



510 West Kearney Boulevard, Fresno, CA 93706

CITY OF FRESNO, AIRPORTS DEPARTMENT

REQUEST FOR STATEMENTS OF QUALIFICATION (RFQual) FOR CONSULTING SERVICES

**Professional Consulting Services for General Aviation Revenue Planning Development (which includes Rates, Fees, and Charges Development Methodologies) and Contract/Lease Development at Fresno Chandler Executive Airport
RFQ: 12500584**

A. PROGRAM NARRATIVE

The City of Fresno Airports Department (Department), operator of Fresno Chandler Executive Airport (FCH), is requesting Statements of Qualification (SOQ) from General Aviation (GA) Consultants to provide professional consulting services Revenue Planning Development, which includes rates, fees, and charges development methodologies and Contract/Lease Development at FCH. Firms or individuals with experience related to airport professional consulting services with regards to revenue planning development, which includes developing rates, fees, and charges methodologies and contract/lease development services at GA airports or similar facilities are encouraged to participate.

B. BACKGROUND

FCH is one of the oldest operational GA airports in California. FCH began informally, after World War I, as an unpaved airfield when the Chandler family allowed pilots to operate on their property after their crops were harvested. In 1929, the Chandlers donated the one-hundred-acre property as a public-use airfield. Today, FCH is located one-and-a-half miles from downtown Fresno and occupies approximately 200 acres. FCH is a bastion of local economic development that is home to several businesses and supports training programs that are affiliated with Reedley College. Moreover, the Department is in active negotiations with a local school district that would start a new aviation academy for high school juniors and seniors in a secured area on FCH's airfield. FCH also works in conjunction with Fresno Yosemite International Airport, as a reliever airport, to better serve the travel needs of local passengers and the GA community.

The Department is striving to make improvements that would enhance financial stability and improve service(s) at FCH. Therefore, consultant services include revenue planning development (i.e., developing methodologies to devise changes in FCH's current rates, fees, and charges) and contract/lease development.



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Therefore, the Department is seeking firms that have comprehensive experience in providing a wide array of GA airport services, which involve planning, engineering, and revenue planning capabilities. Firms must meet minimum qualifications and knowledge requirements. The Department may select multiple firms depending on the areas of expertise. Consultant selection will follow FAA Advisory Circular (AC) 150/5190-4B – “Airport Land Use Compatibility Planning” and City Administrative Order 6-19 “Contracts for Consultant Services.” Selected firms must also have knowledge of and practice in complying with the California Surplus Land Act (Cal. Gov. Code §§ 54220 – 54234) and FAA regulations pertaining to airport financial management practices, including “FAA Policy on the Use of Airport Revenue”, “FAA Policy on Airline Rates and Charges”, FAA Grant Assurances for Airport Sponsors.

C. SCOPE OF WORK

The Department seeks qualified and experienced firm(s) to provide strategic direction and services pertaining to revenue planning development and contract/lease development, This RFQual is specific to the services of:

Business and Financial Services:

1. Strategic / Business / Financial Planning, including financial feasibility studies, reports or presentations (regarding the development of methodologies to devise changes to FCH's current rates, fees, and charges) making FCH a self-sufficient airport.
2. Drafting lease and provision language development.
3. Supports development or updates of the Airport Minimum Standards (FCH) or Airports Rules and Regulations (FAT)

D. MINIMUM QUALIFICATIONS

To meet minimum qualifications, participating firms or individuals must demonstrate the following distinguishing experience as, and knowledge of, but not limited to, the following:

1. **Firm's or Individual's Experience with Providing Similar Services to Airports Similar to FCH's Size:** Provide a description of your or your firm's recent experience (within the past 5 years) and qualifications in airport revenue planning development (feasibility studies to support methodology regarding rates, rents, charges, and fee calculations and determinations), on projects similar in magnitude to FCH, as well as meeting schedules,



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- deadlines, and budgets of those projects, including expert knowledge of, and practice in complying with, FAA regulations pertaining to airport financial management practices, such as “FAA Policy on the Use of Airport Revenue”, and FAA Grant Assurances for Airport Sponsors.
2. **Key Personnel:** Identify proposed projects/services team members and responsibilities. Provide a brief resume for each key person proposed, outlining their credentials and experience working on airports similar to FCH.
 3. **Knowledge of Airport:** Describe your or your firm’s understanding and knowledge of FCH.
 4. **References:** Provide the name and contact information for at least three (3) references of similar size airports as FCH, who are familiar with the quality of work by you or your firm for services/projects of similar nature to those contained in the above-referenced Scope of Work.
 5. **Other Supporting Data:** Include any other information you or your firm feel to be relevant to the selection of you or your firm.

E. CRITERIA FOR CONSULTANT SELECTION

1. **Experience with Working with other Governmental Entities:** Understanding of FAA, state and local regulations related to planning, engineering/environmental, and financial/revenue planning processes for GA airports. Working relationship with federal, state, and local agencies such as the FAA Airport District Office, California State Division of Aeronautics, and City of Fresno Departments, etc.
2. **Qualifications of the Firm (or Individual) and Key Personnel:** Project Manager experience relevant to this type of work, size of airport, type of airport and regional construction and development trends. Key personnel’s experience with airport engineering, architecture, design, financial, planning, and environmental analysis on projects of similar magnitude and at airports similar to those anticipated at FCH.
3. **Approach to Projects/Services:** Firms or individuals that demonstrate capability to perform all or most aspects of the services sought without needing to subcontract various elements. If firms or individuals use a team approach, the SOQ shall identify the proposed team structure, responsibilities of each firm, and history of the team working together on similar projects/services.
4. **Experience on Comparable Projects:** Experience and past performance with airport projects of similar type, size and complexity as FCH. The



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project/service(s) section should highlight project/service(s) budget and overall schedule/completion information on similar projects/services at like airports.

The entire SOQ shall not exceed twenty (20) pages; excluding the front and back covers, dividers, cover sheet, table of contents, and letter of introduction (maximum of two pages).

F. ADMINISTRATIVE PROCEDURES

1. Guidance presented in FAA AC 150/5190-4B "Airport Land Use Compatibility Planning," and City Administrative Order 6-19 "Contracts for Consultant Services" will be used.
2. A selection panel will evaluate all timely submissions that meet the Minimum Qualifications as outlined in Section **D** of this Request for Statements of Qualification (RFQual) and prepare a short-list of the most qualified firms or individuals. Firms or individuals not on the short-list will be notified that they were unsuccessful but may be requested, for a fee, to perform an Independent Fee Estimate at a later date.
3. Detailed information on the SOQs and performance data of each of the firms or individuals on the short-list will be obtained by contacting former clients and other references provided in the SOQ's.
4. If an interview process is deemed necessary, then the top three to five firms or individuals may be invited to make a presentation before the selection panel. Interviews may or may not be conducted.
5. The short-listed firms or individuals will be reviewed based on their qualifications, submissions, reference checks and presentation using the Criteria for Consultant Selection identified in Section **E**.
6. The outcome of the review will then be presented to the Director of Aviation.
7. The Director of Aviation will select firms or individuals based on qualitative analysis. Any selection may be based on the criteria specified and made to the firm or individual whose SOQ is judged as providing the best value in meeting the interest of FCH's objectives. More than one firm or individual may be selected for the projects/services. The Department reserves the right to choose which project/service will be assigned to which firm or individual at its sole discretion.



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8. The firm or individual best qualified will be invited to negotiate a scope of work and fee for individual projects/services. If an agreement is not reached for an individual project/service with the selected firm or individual, then that firm or individual will be disqualified. Scope of work and fee negotiations will then proceed with another qualified firm or individual. The City reserves the right to terminate the selection process and/or re-advertise for consulting services at any time in this process.
9. A City of Fresno (City) Agreement for Professional Consulting Services will be executed once negotiations have been successful and a firm or individual is selected for award of a contract. A copy of a sample agreement is available upon request. The selected firm or individual shall be required to submit documentation to substantiate compliance with all Agreement terms including a "Conflict of Interest Declaration" on City furnished forms and obtain required insurance coverage.
10. In accordance with the Code of Federal Regulations, 49 CFR parts 23 and 26, the City will carry out applicable federal requirements in the award and administration of any contract awarded hereunder.
11. The City reserves the right to make the selection of a firm or individual based on any or all factors of value, whether quantitatively identifiable or not, including, but not limited to, the anticipated initiative and ability of the firm or individual to perform the services set forth herein.

G. REGULATED COMMUNICATION IN CITY PROCUREMENT PROCESS ORDINANCE

The Regulated Communications in City Procurement Process Ordinance (Article 6, Chapter 4 of the Fresno Municipal Code) became effective April 29, 2004. With certain specified exceptions, the Ordinance provides that no Respondent, Bidder, Proposer (as the case may be) shall initiate, engage in, or continue any communication to or with any City elected official concerning or touching upon any matter which is the subject of this competitive procurement process.

Any Respondent, Bidder, Proposer, or elected official (as the case may be) who initiates, engages in, continues in, or receives any regulated communication shall file the written disclosure required by the Regulated Communications in City Procurement Process Ordinance.

Any Respondent, Bidder, or Proposer violating the Regulated Communications in City Procurement Process Ordinance may be disqualified from participating in this procurement process and/or determined to be non-responsible. Additionally, the City



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may set aside the award of a contract, prior to its execution, to a party found to have violated the Ordinance.

Note: The full text of Fresno Municipal Code, Chapter 4, Article 6 may be viewed on the City's website at, <http://www.fresno.gov>. Under *Departments, Finance, Municipal Code*, or view the Fresno Municipal Code directly at:

https://library.municode.com/ca/fresno/codes/code_of_ordinances

H. DEBARMENT

A Proposer (i.e., firm or individual) may be debarred from bidding or proposing upon or being awarded any contract with the City, or from being a subcontractor or supplier at any tier upon such contract, in accordance with the procedures in Fresno Municipal Code Section 4-104 adopted by Council on May 17, 2018. The initial period of any such debarment shall not be less than one year and may be permanent depending on the violation. A Proposer (i.e., firm or individual) may request a hearing, in accordance with Fresno Municipal Code Section 4-104, upon receipt of a notice of proposed debarment from the City Manager or designee. A copy of the Ordinance may be obtained from the City Clerk's Office, 2600 Fresno Street, Fresno, California 93721.

I. GENERAL REQUIREMENTS/CONDITIONS

1. The City hereby notifies all interested firms or individuals that no person shall be excluded from participation in, denied any benefits of, or otherwise discriminated against in connection with the award and performance of any contract on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era.
2. Title VI Solicitation Notice -- The City, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all proposers (i.e., firms or individuals) that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.
3. Some projects could be funded with financial assistance from the U.S. Department of Transportation, FAA and/or other federal departments. In accordance with the Code of Federal Regulations, 49 CFR parts 23 and



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26, the City will carry out applicable federal requirements in the award and administration of any contract awarded hereunder. The following federal provisions are specifically included by reference:

- a. Debarment and Suspension – 2 CFR part 180
 - b. Disadvantage Business Enterprise – 49 CFR part 26
 - c. Trade Restriction Certification – 49 CFR part 30
 - d. Lobbying and Influencing Federal Employees – 49 CFR part 20, Appendix A
4. Disadvantaged Business Enterprises (DBEs) will be afforded full opportunity to submit SOQs in response to this invitation. In addition, a Proposer (i.e., firms or individuals) who intends to subcontract a portion of the work shall affirmatively seek out DBEs that are potential subcontractors, suppliers, or consultants, and actively solicit their interest, capability and prices. The requirements of 49 CFR part 26 apply to this contract. It is the policy of the City to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. The City encourages participation by all firms or individuals qualifying under this solicitation regardless of business size or ownership.
 5. By submitting a SOQ under this solicitation, the Proposer (i.e., firm or individual) certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.
 6. Prospective firms or individuals are subject to the Regulated Communications in City Procurement Process Ordinance (Article 6, Chapter 4 of the Fresno Municipal Code). With certain specified exceptions, the Ordinance provides that no Respondent, Bidder, Proposer (as the case may be) shall initiate, engage in, or continue any communication to or with any City elected official concerning or touching upon any matter which is the subject of this competitive procurement process. Any Respondent, Bidder, or Proposer violating the Regulated Communications in City Procurement Process Ordinance may be disqualified from participating in this procurement process.
 7. Prospective firms or individuals are advised that the City in the solicitation or evaluation of the interested consultants incurs no obligation or commitments. The City reserves the right to waive or modify any part of this RFQual process without penalty at their sole discretion.



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8. The City reserves the right to define and/or redefine services/tasks and select for negotiation firms or individuals and/or assemble submitting firms or individuals into implementation teams as it sees fit.
9. The City reserves the right to choose which scope of work will be assigned to one or more consultants (i.e., firms or individuals).
10. Submission of a SOQ from a proposing firm or individual indicates a willingness to prepare, for a fee, an independent cost estimate even though the firm or individual is not selected to continue beyond Phase One of the selection process. Preparation of the independent estimate, if requested by the Department, will eliminate a firm or individual from further consideration for this project/service.

Any questions or concerns relating to this Request for Statements of Qualification (RFQual) shall be submitted on the form provided via email to FYIProperties@fresno.gov. Questions will be accepted up to five (5) working days prior to the SOQ submission date.

SUBMIT STATEMENT OF QUALIFICATION:

All firms or individuals interested in responding to this Request for Statements of Qualification shall do so by submitting **via email in PDF format** of their SOQs, with the name of the RFQual marked clearly on the document by: **October 1, 2024, prior to 3:00 PM PDT** to Attention of:

Melissa Garza-Perry
Airports Properties Manager
City of Fresno, Airports Department
4995 E. Clinton Way
Fresno CA 93727-1525
(559) 621-4500
FYIProperties@fresno.gov

**AGREEMENT
CITY OF FRESNO, CALIFORNIA
CONSULTANT SERVICES**

THIS AGREEMENT (Agreement) is made and entered into, effective on _____, by and between the CITY OF FRESNO, a California municipal corporation (City), and [Consultant Name], [Legal Identity] (Consultant).

RECITALS

WHEREAS, City desires to obtain professional [Kind of Service] services for [Describe Project] (Project); and

WHEREAS, Consultant is engaged in the business of furnishing services as a [Consultant's Profession] and hereby represents that it desires to and is professionally and legally capable of performing the services called for by this Agreement; and

WHEREAS, Consultant acknowledges that this Agreement is subject to the requirements of Fresno Municipal Code Section 4-107 and Administrative Order No. 6-19; and

WHEREAS, this Agreement will be administered for City by its [SELECT TITLE] (Administrator) or designee.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and of the covenants, conditions, and premises hereinafter contained to be kept and performed by the respective parties, it is mutually agreed as follows:

1. Scope of Services. Consultant shall perform to the satisfaction of City the services described in **Exhibit A**, including all work incidental to, or necessary to perform, such services even though not specifically described in **Exhibit A**.
2. Term of Agreement and Time for Performance. This Agreement shall be effective from the date first set forth above (Effective Date) and shall continue in full force and effect through [End Date], subject to any earlier termination in accordance with this Agreement. The services of Consultant as described in **Exhibit A** are to commence upon the Effective Date and shall be completed in a sequence assuring expeditious completion, but in any event, all such services shall be completed prior to expiration of this Agreement and in accordance with any performance schedule set forth in **Exhibit A**.
3. Compensation.
 - (a) Consultant's sole compensation for satisfactory performance of all services required or rendered pursuant to this Agreement shall be a total fee of [Fee Amount: e.g. \$500]. Such fee includes all expenses incurred by Consultant in performance of the services.
 - (b) Detailed statements shall be rendered monthly for services performed in the preceding month and will be payable in the normal course of City business.
 - (c) The parties may modify this Agreement to increase or decrease the scope of services or provide for the rendition of services not required by this

Agreement, which modification shall include an adjustment to Consultant's compensation. Any change in the scope of services must be made by written amendment to the Agreement signed by an authorized representative for each party. Consultant shall not be entitled to any additional compensation if services are performed prior to a signed written amendment.

4. Termination, Remedies, and Force Majeure.

- (a) This Agreement shall terminate without any liability of City to Consultant upon the earlier of: (i) Consultant's filing for protection under the federal bankruptcy laws, or any bankruptcy petition or petition for receiver commenced by a third party against Consultant; (ii) seven calendar days' prior written notice with or without cause by City to Consultant; (iii) City's non-appropriation of funds sufficient to meet its obligations hereunder during any City fiscal year of this Agreement, or insufficient funding for the Project; or (iv) expiration of this Agreement.
- (b) Immediately upon any termination or expiration of this Agreement, Consultant shall (i) immediately stop all work hereunder; (ii) immediately cause any and all of its subcontractors to cease work; and (iii) return to City any and all unearned payments and all properties and materials in the possession of Consultant that are owned by City. Subject to the terms of this Agreement, Consultant shall be paid compensation for services satisfactorily performed prior to the effective date of termination. Consultant shall not be paid for any work or services performed or costs incurred which reasonably could have been avoided.
- (c) In the event of termination due to failure of Consultant to satisfactorily perform in accordance with the terms of this Agreement, City may withhold an amount that would otherwise be payable as an offset to, but not in excess of, City's damages caused by such failure. In no event shall any payment by City pursuant to this Agreement constitute a waiver by City of any breach of this Agreement which may then exist on the part of Consultant, nor shall such payment impair or prejudice any remedy available to City with respect to the breach.
- (d) Upon any breach of this Agreement by Consultant, City may (i) exercise any right, remedy (in contract, law or equity), or privilege which may be available to it under applicable laws of the State of California or any other applicable law; (ii) proceed by appropriate court action to enforce the terms of the Agreement; and/or (iii) recover all direct, indirect, consequential, economic and incidental damages for the breach of the Agreement. If it is determined that City improperly terminated this Agreement for default, such termination shall be deemed a termination for convenience.
- (e) Consultant shall provide City with adequate written assurances of future performance, upon Administrator's request, in the event Consultant fails to comply with any terms or conditions of this Agreement.

- (f) Consultant shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of Consultant and without its fault or negligence such as, acts of God or the public enemy, acts of City in its contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. Consultant shall notify Administrator in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, and shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to Administrator of the cessation of such occurrence.

5. Confidential Information and Ownership of Documents.

- (a) Any reports, information, or other data prepared or assembled by Consultant pursuant to this Agreement shall not be made available to any individual or organization by Consultant without the prior written approval of the Administrator. During the term of this Agreement, and thereafter, Consultant shall not, without the prior written consent of City, disclose to anyone any Confidential Information. The term Confidential Information for the purposes of this Agreement shall include all proprietary and confidential information of City, including but not limited to business plans, marketing plans, financial information, materials, compilations, documents, instruments, models, source or object codes and other information disclosed or submitted, orally, in writing, or by any other medium or media. All Confidential Information shall be and remain confidential and proprietary in City.
- (b) Any and all writings and documents prepared or provided by Consultant pursuant to this Agreement are the property of City at the time of preparation and shall be turned over to City upon expiration or termination of the Agreement. Consultant shall not permit the reproduction or use thereof by any other person except as otherwise expressly provided herein.
- (c) If Consultant should subcontract all or any portion of the services to be performed under this Agreement, Consultant shall cause each subcontractor to also comply with the requirements of this Section 5.
- (d) This Section 5 shall survive expiration or termination of this Agreement.

6. Professional Skill. It is further mutually understood and agreed by and between the parties hereto that inasmuch as Consultant represents to City that Consultant and its subcontractors, if any, are skilled in the profession and shall perform in accordance with the standards of said profession necessary to perform the services agreed to be done by it under this Agreement, City relies upon the skill of Consultant and any subcontractors to do and perform such services in a skillful manner and Consultant agrees to thus perform the services and require the same of any subcontractors. Therefore, any acceptance of such services by City shall not operate as a release of Consultant or any subcontractors from said professional standards.

7. Indemnification. To the furthest extent allowed by law, including California Civil Code section 2782, Consultant shall indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage), and from any and all claims, demands and actions in law or equity (including reasonable attorney's fees, litigation expenses and cost to enforce this Agreement) that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of Consultant, its principals, officers, employees, agents or volunteers in the performance of this Agreement.

If Consultant should subcontract all or any portion of the services to be performed under this Agreement, Consultant shall require each subcontractor to indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and volunteers in accordance with the terms of the preceding paragraph.

This section shall survive termination or expiration of this Agreement.

8. Insurance.

- (a) Throughout the life of this Agreement, the Consultant shall pay for and maintain in full force and effect all insurance as required in **Exhibit B**, which is incorporated into and part of this Agreement, with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated no less than "A-VII" in the Best's Insurance Rating Guide, or (ii) as may be authorized in writing by the City's Risk Manager or designee at any time and in its sole discretion. The required policies of insurance as stated in **Exhibit B** shall maintain limits of liability of not less than those amounts stated therein. However, the insurance limits available to the City, its officers, officials, employees, agents, and volunteers as additional insureds, shall be the greater of the minimum limits specified therein or the full limit of any insurance proceeds to the named insured.
- (b) If at any time during the life of the Agreement or any extension, the Consultant or any of its subcontractors/sub-consultants fail to maintain any required insurance, all services and work under this Agreement shall be discontinued immediately, and all payments due, or that become due, to the Consultant shall be withheld until insurance is in compliance with the requirements. Any failure to maintain the required insurance shall be sufficient cause for the City to terminate this Agreement. No action taken by the City pursuant to this section shall in any way relieve the Consultant of its responsibilities under this Agreement. The phrase "fail to maintain any required insurance" shall include, without limitation, notification received by the City that an insurer has commenced proceedings, or has had proceedings commenced against it, indicating that the insurer is insolvent.
- (c) The fact that insurance is obtained by the Consultant shall not be deemed to release or diminish the liability of the Consultant, including, without limitation, liability under the indemnity provisions of this Agreement. The

duty to indemnify the City shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by the Consultant. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of the Consultant, its principals, officers, agents, employees, persons under the supervision of the Consultant, vendors, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.

9. Conflict of Interest and Non-Solicitation.

- (a) Prior to City's execution of this Agreement, Consultant shall complete a City of Fresno conflict of interest disclosure statement in the form as set forth in **Exhibit C**. During the term of this Agreement, Consultant shall have the obligation and duty to immediately notify City in writing of any change to the information provided by Consultant in such statement.
- (b) Consultant shall comply, and require its subcontractors to comply, with all applicable (i) professional canons and requirements governing avoidance of impermissible client conflicts; and (ii) federal, state and local conflict of interest laws and regulations including, without limitation, California Government Code Section 1090 et. seq., the California Political Reform Act (California Government Code Section 87100 et. seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations Section 18700 et. seq.). At any time, upon written request of City, Consultant shall provide a written opinion of its legal counsel and that of any subcontractor that, after a due diligent inquiry, Consultant and the respective subcontractor(s) are in full compliance with all laws and regulations. Consultant shall take, and require its subcontractors to take, reasonable steps to avoid any appearance of a conflict of interest. Upon discovery of any facts giving rise to the appearance of a conflict of interest, Consultant shall immediately notify City of these facts in writing.
- (c) In performing the work or services to be provided hereunder, Consultant shall not employ or retain the services of any person while such person either is employed by City or is a member of any City council, commission, board, committee, or similar City body. This requirement may be waived in writing by the City Manager, if no actual or potential conflict is involved.
- (d) Consultant represents and warrants that it has not paid or agreed to pay any compensation, contingent or otherwise, direct or indirect, to solicit or procure this Agreement or any rights/benefits hereunder.
- (e) Neither Consultant, nor any of Consultant's subcontractors performing any services on this Project, shall bid for, assist anyone in the preparation of a bid for, or perform any services pursuant to, any other contract in connection with this Project unless fully disclosed to and approved by the City Manager, in advance and in writing. Consultant and any of its subcontractors shall have no interest, direct or indirect, in any other contract with a third party in

connection with this Project unless such interest is in accordance with all applicable law and fully disclosed to and approved by the City Manager, in advance and in writing. Notwithstanding any approval given by the City Manager under this provision, Consultant shall remain responsible for complying with Section 9(b), above.

- (f) If Consultant should subcontract all or any portion of the work to be performed or services to be provided under this Agreement, Consultant shall include the provisions of this Section 9 in each subcontract and require its subcontractors to comply therewith.
 - (g) This Section 9 shall survive expiration or termination of this Agreement.
10. Recycling Program. In the event Consultant maintains an office or operates a facility(ies), or is required herein to maintain or operate same, within the incorporated limits of the City of Fresno, Consultant at its sole cost and expense shall:
- (a) Immediately establish and maintain a viable and ongoing recycling program, approved by City's Solid Waste Management Division, for each office and facility. Literature describing City recycling programs is available from City's Solid Waste Management Division and by calling City of Fresno Recycling Hotline at (559) 621-1111.
 - (b) Immediately contact City's Solid Waste Management Division at (559) 621-1452 and schedule a free waste audit, and cooperate with such Division in their conduct of the audit for each office and facility.
 - (c) Cooperate with and demonstrate to the satisfaction of City's Solid Waste Management Division the establishment of the recycling program in paragraph (a) above and the ongoing maintenance thereof.
11. General Terms.
- (a) Except as otherwise provided by law, all notices expressly required of City within the body of this Agreement, and not otherwise specifically provided for, shall be effective only if signed by the Administrator or designee.
 - (b) Records of Consultant's expenses pertaining to the Project shall be kept on a generally recognized accounting basis and shall be available to City or its authorized representatives upon request during regular business hours throughout the life of this Agreement and for a period of three years after final payment or, if longer, for any period required by law. In addition, all books, documents, papers, and records of Consultant pertaining to the Project shall be available for the purpose of making audits, examinations, excerpts, and transcriptions for the same period of time. If any litigation, claim, negotiations, audit or other action is commenced before the expiration of said time period, all records shall be retained and made available to City until such action is resolved, or until the end of said time period whichever shall later occur. If Consultant should subcontract all or any portion of the services to be performed under this Agreement, Consultant shall cause each subcontractor to also comply with the

requirements of this paragraph. This Section 11(b) shall survive expiration or termination of this Agreement.

- (c) Prior to execution of this Agreement by City, Consultant shall have provided evidence to City that Consultant is licensed to perform the services called for by this Agreement (or that no license is required). If Consultant should subcontract all or any portion of the work or services to be performed under this Agreement, Consultant shall require each subcontractor to provide evidence to City that subcontractor is licensed to perform the services called for by this Agreement (or that no license is required) before beginning work.
12. Nondiscrimination. To the extent required by controlling federal, state and local law, Consultant shall not employ discriminatory practices in the provision of services, employment of personnel, or in any other respect on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. Subject to the foregoing and during the performance of this Agreement, Consultant agrees as follows:
- (a) Consultant will comply with all applicable laws and regulations providing that no person shall, on the grounds of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Agreement.
 - (b) Consultant will not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. Consultant shall ensure that applicants are employed, and the employees are treated during employment, without regard to their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. Such requirement shall apply to Consultant's employment practices including, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this nondiscrimination clause.
 - (c) Consultant will, in all solicitations or advertisements for employees placed by or on behalf of Consultant in pursuit hereof, state that all qualified applicants will receive consideration for employment without regard to race, religious creed, color, national origin, ancestry, physical disability, mental

disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era.

- (d) Consultant will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising such labor union or workers' representatives of Consultant's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (e) If Consultant should subcontract all or any portion of the services to be performed under this Agreement, Consultant shall cause each subcontractor to also comply with the requirements of this Section 12.

13. Independent Contractor.

- (a) In the furnishing of the services provided for herein, Consultant is acting solely as an independent contractor. Neither Consultant, nor any of its officers, agents, or employees shall be deemed an officer, agent, employee, joint venturer, partner or associate of City for any purpose. City shall have no right to control or supervise or direct the manner or method by which Consultant shall perform its work and functions. However, City shall retain the right to administer this Agreement so as to verify that Consultant is performing its obligations in accordance with the terms and conditions thereof.
- (b) This Agreement does not evidence a partnership or joint venture between Consultant and City. Consultant shall have no authority to bind City absent City's express written consent. Except to the extent otherwise provided in this Agreement, Consultant shall bear its own costs and expenses in pursuit thereof.
- (c) Because of its status as an independent contractor, Consultant and its officers, agents, and employees shall have absolutely no right to employment rights and benefits available to City employees. Consultant shall be solely liable and responsible for all payroll and tax withholding and for providing to, or on behalf of, its employees all employee benefits including, without limitation, health, welfare and retirement benefits. In addition, together with its other obligations under this Agreement, Consultant shall be solely responsible, indemnify, defend and save City harmless from all matters relating to employment and tax withholding for and payment of Consultant's employees, including, without limitation, (i) compliance with Social Security and unemployment insurance withholding, payment of workers' compensation benefits, and all other laws and regulations governing matters of employee withholding, taxes and payment; and (ii) any claim of right or interest in City employment benefits, entitlements, programs and/or funds offered employees of City whether arising by reason of any common law, de facto, leased, or co-employee rights or other theory. It is acknowledged that during the term of this

Agreement, Consultant may be providing services to others unrelated to City or to this Agreement.

14. Notices. Any notice required or intended to be given to either party under the terms of this Agreement shall be in writing and shall be deemed to be duly given if delivered personally, transmitted by facsimile followed by telephone confirmation of receipt, or sent by United States registered or certified mail, with postage prepaid, return receipt requested, addressed to the party to which notice is to be given at the party's address set forth on the signature page of this Agreement or at such other address as the parties may from time to time designate by written notice. Notices served by United States mail in the manner above described shall be deemed sufficiently served or given at the time of the mailing thereof.
15. Binding. Subject to Section 16, below, once this Agreement is signed by all parties, it shall be binding upon, and shall inure to the benefit of, all parties, and each parties' respective heirs, successors, assigns, transferees, agents, servants, employees, and representatives.
16. Assignment.
 - (a) This Agreement is personal to Consultant and there shall be no assignment by Consultant of its rights or obligations under this Agreement without the prior written approval of the City Manager or designee. Any attempted assignment by Consultant, its successors or assigns, shall be null and void unless approved in writing by the City Manager or designee.
 - (b) Consultant hereby agrees not to assign the payment of any monies due Consultant from City under the terms of this Agreement to any other individual(s), corporation(s) or entity(ies). City retains the right to pay any and all monies due Consultant directly to Consultant.
17. Compliance With Law. In providing the services required under this Agreement, Consultant shall at all times comply with all applicable laws of the United States, the State of California and City, and with all applicable regulations promulgated by federal, state, regional, or local administrative and regulatory agencies, now in force and as they may be enacted, issued, or amended during the term of this Agreement.
18. Waiver. The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement. No provisions of this Agreement may be waived unless in writing and signed by all parties to this Agreement. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein.
19. Governing Law and Venue. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this Agreement and any rights and duties hereunder shall be Fresno County, California.

20. Headings. The section headings in this Agreement are for convenience and reference only and shall not be construed or held in any way to explain, modify or add to the interpretation or meaning of the provisions of this Agreement.
21. Severability. The provisions of this Agreement are severable. The invalidity, or unenforceability of any one provision in this Agreement shall not affect the other provisions.
22. Interpretation. The parties acknowledge that this Agreement in its final form is the result of the combined efforts of the parties and that, should any provision of this Agreement be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in favor of or against either party, but rather by construing the terms in accordance with their generally accepted meaning.
23. Attorney's Fees. If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees and legal expenses.
24. Exhibits. Each exhibit and attachment referenced in this Agreement is, by the reference, incorporated into and made a part of this Agreement.
25. Precedence of Documents. In the event of any conflict between the body of this Agreement and any exhibit or Attachment hereto, the terms and conditions of the body of this Agreement shall control and take precedence over the terms and conditions expressed within the exhibit or attachment. Furthermore, any terms or conditions contained within any exhibit or attachment hereto which purport to modify the allocation of risk between the parties, provided for within the body of this Agreement, shall be null and void.
26. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.
27. No Third Party Beneficiaries. The rights, interests, duties and obligations defined within this Agreement are intended for the specific parties hereto as identified in the preamble of this Agreement. Notwithstanding anything stated to the contrary in this Agreement, it is not intended that any rights or interests in this Agreement benefit or flow to the interest of any third parties.
28. Extent of Agreement. Each party acknowledges that they have read and fully understand the contents of this Agreement. This Agreement represents the entire and integrated agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be modified only by written instrument duly authorized and executed by both City and Consultant.
29. The City Manager, or designee, is hereby authorized and directed to execute and implement this Agreement. The previous sentence is not intended to delegate any authority to the City Manager to administer the Agreement, any delegation of authority must be expressly included in the Agreement.

[SIGNATURES FOLLOW ON THE NEXT PAGE.]

IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California, the day and year first above written.

CITY OF FRESNO,
a California municipal corporation

[Consultant Name],
[Legal Identity]

By: _____
[Name],
[Title]

By: _____
Name: _____

APPROVED AS TO FORM:
ANDREW JANZ
City Attorney

Title: _____
(If corporation or LLC., Board Chair,
Pres. or Vice Pres.)

By: _____

By: _____
Date
Asst./Sup./Sr. Deputy City Attorney

Name: _____

Title: _____
(If corporation or LLC., CFO, Treasurer,
Secretary or Assistant Secretary)

ATTEST:
TODD STERMER, CMC
City Clerk

Any Applicable Professional License:

Number: _____

Name: _____

Date of Issuance: _____

By: _____

Deputy

Addresses:

Consultant:

City:
City of Fresno
Attention: [Name],
[Title]
[Street Address]
Fresno, CA [Zip]
Phone: (559) [#]
E-mail: [E-mail address]

[Consultant Name]
Attention: [Name],
[Title]
[Street Address]
[City, State Zip]
Phone: [area code and #]
E-mail: [E-mail address]

Attachments:

- 1. Exhibit A - Scope of Services
- 2. Exhibit B - Insurance Requirements
- 3. Exhibit C - Conflict of Interest Disclosure Form

EXHIBIT A

SCOPE OF SERVICES

**Consultant Service Agreement between City of Fresno (City)
and [Consultant Name] (Consultant)**

[Project Title]

[Describe Scope of Service]

EXHIBIT B

INSURANCE REQUIREMENTS Consultant Service Agreement between City of Fresno (City) and [Consultant Name] (Consultant) [Project Title]

MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. The most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01, providing liability coverage arising out of your business operations. The Commercial General Liability policy shall be written on an occurrence form and shall provide coverage for “bodily injury,” “property damage” and “personal and advertising injury” with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the Agreement) with limits of liability not less than those set forth under “Minimum Limits of Insurance.”

2. The most current version of Commercial Auto Coverage Form CA 00 01, providing liability coverage arising out of the ownership, maintenance or use of automobiles in the course of your business operations. The Automobile Policy shall be written on an occurrence form and shall provide coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1- Any Auto).

3. Workers’ Compensation insurance as required by the State of California and Employer’s Liability Insurance.

4. Professional Liability (Errors and Omissions) insurance appropriate to the Consultant’s profession.

MINIMUM LIMITS OF INSURANCE

The Consultant, or any party the Consultant subcontracts with, shall maintain limits of liability of not less than those set forth below. However, insurance limits available to the City, its officers, officials, employees, agents, and volunteers as additional insureds, shall be the greater of the minimum limits specified herein or the full limit of any insurance proceeds available to the named insured:

1. COMMERCIAL GENERAL LIABILITY:
 - (i) \$1,000,000 per occurrence for bodily injury and property damage;
 - (ii) \$1,000,000 per occurrence for personal and advertising injury;
 - (iii) \$2,000,000 aggregate for products and completed operations; and,
 - (iv) \$2,000,000 general aggregate applying separately to the work performed under the Agreement.

2. COMMERCIAL AUTOMOBILE LIABILITY:
\$1,000,000 per accident for bodily injury and property damage.
3. WORKERS' COMPENSATION INSURANCE as required by the State of California with statutory limits.
4. EMPLOYER'S LIABILITY:
 - (i) \$1,000,000 each accident for bodily injury;
 - (ii) \$1,000,000 disease each employee; and,
 - (iii) \$1,000,000 disease policy limit.
5. PROFESSIONAL LIABILITY (Errors and Omissions):
 - (i) \$1,000,000 per claim/occurrence; and,
 - (ii) \$2,000,000 policy aggregate.

UMBRELLA OR EXCESS INSURANCE

In the event the Consultant purchases an Umbrella or Excess insurance policy(ies) to meet the "Minimum Limits of Insurance," this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies). In addition, such Umbrella or Excess insurance policy(ies) shall also apply on a primary and non-contributory basis for the benefit of the City, its officers, officials, employees, agents and volunteers.

DEDUCTIBLES AND SELF-INSURED RETENTIONS

The Consultant shall be responsible for payment of any deductibles contained in any insurance policy(ies) required herein and the Consultant shall also be responsible for payment of any self-insured retentions.

OTHER INSURANCE PROVISIONS/ENDORSEMENTS

The General Liability and Automobile Liability insurance policies are to contain, or be endorsed to contain, the following provisions:

1. The City, its officers, officials, employees, agents, and volunteers are to be covered as additional insureds. The Consultant shall establish additional insured status for the City and for all ongoing and completed operations by use of endorsements providing additional insured status as broad as that contained in ISO Form CG 20 10 11 85 or CG 20 10 04 13.

2. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees, agents, and volunteers. Any available insurance proceeds in excess of the specified minimum limits and coverage shall be available to the Additional Insured.

3. The Consultant's insurance coverage shall be primary insurance with respect to the City, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents, and volunteers shall be excess of the Consultant's insurance and shall not contribute with it. The Consultant shall establish primary and non-contributory status on the General

Liability policy by use of ISO Form CG 20 01 04 13, or by an executed endorsement that provides primary and non-contributory status as broad as that contained in ISO Form CG 20 01 04 13.

4. The Workers' Compensation insurance policy is to contain, or be endorsed to contain, the following provision: the Consultant and its insurer shall waive any right of subrogation against the City, its officers, officials, employees, agents, and volunteers.

5. All policies of insurance required herein shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after thirty (30) calendar days written notice by certified mail, return receipt requested, has been given to the City. The Consultant is also responsible for providing written notice to the City under the same terms and conditions. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, the Consultant shall furnish the City with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for the City, the Consultant shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than fifteen (15) calendar days prior to the expiration date of the expiring policy.

6. Should any of the required policies provide that the defense costs are paid within the Limits of Liability, thereby reducing the available limits by any defense costs, then the requirement for the Limits of Liability of these policies will be twice the above stated limits.

7. The fact that insurance is obtained by the Consultant shall not be deemed to release or diminish the liability of the Consultant, including, without limitation, liability under the indemnity provisions of this Agreement. The policy limits do not act as a limitation upon the amount of indemnification to be provided by the Consultant. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of the Consultant, its principals, officers, agents, employees, persons under the supervision of the Consultant, vendors, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.

CLAIMS-MADE POLICIES

If the Professional Liability (Errors and Omissions) insurance policy is written on a claims-made form:

1. The retroactive date must be shown, and must be before the effective date of the Agreement or the commencement of work by the Consultant.

2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Agreement work or termination of the Agreement, whichever occurs first, or, in the alternative, the policy shall be endorsed to provide not less than a 5-year discovery period.

3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the Agreement or the commencement of work by the Consultant, the Consultant must

purchase “extended reporting” coverage for a minimum of five (5) years completion of the Agreement work or termination of the Agreement, whichever occurs first.

4. A copy of the claims reporting requirements must be submitted to the City for review.

5. These requirements shall survive expiration or termination of the Agreement.

VERIFICATION OF COVERAGE

The Consultant shall furnish the City with all certificate(s) and applicable endorsements effecting coverage required hereunder. All certificates and applicable endorsements are to be received and approved by the City’s Risk Manager or designee prior to the City’s execution of the Agreement and before work commences. All non-ISO endorsements amending policy coverage shall be executed by a licensed and authorized agent or broker. Upon request of the City, the Consultant shall immediately furnish with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

SUBCONTRACTORS

If the Consultant subcontracts any or all of the services to be performed under this Agreement, the Consultant shall require, at the discretion of the City Risk Manager or designee, subcontractor(s) to enter into a separate side agreement with the City to provide required indemnification and insurance protection. Any required side agreement(s) and associated insurance documents for the subcontractor must be reviewed and preapproved by the City’s Risk Manager or designee. If no side agreement is required, the Consultant shall require and verify that subcontractors maintain insurance meeting all the requirements stated herein and the Consultant shall ensure that the City, its officers, officials, employees, agents, and volunteers are additional insureds. The subcontractors' certificates and endorsements shall be on file with the Consultant, and the City, prior to commencement of any work by the subcontractor.

EXHIBIT C
DISCLOSURE OF CONFLICT OF INTEREST

[Project Title]

		YES*	NO
1	Are you currently in litigation with the City of Fresno or any of its agents?	<input type="checkbox"/>	<input type="checkbox"/>
2	Do you represent any firm, organization, or person who is in litigation with the City of Fresno?	<input type="checkbox"/>	<input type="checkbox"/>
3	Do you currently represent or perform work for any clients who do business with the City of Fresno?	<input type="checkbox"/>	<input type="checkbox"/>
4	Are you or any of your principals, managers, or professionals, owners or investors in a business which does business with the City of Fresno, or in a business which is in litigation with the City of Fresno?	<input type="checkbox"/>	<input type="checkbox"/>
5	Are you or any of your principals, managers, or professionals, related by blood or marriage to any City of Fresno employee who has any significant role in the subject matter of this service?	<input type="checkbox"/>	<input type="checkbox"/>
6	Do you or any of your subcontractors have, or expect to have, any interest, direct or indirect, in any other contract in connection with this Project?	<input type="checkbox"/>	<input type="checkbox"/>

* If the answer to any question is yes, please explain in full below.

Explanation: _____

Additional page(s) attached.

Signature

Date

Name

Company

Address

City, State Zip