

City Council Chambers  
29844 Haun Road  
Menifee, CA 92586



Menifee City Council  
Regular Meeting Agenda

Wednesday, January 15, 2025  
5:15 PM Closed Session  
6:00 PM Regular Meeting

Ricky Estrada, Mayor  
Bob Karwin, District 1  
Vacant, District 2  
Dan Temple, District 3  
Dean Deines, District 4

Armando G. Villa, City Manager  
Jeffrey T. Melching, City Attorney  
Stephanie Roseen, City Clerk

**AGENDA**

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- 10.5 Agreement with TKE Engineering, Inc. for the Garbani Road Drainage Improvements Project

**RECOMMENDED ACTION**

1. Approve and authorize the City Manager to execute a Professional Services Agreement with TKE Engineering, Inc. for the Garbani Road Drainage Improvements Project, Capital Improvement Program (CIP) Project No. 25-09, for a total not-to-exceed amount of \$297,789 through June 20, 2026.



## **CITY OF MENIFEE**

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SUBJECT: Agreement with TKE Engineering, Inc. for the Garbani Road Drainage Improvements Project

MEETING DATE: January 15, 2025

TO: Mayor and City Council

PREPARED BY: Carlos Geronimo, Engineering Manager

REVIEWED BY: Nick Fidler, Public Works Director

APPROVED BY: Armando G. Villa, City Manager

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### **RECOMMENDED ACTION**

1. Approve and authorize the City Manager to execute a Professional Services Agreement with TKE Engineering, Inc. for the Garbani Road Drainage Improvements Project, Capital Improvement Program (CIP) Project No. 25-09, for a total not-to-exceed amount of \$297,789 through June 20, 2026.

### **DISCUSSION**

As part of the Riverside County Flood Control and Water Conservation District's ("District") five-year CIP update process, the District requests all agencies within the County participate to identify, prioritize, and budget for flood control and water conservation needs. In addition, the District requests the identified agencies submit critical drainage projects for funding consideration during this budget development process.

In November 2022, the City submitted a request for the Garbani Road Drainage Improvements Project, CIP 25-09, ("Project") to be included in the District's Zone 4 CIP for Fiscal Years 2023/24 through 2027/28. The City requested funding in the total amount of \$674,000 to support the construction phase of the Project. In June 2023, the City was notified that its request for funding was approved in the full amount requested. On March 20, 2024, the City Council approved the funding agreement ("Agreement") between the City and the District, which outlines the responsibilities and administrative requirements of both agencies. Following approval by the District's Board, the Agreement was fully executed on May 4, 2024.

The Project is located approximately 500 feet to the east of the intersection of Murrieta Road and Garbani Road. The Project would consist of the design and construction of approximately 200 linear feet of drainage undercrossing Garbani Road. The proposed improvements would be necessary to replace the existing Arizona drainage facility adjacent to Menifee Valley Middle School. The existing Arizona crossing serves as a roadway for most of the year but is also

designed to allow stormwater to flow over the roadway surface during storm events. During heavy storms, water levels often rise above the height of the sidewalk located along the south side of Garbani Road, presenting a major obstacle for students traveling to Menifee Valley Middle School. The Project would address this safety concern by replacing the existing Arizona type crossing with an underground culvert system designed to accommodate storm water for 100-year storm events. By eliminating the need to close the roadway during future rain events, the Project would help to minimize these negative impacts to the nearby Menifee Valley Middle School. The Project is identified as a high priority in the City’s Master Drainage Plan and aligns with the City’s Strategic Plan priority of maintaining a safe and vibrant community.

On September 10, 2024, staff released a Request for Proposal (RFP) for environmental and design services. A total of two proposals were received. Following the review of proposals received and to further assess the proposed project team to determine which firm most closely aligned with the scope of work outlined in the RFP, both firms were subsequently invited to participate in selection interviews. The average scores of the evaluation completed by the interview panel are summarized in Table 1 below.

**TABLE 1 – SELECTION INTERVIEW FIRM RANKING SUMMARY**

Firm Name	Cost Proposal (Prior to Negotiations)	Cost Proposal (After Negotiations)	Qualification Ranking
<b>TKE Engineering</b>	<b>\$341,376</b>	<b>\$297,789</b>	<b>1</b>
REC Consultants, Inc.	\$566,600	N/A	2

Under the California Government Code Section 4526, local agencies are required to select professional services for architectural, landscape architectural, engineering, environmental, land surveying, or construction project management solely based on demonstrated competence and professional qualifications. For this reason, cost proposals remain sealed until the selection process is completed. After thorough review, TKE Engineering, Inc. (“Consultant”) was selected as the highest-ranking proposer.

The Consultant’s initial fee proposal exceeded the City’s independent estimate of \$270,000 due to potential environmental issues related to impacted jurisdictional streams which were discovered by the Consultant. These potential impacts could result in additional consultation above the original scope of work and require permit application and coordination with the California Department of Fish and Wildlife and the Regional Water Quality Control Board. The City and Consultant proceeded to negotiate on the overall scope of work, purpose of the Project, and reasonable fee. Following negotiations, the Consultant’s final fee proposal of \$297,789 was determined to be reasonable and in line with the City’s goals and objectives.

The amount of the proposed Professional Services Agreement (“Agreement”) exceeds the City Manager’s signing authority. Pursuant to Menifee Municipal Code §3.12.040, any contract amount that exceeds the City Manager’s signing authority shall be approved by the City Council.

**STRATEGIC PLAN OBJECTIVE**

Connectivity and Mobility

**FISCAL IMPACT**

The fiscal impact of the proposed Agreement with Consultant is for the total not-to-exceed amount of \$297,789. Funding for the Agreement is available in the Fiscal Year 2024/2025 budget within the Quality of Life (Measure DD) Fund under drainage CIP projects (1105-PWD-CIPS-760030), as summarized in Table 2 below.

**TABLE 2 – PROJECT BUDGET**

Fund	Project String No.	Available Budget	Anticipated Cost
Measure DD	CIP25-09.1105.DES.CAE	\$396,040	\$297,789

No additional budget appropriation action is required.

**ATTACHMENTS**

1. Project Location Map
2. Agreement



New. Better. Best.

# Garbani Road Drainage Improvements (CIP 25-09) Project Location Map



Garbani Rd

Project Site

0 0.01 0.02 Miles



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**CITY OF MENIFEE**

**PROFESSIONAL SERVICES AGREEMENT**

**CIP 25-09 GARBANI ROAD DRAINAGE IMPROVEMENTS PROJECT  
(PROFESSIONAL DESIGN AND ENGINEERING SERVICES)**

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is made and effective this \_\_\_\_\_ day of \_\_\_\_\_, 2024 (“Effective Date”) by and between the CITY OF MENIFEE, a California municipal corporation, (“City”) and **TKE ENGINEERING, 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 **January 15, 2025** and shall end on **June 30, 2026** 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.

## **SECTION 2. COMPENSATION.**

City hereby agrees to pay Consultant a sum not to exceed **Two Hundred Ninety Seven Thousand Seven Hundred Eighty Nine Dollars and Zero Cents (\$297,789.00)** 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  
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: **CIP 25-09 GARBANI ROAD DRAINAGE IMPROVEMENTS PROJECT (PROFESSIONAL DESIGN AND ENGINEERING SERVICES)**. 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 **Candice Velasco** (“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, **Carlos Geronimo, Engineering Manager** (“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:

TKE ENGINEERING, INC.  
Attn: Candice Velasco  
2305 CHICAGO AVE  
RIVERSIDE, CA 92507

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

City of Menifee  
29844 Haun Road  
Menifee, CA 92586  
Attn: Carlos Geronimo, Engineering 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.
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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. 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**

**CONSULTANT**

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

\_\_\_\_\_  
Michael Thornton, President

Attest:

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

\_\_\_\_\_  
Terry Renner, Senior 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 **CIP 25-09 GARBANI ROAD DRAINAGE IMPROVEMENTS PROJECT (PROFESSIONAL DESIGN AND ENGINEERING SERVICES)** in the amount not to exceed **Two Hundred Ninety Seven Thousand Seven Hundred Eighty Nine Dollars and Zero Cents (\$297,789.00)** as further detailed in the following page(s).

EXHIBIT A.

## SECTION 3 | PROJECT APPROACH AND WORK PLAN

### A. PROJECT UNDERSTANDING

The City seeks a qualified firm (Proposer) who can demonstrate that they possess the organizational, functional, and technical capabilities, along with the experience, expertise, and qualifications necessary to provide a complete, accurate, and first-class plans, specifications, and estimates.

The purpose of this project is to replace the existing Arizona crossing with a reinforced concrete culvert(s) under Garbani Road to convey the estimated 100-year storm events and elevate the roadway to eliminate flooding.

The project location is located on Garbani Road adjacent to Menifee Valley Middle School. An existing Arizona crossing structure conveys stormwater across the roadway to an existing watercourse downstream. The area is subject to flooding and presents a hazard and barrier to children walking to school. Not to mention parent drop off and pick up.

Again, TKE has a long history of delivering street widening, and drainage system improvement projects for numerous of the surrounding communities in which we live and work on a daily basis. From our first project in 2000 to our latest project of this type, TKE has always understood the importance of these projects to the local community. TKE commits to staying on time and budget through creative engineering techniques and a collaborative effort between the public agencies and the community. Our team has demonstrated the ability to build project coalitions time and time again.

Finally, it doesn't matter how much community support that's developed if the project isn't delivered! We understand how important time and budget are to this project. Since the City has desires to enhance public improvements, it is important to have a proactive approach to project completion. This way, alternative design methods can be explored and implemented to keep the project within budget and on schedule.

### B. PROJECT APPROACH

Successful project delivery is our goal. Our definition of successful project delivery is:

- △ Project completion that meets all project requirements
- △ Project completion within budget
- △ Project completion on schedule

Our goal is not limited to the design of the project only, but includes the incorporation of value engineering and constructability review. Through the examination of specific design alternatives, we will identify the most cost-effective project alternative that meets design requirements and will provide for the greatest opportunity for expedited construction, which allows us to consistently deliver projects that use public resources in a very wise and responsible manner.

With street and drainage projects, our experience tells us that there must be a proactive approach to completing the work in order to meet scheduling and community requirements. This approach includes early identification of critical design elements, early community coordination for acquisition and relocation coordination and accurate cost estimating throughout the entire process. In preparing this proposal, our team reviewed the project site, existing infrastructure, City goals and project constraints to establish key. They are presented in the following paragraphs:

#### RIGHT-OF-WAY

The project will require 3 right-of-way acquisitions, including right-of-way from MUSD. For construction of improvements and for transitions (both upstream and downstream) to the existing wash. Additional temporary construction easements or rights-of-entries may be required.

TKE will immediately begin work on identifying right-of-way requirements and allow the City to begin communications with each property owner to identify if private improvements will be part of the negotiations. Right-of-way is usually a critical path item and this will provide an extensive head start and shorten overall project delivery time.

#### STREET, DRIVEWAY AND PROPERTY TRANSITIONS

Since street improvements will raise the street profile, transitions to existing improvements along the school will



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be challenging. Onsite school parking circulation will be impacted by construction.

Using the topographic mapping, TKE will prepare design alternatives that will analyze impacts, school drainage, street drainage, earthwork, utility relocations, slope and temporary construction easements, traffic impacts, and constructability. The analysis will include a report identifying potential impacts, mitigation requirements and quantities as appropriate and will include preliminary profiling for each alternative.

For the western most driveway, complete closure may be the best alternative. TKE will review survey data well into the properties and recommend construction of improvements beyond street right-of-way, to minimize impacts on the school site.

#### ADA COMPLIANCE

ADA compliance for includes an extensive check list of items from the California Building Code Chapter 11B Divisions 4 and 7. These divisions include requirements for slopes, ramp widths, landing areas, counter slopes, clear space and detectable warning surfaces. TKE is extremely well versed in the requirements set forth in the CBC Chapter 11B improvements for ADA construction and will be able to ensure that improvements are fully ADA compliant. In addition, transitions to existing school improvements are another challenging component. It appears that significant school site improvements will be required. TKE will identify such impacts early during project design and will develop an action plan for working with school representatives. TKE will prepare design that will fully comply with ADA requirements.

#### UTILITY COORDINATION

Based on field review, water & gas utilities may require relocation. We will identify these facilities early in project design to begin coordination at the earliest opportunity. TKE has extensive experience coordinating relocations. Agencies that maintain utilities can be cumbersome and early coordination will prevent project delays.

To raise the street profile, the power poles along the north side of Garbani Road will be impacted by construction. TKE anticipates that pole relocations will be required. For at the least two poles, relocation may be required twice, once to permit grading and again after the construction is complete. TKE has extensive experience with SCE for pole relocations. They too require long lead

times to ensure required relocations do not impact project delivery.

#### ACCURATE COST ESTIMATING

To ensure the project is delivered within budget, it is vital to keep costs controlled. Our approach to controlling costs is to provide frequent and accurate cost estimates by using TKE's detailed cost estimating database. In addition to using this database, TKE utilizes our considerable experience with Construction Management to assist in providing constructability reviews and cost estimating based on current information from our ongoing projects. Finally, with the current economic climate, construction costs are widely varying. We will also discuss the project's elements with local contractors to assure that we have the most current construction information available so that the City can get the most "bang for their buck".

#### CONSTRUCTION SCHEDULE

To prevent construction impacts to school activities, construction during summer months and a shorter construction schedule is preferred. See TKE's project schedule that indicates summer construction. TKE will also recommend precast culverts to reduce project construction schedule. TKE will maintain project schedule to ensure construction will be during summer of 26'.

#### SIGHT DISTANCE ANALYSIS

By raising the roadway profile, sight distance for motorist leaving the school has changed. TKE will perform a sight distance analysis that will likely require closure of the western most driveway. TKE will prepare the analysis, review it with City staff and proceed with school coordination as directed.

#### WALLS VS. SLOPES

Raising the roadway profile will require transitions to connect to existing grades on both the north and south sides of the roadway. Transition can be completed by either retaining walls (higher cost) or slopes (greater impacts). TKE will prepare recommendation for which alternative should be used at various locations.

#### D. DETAILED WORK PLAN

TKE will provide design services in progressive 4 phases, 30%, 60%, 90% and 100% Level Completion. TKE's scope of services is presented in the following paragraphs:



TASK NO. 1 PROJECT MANAGEMENT

TKE's project manager will provide professional and technical services during the scoping, environmental review, and design of the project. The services include:

- △ He has already developed a project team and prepared the project scope of work, activities, schedule, and work plan and defined key issues and goals as presented in the proposal. He will coordinate the responsibilities of project team members throughout project delivery.
- △ He will conduct regular monthly project team coordination and status meetings, prepare agenda, meeting minutes, and action items.
- △ He will coordinate with City staff when working with stakeholders, utility owners, and other regulatory agencies.
- △ He will coordinate and conduct a presentation of the proposed project team prior to the release of the draft environmental document for public review; and present the project to the City Council in conjunction with the approval of the project environmental document.
- △ He will implement and maintain the following quality control procedures during the preparation of plans and documents.
  - a) QC program in effect for the duration of this contract with assistance of our principal in charge.
  - b) Design and calculations will be prepared by the project team and will be independently checked, corrected and back-checked by our project manager and principal in charge.
  - c) All related correspondence and memorandum routed and received by affected persons. Documents will be filed in TKE's electronic file for immediate access.
  - d) Where different disciplines are involved, implement means to assure that conflicts and misalignment do not exist.
  - e) Provide QC Program. Identify critical QC reviews within the project schedule.
  - f) Our project manager and principal in charge will sign all draft and final plans and documents submitted to the City.

In summary, TKE's Project Manager will be responsible for the entire project team. He will attend all meetings, prepare agendas and corresponding meeting minutes together with documenting meeting attendees. He will meet with the City at appropriate times and will meet as

needed with agencies, residents, property owners, and utilities in addition to the meetings presented below. He will also update the project budget and schedule prior to each City meeting for discussion with staff. He will prepare invoices, budget oversight, creating and updating a "critical path" project schedule, and oversee QC program.

TASK NO. 2 KICKOFF MEETING

Prior to commencement of services, we propose to meet City staff to review project obligations and to discuss all project requirements in detail. TKE will attend the meeting to determine project protocol and obtain City record drawings.

TASK NO. 3 RECORDS RESEARCH

We will thoroughly research existing utility records and acquire copies of all available records. The purpose of the records research is to assemble survey records to establish locations of street centerlines, and street rights-of-way, and easements and determine locations of all existing utilities and improvements. The research will consist of assembling copies of assessors' maps, tract maps, horizontal datum of NAD83 (California State Plane coordinates zone 6, US foot), parcel maps, easement documents, monument ties, benchmark data, datum to be in the City's official vertical datum of NAVD88, corner records, street and storm drain improvement plans, and utility drawings. We will request the City provide copies of available pertinent City records, such as survey ties, benchmarks, street and storm drain improvement plans.

We will notify Underground Service Alert to acquire a complete list of underground utility purveyors. The utility drawings will include existing drawings from the City, and drawings and/or atlas maps from all private utility companies, and/or agencies. We will confer and coordinate with the following agencies as well as any additional agencies listed in the Underground Service Alert:

- Eastern Municipal Water District
- Telephone
- Southern California Gas Co.
- Southern California Edison



We will prepare a utility disposition matrix. We will send first utility notice letters to all listed utility companies and agencies requesting their data. We will maintain copies of the letters and correspondence for future reference. We shall also provide the City with a complete copy of all correspondence with all utility companies. All utility information received will be saved into our electronic filing system for future reference.

#### TASK NO. 4 RECONNAISSANCE AND FIELD SURVEYS

Prior to field surveys, TKE will:

- △ Coordinate and review all existing improvement plans/as built drawings within the areas of the project boundaries
- △ Perform field reconnaissance and prepare a record of site conditions (including photos and videos).

TKE will conduct a conventional design survey of the project area. Our field survey crews will locate existing street centerline monuments. The crew will measure the horizontal angle, horizontal distance, and vertical elevation difference between monuments. We will complete a traverse for each survey to ensure closure. Elevations will be tied to existing City benchmarks.

Our field survey crews will collect appropriate detail as required. Topograph will include 200-foot wide area along Garbani Road and shall extend 100-foot beyond project limits. In addition, we will collect 50-foot cross sections with shots extending 50-foot beyond full width right-of-way on each side.

Our crews will set 100-foot stationing along street centerlines and collect existing topography as needed to provide sufficient level of detail for precise design. The crew will also measure invert, top of cone and rim elevations for all existing manholes in the project area and invert and rim elevations for all drainage facilities. The crew will set temporary benchmarks within the project limits and each will be shown on the drawings.

We will perform field data collection surveys to obtain the location of utilities and other structures visible from the surface, electric poles, sidewalks, curb and gutter, fire hydrants, trees, and landscaping improvements along the project edges. We will perform subsurface investigation as needed to verify existing utilities' exact location and depth to avoid conflicts with proposed improvements. Photos of general conditions and features at all locations

or issues requiring special attention will be taken and TKE will maintain in photo log in e files. All photos will include written description.

#### TASK NO. 5 BASE CONSTRUCTION DRAWINGS

We will prepare the base construction drawings on 24" by 36" sheets with the City's standard title block using AutoCAD software, at a drawing scale of 1"=20' per RCFC & WCD standards. The base construction drawings will include a plan view based on the accumulated conventional survey data. We will add the sheet north arrow, graphic scale, existing improvements and utilities (based on both assembled records and field data), property lines, public and private right-of-way, easement areas, assessor parcel numbers, street centerline, street names, building locations, water service location; sewer manhole lids and water valve lids; cross gutters; driveways, pedestrian ramps; traffic stripes and legends; curb returns; details of private improvements, fences, gates, irrigation systems, mailboxes, trees and landscaping, and survey data to the drawings.

Underground utility information shall include:

- △ Type of structure
- △ Location and type of utility
- △ Size of structure
- △ Measured casting elevation
- △ Measured invert(s) elevation of pipe/top of pipe elevation.

Once the base drawings are complete, we will perform a careful field review to ensure all underground facilities are shown correctly.

The base drawings will provide:

- △ Sufficient ground elevations for digital terrain model (DTM) generation for 1 ft. contours, including around curb radii and through intersections. If applicable, Curb ramps should have all four (4) corners of the "level landing" and ten (10) adjacent flags of the sidewalk transition located.

#### TASK NO. 6 30% DESIGN

Using the topographic mapping, TKE will prepare preliminary design concepts for geometric alignment that will analyze impacts to adjacent properties and developments, conveyance of offsite drainage, street drainage, earthwork, utility relocations, slope and



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City of Menifee



temporary construction easements, constructability reviews and future street improvements. Preliminary geometric design will be performed to establish ultimate improvements to minimize removals of improvements constructed with future projects. The analysis will include an exhibit identifying potential impacts, mitigation requirements and quantities as appropriate for each item listed above and will include preliminary engineer's estimate.

Hydrology will be required to estimate the flow rate for the tributary area that the proposed improvements will be required to convey. TKE will prepare hydrology analysis in accordance with Riverside County Flood control district requirements.

TKE will prepare a report following Riverside County Flood Control District Requirements and sizing for the proposed culvert.

#### TASK NO. 7 30% DESIGN REVIEW MEETING

After 30% design is complete, we will meet with staff to acquire comments.

#### TASK NO. 8 HYDROLOGY/HYDRAULICS

TKE will prepare Hydrology analysis.

#### TASK NO. 9 UTILITY COORDINATION

TKE will coordinate with affected utility agencies during the design phase. This entails sending at least three (3) utility notification letters to utility agencies and generating a utility disposition matrix. All utility information received will be shown in the project base map. If any utilities are identified to be relocated, TKE will coordinate those efforts with the affected utilities.

#### TASK NO. 10 GEOTECHNICAL EVALUATION AND REPORT

We would propose to retain Aragon Geotechnical Inc. (AGI) as a sub consultant to provide Geotechnical services for the project. AGI will first review historical geotechnical reports. Scope of services includes, mobilization with truck mounted drilling equipment, boring locations/elevations, utility locates, traffic control during drilling, drill and sample borings, Shelby Tube samples or

blow counts in all borings at 5-foot intervals, laboratory testing, engineering analysis, and electronic boring logs.

Prior to the field investigation, AGI will prepare a plan showing the proposed boring locations. The plan will be submitted to the CITY for obtaining an encroachment permit to perform the borings. Traffic control may be necessary when drilling. AGI will follow the CITY traffic control guidelines if required. They will also perform the following:

- △ Drilling, sampling and logging of necessary borings along roadway and below proposed culvert. AGI will notify Underground Service Alert. Borings include, the asphalt pavement thickness and base thickness will be noted during the boring operations.
- △ Design of street structural section using City provided traffic indices.
- △ Laboratory testing of representative soil samples to evaluate in-situ moisture content, density tests, infiltration rates, max density and optimum tests, sieve analysis, R-value, direct shear tests, consolidation and collapse tests and corrosivity characteristics of the on-site soils.
- △ Data compilation and geotechnical analysis of existing geotechnical maps, reports, and field and laboratory data to provide recommendations for pavement design. Analysis will include recommendations for new pavement section alternatives, based on the traffic indices and R-value testing.

Preparation of a report presenting findings, conclusions and recommendations pertaining to design, compaction requirements, subgrade preparation, and earthwork/embankment recommendations. In addition, the report will provide recommendations for asphalt pavement recycling and other recommendations, which would include cost saving treatment methods.

The report will also include

- △ Settlement and slope stability analysis for roadway fill areas and culverts and (updates there to)
- △ Suitability of existing soils to be excavated for reuse as embankment fill

#### TASK NO. 11 ENVIRONMENTAL COMPLIANCE



Request for Proposal for Professional Design & Environmental Services for the Garbani Road Drainage Improvements Project (CIP 25-09)  
City of Menifee



Ultra Systems will prepare an Initial Study (IS) pursuant to the requirements of CEQA § 21080 and § 15060 through § 15065 of the CEQA Guidelines. Technical analyses will be conducted for each of the environmental factors, as warranted, and well-supported responses for all questions listed under each environmental factor in CEQA Guidelines will be provided.

The environmental review of the proposed project will be conducted at a design, construction and operation level of detail. The nature of the technical analyses to be undertaken will range from stand-alone technical studies such as those to be prepared. Focused analyses necessary to address specific questions under each environmental factor of the Environmental Checklist. Mitigation measures will be developed in proportion to the severity and probability of occurrence of the identified potentially significant effect.

It is their intent to work directly with the City of Riverside (or designated CEQA lead agency) staff assigned to the proposed project. Their approach also incorporates the need for multiple reviews of key documents (e.g., revisions to engineering and construction drawings and project specifications) and coordination with key components of the overall required services, to ensure that the document prepared is adequate and will best reflect the Lead Agency's independent judgement. The close coordination between our Project Manager and City staff will also reflect the Lead Agency's commitment to process and notice the anticipated IS/MND in a legally defensible and procedurally compliant manner.

#### TASK NO. 12 RIGHT- OF WAY

TKE will provide right-of-way engineering services.

The project affects three properties which may require Permanent Maintenance Easements and/or Temporary Construction Easements.

TKE will prepare Right of Way Requirements map and appraisal maps, The appraisal maps will be signed and sealed by a California-licensed land surveyor.

TKE will also prepare Legal Descriptions and Plats: Legal descriptions and plat maps will be prepared for the proposed easements and temporary construction easements. The legal descriptions and plats will be based upon the land net map prepared and the approved right of way requirements. The legal descriptions will be

prepared by or under the direction and signed by a California licensed land surveyor.

We will obtain Preliminary Title Reports of all properties affected by the project (3 total). Right of Way Acquisition shall be handle by the City's ROW agent.

#### TASK NO. 13 60% DESIGN

60% Design will include preparation of phased construction drawings, technical specifications, construction estimates, completed geotechnical report, environmental documents, and right-of-way documents and approvals.

Construction drawings will show proposed street geometrics as determined from the City's selected vertical alignment including locations of proposed curb, drive approaches, sidewalk, swales, ramps, spandrels and cross gutters. In addition, street grades will be prepared to establish project grading requirements. Proposed improvements will be designed in accordance with the City's current street and drainage design standards and specifications for ultimate street widening. The proposed improvements will be designed to minimize grading, earthwork and transitions onto private property and adjacent streets.

For the drawings it is estimated, we will prepare 1 title sheet, 2 construction notes sheets, 3 demolition sheets, 6 plan/profile sheets, 2 drainage sheets, 3 cross-section sheets, 3 signing and striping sheets, and necessary detail sheets.

The title sheet shall include the title of the job, a vicinity map showing the City in relationship to surrounding communities, a location map showing the project limits, construction notes, an index for the drawings, list of references on the City's standard title block.

The construction note sheets will show general construction notes, a list of abbreviations used, benchmark data, general notes, utilities with phone numbers, and project specific requirements.

The demolition sheets will show existing improvement demolition including limits of pavement removal, saw cutting locations and limits and concrete cross gutters and curbs, if required. In addition, the plan will specify relocation of private improvement such as mailboxes fences, etc. as required.

For drainage improvements, construction drawings will show proposed site including locations of proposed



culvert box, headwalls and wingwalls, inlet and outlet facilities, slopes, access roads, site limits, berms, and concrete structures. In addition, preliminary grades will be prepared to establish project street regrading requirements. The proposed improvements will be designed to properly account for drain line installation and utilities.

Plan/profile sheets will show proposed improvements including curbs, cross-gutters, driveways, pavement limits, storm drain pipe, manholes, catch basins, overlay limits, signs, traffic stripes, existing utility relocations (if any), water service relocations, and manhole, valve, and vault cover grade adjustments. For the profile portion of the drawings, we will show existing and proposed pavement elevations at centerline and existing edge of pavement on both sides of the streets with appropriate design data together with proposed top of curb elevations.

The street cross-sections sheets will show street sections at appropriate drawing scales. The sections will be dimensioned and construction and demolition notes will be shown. In addition, rights-of-way and limits of work will be shown.

The signing and striping sheets will include all required pavement markings, lane stripes and signage in accordance with the MUTCD, California supplement and all other applicable City requirements, for the project limits. The sheets will be prepared at 1"=40' scale and include full geometrical layouts at each intersection.

The detail sheets shall include pertinent ramp and driveway details at 1"=10' scale.

For the specifications, we will amend the City Standards Technical Provisions as required for the projects. The construction specifications will be prepared in Microsoft Word (2020 Version) format in accordance with City standards.

In addition, we will prepare quantity estimates for all proposed improvements prepared using an excel spreadsheet showing an itemized construction cost breakdown. Descriptions of work, unit prices, and quantities will be included in the spreadsheet.

60% Design (construction drawings, technical specifications, construction estimates, completed geotechnical report, environmental documents and right-of-way documents and approvals) will be submitted with a project summary memorandum together with an

updated project schedule, utility contact matrix, stakeholder meeting summary, and internal plan review documentation.

TASK NO. 14 60% DESIGN REVIEW MEETING

After the City and RCFC & WCD have completed reviews, we will meet with staff to acquire comments on the 60% Design.

TASK NO. 15 90% DESIGN

90% design will include incorporation of City comments, final street design and signing and striping plans.

90% Design will be submitted with a project summary memorandum together with updated project specifications and estimates.

TASK NO. 16 90% DESIGN REVIEW MEETING

After 90% design is complete, we will meet with staff to acquire comments.

TASK NO. 17 FINAL UTILITY COORDINATION

TKE will prepare a composite utility plan which identifies all existing utilities within the proposed right-of-way and all utilities affected by the proposed street and storm drain improvements and requiring relocation. The plan shall show all above and below ground utilities including all laterals. The utility plan will be for use in coordinating with utility companies.

TASK NO. 18 100% DESIGN

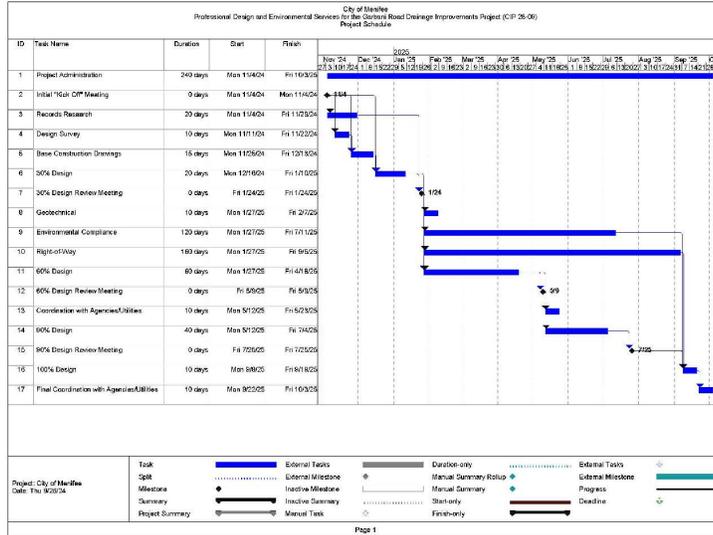
Final design will include incorporation of City comments for all phases, Street Improvement Plans, Sidewalk and curb ramp details, Signing and Striping Plan, Traffic Signal Plan (at Bain Street), Street Light Plan, Geometric, Staking and Superelevation Plans, retaining wall Plans, Storm Drain Improvements, Design Details and Const Notes, Typical and Design Street Cross Sections, Traffic Control and Staging Plan.

Final Design will be submitted with a project summary memorandum together with an updated project schedule and cost estimate.



SECTION 4 | PROJECT TIMELINE & OVERALL PROJECT IMPLEMENTATION

A. PROJECT TIMELINE



**City of Menifee**  
**Professional Design and Environmental Services for the Garban Road Drainage Improvements Project**  
**CIP 25-09**  
**Fee Schedule Breakdown**

Task No	Task	QA/QC Engineer		Project Manager		Traffic Engineer		Director of Survey		Hydrology/Hydraulics Specialist		Assistant Engineer		Clerical		Survey Crew		Subconsultants	Total		
		Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$				
<b>Schedule I</b>																					
1.	Project Management		\$ -	20	\$ 3,500		\$ -		\$ -		\$ -		\$ -	16	\$ 1,440		\$ -		\$ 4,940		
2.	Kick Off Meeting		\$ -	4	\$ 700		\$ -		\$ -		\$ -		\$ -	2	\$ 180		\$ -		\$ 880		
3.	Records Research		\$ -		\$ -		\$ -		\$ -		\$ -	8	\$ 1,120	16	\$ 1,440		\$ -		\$ 2,560		
4.	Reconnaissance and Field Surveys		\$ -	4	\$ 700		\$ -	2	\$ 370		\$ -		\$ -		\$ -	24	\$ 6,240		\$ 7,310		
5.	Base Construction Drawings		\$ -	2	\$ 350		\$ -	2	\$ 370		\$ -	32	\$ 4,480		\$ -		\$ -		\$ 5,200		
6.	30% Design	4	\$ 740	20	\$ 3,500	8	\$ 1,480		\$ -		\$ -	108	\$ 15,120		\$ -		\$ -		\$ 20,840		
7.	30% Design Review Meeting		\$ -	4	\$ 700		\$ -		\$ -		\$ -		\$ -	2	\$ 180		\$ -		\$ 880		
8.	Hydrology/Hydraulics		\$ -	4	\$ 700		\$ -		\$ -	64	\$ 8,960	64	\$ 8,960		\$ -		\$ -		\$ 16,620		
9.	Utility Coordination		\$ -	32	\$ 5,600		\$ -		\$ -		\$ -	24	\$ 3,360	8	\$ 720		\$ -		\$ 9,680		
10.	Geotechnical Investigation	2	\$ 370	4	\$ 700		\$ -		\$ -		\$ -		\$ -	8	\$ 720		\$ -	\$ 13,141	\$ 14,931		
11.	Environmental Compliance		\$ -	12	\$ 2,100		\$ -		\$ -		\$ -	16	\$ 2,240	8	\$ 720		\$ -	\$ 107,730	\$ 112,790		
12.	Right-of-Way		\$ -	12	\$ 2,100		\$ -	16	\$ 2,960		\$ -	24	\$ 3,360		\$ -		\$ -		\$ 8,420		
13.	60% Design	8	\$ 1,480	40	\$ 7,000	4	\$ 740		\$ -	16	\$ 2,240	144	\$ 20,160	24	\$ 2,160		\$ -		\$ 33,780		
14.	60% Design Review Meeting		\$ -	4	\$ 700		\$ -		\$ -		\$ -		\$ -	2	\$ 180		\$ -		\$ 880		
15.	90% Design	4	\$ 740	24	\$ 4,200	2	\$ 370	56	\$ 10,360	12	\$ 1,680	96	\$ 13,440	16	\$ 1,440		\$ -		\$ 32,230		
16.	90% Design Review Meeting		\$ -	4	\$ 700		\$ -		\$ -		\$ -		\$ -	2	\$ 180		\$ -		\$ 880		
17.	Final Utility Coordination		\$ -	32	\$ 5,600		\$ -		\$ -		\$ -	48	\$ 6,720	8	\$ 720		\$ -		\$ 13,040		
18.	100% Design	2	\$ 370	8	\$ 1,400	2	\$ 370	4	\$ 740	4	\$ 560	24	\$ 3,360	2	\$ 180		\$ -		\$ 6,980		
		20	\$ 3,700	210	\$ 36,750	16	\$ 2,960	80	\$ 14,800	96	\$ 13,440	588	\$ 82,320	98	\$ 8,820	24	\$ 6,240	\$ 120,871	\$ 294,841		
																			<b>Reimbursables (@1%)<sup>1,2</sup></b>		\$ 2,948
																			<b>Project Total</b>		\$ 297,789

**Rates:**

QA/QC Engineer	\$185 /HR.
Project Manager	\$175 /HR.
Traffic Engineer	\$185 /HR.
Director of Survey	\$185 /HR.
Hydrology/Hydraulics Specialist	\$140 /HR.
Assistant Engineer	\$140 /HR.
Clerical	\$ 90 /HR.
2-Man Survey Crew	\$260 /HR.

- Notes:**
- 1.) Reimbursables Include Cost for Prints, Copies, Mileage, Etc.
  - 2.) Assumes Legal and Plot Preparation for 3 Parcels
  - 3.) Aragon Geotechnical Subconsultant Fee for Geotechnical Investigation
  - 4.) Ultra Systems Subconsultant Fee for Environmental Compliance (Does Not Include Response to Comments for Final ISMND)

**TKE Engineering, Inc.**

**EXHIBIT A.**

