

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

THIS AGREEMENT (Agreement) is made and entered into, effective \_\_\_\_\_, by and between the CITY OF FRESNO, a California municipal corporation (City), and TDG Engineering, Inc., an affiliate of Toole Design Group, LLC (Consultant).

**RECITALS**

WHEREAS, the City desires to obtain professional consulting services for Vision Zero Action Plan (Project); and

WHEREAS, the Consultant is engaged in the business of furnishing services as a professional planning consultant and hereby represents that it desires to and is professionally and legally capable of performing the services called for by this Agreement; and

WHEREAS, the 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 the City by its Public Works Director (Director) or designee.

**AGREEMENT**

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

1. Scope of Services.

The Consultant shall perform to the satisfaction of the 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 and shall continue in full force and effect through the earlier of complete rendition of the services hereunder or December 31, 2025, subject to any earlier termination in accordance with this Agreement. The services of the Consultant as described in **Exhibit A** are to commence upon the City's issuance of a written "Notice to Proceed." Work shall be undertaken and completed in a sequence assuring expeditious completion, but in any event, all such services shall be completed within five hundred days (500) consecutive calendar days from such authorization to proceed.

3. Compensation.

(a) The Consultant's sole compensation for satisfactory performance of all services required or rendered pursuant to this Agreement shall be a total fee not to exceed four-hundred thousand dollars (\$400,000.00), paid on a time and materials basis

in accordance with the schedule of fees contained in **Exhibit A**, and a contingency amount not to exceed fifteen thousand dollars (\$15,000.00) for any additional work rendered pursuant to Subsection (c) below and authorized in writing by the Director.

(b) Detailed statements shall be rendered monthly and will be payable in the normal course of City business. The City shall not be obligated to reimburse any expense for which it has not received a detailed invoice with applicable copies of representative and identifiable receipts or records substantiating such expense.

(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, the 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. The 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 the City to, the Consultant upon the earlier of: (i), the Consultant's filing for protection under the federal bankruptcy laws, or any bankruptcy petition or petition for receiver commenced by a third party against, the Consultant; (ii) seven calendar days prior written notice with or without cause by the City to, the Consultant; (iii) the 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, the Consultant shall (i) immediately stop all work hereunder; (ii) immediately cause any and all of its subcontractors to cease work; and (iii) return to the City any and all unearned payments and all properties and materials in the possession of, the Consultant that are owned by the City. Subject to the terms of this Agreement, the Consultant shall be paid compensation for services satisfactorily performed prior to the effective date of termination. The 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, the Consultant to satisfactorily perform in accordance with the terms of this Agreement, the City may withhold an amount that would otherwise be payable as an offset to, but not in excess of, the City's damages caused by such failure. In no event shall any payment by the City pursuant to this Agreement constitute a waiver by the City of any breach of this Agreement which may then exist on the part of, the Consultant, nor shall such payment impair or prejudice any remedy available to the City with respect to the breach.

(d) Upon any breach of this Agreement by, the Consultant, the 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 the City improperly terminated this

Agreement for default, such termination shall be deemed a termination for convenience.

(e) The Consultant shall provide the City with adequate written assurances of future performance, upon Director's request, in the event, the Consultant fails to comply with any terms or conditions of this Agreement.

(f) The Consultant shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of, the Consultant and without its fault or negligence such as, acts of God or the public enemy, acts of the City in its contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Consultant shall notify Director 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 Director of the cessation of such occurrence.

(g) Any notice of termination sent to Consultant shall include the reason(s) for such termination or state that it is without cause.

#### 5. Confidential Information, Ownership of Documents and Copyright License.

(a) Any reports, information, or other data prepared or assembled by, the Consultant pursuant to this Agreement shall not be made available to any individual or organization by, the Consultant without the prior written approval of the City. During the term of this Agreement, and thereafter, the Consultant shall not, without the prior written consent of the 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 the City, including but not limited to business plans, marketing plans, financial information, designs, drawings, specifications, 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 the City.

i. Permission granted to, the Consultant to disclose information on one occasion shall not authorize, the Consultant to further disclose such information or any other information or disseminate the same on any other occasion.

ii. The Consultant shall not comment publicly to the press or any other media regarding the Agreement or the City's actions on the same, except to the City's personnel or, the Consultant's personnel involved in the performance of this Agreement at public hearings or in response to questions from a Legislative committee.

iii. The Consultant shall not issue any news releases or any public relations item of any nature, whatsoever, regarding work performed or to be performed under this Agreement without prior review of the contents thereof by the City and receipt of the City's written permission.

(b) Any and all original sketches, pencil tracings of working drawings,

plans, computations, specifications, computer disk files, writings and other documents prepared or provided by, the Consultant pursuant to this Agreement, in any form whatsoever, are the property of the City at the time of preparation and shall be turned over to the City upon expiration or termination of the Agreement or default by, the Consultant. The Consultant grants the City a copyright license to use such drawings and writings. The Consultant shall not permit the reproduction or use thereof by any other person except as otherwise expressly provided herein. The City may modify the design including any drawings or writings. Any use by the City of the aforesaid sketches, tracings, plans, computations, specifications, computer disk files, writings, and other documents in completed form as to other projects or extensions of this Project, or in uncompleted form, without specific written verification by, the Consultant will be at the City's sole risk and without liability or legal exposure to, the Consultant. The Consultant may keep a copy of all drawings and specifications for its sole and exclusive use.

i. In the event of the copyright of any reports or other products prepared under this Agreement by, the Consultant or any subcontractor, the Federal Highway Administration (FHWA) shall have the royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for government purposes.

(c) If, the Consultant should subcontract all or any portion of the services to be performed under this Agreement, the 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, the Consultant represents to the City that, the 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, the City relies upon the skill of, the Consultant and any subcontractors to do and perform such services in a skillful manner and, the Consultant agrees to thus perform the services and require the same of any subcontractors. Therefore, any acceptance of such services by the City shall not operate as a release of, the Consultant or any subcontractors from said professional standards.

#### 7. Indemnification.

To the furthest extent allowed by law, including California Civil Code section 2782.8, the Consultant shall indemnify, hold harmless and defend the 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, the Consultant, its

principals, officers, employees, agents or volunteers in the performance of this Agreement.

If, the Consultant should subcontract all or any portion of the services to be performed under this Agreement, the Consultant shall require each subcontractor to indemnify, hold harmless and defend the 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 in full force and effect, 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 notice is received by the City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to the City. 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.

(d) If, the Consultant should subcontract all or any portion of the services to be performed under this Agreement, the Consultant shall require each



subcontractor/sub- consultant to provide insurance protection, as an additional insured, to the City and each of its officers, officials, employees, agents and volunteers in accordance with the terms of this section, except that any required certificates and applicable endorsements shall be on file with, the Consultant and the City prior to the commencement of any services by the subcontractor. The Consultant and any subcontractor/sub-consultant shall establish additional insured status for the City, its officers, officials, employees, agents, and volunteers by using Insurance Service Office (ISO) Form CG 20 10 11 85 or both CG 20 10 04 13 and CG 20 37 04 13 or by an executed manuscript company endorsement providing additional insured status as broad as that contained in ISO Form CG 20 10 11 85.

9. Conflict of Interest and Non-Solicitation.

(a) Prior to the City's execution of this Agreement, the 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, the Consultant shall have the obligation and duty to immediately notify the City in writing of any change to the information provided by, the Consultant in such statement.

(b) The 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, 23 U.S.C. § 112, FHWA regulations applicable to design and engineering consulting contracts found at 23 C.F.R. 172.1 *et seq.*, California Government Code Section 1090 *et. seq.*, the California Political Reform Act (California Government Code Section 87100 *et. seq.*), the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations Section 18700 *et. seq.*) and Section 4-112 of the Fresno Municipal Code (Ineligibility to Compete). At any time, upon written request of the City, the Consultant shall provide a written opinion of its legal counsel and that of any subcontractor that, after a due diligent inquiry, the Consultant and the respective subcontractor(s) are in full compliance with all laws and regulations. The 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, the Consultant shall immediately notify the City of these facts in writing.

(c) In performing the work or services to be provided hereunder, the Consultant shall not employ or retain the services of any person while such person either is employed by the City or is a member of any the 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) The Consultant represents and warrants that it has not paid or agreed to pay any compensation, lawful or unlawful, contingent, or otherwise, direct, or indirect, to any party to solicit or procure this Agreement or any rights/benefits hereunder. The City shall have the right, in its discretion, to deduct from any payment to, the Consultant under this Agreement, or otherwise recover the full amount of, any rebate, kickback or other consideration paid by, the Consultant in violation of any representation or warranty under this section.

(e) Neither, the Consultant, nor any firm affiliated with, the Consultant, nor any of, the 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 with the exception of any subcontractor whose services are limited to providing surveying or materials testing information. The 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. An affiliated firm is one which is subject to the control of the same person(s) through joint-ownership or otherwise.

(f) The Consultant shall disclose any financial, business, or other relationship with the City that may have an impact upon the outcome of this Agreement or any ensuing the City construction project. The Consultant shall also disclose any current clients who may have a financial interest in the outcome of this Agreement or any ensuing the City construction project, which will follow.

(g) The Consultant hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this Agreement.

(h) If, the Consultant should subcontract all or any portion of the work to be performed or services to be provided under this Agreement, the Consultant shall include the provisions of this Section 9 in each subcontract and require its subcontractors to comply therewith.

(i) This Section 9 shall survive expiration or termination of this Agreement.

#### 10. Recycling Program.

In the event, the 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, the Consultant at its sole cost and expense shall:

(a) Immediately establish and maintain a viable and ongoing recycling program, approved by the City's Solid Waste Management Division, for each office and facility. Literature describing the City recycling programs is available from the City's Solid Waste Management Division and by calling City of Fresno Recycling Hotline at (559) 621-1111.

(b) Immediately contact the 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 the City's Solid Waste Management Division the establishment of the recycling program in paragraph (a) above and the ongoing maintenance thereof.

#### 11. General Terms, Federal and State Assurances and Requirements.

(a) Except as otherwise provided by law, all notices expressly required of the City within the body of this Agreement, and not otherwise specifically provided for,

shall be effective only if signed by the Director or designee.

(b) Records of, the Consultant's expenses pertaining to the Project shall be kept on a generally recognized accounting basis. The Consultant and its subcontractors shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of the Agreement including, but not limited to, the costs of administering the Agreement. The Consultant and its subcontractors shall make such materials available at their respective offices at all reasonable times during the period of this Agreement and for 3 years, or longer if required by law, from the date of final payment under the Agreement. The City, the State, the State Auditor, FHWA or any duly authorized representative of the federal government shall have access to any books, records, papers, accounting records and other documents of, the Consultant and its subcontractors that are pertinent to the Agreement for audit, examinations, excerpts, and transcriptions. Copies thereof shall be furnished by, the Consultant, if requested. If any litigation, claim, negotiations, audit, or other action is commenced before the expiration of the 3-year time period, all records shall be retained and made available until such action is resolved, or until the end of said time period whichever shall later occur. If, the Consultant should subcontract all or any portion of the services to be performed under this Agreement, the Consultant shall cause each subcontractor to also comply with the requirements of this section and in the event a subcontract is entered into for an amount in excess of \$25,000 the subcontract shall include this paragraph in its entirety. This Section 11(b) shall survive expiration or termination of this Agreement.

(c) Prior to execution of this Agreement by the City, the Consultant shall have provided evidence to the City that, the Consultant is licensed to perform the services called for by this Agreement (or that no license is required). If, the Consultant should subcontract all or any portion of the work or services to be performed under this Agreement, the Consultant shall require each subcontractor to provide evidence to the City that subcontractor is licensed to perform the services called for by this Agreement (or that no license is required) before beginning work.

(d) The Consultant's services pursuant to this Agreement shall be provided under the supervision of Mia Candy, and he/she shall not assign another to supervise, the Consultant's performance of this Agreement without the prior written approval of the Director.

(e) The City will carry out applicable federal requirements in the administration of this Agreement. Notwithstanding Section 25 herein, the Consultant agrees to comply with all applicable federal and state assurances and requirements identified in **Exhibit D along with its Appendix A** and require that each subcontract include the same assurances by each of its subcontractors.

## 12. Nondiscrimination.

To the extent required by controlling federal, state, and local law, the 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, the Consultant agrees as



follows:

(a) The 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) The 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. The 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, the 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. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this nondiscrimination clause.

(c) The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of, the 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) The 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, the 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, the Consultant should subcontract all or any portion of the services to be performed under this Agreement, the 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, the Consultant is acting solely as an independent contractor. Neither, the Consultant, nor any of its officers, agents or employees shall be deemed an officer, agent, employee, joint venturer, partner or associate of the City for any purpose. The City shall have no right to control or supervise or direct the manner or method by which, the Consultant shall perform its work and functions. However, the City shall retain the right to administer this Agreement so as

to verify that, the 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, the Consultant and the City. The Consultant shall have no authority to bind the City absent the City's express written consent. Except to the extent otherwise provided in this Agreement, the Consultant shall bear its own costs and expenses in pursuit thereof.

(c) Because of its status as an independent contractor, the Consultant and its officers, agents and employees shall have absolutely no right to employment rights and benefits available to the City employees. The 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, the Consultant shall be solely responsible, indemnify, defend and save the City harmless from all matters relating to employment and tax withholding for and payment of, the 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 the City employment benefits, entitlements, programs and/or funds offered employees of the 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, the Consultant may be providing services to others unrelated to the 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, the Consultant and there shall be no assignment by, the Consultant of its rights or obligations under this Agreement without the prior written approval of the City Manager or designee. Any attempted assignment by, the Consultant, its successors, or assigns, shall be null and void unless approved in writing by the City Manager or designee.

(b) The Consultant hereby agrees not to assign the payment of any monies due, the Consultant from the City under the terms of this Agreement to any other individual(s), corporation(s) or entity(ies). The City retains the right to pay any and all monies due, the Consultant directly to, the Consultant.

17. Compliance With Law.

In providing the services required under this Agreement, the Consultant shall at all times comply with all applicable laws of the United States, the State of California and the 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 the City and, the Consultant.

29. RFQ Document.

Any Request for Qualifications and documents issued therewith (collectively referred to herein as "RFQ") by the City that resulted in selection of, the Consultant for entry into this Agreement are hereby incorporated into and made a part of this Agreement. In the event of a conflict between the RFQ and this Agreement (including any exhibit hereto), this Agreement (including any exhibit hereto) shall take precedence.

30. 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, on the day and year first above written.

CITY OF FRESNO,  
A California municipal corporation

By: \_\_\_\_\_  
Scott Mozier, PE, TE,  
Director  
Public Works Department

ATTEST:  
TODD STERMER, CMC  
City Clerk

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

No signature of City Attorney required.  
Standard Document **#DPW-S FHWA Eng. CSA, Short Form T&M – Contingency (11-2022)** has been used without modification, as certified by the undersigned

DocuSigned by:  
By: Jill Gormley  
Jill Gormley, TE  
Assistant Director Public Works  
Department

REVIEWED BY:  
DocuSigned by:  
Scott Tyler  
Scott Tyler, Licensed Engineering  
Manager  
Public Works Department

Addresses:

CITY:  
City of Fresno  
Attention: Andreina Aguilar, Chief  
Engineering Technician  
2600 Fresno Street  
Fresno, CA 93721  
Phone: (559) 621-8674  
E-mail: Andreina.Aguilar@fresno.gov

TDG Engineering,  
Inc. (an affiliate of Toole Design Group,  
LLC)

DocuSigned by:  
By: Roswell Eldridge  
Roswell Eldridge  
Name: \_\_\_\_\_

Title: Executive Vice President  
(If corporation or LLC., Board Chair,  
President or Vice President)  
DocuSigned by:

By: Jessica Fields  
Jessica Fields  
Name: \_\_\_\_\_

Title: Regional Operations Director  
(If corporation or LLC., CFO, Treasurer,  
Secretary or Assistant Secretary)

Any Applicable Professional License:  
Number: 164933 / PE901126  
Name: AICP / DC Professional Engineer  
Date of Issuance: 02/11/2008 / 04/14/2004

CONSULTANT:  
TDG Engineering, Inc. (an affiliate of  
Toole Design Group, LLC)  
Attention: Mia Candy, Senior Planner  
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Oakland, CA 94612  
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Attachments:

1. Exhibit A - Scope of Services
2. Exhibit B - Insurance Requirements
3. Exhibit C - Conflict of Interest Disclosure Form
4. Exhibit D - Federal and State Assurances
5. Appendix A to Exhibit D

## **EXHIBIT A**

### **SCOPE OF SERVICES**

**Consultant Service Agreement between City of Fresno  
(City) and TDG Engineering, Inc. (Consultant)**

Vision Zero Action Plan

SEE FOLLOWING PAGES



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## MEMORANDUM

March 28, 2024

To: John Barbery  
Organization: City of Fresno  
From: Mia Candy, Jessica Fields  
Project: Fresno Vision Zero Action Plan

### Re: Fresno Vision Zero Action Plan Scope of Work - Final

This memorandum provides a draft Scope of Work for the City of Fresno Vision Zero Action Plan.

#### General Assumptions

This Scope of Work assumes the following:

- Toole Design will work with the City of Fresno to refine this Scope of Work as necessary, either before or after contract execution. We assume one (1) scoping meeting, after which we will finalize the approach for all tasks.
- The project duration will be up to 15 months, and generally follow the project schedule developed by Toole Design and approved by the City of Fresno.
- Budget may be transferred between Tasks by the consultant, in consultation with the City of Fresno Project Manager, provided the total contract amount is not exceeded and the transfer is reported in the monthly progress report.
- City of Fresno will be responsible for coordinating the distribution of deliverables among City departments for review and comment. City of Fresno will be responsible for collecting review comments, resolving conflicting comments, and submitting one set of consolidated non-conflicting comments to the consultant for each submittal.
- Unless otherwise stated, the costs shown in the budget assumes one (1) round of comment/revision for each deliverable (i.e., one draft copy and one final copy). Revisions will be based on a single set of consolidated, reconciled, actionable edits.
- All meetings are assumed to be virtual unless stated otherwise.
- All deliverables will be submitted electronically as print-ready PDFs/JPEGs, unless stated otherwise.

#### Task 1: Project Management

##### Task 1.1 Project Management

Task 1 covers all project management-related tasks including the project kickoff meeting, regular coordination meetings, and monthly progress reports. Toole Design will work with the City to schedule a project kickoff meeting during which we will discuss project challenges and opportunities, scope and schedule, data needs, and project administration and communication protocols. After the kickoff meeting, we will revise and finalize the work plan and schedule, circulate meeting notes, create a shared project drive, and prepare a data request memorandum.

Toole Design will facilitate biweekly, virtual meetings with City of Fresno staff to discuss ongoing work, project milestones, upcoming deliverables, and to check in on scope, schedule, and budget.

Toole Design will develop an agenda in advance of each meeting and will document meeting notes with a focus on key decisions.

#### **Task 1 Deliverables:**

- Project kickoff meeting, including agenda and minutes
- Data request memorandum
- Finalized work plan, schedule, and fee
- Regular virtual project management meetings (Approximately 24)
- Monthly progress reports and invoices (15)

## **Task 2: Outreach, Engagement, and Education**

### **Task 2.1: Project Identity and Publicity**

*Task Lead: Toole Design*

At the start of the project, the Toole Design team will develop a public-facing project identity including name, tagline, logo, and color palette. The project identity will be used on all publicity materials, as well as the basis for the Public Education and Engagement Toolkit and the Vision Zero Action Plan. The Toole Design Team will support the City to publicize the Vision Zero Action Plan, including developing a limited set of outreach/ publicity materials. We will work with the City to refine the publicity strategy, but it may include a project fact sheet, a flyer/ social media graphic to advertise events and milestones, and content for a City-hosted webpage, including copy and graphics.

### **Task 2.2: Outreach and Engagement Plan**

*Task Lead: Urban Diversity Design*

The Toole Design Team, led by Urban Diversity Design, will work closely with the City to develop a detailed outreach and engagement plan that is feasible within available project funds. The engagement strategies identified in Task 2.2 will be refined based on City insights from previous successful engagement efforts. If project budget and schedule allow, we may share a draft Outreach and Engagement Plan with key community stakeholders and will finalize the plan based on their feedback. The final plan will include goals and outcomes, a schedule, and a list of quantified virtual and in-person events and deliverables. The plan will also identify opportunities for leveraging other ongoing engagement processes, such as the Active Transportation Plan and the Fresno Unified Safe Routes to School Site Assessments.

### **Task 2.3: Community and Stakeholder Engagement**

*Task Lead: Urban Diversity Design*

The following engagement strategies will be refined in coordination with City staff to find the best combination of strategies within available project funds.

#### **Stakeholder Conversations**

Up to three times over the course of the project, we will convene a group of Community-based Organizations (CBOs) and community advocates for virtual stakeholder conversations. During the conversation we will build project buy-in, get feedback on outreach and engagement efforts, present high-level findings, and disseminate project information. Throughout the project, we will ask the group to

distribute project information and publicize engagement opportunities We will work with the City to identify attendees.

#### **Paid CBO Partnerships**

Beyond the large stakeholder group, we will allocate project funds to compensate up to two CBOs to conduct on-the-ground engagement. The role of the CBOs will be to conduct deep-five engagement with specific underserved and highly impacted communities. They may present Vision Zero information at existing meetings, conduct door-knocking or phone calls, lead community walking tours or bike rides. The specific nature of their scope of work will be determine in coordination with the CBOs.

Urban Diversity Design will lead the selection and recruitment of the CBO partners in coordination with the City. Urban Diversity Design will also work with the CBOs to agree upon their scope of work, will manage all coordination with the CBOs, and will be responsible for compensating the CBOs using their Direct Expense Budget.

#### **Community-Led Events**

Urban Diversity Design will work with the stakeholder groups and/or paid CBOs to organize and facilitate up to five (5) community events, which may include but are not limited to walking tours, bike rides, tabling at existing community events, or pop-ups at popular community destinations. The Outreach and Engagement Plan will identify possibly opportunities and timing for these events, but will lean heavily on the CBOs to identify the most high-impact times, dates, and locations.

#### **Engaging Schools, Youth, and Families**

The Toole Design Team will leverage ongoing work with Fresno Unified on the Safe Routes to School Site Assessments to engage schools, youth, and families. We will work with our District and school contacts to distribute Vision Zero resources via PeachJar and other existing parent spaces. School and family engagement will also be a critical avenue for distributing the educational campaign. By working with school districts, we will have direct access to both students and their adult caregivers. Adult caregivers who drive in Fresno will be a critical target audience for the safety campaign. The Outreach and Engagement Plan will quantify when and how schools will be engaged during the project.

### **Task 2.4 Public Education and Engagement Toolkit**

#### **Task Lead: Toole Design**

The Toole Design Team will produce a Public Education and Engagement Toolkit. To kick-off this task, we will meet with City of Fresno Staff, Fresno County staff, and Fresno COG staff, including those involved in the Safe Roads Save Lives Campaign. Rather than creating a Vision Zero campaign from scratch, we will discuss opportunities to leverage the existing campaign and think about how to strengthen its reach or to build on the framework to include more Vision Zero specific content. During this meeting we will determine whether a joint City- County-COG campaign could have the highest impact on behavioral and cultural change in Fresno. We will also engage the Fresno Parks and Recreation (PARCS) and Police Departments, as partners in engagement efforts, as we develop the Toolkit.

Toole Design will work with the City of Fresno to understand the City's priorities for the Toolkit, and to quantify the length and depth of the Toolkit commensurate with available project budget.

### **Task 2.5: Decision-Maker Management**

#### **Task Lead: Toole Design**

### **Vision Zero Task Force or Implementation Committee**



The Toole Design Team will work with City staff to establish and convene a Vision Zero Task Force comprised of key decision-makers. Possible participants include staff from City of Fresno, Fresno County, Fresno COG, Fresno Area Express (FAX), school districts, Fresno Police Department, PARCS, Fresno County Health Department, the Disability Advisory Commission (DAC), and members of the Active Transportation Advisory Committee (ATAC). The Task Force will build a common understanding of safety-related challenges, establish general improvement priorities, and discuss which strategies feel most appropriate for different locations and contexts across the city.

We will plan and co-facilitate a series of four virtual meetings with the Task Force, as described in the table below.

Meeting Focus	Timeline	Outcomes
Project Introduction	Month 2	Introduce the scope and purpose of the Fresno Vision Zero Plan; understand general concerns and priorities among local agency staff
Existing Conditions Findings	Month 6	Present key findings from policy and procedure analysis, safety analysis, and community engagement conducted thus far. Findings will include top priority corridors and intersections.
Safety Strategies	Month 11	Present Major Streets Traffic Calming Toolbox and recommended safety projects, including priority projects to be submitted for SS4A Implementation and funding
Draft Plan	Month 15	Review Draft Plan

### City Council Support

The Toole Design Team will support the City in preparing materials for two City Council presentations. If the City desires, Toole Design can attend the council meetings to support with presenting and/or answer questions. The first presentation will focus on findings from the crash analysis, safety countermeasure toolbox, project selection, and public input received. The second presentation will focus on presenting the final draft of the Vision Zero Plan. The presentation will include key findings from the data analysis and engagement that informed the plan's actions. It will underscore the commitment that is needed for successful implementation of the plan's actions.

### Task 2 Deliverables:

- Draft and Final Outreach and Engagement Plan
- Draft and Final Publicity Materials (Fact Sheet, Event Flyer, Web Content)
- Outreach and Engagement Events, to be quantified in the Engagement Plan
- CBO oversight and coordination
- Up to three (3) stakeholder/CBO conversations, including agendas, presentations, and minutes
- Draft and Final Public Education and Engagement Toolkit
- Up to four (4) 1.5 hour Vision Zero Task Force Meetings, including agendas and minutes
- Support for up to two (2) City Council Presentations

### Task 2 Assumptions:

- Translation: The project budget assumes that the consultant team will use a third-party vendor to translate key project materials into up to three (3) languages. The community engagement plan will quantify the number of materials to be translated. The budget assumes that the City of Fresno will provide all in-person language interpretation.

- CBO Selection: The Toole Design Team will identify a short-list of up to ten (10) organizations, which the City will rank in order of priority. We will recruit the top two preferred organizations to collaborate. If they decline, we will move down the list in order of priority. We will not conduct a formal RFQ process for CBO procurement.

### **Task 3: Existing Conditions Analysis**

#### ***Task Lead: DKS***

Task 3 will assess the existing safety conditions in Fresno by evaluating crash data and identifying the high-collision corridors in Fresno. This task will build the framework for the actions and strategies identified in the action plan.

#### ***Task 3.1: Policy and Process Gap Analysis***

The goal of this task is to understand what federal, state, regional, and local policies and processes are currently used to make decisions in Fresno, and how those policies and processes could be refined to improve traffic safety and ensure success in Vision Zero implementation.

The Toole Design Team will work closely with City of Fresno staff to identify existing local policies pertaining to street design, traffic operations, programming street improvements and funding, as well as traffic-related laws and ordinances and how these are enforced. The City will provide the Toole Design Team with all relevant policies for review, including but not limited to City of Fresno Public Works Standards and locally used Caltrans guidelines. We will compare existing policies and processes to industry best practice to identify those that support or conflict with the Safe System Approach. We will work with staff to identify practices that may or may not be based on official policies and help to determine which of these practices should be endorsed at the policy level or discontinued.

During this task we will also ask City staff what barriers the City has faced in implementing safety interventions, so that we can address those issues as part of the Action Plan (Task 5). Together with City staff, the consultant team will review the City of Fresno's Systemic Local Roadway Safety Plan to understand how much has changed since the plan's publication in 2020. We will ask City staff to share which elements of the plan are working and should be carried forward into the Action Plan.

The consultant team will facilitate up to two (2) meetings with City staff to discuss policy, procedure, and implementation gaps. We will summarize our findings, including proposed changes or additions to policies and procedures in a memorandum.

#### ***Task 3.2: Safety Conditions Analysis***

##### ***Data Collection***

To kickoff Task 3.2, the project team, including consultant and City staff, will collect and prepare the data for the crash analysis. We anticipate that the City of Fresno will provide the most recent six years of collision data from the City's preferred collision platform, Crossroads. To validate the Crossroads data, the consultant team will also download the most recent six years of collision data from the Transportation Injury Mapping System (TIMS) and the Statewide Integrated Traffic Records System (SWITRS).

We will work with the City of Fresno staff to identify additional relevant GIS datasets, such as those related to roadway and network characteristics, sociodemographic and injury data, or land use data that may be available

for the analysis. Our process for assessing and cleaning data and methods used for constructing the database used for our analysis will be included in a crash analysis technical memorandum.

### Retrospective Crash Analysis

The Toole Design Team will process Fresno crash data to develop high injury networks (HINs) for bicycle, pedestrian, and motor vehicle crashes. Within the HINs, we will drill down to identify the top five priority corridors and intersections. We will summarize trends in crash data year-to-year, by travel mode, by crash type, and by severity level. The descriptive crash statistics will lead to an initial assessment of factors associated with higher crash risks.

### Predictive Crash Analysis

We will develop a High Risk Network (HRN) for bicycle and pedestrian crashes using an existing open-source statistical model (the Safer Streets Model, developed as part of the Safer Streets Priority Finder, funded by USDOT's Safety Data Initiative), which looks both at crash history as well as other factors that are present, to provide an understanding of risk even in areas where a crash has not yet occurred. Capabilities to develop a High Risk Network for motor vehicle crashes are not currently available.

### Task 3 Assumptions:

- Level of effort assumes that the City will provide complete, high-quality GIS data that will require minimal rectification or processing before inputting into analyses.
- Task 3.2 will not encompass any conflation of roadway network datasets (i.e., merging spatial and attribute data from two or more distinct street centerline/roadway network files).
- Development of a High Risk Network (which relies on a Bayesian statistical model that incorporates factors including functional class, VMT, density, land use, walk and transit commuting, pedestrian generators, and demographics) will be done for pedestrian and bicycle crashes only. Motor vehicle crash risk will be determined by a High Injury Network, which looks at crash history exclusively.

### Task 3 Deliverables:

- Draft and Final Policy and Procedure Gap Analysis Memo
- Draft and Final Collision Analysis Memo including
  - » High Injury Network Map for bicycle, pedestrian, and motor-vehicle crashes
  - » High-Risk Network Map for bicycle and pedestrian crashes
  - » Summary of top five high-injury and fatal corridors and intersections
- Vision Zero Data Dashboard
- Consolidated GIS data file(s) of analysis outputs

## **Task 4: Safety Strategies**

### ***Task Lead: Toole Design***

The goal of Task 4 is to develop strategies and interventions that best address the safety challenges identified during Community Engagement (Task 2) and Existing Conditions (Task 3). Recommendations developed during Task 4 will be revised based on City and TAC feedback and will be included in the Vision Zero Action Plan.

#### ***Task 4.1: Major Streets Traffic Calming Toolbox***

During Task 4.1, we will create a customized toolbox of safety countermeasures designed to address the unique crash history and the most common crash types along Fresno's major streets and arterials. The toolbox could include definitions, applicability, and application guidance for up to 20 safety countermeasures from FHWA's proven safety countermeasures or safety treatments from FHWA's crash modification factor (CMF) Clearinghouse. The format of the toolbox will be a "living document" (such as an Excel spreadsheet) that allows staff to update relevant information based on current or alternate sources of information. Alongside the toolbox, we will provide a short summary memo to help designers, reviewers, and project managers decide when and where to use each type of countermeasure in future projects.

#### ***Task 4.2: Safety Project Identification and Prioritization***

Using the countermeasures toolbox, the Toole Design Team will identify safety projects for the five streets and five intersections identified in Task 3.2. We will work with the City to develop a methodology to prioritize the list of projects. The prioritization process will consider the risk factors present at a location and prior crash history based on the frequency and severity of crashes. We will work with the City to integrate considerations related to project readiness, potential funding for the safety countermeasure package, the ability to align safety improvements with other programmed improvements or upcoming maintenance work, and the ability to implement the improvement in a timely manner. We will consider prioritization factors to evaluate equitable impacts such as geographic equity and sociodemographic equity. We will document the agree-upon methodology in a brief memorandum and will provide the city with a list of prioritized projects. Finalized projects, in order of priority, will be integrated directly into the Vision Zero Action Plan during Task 5.

#### ***Task 4.3: Program Recommendations***

The purpose of Task 4.3 is to inventory existing safety programs in the City of Fresno, and to make recommendations for new or revised programs. We will begin Task 4.3 with an inventory of existing enforcement, evaluation, education, encouragement, and data collection programs. We will also review the program recommendations in prior plans, to understand which have been successful, and which faced implementation barriers. Past plans for review may include the 2020 Systemic Local Roadway Safety Plan, the 2018 Fresno Safe Routes to School Action Plan, and the 2017 Active Transportation Plan

We will cross-check existing programs against the most pressing safety concerns identified in Tasks 2 and 3. Through this process, we will develop a list of high-impact programmatic interventions that will move the needle on safety in Fresno. We will present the recommendations in a draft memorandum. Finalized recommendations will be integrated directly into the Vision Zero Action Plan during Task 5.

#### ***Task 4 Deliverables:***

- Draft and Final Major Streets Traffic Calming Toolbox
- Draft and Final Project Identification and Prioritization Memo
  - » List of Prioritized Safety Projects
- Draft and Final Program Recommendations

## **Task 5: Vision Zero Action Plan**

### ***Task Lead: Toole Design***

The Vision Zero Action Plan will include a clear vision statement, goal areas, short-and long-term actions, as well as an evaluation plan that defines funding and performance measures used to track progress. The priority of this plan will be to meet and exceed the eligibility requirements set forth by USDOT for SS4A implementation grant funding. During plan development, Toole Design will work with the City of Fresno to comply with all applicable environmental policy.

#### ***Task 5.1: Develop Vision, Goals, Actions, and Performance Measures***

Central to the VZAP will be a focused framework of goals and actions that all stakeholders understand and endorse, that are measurable over time and grounded in the Safe System Approach. Establishing a framework of goals, actions, and performance measures will serve to align the plan with existing City goals and priorities, legislated targets, best practices (e.g., guidance set by the Vision Zero Network), and the findings from the data analysis and engagement tasks. Actions developed under task 5.1 will build on and consolidate the:

- Policy and procedure recommendations identified in Task 3.1;
- Safety conditions and emphasis areas identified in Task 3.2;
- Safety projects identified in Task 4.2; and
- Program recommendations identified in Task 4.3

We will produce a detailed plan including actions, priority level, responsible parties, relative cost, timeframe, performance measures, and implementation considerations. We will also identify a variety of possible funding sources, including state HSIP funding and federal SS4A implementation grant funding, among others. The content developed under Task 5.1 will be document in the Administrative Draft Plan Document prepared in Task 5.2

#### ***Task 5.2: Administrative Draft Plan Document***

The Toole Design team will consolidate the findings and recommendations from all prior tasks into an Administrative Draft Plan in Microsoft Word. This deliverable will be accompanied by a folder containing all photographs and graphics, including the page number and caption for each. Photos and graphics will not be integrated into the Word document at this stage. City staff will review the document with a focus on structure, order, content, and text edits. City staff will provide Toole Design will one set of consolidated comments, which Toole Design will integrate into the Draft Plan.

#### ***Task 5.3: Draft and Final Plan Document***

The Toole Design team will develop a Draft Plan that integrates the edits from Task 5.2. We will develop this version in InDesign, including compelling graphic design, layouts, photography, and infographics. The PDF Draft Plan will be reviewed by City staff, the Vision Zero Task Force, and key stakeholders. The Toole Design team will finalize the Plan based on one set of consolidated comments. During plan development, Toole Design will work with the City of Fresno to comply with all applicable environmental policy (i.e., National Environmental Policy Act [NEPA] and California Environmental Quality Act [CEQA]).

#### ***Task 5 Deliverables:***

- Draft Administrative Vision Zero Action Plan (Word Document) Including:
  - Draft Vision, Goals, Actions, Performance Measures, and Implementation Considerations
- Draft Vision Zero Action Plan (InDesign/PDF Document)
- Final Vision Zero Action Plan (InDesign/PDF Document)



#### *Task 5 Assumptions:*

- This scope of work assumes that the City of Fresno will shepherd the plan through the elected official adoption process, and through the environmental compliance process (i.e., National Environmental Policy Act [NEPA] and California Environmental Quality Act [CEQA]).

## **Task 6 Progress Tracking**

### *Task 6.1 Vision Zero Data Dashboard*

During Task 6.1, we will develop an interactive online Vision Zero Data Dashboard that tracks progress towards the City's crash and injury goals using the performance metrics identified in Task 5.1.

We will work with the City to determine the best platform and functionality for the dashboard, with a focus on creating something easy for City staff to maintain, and easy for the public to navigate. Using an existing dashboard platform (such as ArcGIS Online), Toole Design will create an interactive dashboard that illustrates key trends, patterns, and takeaways in the crash data with a focus on the key performance metrics.

#### *Task 6 Deliverables:*

- Draft and final data dashboard

#### *Task 6 Assumptions:*

- For those performance measures that require data not collected during Task 3.2, the City will lead the collection and processing of the data for use in the Data Dashboard.
- The Vision Zero dashboard is intended to depict crash and injury summary information only and will not enable functionality that allows reporting out for Vision Zero action completion and/or progress, or other non-spatial summary statistics. This type of information would require the use of a different software mechanism.
- The dashboard will be designed such that City staff with ArcGIS familiarity can maintain and update the dashboard. The consultant team will not provide ongoing maintenance, updates, or support for the data dashboard beyond the contract duration

## **SCHEDULE OF FEES**

SEE FOLLOWING PAGES

# Vision Zero Action Plan

## Budget

Toolbox Design										DKS				UDD				TOTALS		
Field/ Horiz	Canby	Pepe	Planner I/ Engineer II	GIS Analyst	Graphic Design	Tools Task-Level Budget	Percent of Budget	Chandler	Plachowski	Associate Planner	Assistant Planner	Assistant Planner	DKS Task-Level Budget	Percent of Budget	Halm/Pour	Engagement Level Budget	Percent of UDD Budget	Hour Total	Fee Total	Percent of Total Budget
Task Lead	PIC/ QA/QC	Project Manager	DRM/Project Manager	Planner II/ Engineer II	GIS Analyst	Graphic Design	Percent of Budget	Principal	Project Manager	Associate Planner	Assistant Planner	Assistant Planner	DKS Task-Level Budget	Percent of Budget	Engagement Level	Level Budget	Percent of UDD Budget	Hour Total	Fee Total	Percent of Total Budget
1. Project Management	20	50	40	0	0	\$ 22,200.00	10%	8	24	0	0	0	\$ 8,940.00	12%	30	\$ 6,000.00	7%	172	\$ 36,940.00	10%
2. Outreach, Engagement, and Education	26	54	80	90	0	\$ 49,540.00	22%	6	6	0	0	0	\$ 3,420.00	5%	270	\$ 54,000.00	64%	592	\$ 106,960.00	30%
2.1 Project Identity and Publicity	4	6	10	20	0	\$ 8,760.00		0	0	0	0	0	\$ -		30	\$ 6,000.00		90	\$ 14,760.00	
2.2 Outreach and Engagement Plan	4	6	10	0	0	\$ 3,920.00		0	0	0	0	0	\$ -		30	\$ 6,000.00		90	\$ 9,920.00	
2.3 Community and Stakeholder Engagement	4	14	20	30	0	\$ 11,224.00		0	0	0	0	0	\$ -		210	\$ 42,000.00		278	\$ 53,224.00	
2.4 Public Education and Engagement Toolkit	4	8	10	0	0	\$ 14,160.00		0	0	0	0	0	\$ -		102	\$ 20,400.00		129	\$ 24,560.00	
2.5 Decision-Maker Engagement	10	20	30	0	0	\$ 11,620.00		6	6	0	0	0	\$ 3,420.00		0	\$ -		72	\$ 15,940.00	
3. Existing Conditions Analysis	8	18	0	0	0	\$ 12,208.00	5%	16	40	40	100	72	\$ 50,980.00	69%	0	\$ -	0%	334	\$ 62,988.00	18%
3.1 Policy and Procedures Gap Analysis	4	8	0	0	0	\$ 2,776.00		8	16	8	40	0	\$ 14,840.00		0	\$ -		84	\$ 17,616.00	
3.2 Safety Conditions Analysis	4	10	0	0	0	\$ 9,432.00		8	24	32	60	72	\$ 35,540.00	8%	0	\$ -	0%	250	\$ 44,972.00	
3.3 Safety Conditions Analysis	44	28	36	135	50	\$ 49,776.00	22%	4	16	4	0	0	\$ 6,160.00		0	\$ -		316	\$ 55,936.00	16%
4. Safety Strategies	20	10	10	60	0	\$ 16,000.00		0	0	0	0	0	\$ -		0	\$ -		179	\$ 32,100.00	
4.1 Major Streets Traffic Calming Toolkit	20	10	15	60	0	\$ 25,940.00		4	16	4	0	0	\$ 6,160.00		0	\$ -		179	\$ 32,100.00	
4.2 Safety Project Identification and Prioritization	4	8	10	25	0	\$ 7,736.00		0	0	0	0	0	\$ -		0	\$ -		47	\$ 7,736.00	
4.3 Program Recommendations	20	40	90	55	101	\$ 99,446.00	27%	2	4	0	0	0	\$ 1,650.00	2%	0	\$ -	0%	402	\$ 61,086.00	17%
4.4 Vision Zero Action Plan	6	10	30	10	10	\$ 12,514.00		0	0	0	0	0	\$ -		0	\$ -		77	\$ 12,514.00	
5. Vision, Goals, Actions, Performance Measures	10	20	40	60	30	\$ 29,200.00		2	4	0	0	0	\$ 1,650.00		0	\$ -		196	\$ 30,850.00	
5.2 Admin Draft Plan	10	20	40	60	30	\$ 29,200.00		2	4	0	0	0	\$ 1,650.00		0	\$ -		196	\$ 30,850.00	
5.3 Draft and Final Plan Document	4	10	20	15	60	\$ 17,732.00	13%	0	0	0	0	0	\$ -		0	\$ -	0%	182	\$ 29,156.00	8%
5.4 Vision Zero Action Plan	2	10	20	0	0	\$ 29,156.00		0	0	0	0	0	\$ -		0	\$ -	0%	182	\$ 29,156.00	
6. Progress Tracking	2	10	20	0	0	\$ 29,156.00		0	0	0	0	0	\$ -		0	\$ -		182	\$ 29,156.00	
6.1 Data Dashboard	120	200	265	375	295	\$ 156	156%	36	90	44	160	72	\$ 342		300	\$ 300	182%	198	\$ 352,476.00	
Labor Hours Total	\$ 33,860.00	\$ 41,680.00	\$ 41,840.00	\$ 42,840.00	\$ 46,020.00	\$ 17,066.00	8%	\$ 11,340.00	\$ 22,960.00	\$ 9,020.00	\$ 16,500.00	\$ 10,440.00	\$ 70,260.00	97%	\$ 60,000.00	\$ 60,000.00	71%	3698	\$ 532,476.00	
Labor Subtotal						\$ 20,000.00							\$ 25,000.00		3%				\$ 47,500.00	
Direct Expenses						\$ 242,226.00	61%						\$ 72,790.00	16%					\$ 399,976.00	
TOTAL BUDGET																				
TDG Engineering, Inc.																				
DKS Associates																				
UDD																				
UDD Direct Expenses																				
Printing						\$ 5,000.00													\$ 3,000.00	
Engagement						\$ 5,000.00													\$ 1,500.00	
Travel						\$ 10,000.00													\$ 500.00	
CBO Spend						\$ 2,500.00													\$ 20,000.00	



**EXHIBIT B****INSURANCE REQUIREMENTS****Consultant Service Agreement between City of Fresno  
(City) and TDG Engineering, Inc. (Consultant)**Vision Zero Action Plan**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, 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. Any deductibles or self-insured retentions must be declared to on the Certificate of Insurance, and approved by, the City's Risk Manager or designee. At the option of the City's Risk Manager or designee, either:

- (i) The insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees, agents, and volunteers; or
- (ii) The Consultant shall provide a financial guarantee, satisfactory to the City's Risk Manager or designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall the City be responsible for the payment of any deductibles or 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 ISO Form CG 20 10 11 85 or both CG 20 10 04 13 and CG 20 37 04 13 or by an executed manuscript insurance company endorsement



providing additional insured status as broad as that contained in ISO Form CG 20 10 11 85.

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. For any claims relating to this Agreement, 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 by using ISO Form CG 20 01 04 13 or by an executed manuscript insurance company endorsement that provides primary and non-contributory status as broad as that contained in ISO Form CG 20 01 04 13.

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.

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 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 five-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 years after 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.

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.

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.

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.

### **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 City 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 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**  
Vision Zero Action Plan

		YES*	NO
1	Are you currently in litigation with the City of Fresno or any of its agents?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2	Do you represent any firm, organization, or person who is in litigation with the City of Fresno?	<input type="checkbox"/>	<input checked="" 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 checked="" 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 checked="" 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 checked="" 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 checked="" type="checkbox"/>
* If the answer to any question is yes, please explain in full below.			

Explanation: \_\_\_\_\_

NA

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

☐ Additional page(s) attached.

DocuSigned by:

*Roswell Eldridge*

0288F344A96E47E...

Signature

4/1/2024

Date

Roswell Eldridge

Name

Toole Design Group, LLC

Company

8484 Georgia, suite 800

Address

Silver Spring, MD 20910

City, State, Zip

**EXHIBIT D**  
**FEDERAL AND STATE ASSURANCES**  
**Consultant Service Agreement between City of Fresno**  
**(City) and TDG Engineering, Inc. (Consultant)**

Vision Zero Action Plan

1. The Consultant shall comply with and require its Subcontractors to comply with the following:
  - a. 23 USC §112 regarding Highways and the letting of contracts to Architects and Engineers;
  - b. The provisions of the Fair Employment and Housing Act (Government Code Section 1290-0 et seq.), and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12900(a-f), set forth in Chapter of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Give a written notice of their obligations under this clause to any labor organizations with which they have a collective bargaining or any other agreements as appropriate. **INCLUDE THIS ENTIRE CLAUSE IN ANY AND ALL SUBCONTRACTS.**
  - c. **Appendix A** attached hereto and incorporated herein.
2. Cost Principles
  - a. The Consultant agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1 Part 31.000 et seq., shall be used to determine the allowability of cost for individual items.
  - b. The Consultant also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
  - c. Any costs for which payment has been made to, the Consultant that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by, the Consultant to the City.
3. Subcontracting
  - a. The Consultant shall perform the work contemplated with resources available within its own organization; and no portion of the work pertinent to this Agreement shall be subcontracted without written authorization by the City's Contract Manager, except that, which is expressly identified in the approved Cost Proposal.
  - b. Any subcontract in excess of \$25,000 shall contain ALL the provisions stipulated in this Agreement to be applicable to subcontractors.

- c. Any substitution of subconsultants/subcontractors must be approved in writing by the City's Contract Manager.

#### 4. Equipment Purchase

- a. Prior authorization in writing, by the City's Contract Manager shall be required before, the Consultant enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or, the Consultant services. The Consultant shall provide a written request which includes an evaluation of the necessity or desirability of incurring such costs, three competitive quotations obtained in the manner prescribed in the City's Municipal Code Section 4-101(d) or 4-102 as applicable or a sole source justification as provided in the City's Administrative Order No. 3-3.
- b. Any equipment purchased as a result of this Agreement is subject to the following: the Consultant shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, the City shall receive a proper refund or credit at the conclusion of the Agreement, or if the Agreement is terminated, the Consultant may either keep the equipment and credit the City in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established the City procedures; and credit the City in an amount equal to the sales price. If, the Consultant elects to keep the equipment, fair market value shall be determined at, the Consultant's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to the City and, the Consultant, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by the City. 49 CFR, Part 18 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000.00 is credited to the project.
- c. The above provisions shall be included in all subcontracts in excess of \$25,000.

#### 5. PROHIBITION OF EXPENDING CITY STATE OR FEDERAL FUNDS FOR LOBBYING

*This section only applies to contracts where federal funding will exceed \$100,000.*

A. The Consultant certifies to the best of his or her knowledge and belief that:

1. No state, federal or the City appropriated funds have been paid, or will be paid by-or-on behalf of, the Consultant to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal

contract, grant, loan, or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement, the Consultant shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

B. The Consultant also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly.

## 6. NON-DISCRIMINATION CLAUSE

During the performance of this Agreement, the Consultant and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. The Consultant and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. The Consultant and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. The Consultant and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

The Consultant shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.



## **APPENDIX A TO EXHIBIT D**

### **Consultant Service Agreement between City of Fresno (City) and TDG Engineering, Inc. (Consultant)**

#### Vision Zero Action Plan

(1) The Consultant shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this Agreement.

(2) The Consultant, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the Agreement covers a program set forth in Appendix B of the REGULATIONS.

(3) In all solicitations either by competitive bidding or negotiation made by, the Consultant for work to be performed under a Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by, the Consultant of the, the Consultant's obligations under this Agreement and the REGULATIONS relative to nondiscrimination on the grounds of race, color, or national origin.

(4) The Consultant shall provide all information and reports required by the REGULATIONS, or directives issued pursuant thereto, and shall permit access to, the Consultant's books, records, accounts, other sources of information, and its facilities as may be determined by STATE or Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS or directives. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the State of California (STATE) or the FHWA as appropriate and shall set forth what efforts, the Consultant has made to obtain the information.

(5) In the event of, the Consultant's noncompliance with the nondiscrimination provisions of this Agreement, STATE shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

(a) withholding of payments to the City under the Agreement within a reasonable period of time, not to exceed 90 days; and/or

(b) cancellation, termination, or suspension of the Agreement, in whole or in part.

(6) The Consultant shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The Consultant shall take such action with respect to any sub-agreement or procurement as STATE or FHWA may direct as a means of enforcing such provisions including sanctions for

noncompliance, provided, however, that, in the event, the Consultant becomes involved in, or is threatened with, litigation with a sub- applicant or supplier as a result of such direction, the Consultant may request STATE enter into such litigation to protect the interests of STATE, and, in addition, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

(7) The Consultant shall execute the following CERTIFICATION OF, THE CONSULTANT, COMMISSIONS & FEES

I HEREBY CERTIFY that I am Roswell Eldridge, and duly authorized representative of the firm of Toole Design Group, LLC whose address is 8484 Georgia, Ste. 800 Silver Spring, MD 20910, and that, except as hereby expressly stated, neither I nor the above firm that I represent have:

(a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above, the Consultant) to solicit or secure this Agreement; nor

(b) agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out the Agreement; nor

(c) paid, or agreed to pay, to any firm, organization, or person (other than a bona fide employee working solely for me or the above, the Consultant) any fee, contribution, donation, or consideration of any kind, for or in connection with, procuring or carrying out this Agreement.

I acknowledge that this Certificate is to be made available to the California Department of Transportation (Caltrans) in connection with this Agreement involving participation of Federal-aid Highway funds, and is subject to applicable state and federal laws, both criminal and civil.

(Date) 4/1/2024

(Signature) DocuSigned by:  
Roswell Eldridge  
0288F344A96E47E...