

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

THIS AGREEMENT is made and entered into effective the ____ day of June 2017, by and between the CITY OF FRESNO, a California municipal corporation (hereinafter referred to as "CITY"), and Martin Associates, (John C. Martin, LLC) (hereinafter referred to as "CONSULTANT").

RECITALS

WHEREAS, CITY desires to obtain professional consulting services for a Fresno Yosemite International Airport Economic Impact Study, hereinafter referred to as the "Project;" and

WHEREAS, CONSULTANT is engaged in the business of furnishing services as a Consultant in the airports industry 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 Director of Aviation (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 ("Effective Date") and shall continue in full force and effect through the completion of the Scope of Services in Exhibit A, subject to any earlier termination in accordance with this Agreement. The services of CONSULTANT as described in **Exhibit A** are to commence upon the Effective Date and shall be completed in a sequence assuring expeditious completion, but in any event, all such services shall be completed prior to expiration of this agreement and in accordance with any performance schedule set forth in **Exhibit A**.

3. Compensation.

(a) CONSULTANT'S sole compensation for satisfactory performance of all services required or rendered pursuant to this Agreement shall be a total fee of Sixty-seven thousand dollars (\$67,000) , and a contingency amount not to exceed Fifteen thousand dollars (\$15,000) 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:

(a.) Immediately establish and maintain a viable and ongoing recycling program, approved by CITY'S Solid Waste Management Division, for each office and facility. Literature describing CITY recycling programs is available from CITY'S Solid

Waste Management Division and by calling City of Fresno Recycling Hotline at (559) 621-1111.

(b.) Immediately contact CITY'S Solid Waste Management Division at (559) 621-1452 and schedule a free waste audit, and cooperate with such Division in their conduct of the audit for each office and facility.

(c.) Cooperate with and demonstrate to the satisfaction of CITY'S Solid Waste Management Division the establishment of the recycling program in paragraph (i) above and the ongoing maintenance thereof.

11. General Terms and Federal Assurances.

(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.

(d) 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 assurances in **Exhibit D** 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.

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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: _____
Kevin R. Meikle, Director of Aviation
Airports Department

ATTEST:
YVONNE SPENCE, CMC
City Clerk

By: _____
Deputy

No signature of City Attorney required.
Standard Document #FYI-S 16.1 has
been used without modification, as
certified by the undersigned.

By: _____
Lino Del Signore
Finance Manager
Airports Department

REVIEWED BY:

Lino Del Signore, Finance Manager
Airports Department

Addresses:

CITY:
City of Fresno
Attention: Lino De Signore,
Business & Finance Manager
4995 E. Clinton Way
Fresno, CA 93727-1525
Phone: (559) 621-4541
FAX: (559) 251-4825

Attachments:

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

Martin Associates,
(John C. Martin Associates, LLC)

By: _____

Name: _____

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

By: _____

Name: _____

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

Any Applicable Professional License:

Number: _____

Name: _____

Date of Issuance: _____

CONSULTANT:

Martin Associates
Attention: Michelle Wingenroth,
Vice President
941 Wheatland Avenue, Suite 203
Lancaster, PA 17603
Phone: (717) 295-2428
FAX: (717) 295-7098

Exhibit A

SCOPE OF SERVICES Consultant Service Agreement between City of Fresno ("CITY") and MARTIN ASSOCIATES ("CONSULTANT") for ECONOMIC IMPACT STUDY

SCOPE OF WORK TO ASSESS THE LOCAL AND REGIONAL ECONOMIC IMPACT OF FRESNO YOSEMITE INTERNATIONAL AIRPORT

Our impact methodology is based on the actual flow of impacts throughout a regional economy. Activity at an airport contributes to the local and state economy by generating business revenue to local and national firms providing air passenger service, freight service and support services to the airport and the airlines. These firms, in turn, provide both employment and income to individuals, and pay taxes to state and local governments. The impact of an airport on a local, state, or national economy cannot be reduced to a single number, but creates several impacts. These are the employment impact, revenue impact, personal income impact, and tax impact. These impacts are not additive. For example, the income impact is a part of the revenue impact, and adding these impacts together would result in double counting.

At the outset, air passenger, general aviation and freight activity generate business revenue for firms which provide air passenger, general aviation and freight services, as well as ground support services. This business revenue impact is dispersed throughout the economy in several ways. It is used to hire people to provide the services, to purchase goods and services, to pay for the use of airports, and to make federal, state and local tax payments. The remainder is used to pay stockholders, retire debt, make investments, or is held as retained earnings. It is to be emphasized that the only portions of the revenue impact that can be definitely identified as remaining in the region, and, in fact, the state in which the airport is located, are those portions paid out in salaries to employees, in state and local taxes and in payments to the airport. Landing fees and terminal rentals paid by airlines to provide for operations of the airport and the capital costs of new construction are also included in this impact.

The employment impact of airport activity consists of three levels of job impacts:

- *Direct employment impact* - jobs directly generated by airport activity, which would vanish if activity at the airport were to cease
- *Induced employment impact* - jobs created throughout the local and state economy because individuals directly employed due to airport activity spend their wages locally on goods and services (such as food and housing)
- *Indirect employment impact* - jobs generated by the purchase of goods and services by firms dependent upon airport activity

The income impact is the measure of personal income received by individuals directly employed due to airport activity. Re-spending of this income throughout the state for

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purchases of goods and services is also estimated. This, in turn, generates additional jobs: the induced employment impact. This re-spending is estimated using a state personal income multiplier, which reflects the percentage of purchases that are made within the state.

Federal, state and local tax impacts are tax payments to the national, state and local governments by firms and by individuals whose jobs are directly dependent upon activity at the airport.

Our approach is designed to estimate the job, income and tax impacts at various levels of geographic detail; city, county, groups of counties, and at the state level. These jurisdictions will be discussed with the Airport Authority at the outset of the study.

The following tasks will be conducted to develop the economic impacts generated as a result of airport operations at the Fresno Yosemite International Airport.

TASK 1: DATA COLLECTION

At the outset of each impact study we conduct, it is necessary to carefully define the economic sectors and employers within each sector for which impacts will be estimated. Our experience suggests the following economic sectors:

- Airline/airport service
- Passenger ground transportation
- Visitor/tourism
- Non-aviation Related
- Construction/consulting

Each of these sectors covers a variety of activities. A discussion of these sectors is provided below, with a description of the major participants in each.

The Airline/Airport Service Sector consists of the following participants or employers:

- Passenger Airlines
- General Aviation/Military
- Airport Administration
- Catering Firms
- Janitorial Firms
- Sky Caps
- Security Firms
- Federal Government (i.e., FAA, Customs, etc.)
- Aviation Service Firms (i.e. FBOs, fuel, etc.)
- Airport Retail Tenants
- Military/Air National Guard
- Parking and miscellaneous

Jobs in this sector are typically located on the airport property.

The Freight Transportation Sector includes freight airlines, freight forwarders, and trucking firms involved in transporting air freight. The air freight consists of air cargo and express mail transported on dedicated freight airlines and in the cargo section of passenger airlines. Included in this group are air couriers, freight forwarders, and common carrier trucking firms located throughout the area. Jobs in this sector are located both on- and off-airport.

The Passenger Ground Transportation Sector consists of car rental firms and other ground transportation modes, such as transportation network companies, buses, taxis and limousines. This group covers all transportation of individuals to and from an airport and includes both drivers and supporting reservation, maintenance and dispatch employees.

Individuals employed in the Construction and Consulting Sector include those providing ongoing construction and maintenance as well as remodeling and expansion work at Fresno Yosemite International Airport, and architects and engineers providing planning and design services. Also included in this sector are on-airport jobs with firms in the metropolitan area that supply a variety of business services to support airport operations.

The Visitor/Tourism Sector includes hotels, restaurants, and other recreational service entities that are used by passengers arriving via the airport. This sector is treated separately from the others due to the degree of dependency of direct impacts generated by airport activity in this sector.

The Non-Aviation Related Sector includes non-aviation related activities such as filming, real estate tenants, etc.

Based on this categorization, we will develop and conduct the following data collection plan.

The data collection plan is made up of two phases. The first phase consists of telephone and personal interviews with employers in each impact sector. The second phase is a passenger survey. The results of the second phase are used as inputs into the economic impact analyses and can further be used for future airport planning purposes, including ground access and parking. Each of the two phases is discussed separately below.

Phase 1: Collect Data for Employers and Firms in Each Impact Category

This phase consists of the telephone and the personal interviews with the employers in each of the five economic impact sectors. These entities will be identified from internal airport records on tenants, past airport employment surveys; local chambers of commerce; county and regional business directories; interviews with airport officials; and directories of airport services. Martin Associates will conduct a 100 percent sampling of employers or entities identified from the above sources to ensure defensibility of the results. In addition to the data collected from interviews, secondary data for the Fresno Metropolitan Statistical Area (MSA) will be used, including publications from the U.S. Bureau of Census for the Fresno area. These Census publications include County Business Patterns, Census of Retail Trade, Census of Service Industries, Census of Wholesale Trade, Census of Construction and Annual Survey of Manufacturers. Local data from these secondary sources will be used in conjunction with the data collected from the interviews to develop local economic relationships.

Finally, the data collected through personal and telephone interviews will be supplemented with data collected through the passenger survey, conducted in the following phase.

Phase 2: Conduct Passenger Survey

Martin Associates will conduct an in-terminal passenger survey to develop data for use in estimating visitor industry impacts. The survey will be designed and managed by Martin Associates. Airport records will be reviewed to identify the distribution of passengers by carrier. The survey sample will be determined based on the flights of the major origin/destination routings at Fresno Yosemite International Airport. Specific details of the passenger survey can be discussed with airport administration if this option is desired.

The passenger survey will be used to calibrate the Visitor Industry Models for the airport, which will be driven by such key factors from the passenger survey as: percent of non-resident origin/destination visitors, percent of international passengers, average purchase patterns for a visitor, average length of stay in the Fresno area, use of cab vs. private car, taxi, limo, etc., number of passengers accompanying overnight and foreign visitors and locations of where visitors stayed in hotels while in the Fresno area.

The results of the passenger surveys will be used both in the estimation of economic impacts, primarily in the visitor category and in the passenger ground transportation category and will provide a data base for future planning efforts by the airport in areas regarding ground access and parking requirements.

The remaining tasks detail how the data collected in this task will be used to estimate the economic impacts of the airport.

TASK 2: ESTIMATE DIRECT ECONOMIC IMPACTS AND BASELINE RATIOS

The purpose of this task is to estimate the direct economic impacts resulting from airport activity. Direct impacts are those impacts that would cease to exist if activity at the airport similarly ceased. This includes economic impacts accruing in each of the sectors detailed in Task 1. Therefore, direct impacts occur both on-site as well as off-site, such as with airlines as well as with restaurants and hotels (included in the visitor industry category).

The direct impacts to be estimated are:

- ➔ Job impacts
- ➔ Revenue impacts
- ➔ Personal income impacts
- ➔ State and local tax impacts

Subtask 2.1: Estimate Direct Employment Impacts at the Airport

In this Subtask the direct job impacts by each impact sector (i.e., airline/airport service category, passenger ground transportation category, etc.) and by employer in each category (i.e., passenger airlines, general aviation, caterers, etc.) are estimated. The job impacts will be estimated by city and county based on place of residence. We can also estimate the impacts by place of employment.

The jobs generated in the Airline/Airport Service Sector will be estimated based on a direct count of the airline/airport category employees obtained from existing airport employment surveys, and through personal and telephone interviews conducted in Task 1.

Direct job impacts in the Passenger Ground Transportation Sector will be estimated based on a combination of passenger survey results, interview results with ground transportation firms, and interviews with rental car companies.

With respect to jobs in the Freight Transportation Sector, jobs with freight airlines, freight forwarders and air couriers directly dependent upon airport activity will be estimated from the interview results. Also, jobs with passenger airlines that are dedicated to air freight and cargo moving in the cargo sections of passenger airlines will be included in this category and estimated from the interview results of the Task 1 data collection effort.

Jobs generated in the Contract Construction/Consulting Sector will be estimated from interview results with these firms and from jobs to sales ratios for construction, used with the total value of construction contracts at the Airport.

The jobs generated in the Visitor/Tourism Sector (for example, hotels, restaurants, travel agents, etc.) will be estimated using the following methodology. Air passenger data from the passenger surveys will indicate typical traveler patterns such as trip purpose, number of nights stayed, types of local transportation used and major locations of hotels/motels utilized by airline passengers, and typical spending patterns while in the Fresno area. As a result of our other economic impact assignments, we have developed a local visitor industry employment model, which relates spending in service establishments to employment in these establishments. This model, combined with the typical spending patterns per passenger, will be used to estimate jobs in the visitor industry category.

Jobs generated in the Non-Aviation Related Sector will be estimated from interview results with each of these firms.

Subtask 2.2: Estimate Direct Income Impacts

The direct income impacts will be estimated by multiplying the average annual salaries (adjusted for typical overtime hours and salaries where applicable) for each of the job

categories within the various economic impact sectors, by the direct number of jobs created in the respective categories. A re-spending effect will then be estimated using an average income multiplier for the Fresno area, estimated by the Bureau of Economic Analysis.

Subtask 2.3: Estimate Direct Revenue Impact

The revenue impact by economic impact sector will be estimated directly from the survey and questionnaire results as well as from airport concession reports. Landing fees will also be identified. Air freight revenue will be estimated based on average revenue per pound for air cargo, airmail, and air express, as determined from major air couriers. Revenue to passenger airlines will be estimated from average revenue per enplaned passenger (both domestic and international) as developed from the airline interviews.

In addition, secondary data relating employment to revenue and payroll to revenue (as estimated from the Annual Survey of Manufacturers) will be used to estimate revenue impacts for those employment categories where revenue data gathered from the survey is incomplete and the employment data is more accurate. We can allocate this revenue impact by place of where it is generated based on the location of the service suppliers.

TASK 3: ESTIMATE INDUCED AND INDIRECT IMPACTS

The induced and indirect impact methodology detailed below has been used on all of our airport studies.

Subtask 3.1: Induced Impacts

Much of the personal income that is directly generated by activity at the Airport and received by individuals employed due to airport activity is spent and re-spent throughout the local, regional and national economies. As a result of the purchases of goods and services with this personal income, additional jobs in the local, regional, state and national economies will be generated. In this subtask, we will isolate that fraction of the income impact used to purchase goods and services produced in the Fresno metropolitan region and the resulting induced employment generated for residents.

To estimate this induced employment impact, the following steps will be undertaken.

- ➔ The percentage of income spent by Fresno area residents on various expenditure categories of the economy (i.e., manufacturing, housing, services, food, etc.) will be estimated
- ➔ The ratio of employment to sales in each of the expenditure categories for both wholesale and retail purchases will be calculated for the Fresno MSA, from data published by the U.S. Bureau of the Census

- ➔ The airport-induced consumption impact will be allocated to the various expenditure categories based on the Bureau of Labor Statistics breakdown for a typical consumer in the Fresno metropolitan area
- ➔ The personal consumption impact allocated to each expenditure category will be multiplied by the ratio of employment to sales in that category to estimate the number of induced jobs for regional residents

It should be emphasized that an input/output model is not used to estimate induced jobs. Instead of using a regionalized input/output model, we will develop our own responding categories based on area specific data, and data specific to the region in which employees dependent upon the airport reside.

Subtask 3.2: Indirect Impacts

Indirect impacts are generated by the local purchases of the firms directly dependent upon airport activity. These impacts are estimated based on local purchase patterns, as developed during the interview process. The local and in-state purchases by the firms providing direct services to the airport facilities are then combined with jobs-to-sales coefficients derived from the Bureau of Economic Analysis, Regional Input-Output Modeling System (RIMS II), which will be prepared for the Fresno area, as well as California.

TASK 4: ESTIMATE TAX IMPACTS

In this task, per employee tax burdens as well as data from the Tax Foundation (which will allow the development of taxes as a percent of per capita income) and the State of California will be used to estimate the tax impacts resulting from activity at the airport. These state and local tax burdens include tax revenues from all sources.

Specific federal airport taxes (i.e., air cargo tax, international departure tax, and domestic passenger tax), will also be estimated. These taxes are based on the current aviation tax rates, as well as the number of domestic passengers, international enplanements and deplanements, and the air transportation value of the air freight and air express.

The local tax impacts will be allocated to a county or other local jurisdictional basis using the location of job impacts by county or local jurisdiction.

TASK 5: DEVELOP ECONOMIC IMPACT MODEL TO CONDUCT SENSITIVITY ANALYSIS AND TO ESTIMATE FUTURE ECONOMIC IMPACTS

The economic impact methodology and the results generated in the previous tasks provide a baseline from which to measure economic impacts generated by changes in activity levels, as well as future levels of flights and passengers at Fresno Yosemite. The baseline impact data will be used to develop an economic impact model.

The use of the model allows the airport planners to evaluate the impact of changes in future flight levels, by aircraft type at peak and non-peak hours, and to estimate the impacts associated with varying passenger load factors. The models are not just based on historical time series data relating passengers to flights, but instead are designed to measure changes in impacts under a series of assumptions regarding aircraft mix, load factors, peak vs. off-peak hours, labor productivity, labor work rules, hubbing, etc.

Incremental changes in personal income levels are estimated by multiplying salaries per employee (by job category) by changes in the direct job estimates, by job category. The income multiplier is then applied to the new direct income impacts (associated with each development scenario or sensitivity assumption). Changes in induced jobs are estimated as described in Task 3, and driven by changes in personal income.

Incremental changes in revenue are based on baseline revenue per employee ratios (by job category) and revenue per passenger and per pound of air freight. Incremental changes in tax impacts are based on the baseline per capita tax burdens, multiplied by changes in job impacts, as well as passenger enplanements and freight traffic.

The visitor industry sensitivity models, which are included in the airport impact models, provides a framework by which the impacts of additional non-resident, non-connecting passengers can be measured. This visitor industry model allows for the testing of the sensitivity of impacts to international vs. domestic passengers, length of stay, and average expenditures by type of purchase (hotels, retail, restaurants, entertainment, and in-town transportation).

The baseline impact ratios, as well as the man-power model, are computerized using Excel. The economic impact model can also be used to generate periodic updates of the impacts generated by activity at Fresno Yosemite and to test the sensitivity of impacts to changes in flight levels, aircraft mix, freight levels, general aviation operations, and passenger levels; as well as changes in passenger characteristics such as trip purpose, international vs. domestic passengers, length of stay in the Fresno area, expenditures per day, origin/destination vs. connecting passengers, resident vs. non-resident, and mode of transportation used to and from the airport. The impacts of specific routes and carriers can also be estimated, as well as changes in air cargo.

Currently, these models are being used by our airport clients to evaluate the impact of new airport projects and master plan recommendations, the impacts of noise regulations on flight levels, and consequently, on the level of economic impacts created by the airport, by specific city and local jurisdiction. Also, the models are used to test the impact of changes in airline labor work rules, aircraft mix, and load factors, and to assess the impact of capacity constraints, as well as new terminal and runway development projects.

A very interesting approach to demonstrating the importance of a capital expansion project is to evaluate the potential economic cost of not undertaking a proposed project.

For example, if air space capacity is constrained, there will be a level of aircraft activity and passengers that cannot be accommodated at the airport under current conditions. This discrepancy between the unconstrained peak hour flight levels and of passengers and the constrained levels represents the opportunity cost. The resulting impacts associated with the foregone passenger and flight operations (due to the air capacity constraints) measure the economic cost to the community of not undertaking an expansion project or constraining demand. Using this type of an approach, the importance of each proposed scenario can be demonstrated to the public and airport planners.

TASK 6: ESTIMATE CONSTRUCTION IMPACTS

In this task, Martin Associates will develop the economic impacts associated with the capital improvement program at Fresno Yosemite International Airport. The importance of the airport capital development projects to the Fresno area can be measured in terms of the direct, induced and indirect jobs, as well as the personal income and state and local taxes generated by the capital expenditures. These construction impacts will be included in the overall measures of the impacts generated by Fresno Yosemite International Airport. However, because of the importance of capital improvement projects to the future of the airport to accommodate air travel demands of the Fresno regional economy, the impacts of the investments are developed separately.

TASK 7: PREPARE FINAL REPORT

In this task we will prepare the final report. The baseline report will profile the Fresno Yosemite International Airport economic impacts. The baseline report will include not only a detailed description of the impacts measured, but will report the impacts by sector, job categories within the sectors as described in Task 1, and by type of airport activity – Air freight, Passengers (domestic and international) and General Aviation (corporate/business and personal/non-business). Martin Associates will produce seven (7) copies of the final report and will generate a PowerPoint presentation to be presented to the City of Fresno Airports Department.

Exhibit B
INSURANCE REQUIREMENTS
Consultant Service Agreement between City of Fresno ("CITY")
and MARTIN ASSOCIATES ("CONSULTANT")
for
ECONOMIC IMPACT STUDY
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.
- 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 to on the Certificate of Insurance, and approved by, the CITY's Risk Manager or designee. At the option of the CITY's Risk Manager or designee, either:

- (i) The insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CITY, its officers, officials, employees, agents, and volunteers; or
- (ii) CONSULTANT shall provide a financial guarantee, satisfactory to CITY's Risk Manager or 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 relating 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 years after completion of the Agreement work or termination of the Agreement, whichever occurs first, or, in the alternative, the policy shall be endorsed to provide not less than a five year discovery period.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the Agreement or the commencement of work by CONSULTANT, CONSULTANT must purchase "extended reporting" coverage for a minimum of five years completion of the Agreement work or termination of the Agreement, whichever occurs first.
4. A copy of the claims reporting requirements must be submitted to CITY for review.
5. These requirements shall survive expiration or termination of the Agreement.

All policies of insurance required herein shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after thirty

calendar days written notice by certified mail, return receipt requested, has been given to 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 calendar days prior to the expiration date of the expiring policy.

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

The fact that insurance is obtained by 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 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.

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

VERIFICATION OF COVERAGE

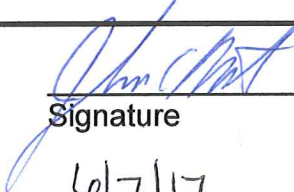
USER shall furnish CITY with all certificate(s) and **applicable endorsements** effecting coverage required hereunder. All certificates and **applicable endorsements** are to be received and approved by the CITY'S Risk Manager or his/her designee prior to CITY'S execution of the Agreement and before work commences. All non-ISO endorsements amending policy coverage shall be executed by a licensed and authorized agent or broker. Upon request of CITY, USER 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
Consultant Service Agreement between City of Fresno ("CITY")
and MARTIN ASSOCIATES ("CONSULTANT")
for
ECONOMIC IMPACT STUDY

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

Explanation: _____

*Additional page(s) attached. _____


 Signature

Date

(name)

(company)

(address)

(city state zip)

Exhibit D
ASSURANCES
Consultant Service Agreement between City of Fresno ("CITY")
and MARTIN ASSOCIATES ("CONSULTANT")
for
ECONOMIC IMPACT STUDY

During the performance of this Agreement (hereinafter referred to as "contract" or "contract documents"), CONSULTANT, for itself, its assignees and successors in interest (hereinafter referred to collectively as "the contractor" or "CONTRACTOR") agrees as follows (hereinafter, "CITY" is referred to as "Sponsor"):

PROVISIONS APPLICABLE TO ALL CONTRACTS

A. GENERAL CIVIL RIGHTS PROVISIONS

The contractor agrees that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractor from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

B. CIVIL RIGHTS ACT OF 1964, TITLE VI

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- 1. Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- 2. Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
- 3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including

procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

4. Information and Reports: The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

- A. Withholding payments to the contractor under the contract until the contractor complies; and/or
- B. Cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporating Provisions: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

7. Clauses For Deeds Transferring United States Property:

Please note: The following clauses shall be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States, pursuant to the provisions of the Airport Improvement Program grant assurances:

NOW, THEREFORE, the Federal Aviation Administration as authorized by law and upon the condition that the CITY will accept title to the lands and maintain the project constructed thereon in accordance with **(Name of Appropriate Legislative Authority)**, for the **(Airport Improvement Program or other program for which land is transferred)**, and the policies and procedures prescribed by the Federal Aviation Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the CITY all the right, title and interest of the U.S. Department of Transportation/Federal Aviation Administration in and to said lands described in **(Exhibit A attached hereto or other exhibit describing the transferred property)** and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto CITY and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the **(Title of Sponsor)**, its successors and assigns.

The CITY, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the CITY will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-

assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the Federal Aviation Administration and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

8. Clauses For Transfer Of Real Property Acquired Or Improved Under The Activity, Facility, Or Program:

Please note: The following clauses shall be included in deeds, licenses, leases, permits, or similar instruments entered into by the Airports department of the CITY, pursuant to the provisions of the Airport Improvement Program grant assurances.

A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases, add "as a covenant running with the land"] that:

1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, the CITY will have the right to terminate the (lease, license, permit, etc.) and to enter,

re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*

C. With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the CITY will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the CITY and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

9. Title VI Clauses for Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program:

Please note: The following clauses shall be included in deeds, licenses, permits, or similar instruments/agreements entered into by the CITY pursuant to the provisions of the Airport Improvement Program grant assurances.

A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the List of discrimination Acts And Authorities.

B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above nondiscrimination covenants, the CITY will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*

C. With respect to deeds, in the event of breach of any of the above nondiscrimination covenants, the CITY will there upon revert to and vest in and become the absolute property of the CITY and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

10. Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);

B. 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);

C. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;

E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);

F. Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);

G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

H. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189)

as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;

I. The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

L. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

C. FEDERAL FAIR LABOR STANDARDS ACT (MINIMUM WAGE)

All contracts and subcontracts resulting from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

The contractor has full responsibility to monitor compliance to the referenced statute or regulation. The contractor must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

D. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

All contracts and subcontracts that result from this agreement incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.