

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

THIS AGREEMENT is made and entered into effective the ____ day of December, 2015, by and between the CITY OF FRESNO, a California municipal corporation (hereinafter referred to as "CITY"), and Fehr & Peers, Inc., a California Corporation (hereinafter referred to as "CONSULTANT").

RECITALS

WHEREAS, CITY desires to obtain professional consulting services for Active Transportation Plan/Bicycle, Pedestrian Master Plan Update (ATP/BMP), hereinafter referred to as the "Project;" and

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

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

WHEREAS, this Agreement will be administered for CITY by its Public Works Director (hereinafter referred to as "Director") or his/her 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. CONSULTANT shall perform to the satisfaction of CITY the services described in **Exhibit A**, including all work incidental to, or necessary to perform, such services even though not specifically described in **Exhibit A**.

2. Term of Agreement and Time for Performance. This Agreement shall be effective from the date first set forth above and shall continue in full force and effect through the earlier of complete rendition of the services hereunder or November 30, 2016, subject to any earlier termination in accordance with this Agreement. The services of CONSULTANT as described in **Exhibit A** are to commence upon 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 300 days consecutive calendar days from such authorization to proceed.

3. Compensation.

(a) CONSULTANT'S sole compensation for satisfactory performance of all services required or rendered pursuant to this Agreement shall be a total fee of two hundred two thousand (\$202,000), and a contingency amount not to exceed twenty five thousand (\$25,000) for any additional work rendered pursuant to Subsection (c) below and authorized in writing by the Director. Such fees include all expenses incurred by CONSULTANT in performance of such services.

(b) Detailed statements shall be rendered monthly and will be payable in the normal course of CITY business.

(c) The parties may modify this Agreement to increase or decrease the scope of services or provide for the rendition of services not required by this Agreement, which modification shall include an adjustment to CONSULTANT'S compensation. Any change in the scope of services must be made by written amendment to the Agreement signed by an authorized representative for each party. CONSULTANT shall not be entitled to any additional compensation if services are performed prior to a signed written amendment.

4. Termination, Remedies and Force Majeure.

(a) This Agreement shall terminate without any liability of CITY to CONSULTANT upon the earlier of: (i) CONSULTANT'S filing for protection under the federal bankruptcy laws, or any bankruptcy petition or petition for receiver commenced by a third party against CONSULTANT; (ii) 7 calendar days prior written notice with or without cause by CITY to CONSULTANT; (iii) CITY'S non-appropriation of funds sufficient to meet its obligations hereunder during any CITY fiscal year of this Agreement, or insufficient funding for the Project; or (iv) expiration of this Agreement.

(b) Immediately upon any termination or expiration of this Agreement, CONSULTANT shall (i) immediately stop all work hereunder; (ii) immediately cause any and all of its subcontractors to cease work; and (iii) return to CITY any and all unearned payments and all properties and materials in the possession of CONSULTANT that are owned by CITY. Subject to the terms of this Agreement, CONSULTANT shall be paid compensation for services satisfactorily performed prior to the effective date of termination. CONSULTANT shall not be paid for any work or services performed or costs incurred which reasonably could have been avoided.

(c) In the event of termination due to failure of CONSULTANT to satisfactorily perform in accordance with the terms of this Agreement, CITY may withhold an amount that would otherwise be payable as an offset to, but not in excess of, CITY'S damages caused by such failure. In no event shall any payment by CITY pursuant to this Agreement constitute a waiver by CITY of any breach of this Agreement which may then exist on the part of CONSULTANT, nor shall such payment impair or prejudice any remedy available to CITY with respect to the breach.

(d) Upon any breach of this Agreement by CONSULTANT, CITY may (i) exercise any right, remedy (in contract, law or equity), or privilege which may be available to it under applicable laws of the State of California or any other applicable law; (ii) proceed by appropriate court action to enforce the terms of the Agreement; and/or (iii) recover all direct, indirect, consequential, economic and incidental damages for the breach of the Agreement. If it is determined that CITY improperly terminated this Agreement for default, such termination shall be deemed a termination for convenience.

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

(f) CONSULTANT shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of CONSULTANT and without its fault

or negligence such as, acts of God or the public enemy, acts of CITY in its contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. CONSULTANT shall notify 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 CONSULTANT pursuant to this Agreement shall not be made available to any individual or organization by CONSULTANT without the prior written approval of CITY. During the term of this Agreement, and thereafter, CONSULTANT shall not, without the prior written consent of CITY, disclose to anyone any Confidential Information. The term Confidential Information for the purposes of this Agreement shall include all proprietary and confidential information of CITY, including but not limited to business plans, marketing plans, financial information, 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 CITY.

- i. Permission granted to CONSULTANT to disclose information on one occasion shall not authorize CONSULTANT to further disclose such information or any other information or disseminate the same on any other occasion.
- ii. CONSULTANT shall not comment publicly to the press or any other media regarding the Agreement or CITY'S actions on the same, except to CITY'S personnel or CONSULTANT'S personnel involved in the performance of this Agreement at public hearings or in response to questions from a Legislative committee.
- iii. 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 CITY and receipt of 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 CONSULTANT pursuant to this Agreement, in any form whatsoever, are the property of CITY at the time of preparation and shall be turned over to CITY upon expiration or termination of the Agreement or default by CONSULTANT. CONSULTANT grants CITY a copyright license to use such drawings and writings. CONSULTANT shall not permit the reproduction or use thereof by any other person except as otherwise expressly provided herein. CITY may modify the design including any drawings or writings. Any use by 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 CONSULTANT will be at CITY'S sole risk and without liability or legal exposure to CONSULTANT. 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 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 CONSULTANT should subcontract all or any portion of the services to be performed under this Agreement, CONSULTANT shall cause each subcontractor to also comply with the requirements of this Section 5.

(d) This Section 5 shall survive expiration or termination of this Agreement.

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

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

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

This section shall survive termination or expiration of this Agreement.

8. Insurance.

(a) Throughout the life of this Agreement, 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 CITY'S Risk Manager or his/her designee at any time and in his/her 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 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, 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 CONSULTANT shall be withheld until notice is received by 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 CITY. Any failure to maintain the required insurance shall be sufficient cause for CITY to terminate this Agreement. No action taken by CITY pursuant to this section shall in any way relieve CONSULTANT of its responsibilities under this Agreement. The phrase "fail to maintain any required insurance" shall include, without limitation, notification received by 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 CONSULTANT shall not be deemed to release or diminish the liability of CONSULTANT, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify 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 CONSULTANT. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of CONSULTANT, its principals, officers, agents, employees, persons under the supervision of CONSULTANT, vendors, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.

(d) If CONSULTANT should subcontract all or any portion of the services to be performed under this Agreement, 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 CONSULTANT and CITY prior to the commencement of any services by the subcontractor. CONSULTANT and any subcontractor/sub-consultant shall establish additional insured status for 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 10 01 and CG 20 37 10 01 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 CITY'S execution of this Agreement, CONSULTANT shall complete a City of Fresno conflict of interest disclosure statement in the form as set forth in **Exhibit C**. During the term of this Agreement, CONSULTANT shall have the obligation and duty to immediately notify CITY in writing of any change to the information provided by CONSULTANT in such statement.

(b) CONSULTANT shall comply, and require its subcontractors to comply, with all applicable (i) professional canons and requirements governing avoidance of impermissible client conflicts; and (ii) federal, state and local conflict of interest laws and regulations including, without limitation, 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 CITY, CONSULTANT shall provide a written opinion of its legal counsel and that of any subcontractor that, after a due diligent inquiry, CONSULTANT and the respective subcontractor(s) are in full compliance with all laws and regulations. CONSULTANT shall take, and require its subcontractors to take, reasonable steps to avoid any appearance of a conflict of interest. Upon discovery of any facts giving rise to the appearance of a conflict of interest, CONSULTANT shall immediately notify CITY of these facts in writing.

(c) In performing the work or services to be provided hereunder, CONSULTANT shall not employ or retain the services of any person while such person either is employed by CITY or is a member of any CITY council, commission, board, committee, or similar CITY body. This requirement may be waived in writing by the City Manager, if no actual or potential conflict is involved.

(d) CONSULTANT represents and warrants that it has not paid or agreed to pay any compensation, lawful or unlawful, contingent or otherwise, direct or indirect, to any party to solicit or procure this Agreement or any rights/benefits hereunder. CITY shall have the right, in its discretion, to deduct from any payment to CONSULTANT under this Agreement, or otherwise recover the full amount of, any rebate, kickback or other consideration paid by CONSULTANT in violation of any representation or warranty under this section.

(e) Neither CONSULTANT, nor any firm affiliated with CONSULTANT, nor any of CONSULTANT'S subcontractors performing any services on this Project, shall bid for, assist anyone in the preparation of a bid for, or perform any services pursuant to, any other contract in connection with this Project with the exception of any subcontractor whose services are limited to providing surveying or materials testing information. 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) CONSULTANT shall disclose any financial, business, or other relationship with CITY that may have an impact upon the outcome of this Agreement or any ensuing CITY construction project. CONSULTANT shall also disclose any current clients who may have a financial interest in the outcome of this Agreement or any ensuing CITY construction project, which will follow.

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

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

10. Recycling Program. In the event CONSULTANT maintains an office or operates a facility(ies), or is required herein to maintain or operate same, within the incorporated limits of the City of Fresno, CONSULTANT at its sole cost and expense shall:

- (i) Immediately establish and maintain a viable and ongoing recycling program, approved by CITY'S Solid Waste Management Division, for each office and facility. Literature describing CITY recycling programs is available from CITY'S Solid Waste Management Division and by calling City of Fresno Recycling Hotline at (559) 621-1111.
- (ii) Immediately contact CITY'S Solid Waste Management Division at (559) 621-1452 and schedule a free waste audit, and cooperate with such Division in their conduct of the audit for each office and facility.
- (iii) Cooperate with and demonstrate to the satisfaction of CITY'S Solid Waste Management Division the establishment of the recycling program in paragraph (i) 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 CITY within the body of this Agreement, and not otherwise specifically provided for, shall be effective only if signed by the Director or his/her designee.

(b) Records of CONSULTANT'S expenses pertaining to the Project shall be kept on a generally recognized accounting basis. 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. 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. 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 CONSULTANT and its subcontractors that are pertinent to the Agreement for audit, examinations, excerpts, and transcriptions. Copies thereof shall be furnished by 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 CONSULTANT should subcontract all or any portion of the services to be performed under this Agreement, CONSULTANT shall cause each subcontractor to also comply with the requirements of this section 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 CITY, CONSULTANT shall have provided evidence to CITY that CONSULTANT is licensed to perform the services called for by this Agreement (or that no license is required). If CONSULTANT should subcontract all or any portion of the work or services to be performed under this Agreement, CONSULTANT shall require each subcontractor to provide evidence to CITY that subcontractor is licensed to perform the services called for by this Agreement (or that no license is required) before beginning work.

(d) CONSULTANT'S services pursuant to this Agreement shall be provided under the supervision of Fred Choa, PE, and he/she shall not assign another to supervise CONSULTANT'S performance of this Agreement without the prior written approval of the Director.

(e) CITY will carry out applicable federal requirements in the administration of this Agreement. Notwithstanding Section 25 herein, 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, CONSULTANT shall not employ discriminatory practices in the provision of services, employment of personnel, or in any other respect on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. Subject to the foregoing and during the performance of this Agreement, CONSULTANT agrees as follows:

(a) CONSULTANT will comply with all applicable laws and regulations providing that no person shall, on the grounds of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Agreement.

(b) CONSULTANT will not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. CONSULTANT shall ensure that applicants are employed, and the employees are treated during employment, without regard to their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. Such requirement shall apply to CONSULTANT'S employment practices including, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this nondiscrimination clause.

(c) CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of CONSULTANT in pursuit hereof, state that all qualified applicants will receive consideration for employment without regard to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era.

(d) CONSULTANT will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising such labor union or workers' representatives of CONSULTANT'S commitment under

this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(e) If CONSULTANT should subcontract all or any portion of the services to be performed under this Agreement, CONSULTANT shall cause each subcontractor to also comply with the requirements of this Section 12.

13. Independent Contractor.

(a) In the furnishing of the services provided for herein, CONSULTANT is acting solely as an independent contractor. Neither CONSULTANT, nor any of its officers, agents or employees shall be deemed an officer, agent, employee, joint venturer, partner or associate of CITY for any purpose. CITY shall have no right to control or supervise or direct the manner or method by which CONSULTANT shall perform its work and functions. However, CITY shall retain the right to administer this Agreement so as to verify that CONSULTANT is performing its obligations in accordance with the terms and conditions thereof.

(b) This Agreement does not evidence a partnership or joint venture between CONSULTANT and CITY. CONSULTANT shall have no authority to bind CITY absent CITY'S express written consent. Except to the extent otherwise provided in this Agreement, CONSULTANT shall bear its own costs and expenses in pursuit thereof.

(c) Because of its status as an independent contractor, CONSULTANT and its officers, agents and employees shall have absolutely no right to employment rights and benefits available to CITY employees. CONSULTANT shall be solely liable and responsible for all payroll and tax withholding and for providing to, or on behalf of, its employees all employee benefits including, without limitation, health, welfare and retirement benefits. In addition, together with its other obligations under this Agreement, CONSULTANT shall be solely responsible, indemnify, defend and save CITY harmless from all matters relating to employment and tax withholding for and payment of CONSULTANT'S employees, including, without limitation, (i) compliance with Social Security and unemployment insurance withholding, payment of workers' compensation benefits, and all other laws and regulations governing matters of employee withholding, taxes and payment; and (ii) any claim of right or interest in CITY employment benefits, entitlements, programs and/or funds offered employees of CITY whether arising by reason of any common law, de facto, leased, or co-employee rights or other theory. It is acknowledged that during the term of this Agreement, CONSULTANT may be providing services to others unrelated to CITY or to this Agreement.

14. Notices. Any notice required or intended to be given to either party under the terms of this Agreement shall be in writing and shall be deemed to be duly given if delivered personally, transmitted by facsimile followed by telephone confirmation of receipt, or sent by United States registered or certified mail, with postage prepaid, return receipt requested, addressed to the party to which notice is to be given at the party's address set forth on the signature page of this Agreement or at such other address as the parties may from time to time designate by written notice. Notices served by United States mail in the manner above described shall be deemed sufficiently served or given at the time of the mailing thereof.

15. Binding. Subject to Section 16, below, once this Agreement is signed by all parties, it shall be binding upon, and shall inure to the benefit of, all parties, and each parties' respective heirs, successors, assigns, transferees, agents, servants, employees and representatives.

16. Assignment.

(a) This Agreement is personal to CONSULTANT and there shall be no assignment by CONSULTANT of its rights or obligations under this Agreement without the prior written approval of the City Manager or his/her designee. Any attempted assignment by CONSULTANT, its successors or assigns, shall be null and void unless approved in writing by the City Manager or his/her designee.

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

17. Compliance With Law. In providing the services required under this Agreement, CONSULTANT shall at all times comply with all applicable laws of the United States, the State of California and CITY, and with all applicable regulations promulgated by federal, state, regional, or local administrative and regulatory agencies, now in force and as they may be enacted, issued, or amended during the term of this Agreement.

18. Waiver. The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement. No provisions of this Agreement may be waived unless in writing and signed by all parties to this Agreement. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein.

19. Governing Law and Venue. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this Agreement and any rights and duties hereunder shall be Fresno County, California.

20. Headings. The section headings in this Agreement are for convenience and reference only and shall not be construed or held in any way to explain, modify or add to the interpretation or meaning of the provisions of this Agreement.

21. Severability. The provisions of this Agreement are severable. The invalidity, or unenforceability of any one provision in this Agreement shall not affect the other provisions.

22. Interpretation. The parties acknowledge that this Agreement in its final form is the result of the combined efforts of the parties and that, should any provision of this Agreement be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in favor of or against either party, but rather by construing the terms in accordance with their generally accepted meaning.

23. Attorney's Fees. If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees and legal expenses.

24. Exhibits. Each exhibit and attachment referenced in this Agreement is, by the

reference, incorporated into and made a part of this Agreement.

25. Precedence of Documents. In the event of any conflict between the body of this Agreement and any Exhibit or Attachment hereto, the terms and conditions of the body of this Agreement shall control and take precedence over the terms and conditions expressed within the Exhibit or Attachment. Furthermore, any terms or conditions contained within any Exhibit or Attachment hereto which purport to modify the allocation of risk between the parties, provided for within the body of this Agreement, shall be null and void.

26. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

27. No Third Party Beneficiaries. The rights, interests, duties and obligations defined within this Agreement are intended for the specific parties hereto as identified in the preamble of this Agreement. Notwithstanding anything stated to the contrary in this Agreement, it is not intended that any rights or interests in this Agreement benefit or flow to the interest of any third parties.

28. Extent of Agreement. Each party acknowledges that they have read and fully understand the contents of this Agreement. This Agreement represents the entire and integrated agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be modified only by written instrument duly authorized and executed by both CITY and CONSULTANT.

29. RFQ Document. Any Request for Qualifications and documents issued therewith (collectively referred to herein as "RFQ") by CITY that resulted in selection of 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.

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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

Fehr & Peersk, Inc.,
a California Corporation

By: _____
Robert Andersen,
Assistant Director
Public Works Department

By: _____

Name: _____

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

ATTEST:
YVONNE SPENCE, CMC
City Clerk

By: _____

By: _____
Deputy

Name: _____

No signature of City Attorney required.
Standard Document #DPW-S 30.1 has
Been used without modification, as certified
by the undersigned.

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

By: _____
Randy Bell
Capital Projects Manager
Public Works Department

Any Applicable Professional License:
Number: _____
Name: _____
Date of Issuance: _____

REVIEWED BY:

Randy Bell, Capital Projects Manager
Public Works Department

Addresses:

CITY:
City of Fresno
Attention: Randy Bell,
Capital Projects Manager
2600 Fresno Street, 4th Floor
Fresno, CA 93721
Phone: (559) 621-8679
FAX: (559) 457-1334

CONSULTANT:
Fehr & Peers
Attention: Rob Hananouchi,
Project Manager
2990 Lava Ridge Court, #200
Roseville, CA 95661
Phone: (916) 773-1900
FAX: (916) 773-2015

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 Fehr & Peers (“CONSULTANT”)

ATP/BMP
PROJECT TITLE

PROJECT DESCRIPTION

The City is developing an Active Transportation Plan and is updating its Bicycle, Pedestrian and Trails Master Plan. The purpose of this project is to develop an Active Transportation Plan (ATP) in accordance with State Guidelines to enable the City to qualify for funding under the Active Transportation Program and to update the City's Bicycle, Pedestrian & Trails Master Plan (BMP). This document will build upon the goals and policies established in the 2010 BMP and the 2035 General Plan.

Fresno is striving to provide alternative modes of transportation to create a more sustainable healthy and economically viable community. A well-developed system of bicycle and pedestrian facilities is a critical component in our efforts to achieve that goal and create a high quality of life for our residents.

It is the intent of this Scope of Services to generally describe the extent of the work contemplated. In arriving at the final Active Transportation Plan, the CONSULTANT may be required to perform work that is not explicitly identified in this Scope of Services, but is reasonably foreseeable as incidental to, and necessary for, establishing or substantiating the final Plan. All such foreseeable work shall be included in the total not-to-exceed fee, unless otherwise specified herein. CONSULTANT may also be required to perform work that is not explicitly identified and is NOT reasonably foreseeable as incidental to or necessary for establishing or substantiating the final Plan, providing that it is within CONSULTANT's expertise and not otherwise in conflict with CONSULTANT's ethical or legal obligations. All such unforeseeable work shall be considered Additional Services, for which CONSULTANT shall be paid additional compensation and given additional time that are subject to a mutually negotiated amendment under Section 3 (c) of the Consultant Service Agreement between the CITY and CONSULTANT.

SCOPE OF SERVICES

The following scope of work identifies the tasks CONSULTANT will perform to develop the City of Fresno Active Transportation Plan (ATP) and Bicycle, Pedestrian, & Trails Master Plan (BPTMP) update. The ATP will incorporate the BPTMP update in one comprehensive planning document, thereby eliminating the additional planning effort and cost that would be required to create and maintain two plans. The combined plan will meet all requirements for active transportation plans as specified in the California Transportation Commission's Active Transportation Program Guidelines. It will incorporate the valuable data and lessons learned since our previous work on the 2010 BPTMP while also providing the City the opportunity to identify its top priorities based on available funding. CONSULTANT's work will include consideration of innovative and context-sensitive solutions that support safe and efficient multi-modal travel while reflecting community values and realities of implementation. CONSULTANT will also build upon the information and data developed in collaboration with the City of Fresno over the last few years on projects such as the Fresno General Plan Update and Master EIR (MEIR), Fresno Downtown Plans, Fresno Bus Rapid Transit (BRT), the Ventura-Kings Canyon Corridor Revitalization

Project, Fresno COG Environmental Justice Plan, and the recently started Southwest Fresno Specific Plan.

TASK 1: PROJECT KICK-OFF AND WORK PROGRAM REFINEMENT

CONSULTANT will conduct an initial kick-off meeting with the City of Fresno to review the final scope of work, schedule, work products, and management and communication procedures. The kick-off meeting will serve as our opportunity to verify the City's key objectives and significant issues that need to be reflected in the ATP, and identify any additional concepts or ideas that would appropriately address those objectives and issues. This discussion will also guide the development of future tasks and serve as a starting point for the vision and goals discussion during the first public workshop. A preliminary agenda for the meeting includes:

- Meet with City staff, introduce the project team, define lines of communication, verify the review and approval process, finalize the project schedule, and identify dates for future meetings and deliverables.
- Schedule monthly project status meetings.
- Identify the overall goals for the project.
- Prepare a list of information and data requests and provide it to the City.
- Identify concerned citizens and public agencies.
- Discuss relevant information requests including GIS data, other land use plans, traffic data, environmental documents, regulatory guidance documents, and educational programs.
- Discuss existing facilities, conditions, and potential bicycle and pedestrian improvements.
- Discuss the overall outreach strategy for the project.
- Identify priority study areas, corridors, and other community assets and destinations.

In advance of the kick-off meeting, CONSULTANT will review relevant local and regional planning documents and policies. From our work on the 2010 BPTMP and the MEIR for the recently adopted General Plan Update, we are already knowledgeable of and experienced with these documents and other applicable documents such as the Fresno Council of Governments (COG) Regional Transportation Plan and Sustainable Communities Strategy (RTP/SCS) and San Joaquin Valley Air Pollution Control District Plans. CONSULTANT will prepare a list of questions and data requirements to understand recent changes and to supplement our knowledge of the City of Fresno's bicycle, pedestrian, and trails network; BPTMP projects and programs; plans for Safe Routes to Schools programs; pedestrian programs; the City's Parks Master Plan Update; and development code update.

- » *Deliverables: Meeting agenda, list of requested information from the City, and attendance at Project Kick-Off.*

TASK 2: EXISTING CONDITIONS ANALYSIS

CONSULTANT will lead a thorough and efficient data collection process to complete all the existing conditions data collection and mapping as specified in the Active Transportation Program Guidelines. CONSULTANT will begin with data and files from previous work on the 2010 Fresno BPTMP, as well as recent efforts on the Fresno General Plan MEIR, Fresno Downtown Plans, Fresno COG Transportation Needs Assessment Study, and Southwest Fresno Specific Plan, allowing us to update and compile the existing conditions data quickly and efficiently.

Task 2.1: Policy & Program Review

In order for the Active Transportation Plan to be both an effective policy document and a guide for implementing bicycle and pedestrian programs and projects, a holistic view of how programs, practices, and policies related to walking and biking operate within the City is needed. The initial step in assessing the current state of the City's active transportation programs is to review all available planning documents and regulatory frameworks to establish an understanding of City policies and priorities. CONSULTANT will also use the existing pedestrian safety assessment policy review and a new bicycle safety assessment policy review to benchmark the City's policies against best practices. This analysis will provide an understanding of how programs, practices, and policies related to walking and biking are treated within the City and will compare the City's practices to best practices nationwide.

- » *Deliverable: Program, practice, and policy benchmarking technical memorandum; action plan to be incorporated into draft and final bicycle and pedestrian plan.*

Task 2.2: Data Collection & Mapping

CONSULTANT will update data from previous work and collect additional data as follows:

- Document the existing bicycle and pedestrian trips and share of trips based on available local data and American Community Survey commute information.
- Update the bicycle and pedestrian collision data with the number and location of bicycle and pedestrian related collisions by reviewing the last five years of collision data from the UC Berkeley's Traffic Injury Mapping System (TIMS) and available data from the City. CONSULTANT will also review non-location trend data such as temporal data and characteristics and severity of the collisions and persons involved.
- Review pedestrian safety data from the Pedestrian Safety Assessment and FHWA's Pedestrian Safety Focus City designation.
- Review land use, population, employment data, and transit connections to identify areas with latent demand for bicycle facilities.
- Prepare GIS maps of existing and planned bicycle and pedestrian facilities based on existing data from previous work with the City and additional documentation and data provided by the City. The GIS mapping will include locations of Class I, Class II, and Class III bikeways and sidewalk coverage along arterial and collector streets.
- Review bicycle and pedestrian facility capital and maintenance expenditure records provided by the City of Fresno.

CONSULTANT will also identify any data gaps in the bicycle and pedestrian facility mapping and any areas where existing facilities or planned facilities need to be clarified (including questions such as side of street a facility is located on or existence of short sections of a facility or gaps). CONSULTANT will then coordinate with City of Fresno staff to determine any additional data collection needs. These may include the mapping of sidewalk coverage in targeted areas with higher levels of pedestrian activity, such as within one-quarter mile of schools, mapping the locations of existing bicycle parking facilities at key activity centers (transit facilities, schools, parks, public buildings, and major shopping centers), or identifying the presence of pedestrian equipment (e.g., pedestrian heads, countdown timers, and/or marked crosswalks) at major signalized intersections or at major activity centers (e.g., downtown Fresno; California State University, Fresno; Manchester Center; and Fashion Fair Mall).

Additionally, CONSULTANT will review pedestrian and bicycle collision data to identify patterns and underlying factors that should be addressed by the ATP. CONSULTANT has utilized the Transportation Injury Mapping System (TIMS) database to identify 72 collisions involving pedestrians and 37 involving bicyclists, including 19 pedestrian and 3 bicyclist fatalities, from 2007-2012 in the City of Fresno. The TIMS software geocodes all collision data from the Statewide Highway Integrated Record System (SWITRS), and allows us to quickly and efficiently examine trends and patterns in pedestrian-auto collisions and bicycle-auto collisions.

- » *Deliverables: Existing conditions data and figures consistent with the ATP guidelines, including GIS maps and graphics of existing land use, major bicycle & pedestrian trip generators and destinations, existing trails and bikeways (Class I bike paths, Class II bike lanes, Class III bike routes), existing pedestrian facilities (sidewalks and paths), bicycle/vehicle & pedestrian/vehicle collision analysis, and connections to transit.*

Task 2.3: Equity Analysis

To ensure proposed facilities serve the populations that most need them, CONSULTANT will also identify potential disadvantaged communities and evaluate whether the distribution of proposed facilities is equitable relative to the distribution of the populations that most need them. CONSULTANT will identify these communities through use of American Community Survey data on household income and vehicle ownership, the CalEnviroScreen tool, and National School Lunch Program Data.

- » *Deliverables: Existing conditions data and GIS maps of existing demographic data to identify potential disadvantaged communities including barriers and opportunities in these communities.*

Task 2.4: Identification of Priority Areas

CONSULTANT will collaborate with the City of Fresno at the kickoff meeting (Task 1) or via conference call to identify up to seven priority areas for the Fresno ATP development. These priority areas may include major bicycle and pedestrian activity areas such as Downtown Fresno, California State University Fresno, the Tower District, the Blackstone Avenue corridor, the Ventura-Kings Canyon corridor, and the Shaw Avenue corridor. In determining these areas, the project team recommends that the City of Fresno consider existing and future bicycle and pedestrian demand and existing safety issues. These focus areas will receive more detailed evaluation for pedestrian and bicycle network improvements to address bicycle and pedestrian travel demand and safety.

TASK 3: ENHANCED NETWORK ANALYSIS

Task 3.1: Bicycle Travel Comfort Analysis

CONSULTANT will use its StreetScore+ tool evaluate the relative comfort and stress experienced by bicyclists on the existing bicycle network. StreetScore+ uses Level of Traffic Stress (LTS) as a means of evaluating the level of comfort for bicyclists while riding on a roadway facility. Variables used in the StreetScore+ tool include number of travel lanes, vehicle travel speed, vehicle traffic volume, and the presence and width of bike lanes, among others. CONSULTANT will use the attribute data from Task 2 for this task.

CONSULTANT will utilize the StreetScore+ tool to perform the following analysis:

- Identify high stress gaps in existing and planned bicycle network.
- Rank gaps on level of importance and those with the greatest impact.

- Add potential network improvements to system and reprocess the StreetScore+ LTS analysis to determine the level of improvement.
- Utilize these analyses to identify and prioritize improvements.
 - » *Deliverables: An ArcGIS Online Story Map and PDF maps illustrating:*
 - *LTS stress levels and gaps for the existing and planned bike facilities*
 - *Potential network improvements and new LTS stress levels that would result from their implementation*

TASK 4: PUBLIC OUTREACH AND COMMUNITY ENGAGEMENT

Public involvement is an important component of the ATP process as evidenced by the various State and federal requirements related to public participation and engagement for such plans. The project team is also experienced with outreach methods that overcome participation barriers and engage all members of the community, including minority and low-income populations.

Task 4.1: Development of a Community Engagement Plan

As one of the first project steps, CONSULTANT will coordinate with the City to develop a Community Engagement Plan, which will outline a comprehensive strategy to obtain feedback from the public on the 2010 BPTMP and to convey to the public the direction that the update needs to take to remain vital and fundable under current State guidelines. The goal of the Community Engagement Plan is to collaboratively develop an active transportation plan that will have the community's support for implementation.

CONSULTANT will develop an initial draft Community Engagement Plan that at a minimum shall include:

- Identification of and consultations with agencies having an interest in the study area in order to identify critical issues and problems in need of resolution
- Identification of community leaders, elected officials, and key community groups and recommended level and means of involvement in the study by those identified
- Identification of planned community events in the City that are scheduled during the study
- Description of participation methods, objectives, and where each fits into the schedule
- Establishment of parameters for a project website and use of social media.

The Plan will incorporate the community engagement tasks identified below and desired community engagement outcomes. The project team will collaborate with the City to determine the specific goals and tasks that will be incorporated into the Community Engagement Plan and develop a strategy and schedule for engaging the community at key points in the ATP development process. Community engagement strategies will build upon existing assets such as bike or pedestrian advocacy groups and well-established community organizations including community and faith-based groups, health associations, youth organizations, and others. The community engagement plan process will identify and recruit local partners and key cultural institutions for participation in community engagement activities throughout the ATP development process.

Task 4.2: Community Workshops and Events

CONSULTANT will coordinate with City of Fresno staff to organize public workshops where the public can meet with the City and project team. CONSULTANT anticipates that the public workshops would include participation from residents, workers, business owners, school administrators, school district officials, transit operators, City officials, and members of the bicycle and pedestrian community. In advance of each workshop, CONSULTANT will work with City staff to identify any other potential stakeholders, determine how to best engage members of disadvantaged communities, non-English speaking communities, and disabled communities, and assist in strategizing on how to engage and invite these community members to the workshop. CONSULTANT will develop materials that the City can use to notify the public as well as coordinate with the City in organizing the logistical details for each workshop, such as location, equipment, refreshments, and translation services. CONSULTANT will prepare workshop materials such as interactive boards and stations that are designed to engage and receive feedback from workshop participants. The public workshops will be a method of listening to the needs and opportunities expressed by city residents, business owners, and other key stakeholders so that the plan reflects their experience.

CONSULTANT will conduct two community workshops:

- The first community workshop will obtain feedback on the existing bicycle and pedestrian network and 2010 BPTMP and receive community input and recommendations for the new ATP.
- The second workshop will obtain feedback on a draft recommended network and priorities. Invitations to this workshop will be sent to all contacts made during the first round.

Following each workshop, CONSULTANT will prepare a written summary of the workshop, including comments and input received from the workshop attendees, for the City and project team's review.

- » *Deliverables: Two public workshops, workshop materials, written summary of comments and input received at the workshop, and recommendations for city review.*

Task 4.3: Stakeholder Advisory Committee

Regular engagement and dialogue with a broad spectrum of community stakeholders can help ensure that the community's priorities are identified and understood, that their needs are met, and that the planning process flows smoothly and with increased community support. In particular for this project, the City has an active bicycle community that will have strong interest in the project, and agencies and community groups may have specific interests and constituencies that are important to engage in the plan development process. To engage these key community members, the project team will collaborate with the City to identify a stakeholder advisory committee (SAC). The SAC will meet three times at the following key points in the project:

- Prior to the first community workshop
- To review and discuss the draft recommended network prior to the second community workshop
- To review and discuss the draft Active Transportation Plan

Community stakeholders that may participate on the SAC may include, but are not limited to, the following agencies and organizations:

- City of Fresno Bicycle Pedestrian Advisory Committee (BPAC)
- Bicycle Advocacy Groups, including Fresno Cycling Club & I Bike Fresno
- Fresno COG
- Local jurisdictions, such as the City of Clovis and County of Fresno
- Education Institutions, including K-12 school districts, Colleges, & Universities
- Irrigation Districts
- Environmental Justice Advocacy and Neighborhood Groups
- Disabled and Disadvantaged Community Advocacy Groups
- Community and Faith-Based Organizations

CONSULTANT will collaborate with City of Fresno staff on preparing invitations for stakeholders as well as preparing an agenda and materials for each SAC meeting. Following each SAC meeting, CONSULTANT will prepare a written summary of the meeting, including action items, comments, and input received from the stakeholders, for the City and project team's review.

- » *Deliverables: Attendance at three stakeholder advisory committee meetings, meeting materials, written summary of comments and input received at the meetings, and recommendations for City review.*

Task 4.4: Data Collection & Community Engagement Utilizing CrowdSource+ Tool

Crowdsourcing applications are web vehicles for engaging the community with a project or task and seeking their assistance and knowledge. Using CONSULTANT's custom CrowdSource+ community engagement tool, we will utilize an Enterprise GIS system to engage the community to seek their knowledge and give them the ability to share content by mapping bicycle and pedestrian facilities. This tool gives the community an opportunity to play an active role in the Active Transportation Plan and share details that may otherwise not be available through other sources. It also allows members of the community who might not participate in community meetings to participate in the process.

CONSULTANT will coordinate with City staff to determine the type of information and feedback that is desired from the community via the CrowdSource+ tool. This could include identifying existing facilities, such as the location, type, and number of bicycle parking spaces, or identifying issues or priorities for improvement such as sidewalk gaps, safety concerns, or maintenance location issues. CONSULTANT will work with the City to design the crowd sourcing content and information users can provide that will assist the Active Transportation Plan development.

After finalizing the content and purpose for the CrowdSource+ tool with City staff, the tool will be introduced to the public during the first round of public outreach (Task 3). The tool will also be publicized via a page on the City website, a press release that CONSULTANT will draft for the City to provide to the Fresno Bee and other local media, and an outreach letter that CONSULTANT will draft for the City to solicit input from local bicycle groups, parent groups, and other stakeholders and interested parties who can provide input to the process. CONSULTANT will also create a flyer and business cards that can be placed in local bike shops and other venues to publicize both the CrowdSource+ tool and the ATP project.

- » *Deliverables: CrowdSource+ GIS-based tool developed specifically for public engagement on the Fresno ATP and associated outreach material content including text for the City website, press release, publicity letter, flyer, and business card.*

TASK 5: DRAFT RECOMMENDED NETWORK AND PROJECT LIST

After the first phase of community engagement workshop(s) is completed, CONSULTANT will identify draft recommendations for the seven priority areas identified in Task 2.4 as well as draft recommended City-wide bicycle and pedestrian networks. These recommendations and draft networks will incorporate feedback received in the first phase of community engagement in accordance with the CTC's Active Transportation Program Guidelines and Streets and Highways Code Bicycle Transportation Plan requirements. CONSULTANT will also create a prioritized list of feasible projects that will support this network and other priorities identified for this project.

Task 5.1: Coordination with Parks Master Plan Update

Bicycling and walking are frequently used both as a recreational activity in parks and as a transportation mode to access parks. Trails can even be the focus of parks, as exemplified by the San Joaquin River Parkway. Additionally, Fresno General Plan policies POSS-3-b, c, d, and f specifically identify the importance of bicycling and pedestrian facilities for parks. Thus, the ATP will also consider the recommendations of and be coordinated with the upcoming City of Fresno Parks Master Plan update. CONSULTANT will work with City staff to align key elements of these processes and ensure that relevant components and input from the Parks Master Plan update process are reflected in the draft recommended network (see Task 5.1). Additionally, CONSULTANT shall participate in up to three meetings related to the Parks Master Plan Update.

- » *Deliverables: Attendance at up to three meetings related to the Parks Master Plan Update.*

Task 5.2: Recommended Network

The draft network recommendations will consist of:

- Map of recommended bicycle network of bike paths, bike lanes, and bike routes. This recommendation will include specifics such as on which side of a canal a trail should be constructed.
- Map of recommended pedestrian network on arterial and collector streets and in priority areas identified in Task 2.4. This recommendation will include specifics such as addressing sidewalk gaps and where new sidewalks should be constructed.

The proposed bicycle and pedestrian network will include the following:

- Opportunities for connections to other transportation modes.
- Opportunities for connections to activity centers.
- Benefit to disadvantaged communities identified in Task 2.
- Integration with neighboring and regional jurisdictions and entities including the City of Clovis, Caltrans, Fresno County, CSU Fresno, and Fresno COG and into their planning, including the Fresno COG 2014 RTP/SCS.

- Identification of pedestrian-related improvements to serve identified priority areas. This will include sidewalk gap closures on arterials and collectors.
- Identification of safety-related improvements. CONSULTANT has done innovative, award-winning work characterizing factors common among collisions and identifying countermeasures to address them, and will apply this research to its work with the City.
- Identifying Bike Boulevard networks in priority areas and corridors to serve key destinations, where appropriate. This network may serve as an alternative to streets where bicycle facilities are less desirable due to high motorized vehicle volumes and limited right-of-way.

Additionally, CONSULTANT will identify:

- Recommendations for bicycle parking on City-controlled properties and bike parking implementation guidance for interested businesses.
- Recommended signage, including options for innovative concepts such as walk time to key destinations.
- Estimated increase in bicycle and pedestrian trips resulting from plan implementation.
 - » *Deliverables: Maps of existing and proposed bicycle and pedestrian facilities.*

Task 5.3: Prioritized Project List

Based on a review of relevant planning and policy documents, existing conditions field observations, the exercise of professional judgment, and community input from the community workshops, CONSULTANT will develop a draft project list including policy, program and infrastructure interventions to improve conditions for bicycling and walking in the City. The project list will detail descriptions of each project, including a discussion of potential project benefits and impacts. The list will also include recommendations for the City to promote and enhance bicycle and pedestrian education and outreach, such as promotional materials, roll-out events, tag lines, signage, and logos, both as stand-alone programs and in support of targeted infrastructure projects. The list will identify short-term priorities, such as projects that will fit within the existing right-of-way or require relatively simple infrastructure changes or serve high demand areas, and long-term priorities, such as projects that require land acquisition or more complex infrastructure development or serve low demand areas.

Once the project list has been reviewed by City staff, CONSULTANT will begin an objective and quantitative prioritization process. This process will quantify a project's benefits and potential impacts, but will also be intuitive and incorporate a measure of community support based on input from the workshops.

Factors which will be evaluated in the prioritization include:

- Accordance with plan goals as identified in Tasks 1 and 4
- StreetScore+ assessment of multi-modal tradeoffs (see Task 3.2)
- Feasibility: who controls the land for the proposed project: the City of Fresno, Fresno Irrigation District, a railroad (Burlington Northern-Santa Fe, Union Pacific, or San Joaquin Valley) or someone else? Is the project in an area that will change in the future, or is it fully developed and unlikely to be changed? Will the project fit into the existing right-of-way?
- Projects from the 2010 BPTMP will be reviewed as part of this process and eliminated from the plan if they are unfeasible.

- » *Deliverable: Draft prioritized project list.*

TASK 6: POLICY AND PROGRAM RECOMMENDATIONS

Utilizing the Policy and Program Review prepared under Task 2.1, CONSULTANT will work closely with the City to develop goals and policies that are consistent with the City's General Plan, Parks Master Plan Update and other key documents. As needed, CONSULTANT will suggest refinements and enhancements to make the ATP consistent with other planning efforts. As part of this task, CONSULTANT will consolidate all active transportation planning goals and policies in relevant planning documents and prepare a red line assessment to identify goals and policies that may need to be updated because of the ATP.

CONSULTANT will also propose programs incorporating the five basic E's (Education, Encouragement, Enforcement, Engineering, and Evaluation) as well as Equity and Enrichment supporting the objectives of the plan. A key component of this will be the development and implementation of a program to eliminate behaviors that lead to collisions between vehicles, pedestrians, and bicyclists (see Task 7).

- » *Deliverables: Draft and final policy framework based on one round of consolidated comments from City and stakeholders; recommended programs supporting the E's.*

TASK 7: BICYCLE & PEDESTRIAN SAFETY EDUCATION PLAN

CONSULTANT will prepare a bicycle and pedestrian safety education outreach plan that the City of Fresno can use to reach the public regarding safe bicycle and pedestrian travel behavior. The principal elements of this safety-oriented public education and outreach plan will include:

- Analysis of common causes of bicycle and pedestrian-related collisions
- Effective coordination and communication with affected public agencies; in addition to the stakeholder agencies identified in the Community Engagement Plan prepared in Task 4.1, the Fresno Police Department and other public safety agencies should be involved
- Utilization of locally proven and effective educational tools, venues, and events
- Strategies for education, enforcement and evaluation
- Strategies to address bicyclists/pedestrians as well as motorists
- Identification of additional educational resources available, both nationally and locally
- Identification of potential funding sources for implementation

The document will identify the key agencies, such as the City's Public Works department, Fresno Police Department, Fresno Area Express (FAX), and educational institutions that should be included in the safety education process. It will also identify strategies to engage and inform the public as well as key curriculum components that should be included in the public safety education. This plan will be catered towards locations and behaviors associated with a high collision rate, as noted in previous analyses. Lastly, the plan will identify potential funding sources for implementing the safety education plan. As a separate document from the ATP, the Bicycle & Pedestrian Safety Education Plan can be a living document that can continue to evolve and be refined in the future to ensure continuous enhancement of bicycle and pedestrian safety.

- » *Deliverables: An educational outreach strategy and plan to reduce vehicle/pedestrian/bicycle collisions.*

TASK 8: CROSS SECTION, DESIGN, AND POLICY GUIDANCE FOR KEY CONCEPTS

CONSULTANT will provide City staff with relevant information that will assist the City in developing future guidance related to bicycle and pedestrian facilities. This guidance will recommend design standards, policies, and/or common concepts and cross-sections for the projects identified in Task 5. Conceptual bikeway design concepts may include:

- Class I multi-use paths.
- A street with sidewalks and Class II bike lanes.
- A road with a Class III bike route.
- A right-of-way reallocation, or road diet, implementing Class II bike lanes.

This guidance will include a review of current City policies and/or design standards related to these concepts. CONSULTANT will also collaborate with the City on recommended changes to bicycle policies and design standards as part of Task 6.

Additionally, CONSULTANT will provide conceptual design concepts of pedestrian crossing treatments, including possible enhancement features such as signage, lighting, bulb outs, median refuge islands, and/or striping. Development of specific pedestrian crossing guidelines and policies are not included in this scope of services and may be provided as an additional service if authorized by the CITY.

» *Deliverables: Recommended policy and design standards and sample project cross sections.*

TASK 9: CAPITAL COST ESTIMATES, MAINTENANCE, AND FINANCING

CONSULTANT will use unit cost estimates for proposed pedestrian and bicycle facilities. These cost estimates will be based on updated design standards, recent construction bids, the Caltrans Cost Data book, and CONSULTANT's expertise in cost estimating. CONSULTANT will apply the unit cost estimates to develop individual planning level project costs and overall network cost and recommended phasing. This task will include:

- Candidate unit cost estimates for Class I bike paths (with separate accounting for bridges), Class II bike lanes (including restriping only, widening roadway without reconstructing curb/gutter, and widening roadway with reconstructing curb/gutter), and Class III bike routes (signage only).
- Candidate unit cost estimates for sidewalks and crossing enhancements.
- Maintenance, including an inventory of maintenance entities for existing sidewalks, trails and bikeways with GIS and map, desired maintenance levels, and unit costs for various types of maintenance, including painted bike lanes.
- Identification of candidate funding sources.

» *Deliverables: Planning-level capital cost estimates, maintenance estimates, and a list of candidate funding sources.*

TASK 10: PREPARATION OF DRAFT ACTIVE TRANSPORTATION PLAN

CONSULTANT will prepare a Draft Active Transportation Plan from the assembled information and deliverables for Tasks 2-9 and comments received from City staff and the public. This task will be the most significant component of the project, though much of the plan will build on the efforts of previous

tasks. This task will focus on consolidating prior efforts and will include prioritization strategies (high/medium/low prioritization), an implementation guide by facility type based on appropriate short-term and long-term timeframes, capital and maintenance cost estimates, and opportunities for grant funding (including funding for additional planning grants, such as for schools). This work will be consistent with the CTC's Active Transportation Program and Measure C funding requirements and include matrices showing where requirements for each program are addressed within the ATP.

- » *Deliverable: Draft Active Transportation Plan including PDF files.*

TASK 11: FINAL ACTIVE TRANSPORTATION PLAN

After receiving feedback on the Draft ATP, CONSULTANT will incorporate the feedback into a Final Active Transportation Plan.

- » *Deliverable: Final Active Transportation Plan including 10 printed copies, PDF files, and GIS files.*

TASK 12: PUBLIC REVIEW AND ADOPTION

CONSULTANT will assist city staff in presenting the Final Active Transportation Plan to the Planning Commission and City Council for final action. CONSULTANT will lead the presentation after an introduction by City staff.

- » *Deliverable: Attendance at two public hearings.*

Exhibit B

INSURANCE REQUIREMENTS **Consultant Service Agreement between City of Fresno (“CITY”)** **and Fehr & Peers (“CONSULTANT”)**

ATP/BMP
PROJECT TITLE

MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. The most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01, providing liability coverage arising out of your business operations. The Commercial General Liability policy shall be written on an occurrence form and shall provide coverage for “bodily injury,” “property damage” and “personal and advertising injury” with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the Agreement) with limits of liability not less than those set forth under “Minimum Limits of Insurance.”
2. The most current version of ISO *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). If personal automobile coverage is used, the CITY, its officers, officials, employees, agents and volunteers are to be listed as additional insureds.
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 CONSULTANT’S profession. Architect’s and engineer’s coverage is to be endorsed to include contractual liability.

MINIMUM LIMITS OF INSURANCE

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 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.

OR*

PERSONAL AUTOMOBILE LIABILITY insurance with limits of liability not less than:

- (i) \$100,000 per person;
- (ii) \$300,000 per accident for bodily injury; and,
- (iii) \$50,000 per accident for 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 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

CONSULTANT shall be responsible for payment of any deductibles contained in any insurance policy(ies) required herein and CONSULTANT shall also be responsible for payment of any self-insured retentions. Any deductibles or self-insured retentions must be declared on the Certificate of Insurance, and approved by, the CITY'S Risk Manager or his/her designee. At the option of the CITY'S Risk Manager or his/her designee, either:

- (i) The insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CITY, its officers, officials, employees, agents and volunteers; or

- (ii) CONSULTANT shall provide a financial guarantee, satisfactory to CITY'S Risk Manager or his/her designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall 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. CITY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds. 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 10 01 and CG 20 37 10 01 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 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 related to this Agreement, 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 CONSULTANT'S insurance and shall not contribute with it. 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: CONSULTANT and its insurer shall waive any right of subrogation against 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 CONSULTANT.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Agreement work, or termination of the Agreement, whichever occurs first, or, in the alternative, the policy shall be endorsed to provide not less than a five (5) year discovery period.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the Agreement or the commencement of work by CONSULTANT, CONSULTANT

must purchase "extended reporting" coverage for a minimum of five (5) 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 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 CITY. 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, CONSULTANT shall furnish 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 CITY, 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.

VERIFICATION OF COVERAGE

CONSULTANT shall furnish 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 his/her designee prior to 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 CITY, 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.

Exhibit C

DISCLOSURE OF CONFLICT OF INTEREST

ATP/BMP
PROJECT TITLE

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

Explanation: _____

Signature

Date

(name)

(company)

(address)

(city state zip)

Additional page(s) attached.

Exhibit D
FEDERAL AND STATE ASSURANCES
Consultant Service Agreement between City of Fresno (“CITY”)
and Fehr & Peers (“CONSULTANT”)
ATP/BMP

1. 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. 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. 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 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 CONSULTANT to CITY.
3. Subcontracting
 - a. 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 CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or CONSULTANT services. 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: 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, CITY shall receive a proper refund or credit at the conclusion of the Agreement, or if the Agreement is terminated, CONSULTANT may either keep the equipment and credit 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 CITY procedures; and credit CITY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT'S expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to CITY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by 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. CONSULTANT certifies to the best of his or her knowledge and belief that:

1. No state, federal or CITY appropriated funds have been paid, or will be paid by-or-on behalf of 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; CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

B. 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.

C. 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, 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. CONSULTANT and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. 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. 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.

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 Fehr & Peers (“CONSULTANT”)
ATP/BMP

(1) 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) 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. 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 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 CONSULTANT of the CONSULTANT'S obligations under this Agreement and the REGULATIONS relative to nondiscrimination on the grounds of race, color, or national origin.

(4) CONSULTANT shall provide all information and reports required by the REGULATIONS, or directives issued pursuant thereto, and shall permit access to 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 CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, CONSULTANT shall so certify to the State of California (“STATE”) or the FHWA as appropriate, and shall set forth what efforts CONSULTANT has made to obtain the information.

(5) In the event of 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 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) 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. 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 CONSULTANT becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, CONSULTANT may request STATE enter into

such litigation to protect the interests of STATE, and, in addition, CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

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

I HEREBY CERTIFY that I am _____, and duly authorized representative of the firm of _____ whose address is _____, 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 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 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) _____

(Signature) _____