hydrologic and hydraulic analyses for the proposed bridge and roadway improvements along Bradley Road over Salt Creek. The hydrologic analysis will follow the Riverside County Flood Control and Water Conservation District (RCFCWCD) Hydrology Manual and analyze the 100-year storm event and conform to City of Menifee requirements. The hydraulic analyses will size inlets and piping. For the creek, NV5 will prepare a scour analysis of the proposed bridge to estimate the approximate scour depth to assist in scour countermeasure recommendations to protect the pier and abutments from the 100-year storm event. The scour analysis will consist of using empirical equations (i.e. Lacey, Neill, Blench, etc.) for determining scour depths. A HEC-RAS model will be prepared to determine peak 100-year velocities and flow depths at the bridge.

The analyses will be included in a formal drainage report formatted to the RCFC&WCD and City of Menifee requirements. The report will include requirements such as: background, area characteristics, land use, existing terrain, methodology, and results.

In addition to the scope above, NV5 will perform a sediment transport analysis to examine the long term aggradation and degradation of Salt Creek. Synthetic hydrographs will be created by NV5 to match the flows outlined by RCFCWCD and used in the preliminary bridge sizing analyses. The hydrographs will be used in the sediment transport modeling to provide a more

accurate result of potential long-term scour depths. These results will be used in the overall scour analysis to determine appropriate scour countermeasures.

*Deliverables: - Preliminary Drainage Report (June 15 – June 30, 2015)*

NV5 will address review comments from the Preliminary Drainage Study and incorporate changes made during final design. This may involve re-calculating the runoff flows and re-sizing the pipes and inlets. NV5 will then revise the drainage report to reflect the revised calculations and exhibits.

*Deliverables: - Final Drainage Report (February 15 – February 26, 2016)*

**Fixed Fee \$29,364**

**TASK 4.0 – 30% Plans.** This task will build upon the results obtained in Phase I above. Using the recently obtained survey data, we will refine our proposed profile and Bridge General Plan to produce a 30% level design. Preliminary estimates of construction cost will be updated as necessary.

*Deliverables: - Updated Bridge General Plan*

*- Preliminary Plan & Profile*

*- Updated Construction Cost Estimate (June 29 – July 31, 2015)*

**Fixed Fee \$17,368**

**TASK 5.0 – 70% Plans.** Under this task, the NV5 Team shall prepare plans, specifications, an Engineer's estimate of construction costs to the 70% level of completion, and a Preliminary Water Quality Management Plan. Unchecked bridge design and details, roadway plans, and creek improvement plans will be submitted for City review. Bridge design and plans will be performed and prepared in accordance with Caltrans' Bridge Design Specifications and supporting manuals.

The WQMP is a report that focuses on potential water quality impacts resulting from the proposed project. NV5 will prepare a Water Quality Management Plan (WQMP) that documents Best Management Practices (BMPs) that will be implemented to prevent pollutants from entering storm water conveyances and receiving waters. The WQMP will include a written report that describes the site, source, and treatment control BMPs that will be utilized for the project. The WQMP will be prepared in accordance with the Riverside County Drainage Area Management Plan (DAMP) and WQMP templates for the Santa Ana Watershed. NV5 will prepare a Water Quality Management Plan with supporting calculations, exhibits, and drawings for submittal to the City of Menifee.

*Deliverables: - Set of Construction Plans on Bond Paper, Full Size (# TBD)*

*- Set of Construction Plans, Half Size (# TBD)*

*- Roadway Earthwork Cross Sections and Calculations*

*- Creek Earthwork Cross Sections and Calculations*

*- Detailed Quantity Calculations*

*- Preliminary Engineer's Estimate of Construction Cost*

*- Preliminary Outline of Technical Specifications*

*- Hydrology, Hydraulics, and Scour Analysis Report*

*- Final Geotechnical Report*

**Fixed Fee \$172,425**

**TASK 6.0 – 90% Plans, Specifications, Estimates, and CLOMR.** Upon receiving any comments from the City’s review of our 70% Plans, NV5 shall address such comments either by making the necessary revisions to the design and/or plans, or by providing a formal response to explain why a revision is not required. During this phase, an independent design check of the bridge structure will be conducted, along with the preparation of independent quantities. Checker will also carefully review the bridge details for any fatal flaws. The bridge designer and checker will get together to resolve major design discrepancies, compare quantities, discuss and resolve potential detailing issues that might affect constructability. Using the Caltrans website, NV5 will download, assemble, and edit all the appropriate special provisions to compile the Technical Specifications that will supplement the Standard Specifications. NV5 will also address review comments from the Preliminary WQMP and incorporate changes under this task.

Prior to our final PS&E, NV5 will begin preparation of the Conditional Letter of Map Revision (CLOMR) for review and approval by FEMA. This effort shall consist of the following tasks:

Data Collection NV5 will use the previous data collected from RCFC&WCD and FEMA for the Conditional Letter of Map Revision (CLOMR). Hydrology listed in the FEMA FIS will be used for these analyses.

Existing Conditions Analyses NV5 will utilize the Existing Conditions Model previously created in the alternatives analyses phase of this project. NV5 will also prepare a floodway model since that was not part of the previous analysis.

Proposed Conditions Analyses NV5 will utilize the Proposed Conditions Model previously created in the alternatives analyses phase of this project. NV5 will also prepare a floodway model since that was not part of the previous analysis. This is required because the effective mapping has a designated floodway.

Profile/Map Preparation NV5 will prepare the proposed conditions profile for the 100-year flood elevations. Data for the profiles will be obtained from the hydraulic analyses performed for the proposed conditions. The flood profiles will be depicted on 11”x17” sheets in the format approved by FEMA.

The existing and proposed floodplain mapping and workmap will include all items necessary to obtain FEMA approval. These items include (but are not limited to):

- Cross-section locations from the hydraulic analyses
- Base (100-year) floodplain limits.
- Floodway limits.
- Base Flood Elevations (BFEs)

FEMA Forms\_\_ We will complete all forms necessary to satisfy FEMA requirements, and their required attachments as part of the submittal. These include (but are not limited to):

- Form 1 - Overview & Concurrence Form
- Form 2 - Riverine Hydrology & Hydraulics Form
- Form 3 - Riverine Structures Form

Endangered Species Act (ESA) Compliance\_\_ NV5 will assist the City with contacting and coordinating with the local U.S. Fish and Wildlife Service (USFWS) to address FEMA's ESA requirement for all CLOMRs. CLOMR applicants are responsible for documenting to FEMA that ESA compliance has been achieved prior to FEMA's review of a CLOMR application. The community must ensure that appropriate ESA permits are obtained per requirement under Section 60.3(a)(2) of FEMA's regulations. ESA compliance may be documented by submitting to FEMA a copy of an Incidental Take Permit, an Incidental Take Statement, a "not likely to adversely affect" determination from the National Marine Fisheries Service (NMFS) or the U.S. Fish and Wildlife Service (USFWS), or an official letter from NMFS or USFWS concurring that the project has "No Effect" on proposed or listed species or designated critical habitat.

QA/QC of Modeling, Mapping, and CLOMR Forms\_\_ NV5 will perform an internal QA/QC of the modeling, mapping, and CLOMR forms to check for accuracy and completeness prior to submitting to the City, RCFC&WCD and FEMA.

CLOMR Submittal Package\_\_ Our submittal package to FEMA will include the following:

- Example cover letter that the City will transfer onto their letterhead.
- FEMA Forms with required attachments.
- All required maps and exhibits.
- HEC-RAS output and other calculations that support the study results.
- Signed improvement plans of the project.
- Any additional items to satisfy FEMA requirements.

Coordination with City, RCFCWCD, and FEMA\_\_ We have included time to respond to general questions from the City, RCFC&WCD, and FEMA's reviewer.

NV5 will address and resolve all City, RCFC&WCD and FEMA comments in a timely fashion as necessary until the CLOMR is issued.

*Deliverables:*

- Set of Construction Plans on Bond Paper, Full Size (# TBD)
- Set of Construction Plans, Half Size (# TBD)
- Two (2) Copies of Structural Design Calculations
- Two (2) Copies of Structural Check Calculations
- Two (2) Copies of All Quantity and Quantity Check Calculations
- Two (2) Copies of Technical Specifications
- Engineer's Estimate of Construction Cost
- Final Hydrology, Hydraulics, and Scour Report
- Final WQMP
- Notice of Intent Upload to SMARTS

**Fixed Fee \$118,626**

**TASK 7.0 – Final Plans, Specifications, and Estimates.** Any and all agency review comments will be incorporated into the construction documents. All plans, specifications, quantity take-offs, and construction cost estimates will be updated accordingly for final submittal to the City. Construction plan sheets will be plotted on standard full size 24" x 36" double matte drafting film (Mylar) in City of Menifee format, signed and stamped by the licensed Civil Engineer in responsible charge. Plans shall be complete, and ready to advertise.

Similarly, the Technical Specifications shall be complete, stamped, and signed by the licensed Civil Engineer in responsible charge.

Agency Permitting - Because construction of the proposed bridge crossing would occur within the existing footprint of Bradley Road, new permanent impacts to Salt Creek are not expected to occur. However, temporary impacts to Salt Creek due to construction-related access will likely occur approximately 30 feet upstream and 30 feet downstream of the existing road footprint to support construction. Because impacts to Salt Creek are expected to be minimal, the project is expected to qualify for the Nationwide Permit Program pursuant to Section 404 of the federal CWA. Nationwide Permits (NWP) are a type of general permit issued by the U.S. Army Corps of Engineers (ACOE) that are designed to regulate activities with minor impacts to waters of the United States/State, including wetlands, with minimal evaluation time. The following permits will be prepared and processed by Dudek on behalf of the City for the proposed bridge construction: (1) a NWP from the ACOE; (2) a Section 1602 Lake and Streambed Alteration Agreement from the California Department of Fish and Wildlife (CDFW); and (3) Section 401 Water Quality Certification from the Regional Water Quality Control Board (RWQCB).

Permitting includes preparing and processing permit applications with these wetlands regulatory agencies. The permit application preparation and processing will be conducted concurrently; however each agency has different reporting requirements and evaluation criteria to be addressed during the process. The cost estimates provided, include the assumption that permit applications will be prepared within three months of initiation of the contract and permits will be issued within nine months of submittal to the agencies (i.e., a total work period of 12 months). During the permit processing period, Dudek will coordinate with the wetlands regulatory agencies including attending up to three project meetings with any combination of regulatory agencies and/or project team members. If the permit process requires additional time, an amended scope of work and cost estimate can be provided.

***Section 404 Nationwide Permit 14 (Pre-construction Notification)***

This scope of work and cost estimate assumes that the proposed project will qualify for Nationwide Permit (NWP) 14 or NWP 33 with a required pre-construction notification (PCN). Among other thresholds, authorization under NWP 14 allows for up to 0.5 acre of impacts to waters of the U.S., including wetlands, for the construction, expansion, modification, or improvement of linear transportation projects, including roads, trails, and bridges. NWP 14 would be a suitable permit in the unlikely event that the proposed bridge crossing would incur permanent impacts to Salt



Creek. Authorization under NWP 33 allows for temporary structures, work, and discharges in waters of the U.S., including wetlands, provided the impact areas are re-vegetated and restored to pre-construction contours and conditions following construction. There is no formal impact acreage threshold associated with NWP 33.

Dudek will prepare a PCN for either a NWP 33 or 14, which will include a project description, a discussion of avoidance and minimization of impacts, the wetlands delineation, existing functions and values of the affected drainages, a Conceptual Wetlands Mitigation and Monitoring Plan (CWMMP), all associated figures (vicinity maps, project site map, construction/grading cross sections, etc.) and copies of the wetlands permit applications to RWQCB and CDFW. Dudek will coordinate with ACOE following the submission of the PCN, including attending meetings and providing correspondence as-needed during the nine-month permitting period.

#### ***Section 401 Water Quality Certification Application***

Dudek will complete and submit an application for a Section 401 Water Quality Certification to RWQCB. The application will include the project location and existing conditions, a project description and impact analysis, existing functions and values of the affected drainages, CWMMP, discussion of beneficial uses, proposed measures to prevent impacts to water quality, measures to maintain and improve water quality, all associated figures (vicinity maps, project site map, construction/grading cross sections, etc.), and copies of the wetlands permit application submitted to the ACOE and CDFW. Certain engineering graphics and calculations will be required from the project engineers and hydrologist in order to complete this application. Typically, this information is contained in a Stormwater Management Plan and Stormwater Pollution Prevention Plan. Dudek will coordinate with RWQCB following the submission of the application, including attending meetings and providing correspondence as-needed during the nine-month permitting period. This task does not include processing of a Waste Discharge Requirement (WDR), which would be required to permit impacts to isolated waters of the State that are not under federal wetlands jurisdiction or for projects of large dredge volume. It is not anticipated that a WDR will be required; however, if it is, an additional scope of work would be required.

#### ***Section 1602 Streambed Alteration Agreement***

Dudek will submit to CDFW an application for a Section 1602 Streambed Alteration Agreement. The application will include a project description, discussion of avoidance and minimization of impacts, a wetlands delineation, CWMMP, impacts to sensitive plants and wildlife, all associated figures (vicinity maps, project site map, construction/grading cross sections, etc.), and copies of the wetlands permit application submitted to the ACOE and RWQCB. Dudek will coordinate with CDFW following submission of the application, including attending meetings and providing correspondence as-needed during the nine-month permitting period.

All final and supporting documentation, including final reports and signed mylars, shall be included with the final submittal, dated and clearly designated as the "Final" documents. All documents shall be transferred onto a CD or DVD in their original format and in Adobe pdf format.

*Deliverables:*

- Final Set of Construction Plans (Mylar)
- Final Structural Design and Check Calculations

- *Final Quantity Summary Forms*
- *Final Engineer's Construction Cost Estimate*
- *Working Day Schedule*
- *Technical Project Specifications*
- *Resident Engineer's Pending File*
- *CLOMR (April 25 – May 20, 2016)*
- *Biological Survey Results*
- *Section 404 Permit From Army Corps of Engineers*
- *401 Clean Water Certificate*
- *Section 7 Consultation – Final Biological Opinion*
- *Section 1601 Streambed Alteration Agreement from CDF&G (April 25 – December 30, 2016)*

**Fixed Fee \$49,461**

Direct Costs \_ A total of **\$5,200** has been estimated for reimbursable expenses associated with the required tasks outlined above. Direct costs include deliveries, photocopies, mileage, and permits. Direct costs will be billed at cost plus 15% with appropriate backup documentation. We are assuming that fees for City issued permits will be waived by the City.

### PHASE III – BIDDING PHASE

**Task 8.0 – Bid Support.** Upon completion and approval of the construction documents, NV5 will be available to assist the City on an as-needed basis. If requested, NV5 can conduct a Pre-Bid meeting with potential contractors, address any bidder inquiries, provide clarifications, analyze all bids received, evaluate and review contractor qualifications, and make recommendations to the City.

*Deliverables: - Bid Analysis Report (March 1, 2017 – March 17, 2017)*

**Fixed Fee \$6,220**

**PHASE IV – CONSTRUCTION PHASE (APRIL 2017 – JANUARY 2018)** \_Once the contractor is selected, NV5 can conduct the Pre-Construction meeting and will be available throughout the construction period to provide design support including, but not limited to:

- Respond to contractor's request for information (RFI)
- Assist the Resident Engineer in the interpretation of plans and specifications
- Prepare contract addenda as necessary
- Review and approve contractor submittals, such as, aggregate grading mix design, asphalt mix design, concrete mix designs, falsework design, shoring design, prestressing shop drawing design, etc...
- Review change order requests and make recommendations
- Attend site meetings as requested by the Resident Engineer
- Make As-Built revisions to contract plans in accordance with the RE's red line set of plans.

**Estimated Cost \$40,000**

Phases III and IV of the work are proposed to be billed on a Time and Materials basis due to the uncertainty of the level of effort required and the potential changes during construction.

**Task 9.0 – Letter of Map Revision (February 2018).** Upon completion of construction and as-built conditions have been documented; NV5 will proceed with the preparation of the LOMR for final submittal to FEMA.

**Fixed Fee \$4,498**

**Grand Total Cost of Fixed Fee Items = \$581,311**

**Other Direct Costs = \$5,200**

**Grand Total Design Fee = \$586,511**

**Construction Support Phase = \$40,000**

**OPTIONAL TASKS (W/ ESTIMATED COSTS)**

1. Wetlands Mitigation and Monitoring Plan	<b>\$11,000</b>
2. NEPA Documentation (Assuming a Categorical Exclusion)	<b>\$35,000</b>
3. Design a 3-Span Bridge (Amount to add to design fee)	<b>\$24,000</b>
4. Detour Plans and Specs (Add Subconsultant)	<b>\$33,000</b>
5. Stage Construction (Traffic Control Plans + Addtl Design Effort)	<b>\$150,000</b>

**ASSUMPTIONS & EXCLUSIONS**

1. Design schedule may vary as it is based on several factors beyond NV5's control; these factors are as follows, but are not limited to:
  - A. Availability of the drilling subcontractor to perform the geotechnical investigations.
  - B. Encroachment and environmental permit applications process
  - C. Agencies' review times and/or processing of the CLOMR
2. This proposal assumes that the bridge design will be for a 2-span structure with a width and length as shown in Alternative 1A.
3. The existing sewer line along Bradley Road is deep enough and will remain in place.
4. The proposed roadway profile along Bradley Road will join existing conditions at, or before the intersections with Potomac Drive and Rio Vista Drive. This will be verified during Phase I of this proposal.
5. Hydromodification will not be required since the proposed project is not anticipated or expected to increase the impervious area.
6. No channel grading or re-grading outside the proposed rip rap.
7. Bradley Road will be closed completely, and traffic will be detoured from site during construction.

If any or all of these assumptions cannot be implemented, design and construction costs and schedules will be impacted substantially. (See Optional Tasks 3, 4, and 5)