



EXTENSION OF SERVICES AGREEMENT FOR DISTRICT  
ENGINEERING SERVICES  
WITH AKM CONSULTING ENGINEERS  
August 24, 2010  
Page 2

FINANCIAL IMPACT

Sewer funds were appropriated for the FY 2010/11 budget to finance AKM's contract extension of \$150,000. There is no impact to the General Fund.

RECOMMENDATION

It is recommended that the GGSD Board:

- Approve the extension of services agreement with AKM Consulting Engineers to provide District Engineering Services; and
- Authorize the General Manager to sign the extension of services agreement with AKM Consulting Engineers for services as District Engineer in the amount not to exceed \$150,000.

  
KEITH G. JONES  
Public Works Director

  
By: David E. Entsminger  
Water Services Manager

Attachment: Agreement

**Recommended for Approval**

  
**Matthew Fertal**  
General Manager

## PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT is made and entered into, to be effective the 24th day of August, 2010, by and between the GARDEN GROVE SANITARY DISTRICT, a California Special District, hereinafter referred to as "District," and AKM Consulting Engineers, a California corporation, hereinafter referred to as "Consultant." District and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

### RECITALS

WHEREAS, District has determined that there is a need to furnish professional engineering services as the District Engineer to the Garden Grove Sanitary District including implementation of the District Capital Improvement Plan;

WHEREAS, District desires to retain Consultant to provide such services; and

WHEREAS, Consultant is qualified by virtue of experience, training, education, and expertise to perform the professional services required by this Agreement and has agreed to provide such services.


NOW, THEREFORE, in consideration of the promises and mutual benefits which will result to the Parties in carrying out the terms of this Agreement, it is mutually agreed as follows:

### AGREEMENT

#### I. SCOPE OF WORK

District agrees to retain Consultant, and Consultant agrees to perform the services set forth in the Scope of Services described in Exhibit "A", attached hereto and by reference made a part of this Agreement (hereinafter the "Services"). Consultant agrees that its provision of Services under this Agreement shall be within accepted standards within the profession, and its specialized services shall be in accordance with customary and usual practices in Consultant's profession. By executing this Agreement, Consultant warrants that it has carefully considered how the work should be performed and fully understands the facilities, difficulties, and restrictions attending performance of the work under this Agreement.

## II. TERM

This Agreement shall be effective as of the date first set forth above. This Agreement shall commence upon the effective date of this Agreement, and shall remain and continue in effect until April 30, 2011. 

## III. FEES

### A. Accounting Records

Consultant shall keep complete, accurate, and detailed accounts of all time, costs, expenses, and expenditures pertaining in any way to this Agreement. Upon request of District, Consultant shall provide District with all records pertaining to this Agreement.

### B. Total Payment

The Parties agree that Consultant shall bill for the Services provided by Consultant to District on an hourly basis and in accordance with the charges and fee schedule attached as Exhibit "A", except as otherwise set forth herein, provided compensation under this Agreement shall not exceed \$150,000.

### C. Monthly Payment

1. District agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment, as set forth in Exhibit "A," attached hereto based upon actual time spent providing the services outlined in this Agreement. Consultant shall submit to District monthly or periodic statements requesting payment. Such requests shall be based upon the amount and value of the Services performed by Consultant under this Agreement and shall be prepared by Consultant and accompanied by such reporting data including a detailed breakdown of all costs incurred and tasks performed during the period covered by the statement, as may be required by District. Invoices shall be submitted on or about the first business day of each month, for Services provided the prior month. District shall use reasonable efforts to make payment to Consultant within forty-five (45) days after the date of the invoice or as soon thereafter as reasonably practicable. If District determines that the approved written Scope of Work under this Agreement or any specified task hereunder is incomplete, the District General Manager, or his or her designee, shall notify Consultant and may withhold the payment amount for the unfinished work accordingly.

2. 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 District General Manager.

#### **IV. TERMINATION**

District may terminate this Agreement for its convenience at any time, with or without cause, in whole or in part, upon giving Consultant thirty (30) days written notice. Upon said notice, District shall pay Consultant its allowable costs incurred to date of termination and those allowable costs determined by District to be reasonably necessary to effect such termination. Upon receipt of said notice, Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If District terminates a portion of this Agreement, such termination shall not make void or invalidate the remainder of this Agreement. Thereafter, Consultant shall have no further claims against District under this Agreement. Upon termination of the Agreement pursuant to this Section, Consultant will submit an invoice to District pursuant to Section III. Consultant may terminate this Agreement, with or without cause, upon thirty (30) days written notice to District.

#### **V. DEFAULT OF CONSULTANT**

A. Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event Consultant is in default, except as provided for in Section XXI, District shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate the Agreement immediately upon written notice to Consultant.

B. If the District General Manager, or his/her designee, determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, it shall notify Consultant in writing of such default. Consultant shall have ten (10) days to cure the default by rendering a satisfactory performance. In the event Consultant fails to cure its default within such period of time, District shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice of any remedy to which District may be entitled at law, in equity or under this Agreement. Consultant shall be liable for any and all reasonable costs incurred by District as a result of such default including, but not limited to, procurement costs of the same or similar services defaulted by Consultant under this Agreement.

#### **VI. LEGAL RELATIONSHIP BETWEEN THE PARTIES**

A. The legal relationship between the Parties hereto is that of an independent contractor, and nothing herein shall be deemed to make Consultant a District employee. During the performance of this Agreement, Consultant and its officers, employees, and agents shall act in an independent capacity and shall not act as District officers, employees, or agents. 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 District nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of its officers, employees, or agents, except as

set forth in this Agreement. Consultant, its officers, employees, or agents shall not maintain an office or any other type of fixed business location at District's offices.

B. Consultant shall not incur or have the power to incur any debt, obligation, or liability against District, or bind District in any manner.

C. No District benefits shall be available to Consultant, its officers, employees, or agents in connection with any performance under this Agreement. Except for fees paid to Consultant as provided for in this Agreement, District shall not pay salaries, wages, or other compensation to Consultant for the performance of Services under this Agreement. District shall not be liable for compensation or indemnification to Consultant, its officers, employees, or agents for injury or sickness arising out of performing Services hereunder. If for any reason, any court or governmental agency determines that District has financial obligations, other than pursuant to Section III herein, of any nature related to salary, taxes, or benefits of Consultant's officers, employees, servants, representatives, subcontractors, or agents, Consultant shall indemnify District for all such financial obligations.

## **VII. MODIFICATIONS AND AMENDMENTS TO AGREEMENT**

No modification or amendment of this Agreement or any of the provisions hereof shall be effective for any purpose unless set forth in writing signed by duly authorized representatives of both Parties.

## **VIII. ASSIGNMENTS AND SUBCONTRACTING**

The experience, knowledge, capability, and reputation of Consultant, its principals and employees were a substantial inducement for District to enter into this Agreement. Consultant may not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, voluntarily or by operation of law, without the prior written approval of District. Except as otherwise expressly provided in the Scope of Services (Exhibit "A"), Consultant shall not contract with any other person or entity to perform the Services required without written approval of District. If Consultant is permitted to subcontract any part of this Agreement by District, Consultant shall be responsible to District for the acts and omissions of its subcontractor as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationships between any subcontractor and District. All persons engaged in the work will be considered employees of Consultant. District will deal directly with and will make all payments to Consultant as provided for in Section III.

## **IX. SUCCESSORS IN INTEREST**

This Agreement shall be binding upon and inure to the benefit of the Parties' successors and assignees.

## X. THIRD PARTY BENEFICIARY

Except as may be specifically provided for herein, nothing contained in this Agreement is intended to confer, nor shall this Agreement be construed as conferring, any rights, including, without limitation, any rights as third-party beneficiary or otherwise, upon any entity or person not a party hereto.

## XI. INSURANCE

### A. Insurance Required

Consultant shall procure and maintain the insurance described herein for the duration of this Agreement, or as otherwise specified herein, against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by Consultant, its agents, representatives, or employees. Insurance required herein shall be provided by a reputable insurance company in good standing with the State of California and having a minimum A.M. Best's Guide Rating of A-, Class VII or better. District will require Consultant to substitute any insurer whose rating drops below the levels specified herein. Such substitution shall occur within twenty (20) days of written notice to Consultant by District.

Consultant shall provide to District certificates of insurance in a form acceptable to District indicating the deductible or self-retention amounts and the expiration date of the policy, and shall provide renewal certificates not less than ten (10) days prior to the expiration of each policy term. The certificates of insurance shall specifically identify this Agreement and shall contain express conditions that District is to be given at least thirty (30) days advance written notice of any material modification in or termination of insurance. Such insurance shall be primary to and not contributing with any other insurance maintained by District or City of Garden Grove. The insurance shall name the Garden Grove Sanitary District, City of Garden Grove, and their officers, board members, officials, employees, agents and volunteers as additional insureds by endorsement to the insurance policies. Except as expressly authorized herein, all insurance shall be on an occurrence basis.

#### 1. Errors and Omissions Insurance

Consultant shall maintain in full force and effect throughout the term of this Agreement, standard industry form professional negligence errors and omissions insurance coverage in an amount of not less than One Million Dollars (\$1,000,000.00) per claim or occurrence, in accordance with the provisions of this Section. If the policy of insurance is written on a "claims made" basis, the policy shall be continued in full force and effect at all times during the term of this Agreement, and for a period of three (3) years from the date of the completion of the Services provided hereunder. In the event of termination of the policy during this period, Consultant shall obtain continuing insurance coverage for the prior acts or omissions of Consultant during the course of performing Services under the terms of this Agreement. The coverage shall be

evidenced by either a new policy evidencing no gap in coverage, or by obtaining separate extended "tail" coverage with the present or new carrier.

In the event the policy of insurance is written on an "occurrence" basis, the policy shall be continued in full force and effect during the term of this Agreement, or until completion of the Services provided for in this Agreement, whichever is later. In the event of termination of the policy during this period, new coverage shall be obtained for the required period to ensure coverage for the prior acts of Consultant during the course of performing the Services under the terms of this Agreement.

2. Workers' Compensation

Consultant shall obtain and maintain, during the term of this Agreement, Workers' Compensation Employer's Liability Insurance in the statutory amount as required by California Law. Such worker's compensation insurance shall be endorsed to provide for a waiver of subrogation against Garden Grove Sanitary District, City of Garden Grove, and their officers, board members, officials, employees, agents and volunteers.

**B. Minimum Limits of Insurance**

Consultant shall maintain limits no less than:

1. General Liability:

\$1,000,000 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. **(claims made and modified occurrence policies are not acceptable)**; Insurance companies must be acceptable to DISTRICT and have an AM Best's Guide Rating of A-, Class VII or better, as approved by the DISTRICT.

2. Automobile Liability:

\$1,000,000 per accident combined single limit. **(claims made and modified occurrence policies are not acceptable)**; Insurance companies must be acceptable to DISTRICT and have an AM Best's Guide Rating of A-, Class VII or better, as approved by the DISTRICT.



3. Employer Liability:

\$1,000,000 per accident for bodily injury or disease. (**claims made and modified occurrence policies are not acceptable**); Insurance companies must be acceptable to DISTRICT and have an AM Best's Guide Rating of A-, Class VII or better, as approved by the DISTRICT.

**C. Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be declared to and approved by the District General Manager. At the option of the District General Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the District, City of Garden Grove, and their board members, officials, officers, employees, agents or volunteers, or Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses, or Consultant shall otherwise provide an alternative satisfactory to the District General Manager.

**D. Other Insurance Provisions**

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The Garden Grove Sanitary District, City of Garden Grove, and their board members, officers, officials, employees, agents and volunteers are to be covered as additional insureds with respect to: liability arising out of activities performed by or on behalf of Consultant; products and completed operations of Consultant; premises owned occupied or used by Consultant; or automobiles owned, leased, hired, or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the Garden Grove Sanitary District, the City of Garden Grove, the Garden Grove Agency for Community Development and their respective councilmembers, board members, officers, officials, employees, agents, or volunteers.

2. For any claims related to this Agreement, Consultant's coverage shall be primary insurance as respects the Garden Grove Sanitary District, City of Garden Grove, and their officers, board members, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by Garden Grove Sanitary District, the City of Garden Grove, the Garden Grove Agency for Community Development and their respective councilmembers, board members, officers, officials, employees, agents, and volunteers shall be in excess of 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

District, City of Garden Grove, and their respective councilmembers, board members, officers, officials, employees, agents, and volunteers.

4. 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 Section shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been provided to District.

6. Consultant agrees to ensure that subcontractors, and any other parties involved with the project who are brought onto or involved in the project by Consultant, provide the same minimum insurance coverage required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Section. Consultant agrees that upon request, all agreements with subcontractors and others engaged in the project will be submitted to District for review.

#### **E. Verification of Coverage**

Consultant shall furnish District with original endorsements effecting coverage required by this Agreement. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by District before work commences.

## **XII. INDEMNITY**

### **A. Indemnification**

To the fullest extent permitted by law, Consultant shall indemnify, defend (at Consultant's sole cost and expense), protect and hold harmless the Garden Grove Sanitary District and its board members, officers, officials, employees, agents, and volunteers, (individually "Indemnified Party"; collectively "Indemnified Parties") against any and all liability, claims, judgments, costs, and demands (collectively, "Claims"), including Claims arising from injuries or death of persons (Consultant's employees included) and damage to property, which Claims arise out of, pertain to, or are related to the negligence, recklessness or willful misconduct of Consultant, its agents, employees, or subcontractors, or arise from Consultant's negligent, reckless or willful performance of or failure to perform any term, provision, covenant or condition of this Agreement ("Indemnified Claims"), but Consultant's liability for Indemnified Claims shall be reduced to the extent such Claims arise from the negligence, recklessness or willful misconduct of the Garden Grove Sanitary District and its board members, officers, directors, officials, employees, or agents.

Consultant shall reimburse the Indemnified Parties for any reasonable expenditures, including reasonable attorneys' fees, expert fees, litigation costs and expenses that each Indemnified Party may incur by reason of Indemnified Claims. Upon request by an Indemnified Party, Consultant will defend with legal counsel reasonably acceptable to the Indemnified Party all Claims against the Indemnified Party that may arise out of, pertain to, or relate to Indemnified Claims, whether or not Consultant is named as a party to the Claim proceeding. The determination whether a Claim may "arise out of, pertain to, or relate to" Indemnified Claims shall be based on the allegations made in the Claim and the facts known or subsequently discovered by the parties. In the event a final judgment, arbitration award, order, settlement, or other final resolution expressly determines that Claims did not arise out of, pertain to, nor relate to the negligence, recklessness or willful misconduct of Consultant to any extent, then District will reimburse Consultant for the reasonable costs of defending the Indemnified Parties against such Claims, except District shall not reimburse Consultant for attorneys' fees, expert fees, litigation costs and expenses as were incurred defending Consultant or any parties other than Indemnified Parties against such Claims.

Consultant's liability for indemnification hereunder is in addition to any liability Consultant may have to District for a breach by Consultant of any of the provisions of this Agreement. Under no circumstances shall the insurance requirements and limits set forth in this Agreement be construed to limit Consultant's indemnification obligation or other liability hereunder. The terms of this Agreement are contractual and the result of negotiation between the parties hereto. Accordingly, any rule of construction of contracts (including, without limitation, California Civil Code Section 1654) that ambiguities are to be construed against the drafting party, shall not be employed in the interpretation of this Agreement.

Consultant's indemnification obligation hereunder shall survive the expiration or earlier termination of this Agreement until all actions against the Indemnified Parties for such matters indemnified hereunder are fully and finally barred by the applicable statute of limitations or, if an action is timely filed, until such action is final. This provision is intended for the benefit of third party Indemnified Parties not otherwise a party to this Agreement.

### **XIII. COMPLIANCE WITH LAW**

A. Consultant certifies by the execution of this Agreement the following: that it pays employees not less than the minimum wage as defined by law and that it does not discriminate in its employment with regard to race, color, religion, sex, age, marital status, ancestry, or national origin; that Consultant is in compliance with all federal and state laws, local directives, and executive orders regarding non-discrimination in employment; and that Consultant agrees to demonstrate positively and aggressively the principle of equal opportunity in employment.

B. Consultant shall keep itself informed of State and Federal laws and regulations, which in any manner affect those employed by it or in any way affect the

performance of its Services pursuant to this Agreement. Consultant shall at all times observe and comply with all such laws and regulations. The Garden Grove Sanitary District and its board members, officers, employees, and agents shall not be liable at law or in equity for Consultant's failure to comply with such laws and regulations.

#### **XIV. LICENSES AND QUALIFICATIONS**

Consultant represents and warrants to District that it has obtained all licenses, permits, qualifications, and approvals of whatever nature that is legally required to practice its profession. Consultant represents and warrants to District that Consultant shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any license, permit, or approval, which is legally required for Consultant to perform Services under this Agreement.

#### **XV. CONFIDENTIALITY AND OWNERSHIP OF DOCUMENTS**

A. All information gained by Consultant in the performance of this Agreement shall be considered confidential and shall not be released by Consultant without District's prior written authorization. Consultant, its officers, employees, agents or subcontractors shall not without written authorization from the District General Manager or unless requested by District's Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the Services performed under this Agreement or relating to any project or property location within District. Response to a subpoena or court order shall not be considered "voluntary" for the purposes of this Section, provided Consultant gives District proper notice of such subpoena or court order. Consultant shall properly notify District of any summons, complaints, subpoenas, notice of deposition, request for documents, interrogatories, requests for admissions or other discovery requests received by Consultant, its officers, employees, agents or subcontractors, related to Services performed pursuant to this Agreement. District retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding, the cost of which shall be borne by District. Consultant agrees to cooperate fully with District and to provide District with an opportunity to review and respond to discovery requests provided by Consultant, arising out of Services performed pursuant to this Agreement. However, District's right to review any such request or response does not imply or mean District has the right to control, direct, write or rewrite said response.

B. The documents and study materials for this project shall become the property of District upon the termination or completion of the work. Consultant agrees to furnish to District copies of all memoranda, correspondence, computation, and study materials in its files pertaining to the work described in this Agreement, which is requested in writing by District.

**XVI. INTERPRETED UNDER LAWS OF THE STATE OF CALIFORNIA**

This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof. Venue for any litigation concerning this Agreement shall be in the Superior Court for the County of Orange, California.

**XVII. ATTORNEYS' FEES**

If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing Party shall be entitled to reasonable attorneys' fees, costs, and necessary disbursements in addition to any other relief to which they may be entitled.

**XVIII. WAIVER**

No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought. Any waiver by the Parties of any default or breach of any covenant, condition, or term contained in this Agreement, shall not be construed to be a waiver of any subsequent or other default or breach, nor shall failure by the Parties to require exact, full, and complete compliance with any of the covenants, conditions, or terms contained in this Agreement be construed as changing the terms of this Agreement in any manner or preventing the Parties from enforcing the full provisions hereof.

**XIX. NOTICES**

All notices or other communications required or permitted hereunder shall be in writing and shall be personally delivered, sent by registered or certified mail, postage prepaid, return receipt requested, or delivered or sent by electronic transmission, and shall be deemed received upon the earlier of: (i) the date of delivery to the address of the person to receive such notice if delivered personally or by messenger or overnight courier; (ii) three (3) business days after the date of posting by the United States Post Office if by mail; or (iii) when sent if given by electronic transmission. Any notice, request, demand, direction, or other communication sent by electronic transmission must be confirmed within forty-eight (48) hours by letter mailed or delivered. Notices or other communications shall be addressed as follows:

To District:

Garden Grove Sanitary District

13802 Newhope Street  
Garden Grove, CA 92843  
Attention: David Entsminger

To Consultant:

\_AKM Consulting Engineers\_\_\_\_\_  
\_553 Wald\_\_\_\_\_  
\_Irvine, CA 92618\_\_\_\_\_  
Attention: Mr. Zeki Kayiran\_\_

Either Party may, by written notice to the other, designate a different address, which shall be substituted for that specified above.

**XX. ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the parties and supersedes all prior negotiations, arrangements, representations, and understandings, if any, made by or among the parties with respect to the subject matter hereof. No amendments or other modifications of this Agreement shall be binding unless executed in writing by both parties hereto, or their respective successors, assigns, or grantees.

**XXI. FORCE MAJEURE**

If either party shall be delayed or prevented from the performance of any service under this Agreement by reason of acts of God, strikes, lockouts, labor troubles, restrictive governmental laws or regulations or other cause, without fault and beyond the reasonable control of the party obligated (financial inability excepted), performance of such act shall be excused for the period of delay, and the period for performance of any such act shall be extended for a period equivalent to the period of such delay.

**XXII. TIME IS OF THE ESSENCE**

The Parties agree that time is of the essence of this Agreement with respect to the deadlines set forth herein.

**XXIII. SEVERABILITY**

Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be invalid under the applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of that provision, or the remaining provisions of this Agreement.

**XXIV. PROHIBITED INTERESTS**

Consultant covenants that, for the term of this Agreement, no Board Member, official, officer or employee of District during his/her tenure in office/employment, or for one (1) year thereafter, shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. Consultant warrants that it has not given or paid and will not give or pay any third party money or other consideration for obtaining this Agreement.

**XXV. SCOPE CHANGES**

In the event of a change in the scope of the proposed project, as requested by District, the Parties hereto shall execute an addendum to this Agreement, setting forth, with particularity, all terms of the new Agreement, including but not limited to any additional Consultant's fees.

**XXVI. NON-LIABILITY OF DISTRICT OFFICERS AND EMPLOYEES**

No officer or employee of the District shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the District or for any amount which may become due to the Consultant or its successor, or for breach of any obligation of the terms of this Agreement.

**XXVII. AGREEMENT EXECUTION AUTHORIZATION**

Each of the undersigned represents and warrants that he or she is duly authorized to execute and deliver this Agreement and that such execution is binding upon the entity for which he or she is executing this Agreement.

**XXVIII. RECITALS**

The Recitals above are hereby incorporated into this section as though fully set forth herein and each party acknowledges and agrees that such Party is bound, for purposes of this Agreement, by the same.

IN WITNESS WHEREOF, this Agreement has been executed in the name of District, by its officers thereunto duly authorized, and Consultant as of the day and year first above written.

"DISTRICT"  
GARDEN GROVE SANITARY DISTRICT

By: \_\_\_\_\_  
Matthew J. Fertal

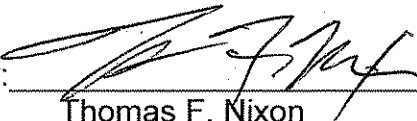
General Manager

ATTEST:

By: \_\_\_\_\_  
Kathy Bailor  
District Secretary


APPROVED AS TO FORM:

Woodruff, Spradlin & Smart

By:  \_\_\_\_\_  
Thomas F. Nixon  
Garden Grove Sanitary District  
General Counsel



"CONSULTANT"  
AKM CONSULTING ENGINEERS

By:   
Zeki Kayiran  
Principal

By:   
Mehmet Kayiran  
Chief Financial Officer

EXHIBIT A

SCOPE OF SERVICES / FEE SCHEDULE



AKM Consulting Engineers

553 Wald  
Irvine, CA 92618

Telephone: 949.753.7333  
Facsimile: 949.753.7320

Water  
Resources

Infrastructure

Construction  
Management

March 21, 2008

**Garden Grove Sanitary District**  
13802 Newhope Street  
Garden Grove, California 92843

Attention: Mr. David Entsminger, P.E.  
Water Services Manager

**Subject: Proposal to Provide District Engineering Services to the Garden Grove Sanitary District**

Dear Mr. Entsminger:

AKM Consulting Engineers is pleased to submit this proposal for the subject project in response to your request.

The services will be provided under the direction of Zeki Kayiran, P.E., as the Project Manager, who will act as the District Engineer. John Loague, P.E. will handle the project management in Zeki Kayiran's absence. Diann Pay, P.E. will be responsible for all the planning studies. Mr. Morgan Ying, P.E., Mr. Ronald Wong, S.E., and Mr. Gary Hobson, P.E., will handle the design projects. Construction inspection, if needed, will be overseen by Robert R. Russell, P.E. Construction support services will be provided by the entire project team.

We appreciate the opportunity to submit this proposal and look forward to being of continued service to the Garden Grove Sanitary District. Should you have any questions or require additional information, please do not hesitate in contacting the undersigned (949) 753-7333.

Very truly yours,

**AKM Consulting Engineers**

Zeki Kayiran, P.E.  
Principal

## ***Project Understanding and Scope of Work***

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### **PROJECT UNDERSTANDING**

The Garden Grove Sanitary District (District) provides wastewater collection and conveyance service to approximately 36,000 customers within its service area, which includes the entire City of Garden Grove, several unincorporated Orange County areas, as well as a small portion of the City of Fountain Valley. Additionally, the existing collection system receives wastewater flows from portions of the City of Anaheim, Orange, Westminster, and Stanton.

The District submitted its Sewer System Management Plan, which was required by the California Regional Water Quality Control Board, Santa Ana Region's Order R8-2002-0014 General Waste Discharge Requirements for Sewage Collection Agencies in Orange County within the Santa Ana Region in September 2005. When the State Water Resources Control Board issued the Statewide General Waste Discharge Requirements, the Regional Board rescinded its Order. While the District is in compliance with most of the elements of the new Order, it has to certify that it has completed the various elements of the new Order within the schedule established by the State Water Resources Control Board. Additionally, new development and redevelopment projects need to be evaluated to determine their impact on the existing system's capacity. Furthermore, the District entered into a settlement agreement with Orange County Coastkeeper, the terms of which need to be addressed in accordance with the schedule contained in the agreement.

The Garden Grove Sanitary District has limited resources to undertake the requirements of these projects within their established schedules. In order to implement these projects, the District is seeking the services of a consultant, who will work on an as needed basis in the capacity of District Engineer.

### **SCOPE OF WORK**

The scope of services will consist of the following tasks:

1. Review the District's needs and prepare the necessary documentation for and applications for county, state, and federal funding programs
2. Direct the preparation of project studies, review reports, and make recommendations to the District for action/implementation
3. Perform studies for and coordinate the preparation of cooperative projects with other agencies, including the preparation, review and recommendation for approval of agreements
4. Prepare grant applications, ascertain compliance with the grant requirements, and assist in collection of grant funds
5. Assist in compliance with the terms of the settlement agreement with Orange County Coastkeeper
6. Assist and advise the Water Services Manager in preparation of the District's annual budget request,



## ***Project Team***

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including the capital improvement budget.

7. Make presentations to the City Council, Sanitary District Board, Sewer Advisory Commission, and other agencies, as requested
8. Perform other District related duties as necessary, including preparation of agenda, review of bids, construction contract administration, and inspection

The work will be performed in a timely manner to meet all required schedules.

AKM Consulting Engineers has assembled a project team with extensive experience and expertise to undertake the District Engineer Services. Many of the Project Team members have worked on the District's Sewer System Management Plan projects, and have the necessary insight into the issues of importance. The proposed Project Team and its organization are illustrated below.

In summary, the Project Team's experience includes the following:

Mr. Zeki Kayiran, P.E. is proposed as the Project Manager/District Engineer. He has 37 years of experience in water resources engineering, including a part time professorship at California State University, Long Beach. He has been responsible for preparation of numerous sewer master plans; plans, specifications, and estimates for sewer pump stations, gravity sewers, and force mains; grant applications; and District Engineering services. Mr. Kayiran has provided professional services for the Garden Grove Sanitary District, Orange County Sanitation District, Irvine Ranch Water District, Moulton Niguel Water District, Santa Margarita Water District, San Diego Metropolitan Wastewater Department, Cities of Los Angeles, Seal Beach, San Clemente, Cypress, Fountain Valley, Newport Beach, Palos Verdes Estates, El Segundo, Torrance, Alhambra, Ontario, Corona, Inglewood, and Camarillo.

Mr. John Loague, P.E. will be the Deputy Project Manager. He has 24 years of experience in water resources engineering. Mr. Loague has been responsible for the planning, design, and construction of numerous sewer master plans, pump stations, gravity sewers, force mains, and treatment plants.

Ms. Diann Pay, P.E. will be responsible for all the planning studies. She has 11 years of experience in both the planning and design of sewer facilities. Her master planning experience includes the Garden Grove Sanitary District, Cities of Seal Beach, Brea, La Habra, Cypress, Palos Verdes Estates, El Segundo, Alhambra, Newport Beach, Fountain Valley, Ontario, Corona, and Inglewood.

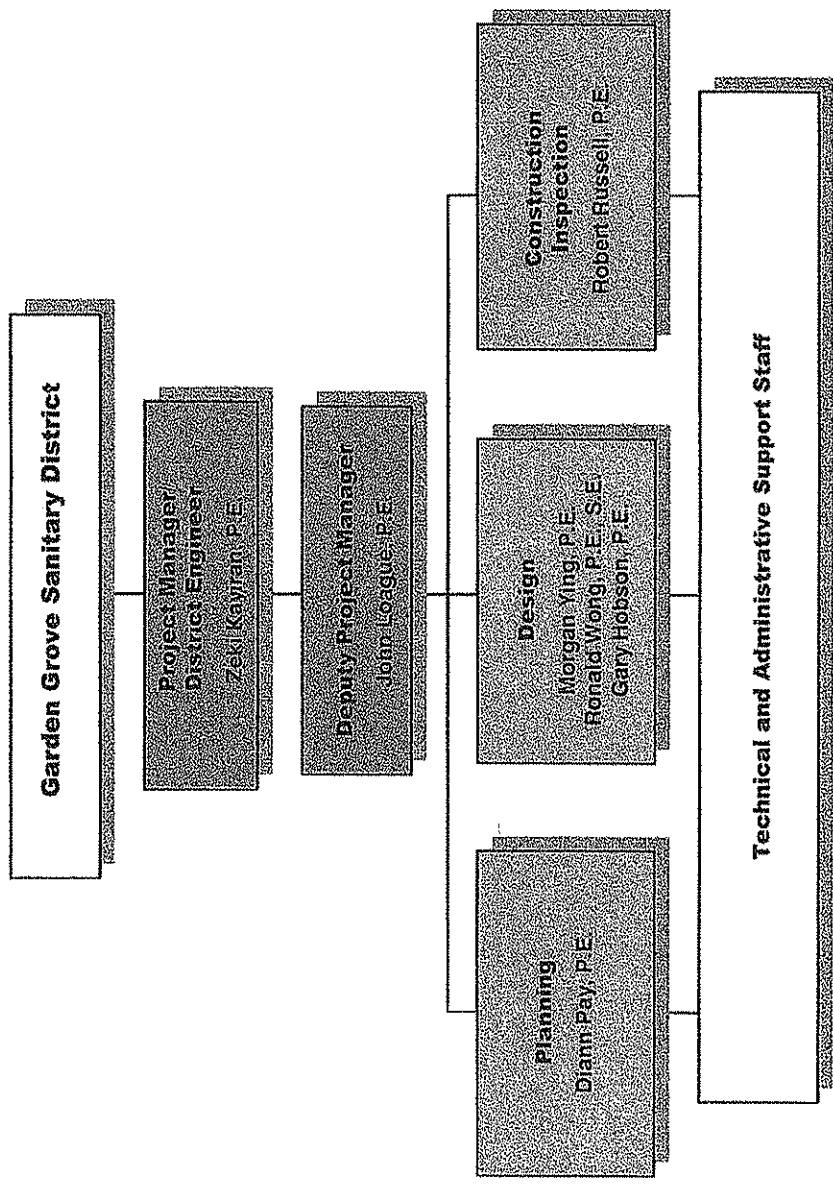
Messrs. Morgan Ying, P.E, Gary Hobson, P.E, and Ronald Wong, P.E. will handle the studies and designs for gravity sewers and pump stations, under the direction of John Loague.

Mr. Robert Russell, P.E. will be available for construction inspection and resident engineering services if necessary. His background includes providing inspection, resident engineering, and construction management for the City of Seal Beach's Adolfo Lopez and Boeing Sewer Pump Stations, as well as numerous wastewater treatment, pumping, and conveyance facilities.



**Project Team**

**PROJECT ORGANIZATION CHART**



## ***Hourly Rate Schedule***

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### **AKM CONSULTING ENGINEERS HOURLY FEE SCHEDULE July 2010**

<u>Labor Classification</u>	<u>Hourly Rate</u>
1. Principal	\$198.00
2. Principal Engineer	\$189.00
3. Project Manager	\$180.00
4. Associate	\$170.00
5. Project Engineer	\$165.00
6. Senior Engineer	\$150.00
7. Associate Engineer	\$115.00
8. Financial Analyst	\$95.00
9. Construction Manager	\$115.00
10. Inspector	\$95.00
11. Assistant Engineer	\$87.00
12. Senior Designer/Senior CADD Technician	\$90.00
13. Designer/CADD Technician	\$85.00
14. Engineering Technician	\$80.00
15. Engineering Aide	\$55.00
16. Data or Word Processing	\$66.00
17. Office Support	\$60.00

Out of pocket expenses (blueprinting, reproduction and printing, delivery, etc.) will be invoiced at cost plus 15%. Subcontracted services will be marked up 15% in order to cover costs associated with administration, coordination and management of subcontractors. Mileage will be invoiced at \$0.65/mile. This schedule of rates is in effect until June 30, 2011, at which time it may be adjusted.