

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

THIS AGREEMENT is made and entered into effective the _____ day of June, 2020, by and between the CITY OF FRESNO, a California municipal corporation (hereinafter referred to as "CITY"), and Toole Design Group, a Maryland Limited Liability Company (hereinafter referred to as "CONSULTANT").

RECITALS

WHEREAS, CITY desires to obtain professional engineering services for Travel by Trail, Fresno!, hereinafter referred to as the "Project;" and

WHEREAS, CONSULTANT is engaged in the business of furnishing services as a Transportation Engineer 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 February 28, 2022, 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 six hundred twenty eight (628) 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 One Hundred Thousand Six Hundred Ninety One Dollars (\$100,691), and a contingency amount not to exceed Ten Thousand Dollars (\$10,000) 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.

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.

(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 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.

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

(e) Neither CONSULTANT, nor any of CONSULTANT'S subcontractors performing any services on this Project, shall bid for, assist anyone in the preparation of a bid for, or perform any services pursuant to, any other contract in connection with this Project. CONSULTANT and any of its subcontractors shall have no interest, direct or indirect, in any other contract with a third party in connection with this Project unless such interest is in accordance with all applicable law and fully disclosed to and approved by the City Manager, in advance and in writing.

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

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

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

- (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.

(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 and shall be available to CITY or its authorized representatives upon request during regular business hours throughout the life of this Agreement and for a period of three years after final payment or, if longer, for any period required by law. In addition, all books, documents, papers, and records of CONSULTANT pertaining to the Project shall be available for the purpose of making audits, examinations, excerpts, and transcriptions for the same period of time. If any litigation, claim, negotiations, audit or other action is commenced before the expiration of said time period, all records shall be retained and made available to CITY until such action is resolved, or until the end of said time period whichever shall later occur. If CONSULTANT should subcontract all or any portion of the services to be performed under this Agreement, CONSULTANT shall cause each subcontractor to also comply with the requirements of this paragraph. This Section 11(b) shall survive expiration or termination of this Agreement.

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

12. Nondiscrimination. To the extent required by controlling federal, state and local law, CONSULTANT shall not employ discriminatory practices in the provision of services, employment of personnel, or in any other respect on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran or veteran of the Vietnam era. Subject to the foregoing and during the performance of this Agreement, CONSULTANT agrees as follows:

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

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

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

(d) CONSULTANT will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising such labor union or workers' representatives of CONSULTANT'S commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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

13. Independent Contractor.

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

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

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

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

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

16. Assignment.

(a) This Agreement is personal to CONSULTANT and there shall be no assignment by CONSULTANT of its rights or obligations under this Agreement without the prior written approval of the City Manager or 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.

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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

By: _____
Randall W. Morrison, PE, MCE,
Assistant Director
Public Works Department

ATTEST:
YVONNE SPENCE, CMC
City Clerk

By: _____
Deputy

No signature of City Attorney required.
Standard Document #DPW-S 28.1 has
been used without modification, as certified
by the undersigned.

By: _____
John Honey, PE
Professional Engineer
Public Works Department

REVIEWED BY:

Scott Tyler PE, Public Works Manager
Public Works Department

Addresses:
CITY:
City of Fresno
Attention: John Honey, PE,
Professional Engineer
2600 Fresno Street
Fresno, CA 93721
Phone: (559) 621-8651
FAX: (559) n/a

Toole Design Group,
a Maryland LLC

By: _____
Jennifer Toole

Name: Jennifer Toole

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

By: _____
RJ Eldridge

Name: RJ Eldridge

Title: Executive Vice President
(if corporation or LLC, CFO,
Treasurer, Secretary or Assistant
Secretary)

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

CONSULTANT:
Toole Design Group
Attention: Kristen Lohse, ASLA,
Senior Urban Designer
8484 Georgia Ave Suite 800
Silver Spring, MD 20910
Phone: (206) 297-1601
FAX: n/a

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

Exhibit A

SCOPE OF SERVICES Consultant Service Agreement between City of Fresno (“City”) and Toole Design Group (“Consultant”)

Travel by Trail, Fresno!

PROJECT TITLE

This scope of work outlines the tasks and deliverables to be undertaken by Toole Design (CONSULTANT) to develop a trail-based wayfinding plan for the City of Fresno (COF). The goal of this plan is to identify wayfinding signage strategy that will knit together Fresno’s expanding trail network, close first- and last-mile connections to transit and increase the visibility of trails. As part of the project, promotional materials to encourage mode shift to walking and bicycling will also be developed. The plan will be developed in collaboration with a Steering Committee and will engage community-based organizations and the general public.

The primary tasks for developing this plan are:

- Task 1. Project Initiation and Coordination
- Task 2. Existing Conditions and Best Practices Review
- Task 3. Community Engagement
- Task 4. Sign Protocol and Concepts
- Task 5. Draft Wayfinding Plan
- Task 6. Final Wayfinding Plan
- Task 7. City Council Adoption
- Task 8. Reporting

TASK 1. PROJECT INITIATION AND COORDINATION

Task 1.1 Kick-Off Meeting

Responsible Party: City of Fresno

Task 1.2 Initial Steering Committee Meeting

Responsible Party: City of Fresno

Task 1.3 Consultant Selection

Responsible Party: City of Fresno

Task 1.4 Consultant Kick-Off Meeting

A Kick-Off meeting will be scheduled with the CONSULTANT to initiate the project. The meeting will include a discussion of the scope of work, schedule and budget, identification of stakeholders, anticipated challenges and opportunities, communication protocols, and data needs (maps, files, relevant planning documents, etc.) to successfully begin the planning process. A meeting agenda and summary will be provided.

Task 1.5 Subsequent Steering Committee Coordination Meetings

Throughout the project the City will have meetings with the Steering Committee and/or with consultants to ensure questions are resolved, communication remains open and tasks are completed according to the planned schedule and agreed upon budget. Caltrans will be included in coordination meetings. CONSULTANT will attend, and prepare materials for, up to three coordination meetings, coinciding with major project milestones. Attendance may be in-person or via phone.

Task 1. Deliverables

1.4 Consultant Kick-off Meeting notes (CONSULTANT)

1.5 Materials for up to three Steering Committee Coordination meetings (agenda, PPT or other presentation materials) and notes (CONSULTANT)

TASK 2. EXISTING CONDITIONS & BEST PRACTICES

Task 2.1 Review Existing Plans & Places

In order to become familiar with adopted plans, get a sense of the unique places within the City, ascertain historical community priorities, and gather context for wayfinding, CONSULTANT will review relevant plans and documents. Material to be reviewed include but are not limited to:

- City of Fresno Active Transportation Plan and Trail Design Guidelines
- Parks and Trails Master Plan
- Blackstone Smart Mobility Plan
- Caltrans Smart Mobility Framework - Smart Mobility Principles
- Fresno County Regional Active Transportation Plan
- City of Clovis Active Transportation Plan.
- Local Tourism Plan

Findings will be summarized in a summary table.

Task 2.2 Review Existing Wayfinding Tools and Branded Materials

In order to become familiar with adopted graphics, style, language use and overall communications branding used by the City and neighboring jurisdictions, CONSULTANT will complete a brand audit by reviewing relevant print and digital materials. Materials to be reviewed include but are not limited to:

- City of Fresno, Clovis and Fresno County websites and trail maps
- FresGO user interface (mobile and web)
- Fulton Street wayfinding, wayfinding on existing trails, promotional materials, signage and public-facing communications
- "I Believe in Downtown Fresno"

Findings will be summarized in a table.

Task 2.3 Review Existing and Proposed Trail Network to Assess Wayfinding Needs

In order to become familiar with the City's trail and transit network, CONSULTANT will visit existing trails to observe navigational needs. This will include the future location(s) of the Midtown Trail and other future trails. During this visit, CONSULTANT will observe and identify navigational needs. This will include general types of wayfinding and potential locations for placement. This will be an iterative process, done in conjunction with public input (Task 3). Signage types and features anticipated to be identified include:

- Confirmation signs (en route signs),
- Decision and Turn signs
- Walk time/bike time (i.e. to destinations, transit connections)
- Advisories (e.g. Do not cross, use pedestrian bridge)
- Intermodal Transit Information
- Information panels or Kiosks with system maps (e.g. "You Are Here" maps)
- Trail markers/mile markers, ground-plane wayfinding and other visual cues
- Transitional signage
- Markers for different trail owners, such a City of Clovis and Fresno County

Findings will be summarized in a memo and map(s).

Task 2.4 Identify and Prioritize First Mile and Last-Mile Connections

CONSULTANT will review the FAX Q Line Bus Rapid Transit Route, as well as other FAX routes through the City of Fresno in relation to existing and future trails to be constructed within next 5 years. CONSULTANT will identify general and specific first mile and last-mile navigation challenges and opportunities to maximize connections between trails and transit. CONSULTANT will use this information to develop wayfinding implementation recommendations along the trail network (for example: time-to-station signage). First-mile and last-mile barriers will be examined in the context of the Active Transportation Plan infrastructure recommendations and used to inform future grants and capital project planning.

Findings will be summarized in a memo and map(s).

Task 2. Deliverables

2.1 Existing Conditions and Best Practices Review Summary Table (Word)

2.2 Existing Wayfinding Tools and Branding Review Summary of Findings Table (Word)

2.3 Existing and Proposed Trail Network Assessment Summary of Findings Memo and Map(s), Word, pdf map(s)

2.4 First and Last Mile Connections Summary of Findings Memo and Map(s) Word, pdf map(s)

Task 2 deliverables will be presented as drafts. The City's review comments will be incorporated into final wayfinding plan (Tasks 4 and 5).

TASK 3. COMMUNITY ENGAGEMENT

Task 3.1 Community Engagement Plan

Covid-19 Update:

The community engagement scope of work reflects CONSULTANT'S approach, including in-person meetings, and are assumed to begin once social distancing measures are no longer necessary. However, given the uncertain nature of this unprecedented public health crisis we are prepared to shift to a fully online approach, if necessary.

CONSULTANT will develop a Community Engagement Plan (CEP) that will identify key stakeholders and organizations the City will partner with to reach a broad and representative group of residents. Special attention will be given to ensure minority and low-income environmental justice communities in disadvantaged areas are addressed and included. The Spectrum of Public Participation will be consulted in development of the CEP.

An initial list of stakeholder partners will be generated in Steering Committee Meeting (Task 1.2, City of Fresno) The CEP will state initial goals, messages, and schedules for the Promotion and Attendance at Participatory Planning Pop-up meetings (Task 3.3 and 3.4) The CEP should be coordinated with the COF Public Information Officer (PIO). The CEP will also include a schedule and approach to public notices, and translation and interpretation in Spanish and other languages as needed. The CEP will be submitted to the Steering Committee and Caltrans for review and approval.

The COF will contact engaged residents to invite them to participate in the planning process. A list of engaged citizens that have participated in prior planning efforts will be provided to consultant to support promotional efforts. This list will be gathered from the Long-Range Planning Department and Department of Public Works.

Task 3.2 Steering Committee and Caltrans Review of CEP

Responsible Party: City of Fresno & Caltrans

City of Fresno will submit the CEP to Caltrans and the Steering Committee for review. City of Fresno and CONSULTANT may convene a Steering Committee to discuss the CEP (optional).

Task 3.3 Promotion of Pop-Up Participatory Planning Meetings and Surveys

Responsible Party: City of Fresno & Caltrans

CONSULTANT will develop materials as identified in the CEP for both the Pop-up Planning Meetings and Online Survey. CONSULTANT will provide multilingual (i.e., English, Spanish,) flyers and social media verbiage to COF PIO and Project Manager to support City's promotion efforts and public noticing. CONSULTANT will provide materials for multiple methods to advertise and promote meetings and online surveys, such as email, flyers, social media, print media, radio, as appropriate.

Task 3.4 Pop-up Participatory Planning Meetings - Gathering Needs and Priorities

Responsible Party: City of Fresno & Caltrans

Pop-up Participatory Planning meetings at established events and locations will ensure representative and diverse perspectives if there is an emphasis on reaching historically underrepresented communities. These meetings can occur at two stages of engagement:

- Phase 1: Gathering Needs and Defining Style Preferences

Phase 1 Pop-Up Meetings will gather input on:

- o Past and/or current identity
- o Iconic locations and features
- o Mental maps of Fresno
- o Style preferences

- Phase 2: Refining the Brand and Determining Priorities

Phase 2 Pop-Up Meetings will gather input on:

- o Refining font and color palettes
- o Logos, visuals, and accessibility
- o Priority needs for first-and-last mile connections

CONSULTANT will develop a Pop-Up Meeting Kit and will attend two Pop-up Participatory Planning Meetings, one for each phase. CONSULTANT will provide training on the "kit" to City staff (and potentially community-based organizations) so that they can be offered at all seven of the City of Fresno's Council districts with volunteers and City staff during each phase of engagement.

Feedback collected from the pop-up meetings will be used to ensure wayfinding reflects community priorities. At the end of each community engagement effort, short evaluations will be completed to gauge the effectiveness of the methods used during the effort and identify areas for improvement.

Task 3.5 Online Surveys (2)

CONSULTANT will develop two brief online participatory planning surveys to collect public input in an alternative format to in-person meetings on the same topics, and during the same timeframes, as the pop-up meetings in Task 3.4:

- Phase 1: Gathering Needs and Defining Style Preferences
- o Past and/or current identity

- o Iconic locations and features
- o Mental maps of Fresno
- o Style preferences
- Phase 2: Refining the Brand and Determining Priorities
- o Refining font and color palettes
- o Logos, visuals, and accessibility
- o Priority needs for first-and-last mile connections

The surveys will be provided in a screen-reader accessible format and be made available in English and Spanish. The surveys will request zip codes to track geographic participation. The survey should be active for a minimum of one month's time. Ideally, a minimum of 300 responses should be collected, though more are preferred to achieve statistical significance and capture a representative sample. Survey results to be summarized and incorporated into the plan. Raw data should be provided to the City of Fresno along with the summary results. To achieve the target response, CONSULTANT may choose to create an incentive, such as entering participants in a raffle to win a prize like a fitness tracking device.

Task 3. Deliverables

3.1 Community Engagement Plan (Word)

3.2 Caltrans and Steering Committee Review (City of Fresno)

3.3 Engagement Flyers and promotional materials (social media text, emails, etc.) (Word or PDFs)

3.4 Pop-up meeting materials and attendance at two meetings: instructions, boards/images, handouts, sign-in sheets, and spreadsheets for tracking public input (Word or PDFs)

3.5 Online Surveys (2): survey questions, survey results summary, raw survey data (Word, online survey service)

TASK 4. DEVELOP SIGN PROTOCOL AND SIGN CONCEPTS

Task 4.1 Sign Protocol and Conceptual Design Alternatives

Based on stakeholder input from the Pop-Up Planning Meetings and Online Survey in Task 3 (Phase 1 Gathering Needs and Style Preferences) and content from Tasks 1 and 2, the CONSULTANT will develop recommendations for a sign family and three conceptual design alternatives for review. The alternatives will include imagery, color palette, typefaces and conceptual design for signage types identified in Task 3 other design information for review and consideration by the COF and Steering Committee.

The proposed signs will be "ground checked" by developing typical sign placement scenarios based on existing segments to ensure that the recommendations are functional and appropriate for various types of users. The Sign Protocol will provide guidance for sign placement on future segments of the trail.

There will be one initial round of review of the Sign Family and Conceptual Design Alternatives. After initial feedback, the CONSULTANT will revise the Sign Family and Conceptual Design Alternatives and proceed with the second phase of Pop-Up Planning Meetings and Online Surveys in Task 3 (Phase 2 Refining the Design and Determining Priorities).

4.2 Preferred Sign Design

After the second phase of Pop-Up Planning Meetings and Online Surveys in Task 3, the CONSULTANT will meet with the Steering Committee for the purposes of holding a comments review meeting and selecting a preferred wayfinding sign design and family.

Task 4.3 Sign Placement Recommendations

The CONSULTANT will identify high-priority segments for wayfinding and develop general recommendations for installation and typical placement illustrations for up to five (5) scenarios based on existing trail segments and/or within nodes or community identified districts, to facilitate on interconnectivity between segments in Fresno County and the City of Clovis. Sign placement scenarios will be depicted on illustrative diagrams.

Task 4. Deliverables

4.1 Sign Protocol and 3 Conceptual Design Alternatives

4.2 Preferred Sign Design Alternative

4.3 Sign Placement Concepts

TASK 5. DRAFT WAYFINDING PLAN

The draft plan will be based on findings from Task 1 and Task 2, community input solicited in Task 3, and Sign Protocol and preferred conceptual design alternative developed in Task 4. The Plan will be "ground checked" on existing segments as it is developed to ensure that recommendations are functional and appropriate for various types of users.

Task 5.1 Plan Outline

CONSULTANT will develop a draft plan outline for review by COF as a starting point for production of the draft plan. There will be one round of review of the outline. The plan will initially be compiled in Word along with graphics and maps (as pdfs and jpgs). The draft plan will be produced as a fully ADA-compliant (screen-reader accessible document) for public reviews, but not for internal reviews.

Task 5.2 Draft Design Intent Document

The CONSULTANT will prepare a draft Design Intent document that provides critical details on the sign types, design, branding, imagery, color palette and typefaces.

Task 5.3 Administrative Draft Trail Network Wayfinding Plan

Once the plan outline has been finalized, the CONSULTANT will compile existing content from Tasks 1, 2, 3, and develop any remaining content to complete the plan. Anticipated elements will include:

Plan Contents will include the following:

- Chapter 1: Existing Conditions and Best Practices
 - o Existing Wayfinding Tools and Branding
 - o Existing and Proposed Trail Network Assessment, Opportunities and Constraints
 - o First-mile and last-mile barriers to public transportation
- Chapter 2: Community Engagement
 - o Summary of public outreach, comments and survey results for items
- Chapter 3: Wayfinding Protocol
 - o "Brand" strategy (imagery and layout) for trail wayfinding that reflect the community and increases trail usability
 - o Preferred Sign Design Alternative and recommended Sign Family
 - o General recommendations for installation and typical placement illustrations for up to ten (10) scenarios

- o Recommendations for digital wayfinding tools and features based on community input (website, application, etc.)
 - Chapter 4: Implementation & Next Steps
- o Prioritization strategy
- o Trail network promotion strategy and draft materials to highlight the citywide trail network/encourage trail use and travel mode shift
- o Estimated costs and potential funding sources
- o Maintenance considerations

The draft wayfinding plan will be presented to the Project Manager for an initial review before proceeding to formal review in Task 6.

Task 5. Deliverables

5.1 Plan Outline (Word)

5.2 Design Intent Document (Word and PDF)

5.3 Administrative Draft Wayfinding Plan (Word)

TASK 6. FINAL WAYFINDING PLAN

Task 6 .1 Steering Committee Review Meeting

CONSULTANT will meet with the Steering Committee for the purposes of reviewing the Draft Plan. A meeting summary will be prepared.

Task 6.2 Public Comment Period & Final Review Meetings (2)

Upon completion of –the Administrative Draft (Task 4.5) and Revised Administrative Draft (Task 5.2) the draft plan will be released for public comment for a minimum of 30 days. Two public meetings will be held to solicit comments on the draft plan. Meetings will be held in South Fresno and North Fresno in the evening. Locations will be accessible by public transit. Simultaneous translation services to be provided. Meetings and opportunities for public comment will be promoted following the same methodology used in Pop-up Participatory Planning Meeting Promotion (Task 3.3). A presentation will be provided to attendees explaining the purpose of the wayfinding project and an overview of the draft wayfinding plan.

Task 6.3 Final Trail Network Wayfinding Plan

CONSULTANT will meet with City staff to review and discuss public comments with City staff to confirm relevant edits to the plan. CONSULTANT will incorporate public comments. The final plan will be produced as an ADA-compliant (screen-reader document).

Task 6.4 Final Draft to Steering Committee

CONSULTANT will provide a final draft to Steering Committee for review and approval, for a two-week review and will incorporate comments.

Task 6.5 Final Draft to Caltrans

COF will provide a final draft to Caltrans for review and approval

Task 6.6 Final Plan

CONSULTANT will incorporate comments from Steering Committee and Caltrans reviews and create final plan to be presented to Council as an amendment to the Trail Guidelines.

Task 6 Deliverables

- 6.1 Steering Committee Meeting and materials (presentation, images, handouts, sign -in sheets, summary)
- 6.2 Public Comment Period & Final Review Meetings (2) and materials
- 6.3 Final Draft Plan (pdf, ADA-compliant)
- 6.4 Steering Committee Review written comments and approval
- 6.5 Caltrans Review written comments and approval
- 6.6 Final Plan (pdf, ADA-compliant)

7. CITY COUNCIL ADOPTION

Task 7.1 Present Plan to City Council

The CONSULTANT will prepare a draft and final presentation (PowerPoint), which City staff will present to Council.

Task 7 Deliverables

- 7.1 City Council Presentation (PPT, pdf)

8. FISCAL MANAGEMENT AND REPORTING

Task 8.1 Project Management

City staff will oversee the project by working directly with consultant(s) to ensure all tasks and deliverables are completed on-time and on-budget and serve as point of contact with Caltrans. This will include bi-weekly calls between COF project manager and CONSULTANT, regular emails, and general coordination.

Task 8.2 Invoicing for Reimbursement

City staff will submit complete invoice packages to Caltrans District staff based on milestone completion, at least quarterly, but no more frequently than monthly. Expectations for invoicing to be discussed as part of Task 1.1 - Kick-Off Meeting.\

Task 8.3 Reporting

Progress reports will be submitted to Caltrans quarterly. Expectations for reporting to be discussed as part of Task 1.1 - Kick-Off Meeting. Reports to include a summary of progress and expenditures.

Responsible Party: City of Fresno and Consultant

Task 8 Deliverables

- 8.1 Achievement of Project Milestones (City of Fresno and CONSULTANT)
- 8.2 Invoice packages (City of Fresno)
- 8.3 Progress Reports (City of Fresno and CONSULTANT)

Exhibit B

INSURANCE REQUIREMENTS **Consultant Service Agreement between City of Fresno ("CITY")** **and Toole Design Group ("CONSULTANT")**

Travel by Trail, Fresno!

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

Travel by Trail, Fresno!
PROJECT TITLE

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

Explanation: _____

Additional page(s) attached.

Signature

Date

(name)

(company)

(address)

(city state zip)