

## AGREEMENT FOR CONSULTANT SERVICES BETWEEN

### CITY OF TEMECULA AND TK CONSULTING INC.

#### YNEZ ROAD IMPROVEMENTS – PHASE I, PROJECT NUMBER PW23-02

**THIS AGREEMENT** is made and effective as of **March 28, 2023** between the **City of Temecula**, a municipal corporation hereinafter referred to as "City"), and **TK Consulting, Inc.**, a **Corporation** (hereinafter referred to as "Consultant" ). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

#### 1. TERM

This Agreement shall commence on **March 28, 2023**, and shall remain and continue in effect until tasks described herein are completed, but in no event later than **June 30, 2025**, unless sooner terminated pursuant to the provisions of this Agreement.

If Agreement is extended beyond the original term, the Agreement price shall be adjusted at the beginning of each fiscal year in accordance with the changes in the Consumer Price Index (CPI) for all Urban Consumers for the Riverside-San Bernardino-Ontario Core Based Statistical Area using the most recently published month annual percentage change.

#### 2. SERVICES

Consultant shall perform the services and tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. Consultant shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A.

#### 3. PERFORMANCE

Consultant shall faithfully and competently exercise the ordinary skill and competence of members of their profession. Consultant shall employ all generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement.

#### 4. PREVAILING WAGES

Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, the City Council has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in this locality for each craft, classification, or type of workman needed to execute this Contractor from the Director of the Department of Industrial Relations. Copies may be obtained from the California Department of Industrial Relations Internet website at <http://www.dir.ca.gov>. Contractor shall provide a copy of prevailing wage rates to any staff or sub-contractor hired, and shall pay the adopted prevailing wage rates as a minimum. Contractor shall comply with the provisions of Sections 1720, 1725.5, 1771.1(a), 1773.8, 1775, 1776, 1777.5, 1777.6, and 1813 of the Labor Code. Pursuant to the provisions of 1775 of the Labor Code, Contractor shall forfeit to the City, as a penalty, the sum of \$200.00 for each calendar day, or portion thereof, for each laborer, worker, or mechanic employed, paid less than the stipulated prevailing rates for any work done under this Agreement, by him or by any subcontractor under him, in violation of the provisions of the Agreement. This project, work, or

service will be subject to compliance monitoring and enforcement by the Department of Industrial Relations (DIR) pursuant to Labor Code Section 1771.4.

**5. REGISTRATION WITH THE DEPARTMENT OF INDUSTRIAL RELATIONS**

Registration with the Department of Industrial Relations (DIR) is mandatory as a condition for bidding, providing certain services, and working on a public works project as specified in Labor Code Section 1771.1(a). Contractor and any subcontractors must be registered with the Department of Industrial Relations to be qualified to bid, or provide a proposal and/or time and material quote or be listed in a bid, proposal or quote, subject to the requirements of Public Contract Code Section 4104; or engage in the performance of any contract that is subject to Labor Code Section 1720 et seq., unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. Contractor and subcontractors will be required to provide proof of registration with the DIR. For more information regarding registration with the Department of Industrial Relations, refer to <http://www.dir.ca.gov/Public-Works/PublicWorks.html>

**6. PAYMENT**

a. The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, Payment Rates and Schedule, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. Any terms in Exhibit B, other than the payment rates and schedule of payment, are null and void. This amount shall not exceed for the total term of this agreement **Four Hundred Sixty-One Thousand Six Hundred Ten Dollars and Zero Cents (\$461,610.00)** unless additional payment is approved as provided in this Agreement.

b. Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager . Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services.

The City Manager may approve additional work up to fifteen percent (15%) of the amount of the Agreement as approved by City Council. Any additional work in excess of this amount shall be approved by the City Council.

c. Consultant will submit invoices monthly for actual services performed. Invoices shall be submitted between the first and fifteenth business day of each month, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of Consultant fees, it shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice. For all reimbursements authorized by this Agreement Consultant shall provide receipts on all reimbursable expenses in excess of fifty dollars (\$50) in such form as approved by the Director of Finance.

**7. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE**

a. The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Consultant at least ten (10) days prior written notice. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

b. In the event this Agreement is terminated pursuant to this Section, the City shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the City, pursuant to Section entitled "**PAYMENT**" herein.

**8. DEFAULT OF CONSULTANT**

a. The Consultant failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant. If such failure by the Consultant to make progress in the performance of work hereunder arises out of causes beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.

b. If the City Manager or his delegate determines that the Consultant is in default in the performance of any of the terms or conditions of this Agreement, it shall serve the Consultant with written notice of the default. The Consultant shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

**9. OWNERSHIP OF DOCUMENTS**

a. Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by City that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to such books and records, shall give City the right to examine and audit said books and records, shall permit City to make transcripts there from as necessary, and shall allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

b. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files containing data generated for the work, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused or otherwise disposed of by the City without the permission

of the Consultant. With respect to computer files containing data generated for the work, Consultant shall make available to the City, upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

c. With respect to the design of public improvements, the Consultant shall not be liable for any injuries or property damage resulting from the reuse of the design at a location other than that specified in Exhibit A, without the written consent of the Consultant.

**10. INDEMNIFICATION, HOLD HARMLESS, AND DUTY TO DEFEND**

a. Indemnity for Design Professional Services. In the connection with its design professional services, Consultant shall hold harmless and indemnify City, the Temecula Community Services District, the Successor Agency to the Temecula Redevelopment Agency, their elected officials, officers, employees, servants, designated volunteers, and those City agents serving as independent contractors in the role of City officials (collectively, "Indemnitees"), with respect to any and all claims, demands, damages, liabilities judgments, settlements losses, costs or expenses, including reimbursement of attorneys' fees and costs of defense (collectively, "Claims" hereinafter); including but not limited to Claims relating to death or injury to any person and injury to any property, which arise out of, pertain to, or relate in whole or in part to the negligence, recklessness, or willful misconduct of Consultant or any of its officers, employees, sub-contractors, or agents in the performance of its professional services under this Agreement. Notwithstanding the foregoing, if Consultant's obligation to indemnify arises out of Consultant's performance of services for the Project as a "design professional," as that term is defined in California Civil Code Section 2782.8, Consultant's indemnity obligation shall be limited in accordance with the provisions of Section 2782.8 as it was in effect as of the date of this Agreement.

b. Other Indemnities. In connection with any and all claims, demands, damages, liabilities, losses, costs or expenses, including attorneys' fees and costs of defense (collectively, "Damages" hereinafter) not covered by Paragraph 10.a. above, Consultant shall defend, hold harmless and indemnify the Indemnitees with respect to any and all Damages, including but not limited to, Damages relating to death or injury to any person and injury to any property, which arise out of, pertain to, or relate to acts or omissions of Consultant or any of its officers, employees, subcontractors, or agents in the performance of this Agreement, except for such loss or damage arising from the sole negligence or willful misconduct of the City, as determined by final arbitration or court decision or by the agreement of the parties. Consultant shall defend Indemnitees in any action or actions filed in connection with any such Damages with counsel of City's choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Consultant duty to defend pursuant to this Section 10.b. shall apply independent of any prior, concurrent or subsequent misconduct, negligent acts, errors or omissions of Indemnitees.

**11. INSURANCE REQUIREMENTS**

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

a. Minimum Scope of Insurance. Coverage shall be at least as broad as:

i. Insurance Services Office Commercial General Liability form No. CG 00 01 11 85 or 88.

ii. Insurance Services Office Business Auto Coverage form CA 00 01 06 92 covering Automobile Liability, code 1 (any auto). If the Consultant owns no automobiles, a non-owned auto endorsement to the General Liability policy described above is acceptable.

iii. Worker's Compensation insurance as required by the State of California and Employer's Liability Insurance. If the Consultant has no employees while performing under this Agreement, worker's compensation insurance is not required, but Consultant shall execute a declaration that it has no employees.

iv. Professional Liability Insurance shall be written on a policy form providing professional liability for the Consultant's profession.

b. Minimum Limits of Insurance. Consultant shall maintain limits no less than:

1. General Liability: Two Million (\$2,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2. Automobile Liability: Two Million (\$2,000,000) per accident for bodily injury and property damage.

3. Worker's Compensation as required by the State of California; Employer's Liability: One million dollars (\$1,000,000) per accident for bodily injury or disease.

4. Professional Liability Coverage: One million (\$1,000,000) per claim and in aggregate.

c. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions shall not exceed Twenty-Five Thousand Dollars and No Cents (\$25,000).

d. Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1) The City of Temecula, the Temecula Community Services District, the Successor Agency to the Temecula Redevelopment Agency, their officers, officials, employees and volunteers are to be covered as insured's, as respects: liability arising out of activities performed by or on behalf of the Consultant's products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City of Temecula, the Temecula Community Services District, the Successor Agency to the Temecula Redevelopment Agency, their officers, officials, employees or volunteers.

2) For any claims related to this project, the Consultant insurance coverage shall be primary insurance as respects the City, the Temecula Community Services District, the Successor Agency to the Temecula Redevelopment Agency, their officers, officials, employees and volunteers. Any insurance or self-insured maintained by the City of Temecula, Temecula Community Services District, and/or the Successor Agency to the Temecula Redevelopment Agency, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City of Temecula, the Temecula Community Services District, and/or the Successor Agency to the Temecula Redevelopment Agency, their officers, officials, employees or volunteers.

4) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5) Each insurance policy required by this agreement shall be endorsed to state: should the policy be canceled before the expiration date the issuing insurer will endeavor to mail thirty (30) days' prior written notice to the City.

6) If insurance coverage is canceled or, reduced in coverage or in limits the Consultant shall within two (2) business days of notice from insurer phone, fax, and/or notify the City via certified mail, return receipt requested of the changes to or cancellation of the policy.

e. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of A-VII or better, unless otherwise acceptable to the City. Self insurance shall not be considered to comply with these insurance requirements.

f. Verification of Coverage. Consultant shall furnish the City with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the City. All endorsements are to be received and approved by the City before work commences. As an alternative to the City's forms, the Consultant's insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

## **12. INDEPENDENT CONTRACTOR**

a. Consultant is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officers, employees, agents, or volunteers shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of the 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.

b. No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

## **13. LEGAL RESPONSIBILITIES**

The Consultant shall keep itself informed of all local, State and Federal ordinances, laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such ordinances, laws and regulations. The City, and its officers and

employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this section.

**14. RELEASE OF INFORMATION**

a. All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization. Consultant, its officers, employees, agents or subcontractors, shall not without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

b. Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

**15. NOTICES**

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by Notice. Notice shall be effective upon delivery to the addresses specified below or on the third business day following deposit with the document delivery service or United States Mail as provided above.

**Mailing Address:** City of Temecula  
Attn: City Manager  
41000 Main Street  
Temecula, CA 92590

**To Consultant:** TK Consulting, Inc.  
Attn: Tim Kihm  
2082 Michelson Drive, 4<sup>th</sup> Floor  
Irvine, CA 92612

**16. ASSIGNMENT**

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City. Upon termination of this Agreement, Consultant sole compensation shall be payment for actual services performed up to,

and including, the date of termination or as may be otherwise agreed to in writing between the City Council and the Consultant.

**17. LICENSES**

At all times during the term of this Agreement, Consultant shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

**18. GOVERNING LAW**

The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with geographic jurisdiction over the City of Temecula. In the event such litigation is filed by one party against the other to enforce its rights under this Agreement, the prevailing party, as determined by the Court's judgment, shall be entitled to reasonable attorney fees and litigation expenses for the relief granted.

**19. PROHIBITED INTEREST**

No officer, or employee of the City of Temecula that has participated in the development of this agreement or its approval shall have any financial interest, direct or indirect, in this Agreement, the proceeds thereof, the Consultant, or Consultant's sub-contractors for this project, during his/her tenure or for one year thereafter. The Consultant hereby warrants and represents to the City that no officer or employee of the City of Temecula that has participated in the development of this agreement or its approval has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, the proceeds thereof, or in the business of the Consultant or Consultant's sub-contractors on this project. Consultant further agrees to notify the City in the event any such interest is discovered whether or not such interest is prohibited by law or this Agreement.

**20. ENTIRE AGREEMENT**

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

**21. AUTHORITY TO EXECUTE THIS AGREEMENT**

The person or persons executing this Agreement on behalf of Consultant warrants and represents that he or she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder. The City Manager is authorized to enter into an amendment on behalf of the City to make the following non-substantive modifications to the agreement: (a) name changes; (b) extension of time; (c) non-monetary changes in scope of work; (d) agreement termination.



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF TEMECULA

TK CONSULTING, INC.

*(Two Signatures of corporate officers required unless corporate documents authorize only one person to sign the agreement on behalf of the corporation.)*

By: \_\_\_\_\_  
Zak Schwank, Mayor

By: Tim Kihm  
Tim Kihm, President, CEO

ATTEST:

By: \_\_\_\_\_  
RANDI JOHL, CITY CLERK

By: Kimberly Kihm  
Kimberly Kihm, Secretary

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Peter M. Thorson, City Attorney

Consultant  
TK Consulting, Inc.  
Tim Kihm  
2082 Michelson Dr., 4<sup>th</sup> Floor, Irvine CA 92612  
(714) 624-7539  
FAX - N/A  
tkihm@rtacq.com

City Purchasing Mgr.  
Initials and Date:  
WR 3/16/23

# **EXHIBIT A**

## **TASKS TO BE PERFORMED**

***The specific elements (scope of work) of this service include:***

***Scope of Services and Schedule***

***All tasks to be performed are per the proposal provided by the Contractor attached hereto and incorporated herein as though set forth in full.***



March 8, 2023

**TRANSMITTED VIA EMAIL**

Ron Moreno  
Principal Engineer/City Surveyor  
City of Temecula  
41000 Main St  
Temecula, CA 92590  
Phone: (951) 506-5165  
Email: [ron.moreno@temeculaca.gov](mailto:ron.moreno@temeculaca.gov)

Re: Ynez Road Extension – Proposed Scope of Services and Fees

Dear Mr. Moreno:

It is my pleasure to provide the City of Temecula (hereafter "Client") with the following proposal for project management, entitlement and construction support consulting services for the Ynez Road Extension located in the City of Temecula. (hereafter "Project")

We have completed the due diligence, including preliminary design, initial evaluation of certain biological resources as well as initial biological surveys such as LBV & Burrowing Owl. Our consultant team has developed a budget as well as engineer's cost estimate for improvement costs. Lastly, we have undertaken value engineering efforts to reduce both soft & hard costs for the Project to stay within budget.

**SCOPE OF SERVICES**

Tasks provided by TK Consulting, Inc. (hereafter "Consultant") may include but will not be limited to:

- Coordinate with Client on the best approach for Project design, approvals and construction, including environmental studies, reports and permitting.
- **Subconsultants:** Consultant team ("Subconsultants") will contract directly with TK Consulting, Inc. Consultant will manage and provide direction to consultant team members, including oversight on their respective scope/task items, invoices and budgets, contract balances and administration. Consultant will pay Subconsultants directly and will be reimbursed by Client. Consultant will send 1 group of consultant invoices monthly, to be reimbursed within 30 days or sooner if possible. Please see Summary Scope Of Services for summary of subconsultants' services and deliverables.

TK Consulting, Inc. • 714.624.7539 • 31232 Old San Juan Road, San Juan Capistrano, CA 92675

*Integrity. Experience. Results.*

- Identify key project challenges, constraints, and opportunities
- Problem solving to overcome project challenges
- Assist Client with schedules and budgets
- Provide leadership to shepherd project through entitlement process
- Lead meetings w/consultant teams, public agencies, stakeholders etc.
- Lead community outreach and public hearings updates if desired by Client
- Provide regular updates to Client

**FEES - Project Management, Entitlement Consulting & Construction Support**

Consultant will provide project management, entitlement and construction support consulting services to Client at the hourly discounted rates of Project Manager at Two Hundred Thirty Dollars (\$230.00) per hour. The Assistant Project Manager rate is Two Hundred Dollars (\$200.00), the Project Coordinator rate is One Hundred Twenty Dollars (\$120.00) and the Administrative rate is Seventy Dollars (\$70.00). Fees generally adjust in January, with advance Client notification by Consultant.

This proposal is Time & Materials, Not-To-Exceed the following budget amounts without Client authorization:

1. Entitlements: \$60,000
2. CD preparation and processing/Permit Ready: \$36,000
3. Permitting & Construction Support: \$58,000
4. Contract Administration: \$60,210

**Total Updated Budget: Not-To-Exceed, Without Authorization: \$212,000.00**

**FEES – Contract Administration**

Consultant will provide contract administration at the rate of 15% of subconsultant billing, which is included in the PM consulting budget above.

**Reimbursable Expenses**

Client agrees to reimburse all expenses incurred by Consultant in connection with the Services to be provided hereunder. Reimbursable expenses will be billed to the Client at

cost. Reimbursable expenses may include, but are not limited to, travel, outside printing services, postage, delivery and other miscellaneous expenses.

**LIMITATIONS OF SCOPE AND EXCLUSIONS**

Please note that the tasks to be performed by TK Consulting, Inc. are limited purely to those outlined in the Scope of Services. Substantive changes requested by the client or changes to the client's program or direction that are inconsistent with prior approvals are subject to additional service fees. Any additional services that TK Consulting, Inc. is asked to perform over and beyond those described above will be billed on a negotiated and client-approved, fixed-fee or hourly basis.

If this proposed scope of services and fees is acceptable, please sign below and on the associated Agreement For Consultant Services, indicating mutual agreement of the terms of this proposal. Return one set of signed copies to TK Consulting and retain one set for your records. Thank you again for this opportunity.

Sincerely,

TK CONSULTING, INC.



Tim Kihm  
President, CEO  
TK Consulting, Inc.

The person signing and executing this contract for the Client represents and warrants that he or she is duly authorized and has the legal capacity and actual authority to bind the Client to each and every term, condition, and obligation of this contract and that the requirements of the Client have been fulfilled to provide such authority.

**AUTHORIZATION TO PROCEED BY CLIENT REPRESENTATIVE:**

The City of Temecula

By: \_\_\_\_\_

Dated: \_\_\_\_\_

Printed: \_\_\_\_\_

Authorized Signatory

## Exhibit A: SUMMARY SCOPE OF SERVICES

### TK Consulting, Inc.: Project Management

Tasks provided by TK Consulting, Inc. ("Consultant") may include but will not be limited to:

- Coordinate with Client on the best approach for Project design, approvals, and construction, including environmental studies, reports and permitting.
- Subconsultants: Consultant team ("Subconsultants") will contract directly with TK Consulting, Inc. Consultant will manage and provide direction to consultant team members.

- **Deliverables:**

Provide monthly Updates to city staff, as directed by city staff

Provide a monthly summary of project costs w/back-up invoices

Include city staff in project update calls as needed based on project agenda

Provide all plans, in AutoCAD, provide original reports and documentation for Ynez Road.

Submit civil engineering plans at 30% & 60% for city review

Submit civil engineering plans at 90% for 1<sup>st</sup> plan check

Submit civil engineering plans at 100% for permit ready plans

Provide construction milestone schedule

Provide summary of conditions, roles and responsibilities during construction

### Proactive Engineering Consultants West, Inc. (PROACTIVE): Civil Engineering/Mapping

PROACTIVE will prepare standard Preliminary engineering & Street Improvement Plans for Ynez Road.

**Deliverable(s)**: Ynez Road Street Improvement, Light, Signing and Striping Plans

**Rough Grading Plans**: PROACTIVE will prepare a Rough Grading Plan based on the ultimate Ynez Road

**Deliverable(s)**: Rough Grading Plan AutoCAD and PDF.

**Erosion Control Plans**: PROACTIVE will prepare an Erosion Control Plan based on the Rough Grading Plan.

**Deliverable(s)**: Erosion Control Plan

**Engineering Bonding Estimates**: PROACTIVE will prepare an engineer's estimate of construction quantities and costs for street improvement, grading, and erosion control plans with this project.

**Deliverable(s)**: Engineering Bonding Estimates

**Project Engineering and Mapping Services, Construction and Slope Easement Dedications**

**Deliverable(s)**: Construction and Slope Easement Dedications

**Storm Water Pollution Prevention Plan (NOI/SWPPP)**: PROACTIVE will prepare and input the Permit Registration Documents (PRD) to the State Water Resources Control Board (SWRCB) SMARTS system. Included with the PRD's will be: Notice of Intent (NOI) application, SMARTS system. Storm Water Pollution Prevention Plan (SWPPP)

**Deliverable(s)**: One PRD Upload to The SMARTS and One SWPPP

**Retaining Wall Designs, Plan and Profile**: PROACTIVE will collaborate with the project's Structural Engineer to develop retaining wall plans to be processed through the City of Temecula for review and approval.

**Deliverable(s)**: Retaining Walls Design, Plan and Profile

**Drainage and Structural Consultant Coordination (T&M):** PROACTIVE will coordinate with the Drainage Engineer on issues regarding the proposed drainage systems and supporting drainage reports.

**Deliverable(s):** Drainage and Structural Coordination as Needed

**Miscellaneous Easement Documents & Exhibits (T&M):**

**Deliverable(s):** Miscellaneous Easement Documents and Exhibits

**Survey Cross Sections:** This Item to include miscellaneous field work and Survey Cross-

**Deliverable(s):** Survey Cross Sections

**Meetings, Coordination & General Support**

Project Management, Meetings, and Project Support (T&M)

**Deliverable(s):** Project Management, Meetings & Project Support Services

### **JLC Engineering & Consulting (JLC)- Drainage**

**YNEZ ROAD EXPANSION City of Temecula – Update Hydrology & Hydraulic Report, WQMP and Storm Drain – Extension of Ynez Road**

#### **HEC-RAS ANALYSIS**

JLC Engineering will extend the hydraulic model analyses.

**Deliverable(s):** Hydraulic model evaluation.

#### **CONCEPTUAL DRAINAGE & WATER QUALITY PLAN**

JLC Engineering will prepare a conceptual drainage and water quality plan.

**Deliverable(s):** Exhibits delineating the drainage system.

#### **FINAL ENGINEERING**

##### **STORM DRAIN IMPROVEMENT PLAN**

JLC Engineering will prepare 2-3 improvement plan sheets to support the design of approximately 1,000 linear feet of Ynez Road Extension.

**Deliverable(s):** Drainage Improvement Plan AutoCAD and PDF

##### **UPDATE FINAL DRAINAGE REPORT**

JLC Engineering will prepare a drainage report that includes the hydrology and hydraulic calculations.

**Deliverable(s):** Drainage improvement Report

#### **PROJECT MANAGEMENT, MEETINGS AND COORDINATION**

JLC Engineering will provide a maximum of ten (10) hours of project management

### **ELMT CONSULTING ENVIRONMENTAL**

**Provide Biological and Regulatory Support for the Ynez Road Project**

### **Habitat Assessment and MSHCP Consistency Analysis**

*Literature Review:* determine which special-status<sup>1</sup> biological resources

#### **Habitat Assessment/Field Investigation**

Conduct a reconnaissance level survey of the project site.

**Deliverable(s):** Site verification/ reconnaissance survey for baseline for reports

### **Habitat Assessment, MSHCP Consistency Analysis Report, and Habitat Acquisition and Negotiation Strategy**

Document all plant and wildlife species observed, all habitats occurring on-site.

**Deliverable(s):** The final report determination for compliance with the MSHCP

### **Delineation of State and Federal Jurisdictional Waters**

*Literature Review* Aerial photography

*Field Investigation:* An onsite field investigation to verify the previously mapped drainage report.

**Deliverable:** A report that discusses on-site jurisdictional areas.

### **Determination of Biologically Equivalent or Superior Preservation (DBESP) Analysis**

Determination of Biologically Equivalent or Superior Preservation (DBESP) analysis be prepared as a secondary document to the above MSHCP report. The assessment of riparian/riverine habitat. A DBESP will be prepared if found habitat is disturbed.

**Deliverable:** Determination if DBESP will be required

### **Cultural Resources Assessment**

The issuance of a Section 404 permit by the Army Corp.

**Deliverable:** 404 Permit as-needed

### **Preparation of Amended/New Regulatory Agency Applications**

Jurisdiction Delineation for road alignment, changes in the original project descriptions, existing permit amending the permits or, if needed, acquiring new permits. For planning purposes, it is assumed that minor amendments to the existing regulatory permits (the Corps Section 404 Permit, Regional Board Section 401 Water Quality Certification, and CDFW Section 1602 Streambed Alteration Agreement) will suffice for fold in the road re-alignment.

**Deliverable:** Submittal package

### **Regulatory Approval Processing**

Processing of the amendment or new applications

**Deliverable:** (1) round of formal (written and hard copy submittal) response to comments per each application package.

### **Regulatory Compliance Support**

**Once the amended regulatory permits are issued,** EMLT will be available to support the client in implementing the amended conditions of the amended permits.

### **Pre-Construction Burrowing Owl and Nesting Bird Clearance Survey (Helix & ELMT)**

A pre-construction burrowing owl and nesting bird clearance survey will be conducted simultaneously for year-round and seasonal avian residents, as well as migrating songbirds and raptors (focusing on burrowing



owl and least Bell's vireo) that could occur in the area prior to any ground disturbing activities to avoid direct take of burrowing owls and nesting birds.

**Deliverable:** Burrowing owl, nesting bird, LBV and songbird clearance report

### **LGC Valley, Inc: Geotechnical Services during the Widening of the East Side of Ynez Road**

#### ***Pre-Grading Geotechnical Analysis and Plan Review***

Background review of the proposed roadway improvements, geologic mapping of the existing conditions along the east side of the proposed roadway improvements.

**Deliverable:** Prepare addendum geotechnical recommendations, as needed.

#### **Electrical: Morrow Management**

Determine new location for existing dry utilities, including SCE electrical, Frontier cable & Charter cable lines, that will have to be relocated due to future conflict with lane widening.

**Deliverable:** Dry Utility Plan

#### **Soil Retention**

Wall design for retaining walls between Ynez Road and the drainage corridor.

**Deliverable:** Wall Plans

**Exhibit A: Budget**

**Ynez Road Improvements - Phase 1**

LINE ITEM	COMPANY	PRELIMINARY DESIGN & ENVIRONMENTAL PROCESSING	CONST. DOCS & PERMITTING	TOTAL BUDGET
Civil Engineer <i>(Civil Review/Engineering)</i>	PEC West	\$ 20,070.00	\$ 72,630.00	\$ 92,700.00
Cultural Resources Assessment & Mgmt Plan	ELMT	\$ 5,400.00	\$ -	\$ 5,400.00
Biological All Studies, Reports & Processing	ELMT (Entit & Permit)	\$ 98,083.00		\$ 98,083.00
Drainage	JLC	\$ 3,225.00	\$ 3,225.00	\$ 6,450.00
Electrical for Street Lights	Gouvis		\$ 4,950.00	\$ 4,950.00
Geotechnical Engineer <i>(Geo analysis, plan rev, Ltr report)</i>	LGC Valley		\$ 3,950.00	\$ 3,950.00
Landscape	N/A		\$ -	\$ -
Project Management	TK Consulting, Inc.	\$ 60,000.00	\$ 36,000.00	\$ 96,000.00
Surveying - Field Verification/Cross Sections	Surveyor - Prevailing W.		\$ 20,000.00	\$ 20,000.00
Utility Consultant <i>(Utility Studies, Civil Coord)</i>	Morrow Management	\$ 2,875.00	\$ 2,875.00	\$ 5,750.00
Wall Design - Verdura	Soil Retention Systems	\$ -	\$ 1,650.00	\$ 1,650.00
<b>Preconstruction &amp; Construction Support</b>				
Biological Survey & Meetings/MGMT	Helix	\$2,014.00		\$ 2,014.00
LBV Surveys	Helix	\$1,380.00		\$ 1,380.00
Burrowing Owl Surveys & Report	Helix	\$2,673.00		\$ 2,673.00
Burrowing Owl & Nesting Bird Precon Surveys	ELMT		\$ 2,400.00	\$ 2,400.00
Project Management Support during Const.	TK Consulting, Inc.	\$ -	\$ 58,000.00	\$ 58,000.00
				\$ -
Sub-Total		\$ 195,720.00	\$ 205,680.00	\$ 401,400.00
<b>Project Mgmt: Contract Administration (Soft Cost Only) 15%</b>	TK Consulting, Inc.	\$ 29,358.00	\$ 30,852.00	\$ 60,210.00
<b>TOTAL</b>				\$ 461,610.00

## Exhibit A - MILESTONE SCHEDULE

### Ynez Road Improvements - Phase 1

PROJECT PHASE	MILESTONE	START DATE	FINISH DATE
Council Approval	Council Approval & Project Kick-Off	4/3/23	4/7/23
Entitlement: CEQA	Final Habitat Assessment/Riparian/JD	4/7/23	6/7/23
Entitlement: CEQA	CEQA Determination - Exemption	6/7/23	7/8/23
Regulatory Permitting	MSHCP, JPR/RCA, DBESP, 404, 401, 1602	6/7/23	9/7/23
Construction Drawings	Prepare 30% Civil Drawings	6/7/23	6/28/23
Construction Drawings	Team Meeting to Review Plans w/City	7/5/23	7/5/23
Construction Drawings	Prepare 60% Civil Drawings	7/6/23	7/28/23
Construction Drawings	City Plan Check Review	7/29/23	8/19/23
Construction Drawings	Prepare 90% Civil Drawings	8/20/23	9/10/23
Construction Drawings	City Plan Check Review	9/10/23	10/1/23
Permitting	Prepare Final Permit Ready Plan Set	10/1/23	10/12/23
Permitting	City Review - Final Approval, Permit Ready	10/12/23	10/26/23

Updated as of 3/6/23

Units	
STATUS	COMMENTS
	Spring Surveys during this period as well

## **EXHIBIT B**

### **PAYMENT RATES AND SCHEDULE**

***Cost for services shall be as per Consultants proposal attached hereto and incorporated herein as though set forth in full but in no event shall the total cost of services exceed \$461,610 for the total term of the Agreement unless additional payment is approved as provided in the Payment section of this Agreement.***

## TK Consulting, Inc. Fee Rates

- **Project Manager Rate**                      **\$230.00 per hour.**
- **Assistant Project Manager Rate**        **\$200.00 per hour.**
- **Project Coordinator Rate**                **\$120.00 per hour.**
- **Administrative Rate**                        **\$70.00 per hour.**

**TK Consulting's fee rate will escalate 5% on January 1<sup>st</sup>, 2024**

**Appendix "A"**  
**PROACTIVE ENGINEERING CONSULTANTS WEST, INC.**  
**FEE SCHEDULE**

January 1, 2023 through December 31, 2023

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Compensation for work performed on a time and materials basis will be computed as follows:

<b><u>MANAGEMENT</u></b>	<b><u>HOURLY RATE</u></b>
Principal	\$200.00
Director of Engineering	\$185.00
Senior Project Manager	\$175.00
Project Manager	\$170.00
Expert Witness	\$365.00
<b><u>CIVIL ENGINEERING SERVICES</u></b>	
Project Engineer, Project Designer	\$160.00
Senior Designer, Engineer	\$150.00
Designer	\$135.00
Design Technician	\$130.00
CAD Technician	\$110.00
Entitlement Specialist	\$110.00
Engineering Aide	\$85.00
Project Coordinator	\$85.00
<b><u>FIELD SURVEY</u></b>	
Surveyor Director	\$165.00
Field Coordinator	\$145.00
Survey Analyst	\$135.00
Three Person Crew	\$270.00
Two Person Crew	\$230.00
One Person Crew	\$160.00
<b><u>SPECIAL SERVICES</u></b>	
Consultation Re: Litigation	\$385.00

**MISCELLANEOUS FEES**

The following services are billed at our cost plus 15%:

- Subcontracted services, reimbursables
- Map check fees or filing fees advanced by us
- Transportation, meals and lodging for overnight travel and incidental travel expenses
- Commercial delivery services, including Federal Express, Express Mail, and Messenger Services
- Excessive long distance telephone calls, telegrams, and other costs directly applicable to the project
- Plotting and blueprint services and printing. (The client is encouraged to arrange for printing, other than prints or plots on our blueprint machine and plotters, to be contracted directly with an outside blueprint company acceptable to us.)

**MILEAGE:**     \$ 0.655/mile or current allowable rate established by the IRS



**HOURLY FEE RATE SCHEDULE  
JANUARY 1, 2023**

The following rates shall apply to services provided on a time-and material basis. Rates are reflected hourly.

**General**

President / Principal	\$195.00
General Administration / Clerical	\$ 90.00

**Civil**

Project Manager	\$175.00
Project Engineer	\$135.00
Design Engineer / Designer	\$115.00
CADD Designer	\$ 95.00
Senior CADD Drafter	\$ 80.00
CADD Drafter	\$ 75.00

**Construction Management**

Resident Engineer	\$150.00
Assistant Resident Engineer	\$130.00
Field Inspector	\$ 85.00

**Survey**

Three Person Survey Crew/GPS Crew	\$295.00
Two Person Survey Crew / GPS Crew	\$250.00
One Person Survey / GPS Crew	\$200.00
Senior Project Manager / Project Manager	\$135.00
Survey Analyst	\$115.00

**GIS Specialist**

	\$110.00
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**Litigation Consultant / Expert Witness**

	\$450.00
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**Courier Services**

	\$ 65.00
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**REIMBURSABLE EXPENSES**

The following expenses will be billed at cost plus 12 %:

**Reproduction Services:** Includes blueprinting, copying, printing and plotting.

**Rental Equipment and Fees:** Any equipment rental and any fees advanced by our firm including plan check and filing fees.

**Commercial Delivery Services:** Including Express Mail, Federal Express, UPS, and independent courier services.

**In-House Pick-Up and Delivery Services:** These services provided by our firm will be reimbursed at \$55.00 per hour. In addition, mileage will be billed at \$.575 per mile with no markup.

**Travel Expenses:** Mileage to and from the job site will be billed at a rate \$.575 per mile with no markup.

**Per Diem:** Per diem for overnight stays will be billed at \$150.00 per day, per man.

***Note: Invoicing will be submitted on a monthly, progressive cycle.***





**HOURLY RATE SCHEDULE**

Effective January 1, 2023 through December 31, 2023

<u>OFFICE PERSONNEL</u>	<u>\$/ Hour</u>
Principal .....	275.00
Managing Director .....	253.00
Project Manager/Director.....	215.00
Senior Biologist/Regulatory Specialist.....	182.00
Senior GIS Specialist .....	149.00
Biologist/Regulatory Analyst.....	149.00
GIS Analyst.....	132.00
Field Biologist.....	121.00
Office Support/ Clerical.....	110.00

Notes:

1. Reproduction (including blueprints, if needed), mileage, messenger service and other direct expenses will be charged at cost with no percentage mark-up.
2. A Sub-Consultant Management Fee will be added to the direct cost of all sub-consultant services to provide for the cost of administration, sub-consultant consultation and insurance.
3. Annual cost increases will follow the Consumer Price Index for that year.

**PROFESSIONAL FEE SCHEDULE FOR  
GEOTECHNICAL SERVICES AT RANCH HIGHLANDS**

**Professional Billing Rate (per hour)**

Word Processing .....	\$ 50.00
CAD Operator .....	70.00
Senior Field Technician .....	80.00
Staff Engineer/Geologist (Office) .....	80.00
Staff Engineer/Geologist (Field) .....	85.00
Senior Staff Engineer/Geologist (Office) .....	95.00
Senior Staff Engineer/Geologist (Field) .....	100.00
Project Engineer/Geologist (Office).....	110.00
Project Engineer/Geologist (Field).....	115.00
Principal Engineer/Geologist .....	160.00

**Terms and Conditions**

- ◆ Expert witness testimony, depositions, or mediation conferences, will be billed at 2.0 times the basic billing rate.
- ◆ All geologists, engineers, and technicians will be billed at time-and-a-half for overtime.
- ◆ Invoices are rendered monthly, payable upon receipt.
- ◆ A retainer of 50 percent of the fee is required for projects with a total estimated fee of \$5,000.00 or less. The balance is due upon report delivery.
- ◆ Proposals are valid for 30 days, unless otherwise stated.
- ◆ Heavy equipment, subcontractor fees and expenses, supplemental insurance, travel, shipping, reproduction, and other reimbursable expenses will be invoiced at cost, plus 15 percent, unless billed directly to, and paid by the Client.
- ◆ 30 percent of the fee for field studies will be invoiced immediately upon authorization to cover equipment and mobilization costs.
- ◆ Client agrees to provide all information in Client's possession about the actual or possible presence of buried utilities and hazardous materials on the site, and agrees to reimburse LGC for all costs related to their unanticipated discovery.



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HOURLY RATES

Principal	\$225 per hour
Project Manager	\$175 per hour
Project Designer	\$150 per hour
Project Coordinator	\$125 per hour
Drafting / Administrative	\$ 85 per hour

March 7, 2023

Kim Berry  
Red Tail Acquisitions, LLC  
2082 Michelson Dr., Suite 400  
Irvine, CA 92612

Re: Arrive Temecula  
Work Authorization No. 65208-40T  
For Additional Engineering Services

Dear Ms. Berry,

The following work will be scheduled for production upon your written authorization. All terms and conditions of the original contract dated 9/9/2019 for this project shall apply for the work to be done under this additional services work authorization.

Electrical Engineering Services for:

40T Electrical - Ynez Road Arrive Rancho Highland Street Light "referenced as Ynez Road Expansion" per email June 9, 2021

Our fee for these additional services will be \$4,950.00 (if this project goes beyond 1 year, then we will have a fee increase for 5% on 1/1/24). Payment will be due and payable upon completion of the work.

At your earliest convenience, please review, approve and return this work authorization to our Irvine office. Upon receipt, the additional work will be scheduled for completion at the proper branch.

Thank you for the opportunity to provide services to your company. If you should have any questions or need additional information, please do not hesitate to contact our office.

Sincerely,  
GOUVIS ENGINEERING CONSULTING GROUP, INC.



Indra DeGaine  
Vice President Controller

Approved by:  
Red Tail Acquisitions, LLC

Kim Berry \_\_\_\_\_ Date

cc: (l) Addressee, via email: kberry@rtacq.com  
(l) Contract File - GECG Job No.: 65208

949.752.1612  
15 Studebaker  
Irvine, CA  
92618

