

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

November 16, 2023

This Agreement is made and entered into effective \_\_\_\_\_, by and between the CITY OF FRESNO, a California municipal corporation (City), and BLACK & VEATCH CORPORATION, a Delaware Corporation (Consultant).

**RECITALS**

WHEREAS, the City desires to obtain professional engineering design services for Dewatering Cake Pump Improvements at the Fresno-Clovis Regional Wastewater Reclamation Facility (Project); and

WHEREAS, the Consultant is engaged in the business of furnishing services as a professional engineering design firm 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 Director of Public Utilities (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, 2028, 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.

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 Five Hundred Eighty-Seven Thousand Six Hundred Eighty-Six Dollars (\$587,686.00), 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 Fifty Thousand Dollars (\$50,000.00) 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 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.

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.

(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 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.

(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.

Consultant shall have no liability for defects in the services provided under this Agreement attributable to CONSULTANT'S reliance upon or use of data, design criteria, drawings, specifications, or other information furnished by City or third parties retained by City.

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 costs 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 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, 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 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, contingent or otherwise, direct or indirect, to solicit or procure this Agreement or any rights/benefits hereunder.

(e) Neither 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. 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.

(f) 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.

(g) 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 the 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.

(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 and shall be available to the City or

its authorized representatives upon request during regular business hours throughout the life of this Agreement and for a period of three years after final payment or, if longer, for any period required by law. In addition, all books, documents, papers, and records of the Consultant pertaining to the Project shall be available for the purpose of making audits, examinations, excerpts, and transcriptions for the same period of time. If any litigation, claim, negotiations, audit or other action is commenced before the expiration of said time period, all records shall be retained and made available to the City 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 paragraph. 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.

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 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. 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.

30. Opinion of Cost: Since Consultant has no control over the cost of labor, materials, or equipment furnished by others not under contract to Engineer, or over the resources provided by others not under contract to Consultant to meet Project schedules, Consultant's opinion of probable costs and of project schedules for construction shall be made on the basis of experience and qualifications as a professional engineer. Consultant does not guarantee the proposals, bids, or actual Project costs will not vary from


Consultant's opinions of probable cost or that actual schedules will not vary from Consultant's projected schedules.

31. Construction Means and Methods: Consultant shall not be responsible for: (1) construction means, methods, techniques, sequences, procedures, or safety precautions and programs in connection with the Project; (2) the failure of any contractor, sub-contractor, vendor, or other Project participant, not under contract to Engineer, to fulfill contractual responsibilities to the City or comply with federal, state, or local laws, regulations, and codes; or (3) procuring permits, certificates, and licenses required for any construction unless such responsibilities are specifically assigned to Consultant in Exhibit A, Scope of Services.

**[Signatures follow on the next page.]**

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

CITY OF FRESNO,  
a California municipal corporation

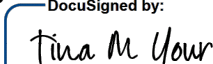
DocuSigned by:  
By:  11/17/2023  
Brock D. Buche, PE, PLS,  
Director  
Department of Public Utilities

BLACK & VEATCH CORPORATION,  
a Delaware Corporation

DocuSigned by:  
By:  10/30/2023  
8C2EFBC6E9A8469...  
Name: David J. Carlson

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

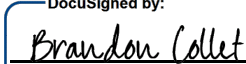
ATTEST:  
TODD STERMER, CMC  
City Clerk

DocuSigned by:  
By:  11/17/2023  
2F1BC57F778C4E1...  
Tina M Your  
Deputy

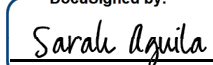
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By:  10/31/2023  
26FD646C9B904BF...  
Name: Timothy W. Triplett  
Secretary

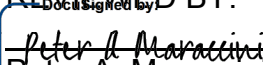
Title: \_\_\_\_\_  
(If corporation or LLC., CFO, Treasurer, Secretary or Assistant Secretary)

APPROVED AS TO FORM:  
ANDREW JANZ  
City Attorney

DocuSigned by:  
By:  10/31/2023  
1CFC5444CAA64DB...  
Date  
Senior /Deputy City Attorney

Any Applicable Professional License:  
Number: \_\_\_\_\_  
Name: \_\_\_\_\_  
Date of Issuance: \_\_\_\_\_

DocuSigned by:  
By:  10/27/2023  
72C9B1A8E80417...  
Sarah Aguila  
Supervising Engineering Technician  
Department of Public Utilities

DocuSigned by:  
REVIEWED BY:  10/27/2023  
Peter A. Maraccini, PE, Ph.D.  
Licensed Engineer Manager  
Department of Public Utilities

CONSULTANT:  
Black & Veatch Corporation  
Attention: David J. Carlson,  
Vice President  
10995 Gold Center Drive, Suite 100  
Rancho Cordova, CA 95677  
Phone: (916) 858-2424  
E-mail: CarlsonDJ@bv.com

Addresses:  
CITY:  
City of Fresno  
Attention: Sarah Aguila,  
Supervising Engineering Technician  
1626 E Street  
Fresno, CA 93706  
Phone: (559) 621-1615  
E-mail: sarah.aguila@fresno.gov

Attachments:

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

## EXHIBIT A

### SCOPE OF SERVICES

**Consultant Service Agreement between City of Fresno (City)  
and Black & Veatch Corporation (Consultant)  
Dewatering Cake Pump Improvements at the Fresno/Clovis Regional Wastewater  
Reclamation Facility**

#### I. Summary

Provide professional engineering services to the City of Fresno (City) for design, bid phase, and construction phase services associated with modifications to the sludge handling system in the existing dewatering building at City's Wastewater Treatment Plant. This Scope of Work consists of preparing preliminary and detailed design, bid phase, and construction phase services including creating drawings and specifications for the project for bidding the work to a single general contractor.

#### II. Project Description

##### *Background*

Black & Veatch performed a sludge handling system alternatives evaluation in July 2016 for the City. City's existing dewatering system consists of a centrifuge dewatering system, which has three centrifuges that dewater solids that are conveyed to progressing cavity pumps via screw conveyors. The progressing cavity pumps convey dewatered sludge to the cake silos for truck hauling offsite. Each centrifuge has a dedicated screw conveyor and a dedicated progressing cavity pump. This existing system has been experiencing operation and maintenance issues. Malfunction of any one component in a dedicated train of centrifuge/conveyor/pump essentially would take the entire train down as there is no flexibility in the current design. The evaluation focused on determining the suitability of continued use of the existing system and identifying improvements needed to the existing system. The evaluation focused on the review of alternative sludge transport system, taking into account the existing facility configuration and planned expansion of the centrifuge dewatering system.

##### *Selected Alternative*

Four alternatives were evaluated as part of the evaluation and Alternative 1B from the Black & Veatch technical memorandum was selected.

##### **Alternative 1B – Inclined screw conveyors to piston cake pumps.**

- Demolition of the existing Moyno progressing cavity pumps. This work would need to be sequenced to allow continued use of the dewatering and transport system.
- Installation of three new screw conveyors to collect sludge conveyed by existing screw conveyors to a central sludge cake pumping system hopper. The conveyors supports will be specified to be designed by the vendor. Conveyors are assumed to be shaftless.

- The hopper will include a hydraulically driven sliding frame bottom, two screw auger feeders and two hydraulic piston driven pumps. Each piston pump will be dedicated to conveying sludge cake to either Silo 1 or Silo 2.
- Sludge Piping modifications

#### **Other Assumptions**

- Black & Veatch will use the City provided AutoCAD or to scale PDF as-built drawings for drawings development.
- Survey work is not anticipated and is not included.
- It is assumed that the City will provide consolidated and reconciled review comments of the design review in one single table.
- No geotechnical investigations will be performed. The City will provide the previous geotechnical reports for Black & Veatch's design use.
- No security, access control, fire alarm, voice communication, or lightning protection equipment will be provided.
- It is assumed that environmental review will not be required.
- It is assumed that permitting will not be required.
- Black & Veatch standards and practices will be used.
- It is assumed that the equipment pads will be anchored into the existing slab of the Dewatering Building by adhesive dowels.
- It is assumed that no HVAC modifications are needed to the existing facility.
- The revised process equipment is assumed to require non-potable water supply piping modifications. All work will be shown on shared mechanical process drawings.
- The building water pressure available is expected to be in the range of 50-70 psig. No water booster system design is planned.

### **III. Scope of Work**

#### **TASK 1 – PROJECT MANAGEMENT**

This task will include project setup, administration, coordination with the City, and managing scope schedule and budget. Black & Veatch PM will provide a monthly update on the project via conference call. The following meetings and calls are included:

- Kickoff meeting by PM and Engineer
- BDR and 30% Design Review Meeting by PM and Engineer
- 60% Design Review Meeting by PM and Engineer
- 90% Design Review Meeting by PM and Engineer
- Site Visits – As part of the detailed design, four site visits are included by PM and Engineer. These will be scheduled with the design review meetings and kickoff meetings
- Progress Status Conference Calls Black & Veatch will hold informal conference calls

with the City to provide progress status and discuss project design related items.

**DELIVERABLES:**

- An agenda, and meeting minutes will be prepared for the kickoff and design review meetings and distributed to all attendees in PDF format.

**TASK 2 – DETAILED DESIGN**

**Task 2.1 – Basis of Design Report and 30% Design**

A basis of design report (BDR) will be prepared documenting the following:

- Project Overview
- Discipline Design Criteria
- Project Implementation Plan including project Schedule
- Opinion of Probable Construction Cost (OPCC) (AACEI Level 4 Estimate)

Construction Drawings, details and sections for the work will be prepared. Drawings will be developed using Black & Veatch standards and AutoCAD (latest version used at Black & Veatch) and prepared on 22 x 34-inch sheet. The following preliminary drawings will be included as an appendix to the BDR.

- General
  - Sheet List
  - Process schematic
  - Demolition Plan
  - Piping and Equipment Plan
  - Electric power distribution functional diagram
  - P&IDs

Technical specifications will be developed at 60% design.

Upon City review of the BDR and 30% drawings, a workshop will be held to discuss the City comments. Comments received from the City will be incorporated into the 60% design.

**DELIVERABLES:**

- Draft BDR as PDF and MS Word,
- 30% Design Drawings PDF and 4 hard copies
- OPCC Class 4 in PDF
- Meeting Slides, Agenda, Minutes as PDF

### **Task 2.2 – 60% Design**

Construction Drawings, details and sections for the work will be prepared. Drawings will be developed using Black & Veatch standards and AutoCAD (latest version used at Black & Veatch) and prepared on 22 x 34-inch sheet. Project technical specifications (Div. 2 to 50) will be prepared in MSWord using Black & Veatch standard specifications. Front-end documents (Division 0 and 1) will be prepared by the City. Black & Veatch will provide supplemental information needed for the City to develop the front-end documents including the following sections:

- Bid Schedule
- Summary of Work and Work Sequencing
- Measurement and Payment

A 60% complete design will be prepared using the basis of design established in Task 2.1. The BDR opinion of probable construction cost will be updated. Responses to client comments will be provided, but changes to design will be incorporated in the next level of design. A design review meeting will be held at the City office. This meeting will be attended by Black & Veatch PM and EM. Meeting agenda and minutes will be prepared and distributed.

#### **DELIVERABLES:**

- 60% Design Drawings PDF and 4 hard copies
- 60% Design Specifications PDF, MS Word, and 4 hard copies
- OPCC Update Class 3 in PDF
- Meeting Slides, Agenda, Minutes as PDF

### **Task 2.3 – 90% Design**

A draft design package will be submitted for review at the 90% complete level. The 60% design opinion of probable construction cost will be updated. Responses to client comments will be provided, but changes to design will be incorporated in the next level of design. A design review meeting will be held at the City office. This meeting will be attended by Black & Veatch PM and Design Leads. Meeting agenda and minutes will be prepared and distributed.

#### **DELIVERABLES:**

- 90% Design Drawings PDF and 4 hard copies
- 90% Design Specifications PDF, MS Word, and 4 hard copies
- OPCC Update Class 2 in PDF
- Meeting Slides, Agenda, Minutes as PDF

### **Task 2.4 – 100% Design**

The review comments from the City and the QA/QC team will be incorporated into the design documents as appropriate. Upon completion, final drawings will be submitted to the City in electronic format, together with one set of project specifications. The final construction drawings will be signed and sealed by registered professional engineers in the State of California. The 90% design level OPCC will be updated and presented as a PDF via email.

#### **DELIVERABLES:**

- 100% Design Drawings PDF and 1 hard copy of the vellum plan for signatures
- 100% Design Specifications PDF, MS Word, and 4 hard copies
- OPCC Update Class 2 in PDF, MS Excel, and 4 hard copies

### **TASK 3 – BID PHASE SERVICES**

The following services will be provided during bid phase:

- Attend pre-bid meeting at the City's RWRP by Project Manager.
- Respond to Bidders RFI.
- Interpret construction documents and issue addenda as required to clarify the intent of bid documents
- Support City in bid review and evaluation as requested

### **TASK 4 – FEASIBILITY EVALUATION OF DIRECTING BFP SLUDGE TO NEW CONVEYANCE SYSTEM**

City has expressed a desire to explore directing belt filter press dewatered sludge to the new conveyance hopper and sludge pumps. Currently this sludge is conveyed only to Silo 2 via a belt conveyor. City would like the ability to divert this sludge to the new cake hopper so it could be pumped to either Silo 1 or Silo 2 when the BFP belt conveyor to Silo 2 is out of service.

Consultant will evaluate the existing arrangement and develop up to two alternatives to determine the feasibility of directing BFP sludge to the new cake hopper. The TM will include conceptual layout and planning level costs. A draft technical memorandum will be developed and submitted to the City for review. A virtual meeting will be held to review the City comments. Final TM will be submitted to the City after incorporating comments as appropriate.

### **Exclusions**

- Value Engineering effort.

- Supplemental engineering work required to meet the requirements of regulatory or funding agencies that become effective subsequent to the date of this agreement.
- Assistance with bid protests and rebidding.
- Scope does not include preparing Conformed to Bid Documents.
- By performance of this Scope of Work, Consultant shall not have the authority or responsibility to supervise, direct, or control the Contractor's work or the Contractor's means, methods, techniques, sequences, or procedures of construction. Consultant shall not have authority or responsibility for safety precautions and programs incident to the Contractor's work or for any failure of the Contractor to comply with laws, regulations, rules, ordinances, codes or orders applicable to the Contractor furnishing and performing the work.
- This scope of work does not include Construction Management or inspection services unless specifically noted in this Scope of Work. Consultant shall not be responsible for any materials testing or survey during construction.
- Observation by Engineer of Record is not included.
- Geotechnical inspection services are not included. It is assumed that these will be covered by City.
- Field office and office equipment will not be provided by Consultant. Consultant staff working in the field will utilize available space within the City offices at the RWRP.
- Control system programming and configuration services are not provided by the Consultant.

## SCHEDULE OF FEES

POSITION	2023 BILL RATE
Project Manager	\$367
Project Administrator	\$114
Project Controls	\$147
Estimator (Higher Level)	\$276
Design/Engineering Management (Higher Level)	267
Design/Engineering Management (Lower Level)	\$143
Structural (Higher Level)	\$250
Structural (Lower Level)	\$169
Mechanical (Higher Level)	\$276
Mechanical (Mid Level)	\$211
Mechanical (Lower Level)	\$159
Plumbing (Higher Level)	\$254
Plumbing (Mid Level)	\$195
Electrical - Sr. Engineer	\$260
Electrical - Engineer	\$163
Electrical - Tech	\$127
I&C – Sr. Engineer	\$234
I&C – Engineer	\$143
I&C – Tech	\$130
Mechanical/Process/Piping/Building - BIM Lead	\$189
Mechanical/Process/Piping/Building - BIM	\$179
Startup/Commissioning - Higher-level	\$293

**Notes:**

1. Miscellaneous expenses including telephone, reproduction of working copies, postage, courier, fax, and personal computer usage shall be paid for a rate of \$9.00 per labor hour billed to the Project. All other direct expenses shall be billed at cost.
2. The cost of subconsultants shall be paid for at invoice amount plus five (5) percent.
3. Billing rates will be reviewed/adjusted annually.

## **EXHIBIT B**

### **INSURANCE REQUIREMENTS**

#### **Consultant Service Agreement between City of Fresno (City) and Black & Veatch Corporation (Consultant)**

Dewatering Cake Pump Improvements at the Fresno/Clovis Regional Wastewater  
Reclamation Facility

### **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.

### **LIMITS OF INSURANCE**

The Consultant, or any party the Consultant subcontracts with, shall maintain limits of liability of not less than those set forth below. However, insurance limits available to the City, its officers, officials, employees, agents, and volunteers as additional insureds, shall be the greater of the 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 annual aggregate.

**UMBRELLA OR EXCESS INSURANCE**

In the event the Consultant purchases an Umbrella or Excess insurance policy(ies) to meet the 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.

**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 under the Commercial General Liability policy by use of ISO Forms or an executed manuscript insurance company endorsement providing additional insured status. The Commercial General endorsements must be as broad as that contained in ISO Forms: GC 20 10 11 85 or both CG 20 10 & CG 20 37.
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 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 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 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.

**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's 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 will be solely responsible for ensuring that its subcontractors maintain insurance coverage at levels no less than those required by applicable law and is customary in the relevant industry.

#### **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 its 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 make available any insurance policy required under this Agreement, including all endorsements, at Consultant's place of business during normal business hours and upon prior notice.

## EXHIBIT C DISCLOSURE OF CONFLICT OF INTEREST

Dewatering Cake Pump Improvements at the Fresno/Clovis Regional Wastewater Reclamation Facility

		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

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\_\_\_\_\_  
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\_\_\_\_\_

Additional page(s) attached.

DocuSigned by:  
*David J. Carlson*  
Signature

10/30/2023  
Date

David J. Carlson  
(Name)

Black & Veatch Corporation  
(Company)

10995 Gold Center Drive  
(Address)

Rancho Cordova, CA 95670  
(City, State Zip)