

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

THIS AGREEMENT (Agreement) is made and entered into effective on _____, 2023, by and between the CITY OF FRESNO, a California municipal corporation (CITY), and Moss Adams, LLP, (CONSULTANT).

RECITALS

WHEREAS, CITY desires to obtain professional agreed-upon procedure services for the review and evaluation of credit card expenditures and reimbursement requests (Project); and

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

WHEREAS, 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 (Administrator) or designee.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and of the covenants, conditions, and premises 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 CONSULTANT'S ENGAGEMENT LETTER attached as **Exhibit D**, including all work incidental to, or necessary to perform, such services even though not specifically described in **Exhibit D**.

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 June 30, 2023, subject to any earlier termination in accordance with this Agreement. The services of CONSULTANT as described in **Exhibit D**, 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 D**.

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 not to exceed \$97,500, paid on the basis of the rates set forth in the schedule of fees and expenses contained in **Exhibit A**.

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

(c) The parties may modify this Agreement to increase or decrease the scope of services or provide for the rendition of services not required by this Agreement, which modification shall include an adjustment to 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. CONSULTANT may terminate the Agreement or performance of any part of the services upon written notice to CITY if CONSULTANT determines that the performance of any part of the Services would be in conflict with law, or independence or professional rules.

(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) seek recovery of all direct 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 reasonable written assurances of future performance, upon Administrator's request, in the event CONSULTANT fails to comply with any terms or conditions of this Agreement.

(f) CONSULTANT may 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 Administrator 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 Administrator of the cessation of such occurrence.

5. Confidential Information and Ownership of Documents.

(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 the Administrator. During the term of this Agreement, and thereafter, CONSULTANT shall not, without the prior written consent of CITY, disclose to anyone any Confidential Information, except to those officers, directors, partners, principals, members, employees, subcontractors, and agents who have a need to know in order to provide the services. 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, 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. Disclosure of Confidential Information shall not be precluded if such disclosure: (a) is in response to a valid subpoena or order of a court or other governmental body of the United States or any political subdivision thereof; or (b) is required by law or regulation. To the extent permitted by law, CONSULTANT shall give reasonable prior notice to CITY and CITY can determine whether to obtain a protective order or other appropriate relief.

(b) CITY shall own all final reports and other completed deliverables created under this Agreement and delivered to CITY, excluding any Consultant Material (defined below) contained or embodied therein (Deliverables). However, CITY may not alter or amend any Deliverables issued under CONSULTANT'S name. CONSULTANT may retain a copy of Deliverables for archival purposes. CONSULTANT shall own: (i) its working papers and any engagement documentation; and (ii) any general skills, know-how, expertise, ideas, concepts, methods, techniques, processes, software, materials, or other intellectual property which may have been discovered, created, received, or developed by CONSULTANT either prior to or as a result of providing services under the Agreement (collectively, "Consultant Materials").

CITY shall have a non-exclusive, non-transferable license to use Consultant Materials for its own internal use and only for the purposes for which they are delivered to the extent they form part of a Deliverable. Notwithstanding anything to the contrary in this Agreement, CONSULTANT and its personnel are free to use and employ their general skills, know-how, and expertise, and to use, disclose, and employ any generalized ideas, concepts, know-how, methods, techniques or skills gained or learned during the course of this Agreement so long as they acquire and apply such information without any unauthorized use or disclosure of confidential or proprietary information of CITY.

(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 third party loss, liability, fines, penalties, forfeitures, costs and damages, claims, demands and actions in law or equity (including reasonable attorney's fees and litigation expenses) (whether in contract, tort or strict liability), arising from bodily injury, death at any time and property damage to real or tangible personal property), to the extent caused by the negligence, recklessness or willful misconduct of CONSULTANT, its principals, officers, employees, agents, or volunteers in the performance of this Agreement. In order to seek or receive indemnification hereunder, CITY shall provide CONSULTANT with prompt written notice of such claim and cooperate with CONSULTANT in handling the claim. CONSULTANT shall be entitled to control the handling of such claim and to defend or settle any such claim, in its sole discretion, with counsel of its own choosing.

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 designee at any time and in its sole discretion. The required policies of insurance as stated in Exhibit B shall maintain limits of liability of not less than those amounts stated therein..

(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 service 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.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations Section 18700 et. seq.). 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 applicable 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 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 unless fully disclosed to and approved by the City Manager, in advance and in writing. 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. Notwithstanding any approval given by the City Manager under this provision, CONSULTANT shall remain responsible for complying with Section 9(b), above.

(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 (a) 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 Administrator or designee.

(b) Records of CONSULTANT'S fees and 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. If any litigation, claim, negotiations, audit or other action is commenced before the expiration of said time period, all records shall be retained 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) If applicable, 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 designee. Any attempted assignment by

(b) CONSULTANT, its successors or assigns, shall be null and void unless approved in writing by the City Manager or designee.

(c) 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, each party shall be responsible for its own attorney's fees and legal expenses.

24. Exhibits. Each exhibit and attachment referenced in this Agreement is, by the reference, incorporated into and made a part of this Agreement.

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

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

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

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

29. The City Manager, or designee, is hereby authorized and directed to execute and implement this Agreement. The previous sentence is not intended to delegate any authority to the City Manager to administer the Agreement, any delegation of authority must be expressly included in the Agreement.

30. LIMITATION OF LIABILITY. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR OTHERWISE ARISING OUT OF THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR EXEMPLARY OR PUNITIVE DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT.

[Signatures follow on the next page.]

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

CITY OF FRESNO,
a California municipal corporation

Moss Adams, LLP

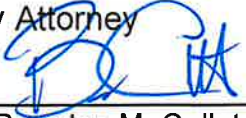
By: _____

By: 

Name: Colleen Rozillis

APPROVED AS TO FORM:
ANDREW JANZ
City Attorney

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

By:  5/3/23
Brandon M. Collet Date
Supervising Deputy City Attorney

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

ATTEST:
TODD STERMER, CMC
City Clerk

CONSULTANT:
Moss Adams, LLP
Attention: Colleen Rozillis
Partner
999 Third Ave N, Suite 2800
Seattle, WA 98104
Phone: () -
E-mail:

By: _____
Deputy

Addresses:

CITY:
City of Fresno
Attention: Ruth F.
Quinto, CPA Assistant
City Manager
2600 Fresno Street
Fresno, CA 93721
Phone: (559) 621-8000
E-mail: ruthie.quinto@fresno.gov

Attachments:

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

EXHIBIT A



OPPORTUNITY RISING

*PROFESSIONAL CONSULTING SERVICES TO DEVELOP THE UPDATE TO THE CURRENT FEE
STRUCTURE FOR THE PLANNING AND DEVELOPMENT DEPARTMENT PROPOSAL FOR*

THE CITY OF FRESNO

Tammy Lohr, Senior Manager

Colleen Rozillis, Partner

Moss Adams LLP
265 E. River Park Circle, Suite 110
Fresno, CA 93720
(559) 389-5700



MOSSADAMS

Dear Ms. Longoria:

Moss Adams is extremely pleased to submit our proposal to provide professional consulting services to develop the update to the current fee structure for the City of Fresno (City) Planning & Development Department and Fire Departments. Listed below are some reasons we're confident we offer the team, capabilities, approach, and dedicated service that will exceed your expectations.

- **We're a leader in working with state and local governments.** We work extensively with state agencies, cities, counties, and other forms of local government to reduce risks, strengthen controls, and enhance performance. As a result, we have a strong understanding of the City's operational environment and importance of this work.
- **Our approach to working with our clients is collaborative.** We team with you to address what's needed to improve your operations. We'll collaborate to establish a working relationship that designed to help you meet the stated goals and objectives for this program—with no surprises along the way.
- **You'll receive nimble service.** If additional expertise is needed beyond this fee study, we can quickly leverage the right resources from throughout the firm.

November 28, 2022

Kristine Longoria
Project Manager

The City of Fresno
2600 Fresno St. #3043
Fresno, CA 93721

We commit to making the City a long-term and extremely satisfied client of Moss Adams. Our personal promise to you is to ensure that you receive the best service Moss Adams is capable of providing. Thank you for your consideration.

Sincerely,

Tammy Lohr
Senior Manager
(206) 302-6538
tammy.lohr@mossadams.com

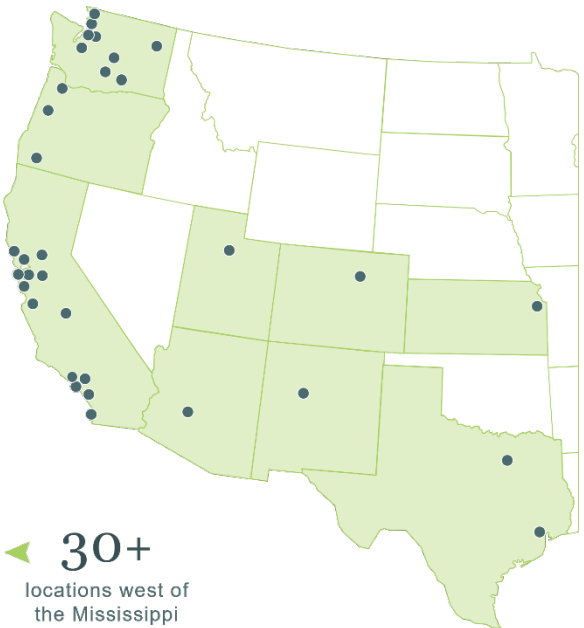
Colleen Rozillis
Partner
(206) 302-6795
colleen.rozillis@mossadams.com

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Overview of the Firm

FIRM BACKGROUND



Moss Adams is a fully integrated professional services firm dedicated to growing, managing, and protecting prosperity. With over 3,800 professionals across more than 30 locations in the market capitals of the West and beyond, we work with the world's most innovative, dynamic, and promising clients and markets. Through a full spectrum of accounting, consulting, and wealth management services, we bring the deep industry specialization and inspired thinking our mid-market clients seek.

Since we put down roots in the Pacific Northwest more than 100 years ago, we've steadily expanded to serve clients not only in the West, but also across the nation and globally. Our full range of services includes accounting (assurance and tax), consulting (IT, strategy & operations, transactions, and specialty), as well as individual and institutional wealth management.

Moss Adams is one of the 15 largest US accounting and consulting firms and a founding member of Praxity, a global alliance of independent accounting firms providing clients with local expertise in the major markets of North America, South America, Europe, and Asia.

Full-Service Capabilities

We offer a full range of services and specializations that span accounting, consulting, and wealth management to suit your specific needs.



Over a Century of Service

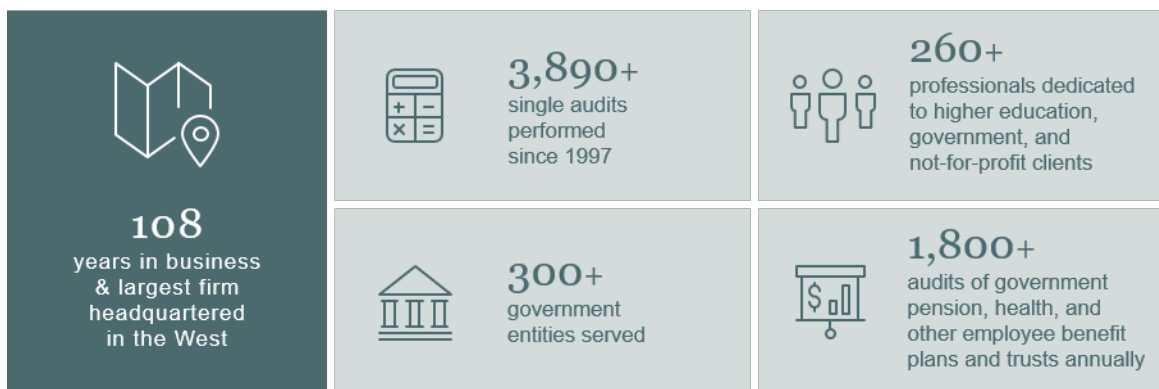
Every business, managed well, has the potential for tremendous growth and durability. We know, because it's our story too.

Moss Adams LLP has its origins in 1913, with its current formation as a Washington limited liability partnership in 1996. Our firm's history began in 1913, the year President Woodrow Wilson signed the federal income tax into law. That same year, John G. McIntosh, CPA, set up a small Seattle practice to serve a booming Pacific Northwest timber industry. Through good times and bad, through two world wars and 19 US presidents, that practice steadily extended its reach—first regionally, then nationally—to serve the businesses and industries that built this country.

Today, that practice is Moss Adams, one of the largest accounting, consulting, and wealth management firms in the nation, dedicated to assisting clients with growing, managing, and protecting prosperity. But our principles remain the same as they were when we opened our doors more than a century ago: Consistently hire talented people, work hard to make a difference in our communities, and empower our clients to discover and claim success.

Summary of Experience

HISTORY OF EXPERIENCE



We recognize government organizations are accountable to many different constituencies—oversight agencies, audit committees, elected officials, taxpayers—all with different expectations and demands. That’s why we commit significant personnel and resources to our Government Services Practice, building technical expertise in all areas of government. We have dozens of experienced partners and senior managers who lead consulting and audit engagements for over 300 government entities including state agencies; cities and counties; public colleges and universities; special purpose governments including ports, utility districts, and transit agencies; public retirement funds; and others.

We offer breadth and depth of experience working with state agencies. We have provided consulting and audit services to the state entities in **California, Utah, Alaska, Arizona, Nevada, New Mexico, Oregon, and Washington**. We’ve also provided relevant services to a wide range of local governments. A representative list of local government clients is provided below.

| Representative Local Government Clients | | |
|---|--|---|
| <ul style="list-style-type: none"> • Benton County • Carson City • City of Abilene • City of Albuquerque • City of Bakersfield • City of Beaumont • City of Bellevue • City of Bellingham • City of Bend • City of Bradbury • City of Calexico | <ul style="list-style-type: none"> • City of Hillsboro • City of Industry • City of Issaquah • City of Laguna Niguel • City of Lakewood • City of Las Cruces • City of Los Angeles • City of Lynnwood • City of Modesto • City of Monterey Park • City of National City | <ul style="list-style-type: none"> • City of San Diego • City of San Jose • City of Santa Fe • City of Santa Monica • City of Santa Rosa • City of Seattle • City of Stockton • City of Tacoma • City of West Richland • City/County of San Francisco • Clark County |

| | | |
|------------------------------|-------------------------|--------------------|
| • City of Cerritos | • City of Normandy Park | • Island County |
| • City of Chula Vista | • City of Oxnard | • King County |
| • City of Clearlake | • City of Patterson | • Lane County |
| • Douglas County | • City of Phoenix | • Lyon County |
| • City of Clovis | • City of Portland | • Maricopa County |
| • City of Culver City | • City of Redmond | • Pierce County |
| • City of Cupertino | • City of Redondo Beach | • San Juan County |
| • City of Desert Hot Springs | • City of Riverside | • Snohomish County |
| • City of Edmonds | • City of Salem | • Sonoma County |

The depth of our practice means we understand the issues you face today and can provide the specialized services you need now, and in the future—such as single audits; accounting for complex investment transactions; benefit plan audits; performance audits; IT hardware, software, and cybersecurity evaluations; fraud investigations; and forensic accounting.

GOVERNMENT EXPERTISE

Our firm's Government Services practice relies heavily on robust assessments and internal audit engagements. Our seasoned staff members have significant experience conducting assessments related to compliance, finance, fraud, governance, management, operations, performance, policies and procedures, and technology.

We serve clients in city and local governments, tribes, higher education, and not-for-profits. We have earned recognition and an outstanding reputation for our services based on a solid track record and discriminating analysis.

Members of our proposed team have a long history of successful delivery of providing consulting services to local governments. Our professionals come from government, private industry, and public accounting, and work exclusively on public sector engagements. Because of the extensive assessments we conduct in the public sector, we have developed a series of proven practice components including investigative methodologies, engagement oversight and supervision, document management, fieldwork, communications and reporting protocols/practices, and risk assessment frameworks.

Our professionals have a deep understanding of government goals, regulatory environment, policies, processes, and procedures. They offer relevant certifications, such as CPA, CCA, CIA, CFE, CDPSE, CISA, CISSP, PCI QSA, CCSFP, ODCP, and PMP; and our engagement team includes members of the IIA. Our training requirements for professional audit and consulting staff further make sure that our knowledge remains current.

Rather than performing engagements for our clients, we team with them to address what is needed to assess risks, improve performance efficiency and effectiveness, strengthen internal controls and compliance with laws and regulations, increase revenues, and prevent and detect fraud. The knowledge and guidance we provide to our clients allows them to continue to improve their organizations is an integral part of our engagements. Our team will work closely and collaboratively with management and staff to develop a working relationship that will provide maximum benefit to the City.

Our experience includes a wide range of services, which include, but are not limited to:

- Enterprise risk assessments
- Enterprise internal controls reviews
- Internal controls and compliance audits
- Fee studies
- IT general and security audits
- Cost allocation plans
- Performance audits
- Fraud investigations

SIMILAR PROJECTS

Over the past five years, we've provided similar services for numerous local governments.

| | | |
|--|-----------------------|--------------------------------------|
| FEE STUDY | City of Salem | Completion May 2021 |
| In this study, we worked with the City to identify best practices in municipal fee setting and cost recovery policies and recommended a police and cost recovery framework for the City. We conducted research into best practices, collected fee schedules from peer cities for comparative purposes, and prepared a roadmap to detail how to implement the recommended cost recovery framework with an equity lens, decision-making criteria, and policy considerations. | | |
| FEE STUDY | City of Glendale (AZ) | Anticipated Completion March 2023 |
| We are currently working with the City of Glendale to perform a fee study, specifically looking at City fees charged for general city services (e.g., building inspections, permitting, business licensing, and penalty/late fees). As part of this review, we are assessing the City's fee setting and adjustment processes and performing benchmarking to peer cities to identify opportunities for simplification. | | |
| ISF AUDIT | State of Utah | Anticipated Completion December 2022 |
| We are currently working with the State of Utah's Department of Government Operations to complete an audit of internal service funds. We are assessing the extent to which costs are recovered by ISF rates, compliance of ISF rates with federal guidelines, and identifying opportunities for improvement based on benchmarking and customer feedback. | | |
| ISF REVIEW | City of Modesto | Completion April 2017 |
| When serving as the City's internal auditor, we performed an internal service fund review that evaluated the adequacy and effectiveness rates as it related to rate setting, cost allocation, and reserve levels. | | |

Resumes

PROPOSED STAFF

Our dedicated government internal audit team is comprised of partners, directors, managers, seniors, and staff. You will be primarily supported by Tammy Lohr, senior manager, Colleen Rozillis, PMP, partner, and Stephen Bacchetti, partner. Tammy will serve as the project manager and will be responsible for ensuring that our engagement is delivered on time, within budget, and to the satisfaction of the City.

Your engagement team will consist of highly experienced audit professionals who provide experience working with state and local governments and conducting fee studies. Our proposed team composition is provided below.

| Name and Title | Role |
|---|--------------------|
| Colleen Rozillis, PMP, Director | Quality control |
| Stephen Bacchetti, CPA, CIA, CCA, Partner | Engagement partner |
| Tammy Lohr, CFE, ODCP, Senior Manager | Project manager |
| Kayvon Zadeh, CIA, Manager | Lead analyst |
| Evan Lih, Senior | Analysis support |
| Tommy Conkling, Staff | Analysis support |

RESUMES

We have included resumes below.

Colleen Rozillis, PMP, Partner



Professional Experience

Since 2005, Colleen has advised local, state, and Tribal governments; K-12 and higher education; utilities; private companies; and not-for-profits to improve organizational and program operations and efficiency, facilitate strategic leadership and planning, and cultivate more effective governance. She works collaboratively with clients to understand their goals and objectives and define organizational and programmatic changes to better equip and position them to achieve those goals. Colleen serves as the firm's public sector, not-for-profit, and tribal consulting industry group leader and leads ESG consulting for the firm.

Her government experience includes planning, policy, and financial analysis for local and state agencies in Alaska, Arizona, California, Colorado, Hawaii, Michigan, Montana, Nevada, Ohio, Oregon, Pennsylvania, Texas, Utah, and

Colleen Rozillis, PMP, Partner

Washington. Before joining Moss Adams, she managed the Performance Reporting Branch of the Washington State DOT and authored the 2011-2015 WSDOT Strategic Plan.

Colleen has recently provided organizational development and performance consulting services to public sector clients, including the 32nd District Agricultural Association, Ben Franklin Transit, Boulder County, Cities of Berkeley, Carson City, Culver City, Cupertino, Eugene, Issaquah, Modesto, Newport Beach, Portland, Redondo Beach, Salem, Santa Monica, and Stockton; Delta Diablo, Douglas County, El Camino Health District, Jefferson Public Utility District, King County Metro, Marion County, NoaNet, Pierce County, Seattle Public Schools, Sonoma County, and Spokane Regional Health District.

Professional Affiliations

Chair of the Board of Trustees, Humanities Washington

Member, Society for Corporate Governance

Member, Project Management Institute

Member, International City & County Management Association

Member, Institute of Internal Auditors

Member, Association of Local Government Auditors

Project Management Professional (PMP)

Education

MS, public policy and management, Carnegie Mellon University

BA, English and political science, University of Michigan

Diversity and Inclusion Certificate, Cornell University



Professional Experience

Stephen has more than 12 years of experience in construction advisory services and leads the firm's construction advisory services team. He performs specialized review and audit services for construction projects and capital improvement programs, including risk assessments; internal controls, process, and documentation reviews; construction contract audits; and construction bond performance audits. Stephen works closely with local governments, Tribes, universities, K-12 school districts, hospitals and health care systems, and commercial real estate developers, as well as construction contractors and project managers on structures and developments that range from millions to billions of dollars. He has planned, managed, and executed engagements that have resulted in significant cost savings and control and reporting improvements for his clients.

In addition to his construction auditing and internal controls experience, Stephen also has a background in International Financial Reporting Standards (IFRS) in the transportation industry.

Stephen has provided construction advisory services to clients, including Port of Tacoma, Pierce Transit, Incline Village General Improvement District, Santa Clara Valley Transportation, City of Phoenix, Richland County Government, Delta Montrose Electric Association, and City of Santa Monica.

Stephen has provided construction advisory services to clients, including Jefferson County School District, Beaverton School District, Beverly Hills Unified School District, East Side Union High School District, San Jose Unified School District, and Sweetwater Union High School District, Newhall School District, Oakland Unified School District, and West Contra Costa Unified School District.

Professional Affiliations

Member, American Institute of Certified Public Accountants

Member, California Society of Certified Public Accountants

Certified Public Accountant (CPA)

Certified Internal Auditor (CIA)

Certified Construction Auditor (CCA)

Education

BS, accounting, California State Polytechnic University



Professional Experience

Tammy assesses operational performance for public sector organizations including state and local government, school districts, and higher education institutions. Her engagements are informed by rigorous analysis and employee engagement to evaluate operations, which may include the efficacy of existing organizational structure and resourcing strategies, enhancing workplace culture, identification of system needs, and streamlining processes.

Tammy focuses on key elements of each engagement to develop high-quality deliverables that address client needs and meet applicable professional standards. By using a collaborative approach to working with her clients, she delivers projects and reports attuned to each client's unique operating environment with recommendations designed to optimize organizational performance.

Prior to joining Moss Adams, she worked as a performance auditor for the Washington State Auditor's Office.

Tammy has recently provided operational reviews and organizational assessment services to clients including the City of Berkeley, City of Cupertino, City of Stockton, City of Salem, City of Glendale (Arizona), City of Santa Monica, City of Redondo Beach, City of Modesto, City of Lake Stevens, Boulder County, Douglas County (Nevada), Douglas County (Colorado), San Joaquin County, Orange County, and Ontario International Airport Authority.

Professional Affiliations and Certifications

Member, International City and County Manager's Association (ICMA)

Member, Society for Human Resources Management (SHRM)

Member, Institute of Internal Auditors (IIA)

Member, Association of Certified Fraud Examiners (ACFE)

Certified Fraud Examiner (CFE)

Organization Development Certified Professional (ODCP)

Education

MPA, Daniel J. Evans School of Public Policy and Governance, University of Washington

BA, public health, University of Washington



Professional Experience

Kayvon has been working in the public sector since 2015. He is skilled in identifying operational challenges, addressing root causes, and presenting findings and strategic recommendations to senior leadership. His experience also includes performance and internal auditing, policy and procedure development, quantitative and qualitative analysis, stakeholder engagement, and complex data consolidation and analysis.

Prior to joining Moss Adams, Kayvon held positions at King County and Seattle Public Utilities.

Professional Affiliations and Certifications

Conference Committee Subcommittee Chair, National Association of Local Government Auditors (ALGA)

President/Trustee, Washington State Local Government Auditor's Association (WSLGAA)

Certified Internal Auditor (CIA)

Education

MPA, Daniel J. Evans School of Public Policy and Governance, University of Washington

BA, psychology and community, environment & planning, University of Washington

Evan Lih, Senior



Professional Experience

Evan has been working in the public sector since 2018 and has experience in the local government, health research services, and financial services industries. His skills include organizational assessment, program and process evaluation, data analytics, project management, strategic planning, legislative analysis, and stakeholder engagement. He also has experience working on racial and social equity initiatives.

Prior to joining Moss Adams, Evan was a data and policy evaluation strategic advisor with the City of Seattle.

Education

MPA, Daniel J. Evans School of Public Policy and Governance, University of Washington

BA, environmental studies and evolutionary & ecology biology, University of Colorado Boulder

Tommy Conkling, Staff



Professional Experience

Tommy is experienced at helping organizations to improve their impact and effectiveness. His skills include qualitative and quantitative data analysis, data visualization, budgeting and forecasting, cost-benefit analyses, program and system evaluation, organizational assessment, and organizational planning. He has experience working with a wide range of clients within public, private, and not-for-profit industries.

Prior to joining Moss Adams, Tommy worked on a Bill and Melinda Gates Foundation project, helping state education agencies to assess and redesign their processes and systems to improve student outcomes.

Education

MPA, University of Washington, Evans School of Public Policy and Governance

BA, public policy analysis, Pomona College

Client References

We have included references below and encourage you to hear for yourselves about the quality our firm can provide.

| | | |
|--|---|--|
| CITY OF SALEM, OR Dates: 2021 to 2021 | Courtney Knox-Busch Strategic Initiatives Manager | (503) 540-2426 cbusch@cityofsalem.net |
|--|---|--|

Moss Adams is providing comprehensive organizational assessment and optimization services to the City of Salem. We conducted a citywide organizational assessment and structure study, focused on opportunities for enterprise-wide improvement in efficiency, effectiveness, and collaboration. We conducted a SWOT analysis survey of all city employees and held more than 40 interviews with City leadership and key staff. Following the organizational assessment, we collaborated with the executive leadership team to identify initiatives to implement. We continuously work with the City on multiple projects to improve operations and service delivery; recently completed projects include a user fee study, performance framework, strategic plan, warehouse efficiency study, and other projects with the goal of organizational alignment. Most recently, we supported process mapping for the creation of a newly established cross-functional Customer Service Center, including review of existing processes, future state processes, form changes, interdepartmental collaboration and communication, and the development of policies and procedures.

| | | |
|---|-----------------------------------|--|
| STATE OF UTAH Dates: 2017 to present (ongoing) | Jake Hennessy Finance Director | (385) 271-2301 jakehennessy@utah.gov |
|---|-----------------------------------|--|

We were retained by the State of Utah to conduct performance audits in 2017. Since that time, we have conducted several performance audits that assess efficiency and effectiveness of operations related to the Department of Insurance, Purchasing and General Services, Print Services, and Surplus Programs. We are currently working with the State of Utah to perform an internal service fund audit that evaluates the adequacy, appropriateness, and compliance of ISF rates.

| | | |
|--|--|--|
| CITY OF GLENDALE Dates: 2020 to present (ongoing) | Michael Kingery Internal Audit Program Manager | (623) 930-2103 mkingery@glendaleaz.com |
|--|--|--|

We have provided internal audit services to the City of Glendale since 2020. During that time, we've conducted dozens of internal and performance audits, ranging from contract compliance, vendor management, asset management, information technology, human resources, and programmatic audits. We are currently working with the City on performing a fee study that evaluates user fees in comparison to peer cities and assesses the fee setting and adjustment process, with particular focus on simplification of fees to enhance the customer experience. Each engagement was developed in collaboration with the City to achieve City-defined audit objectives and provide specific, actionable recommendations to improve compliance, controls, and performance. We have adhered to the City's budget and schedule requirements for all projects as part of our internal and performance audit service.

| | | |
|---|---------------------------|--|
| CITY OF MODESTO, CA Dates: 2018 to present (ongoing) | Joe Lopez City Manager | (209) 577-5402 joelopez@modestogov.com |
|---|---------------------------|--|

We served as the City of Modesto's internal and performance auditor for the full period that this function was outsourced. We provided auditing services regarding organizational re-engineering and design. We completed over three dozen projects for the City across all departments and provided recommendations for reducing risks, strengthening controls, and improving efficiency and effectiveness of operations. Specific projects that we performed included developing the City's revenue manual, assessing permitting processes, and reviewing internal service funds. We continue to serve the City in a consulting capacity.

Rate Sheet

For our clients, it's about more than the dollars you pay at the end of the day; it's about value. Consider both the tangible and intangible benefits of working with us. You'll get solid and timely deliverables. But more than that, the experience you'll have working with forward-thinking, industry-specialized professionals who work side by side with you to explore new possibilities is where you'll see the value. Invest in your future prosperity and experience a different style of service with us.

| Service Description | Amount |
|----------------------------------|-----------------|
| Phase 1: Start-Up and Management | \$15,000 |
| Phase 2: Fact Finding | \$25,000 |
| Phase 3: Analysis | \$32,500 |
| Phase 4: Reporting | \$15,000 |
| Total | \$87,500 |

By establishing a cost estimate for each project, our clients are able to plan how many projects will be conducted each year. As a commitment to our relationship with the City, we have provided discounted hourly rates, by level, which are presented below.

| Staff Level | Rate per Hour |
|------------------|---------------|
| Partner/Director | \$350 |
| Senior Manager | \$300 |
| Manager | \$250 |
| Senior | \$200 |
| Staff | \$150 |
| Associate | \$110 |

Legal Documents

A. APPENDIX B ATTACHMENT 1

Appendix B

ATTACHEMENT 1

STATEMENT OF ACCEPTANCE OF THE INDEMNIFICATION AND INSURANCE REQUIREMENTS

PROFESSIONAL CONSULTING SERVICES TO DEVELOP THE UPDATE TO THE CURRENT FEE
STRUCTURE FOR THE PLANNING AND DEVELOPMENT DEPARTMENT

The Proposer shall sign below that the Proposer accepts in whole the Indemnification and Insurance Requirements set forth in these Specifications. If the Proposer takes exception to some portions, those portions shall be listed here below and the Proposer shall sign that the Proposer accepts all portions of the requirements not listed.

Note: Any exceptions may render the proposal non-responsive.

☐ ACCEPT
☒ DO NOT ACCEPT

If "DO NOT ACCEPT" is checked, please list exceptions:

This Proposal is contingent upon execution of a mutually agreeable contract. With regard to the Sample Consultant Services Agreement, Moss Adams suggests the following: providing for mutual termination rights and clarifying procedures upon termination (§4); focusing and clarifying any indemnification provisions and procedures to limit to third party claims for bodily injury and property damage (§7); clarifying insurance requirements to comport with existing policies, including providing for confidentiality of insurance structure (including deductibles, retention levels, and declaration pages), professional liability is per claim, notification only goes to primary insured, and additional insureds are added via blanket endorsement and only on general liability and auto (§8 and Exhibit B); access and audits focused on information pertaining to fees and expenses charged and access shall not include facilities or systems housing confidential information of Moss Adams or Moss Adams' other clients (§11b); clarifying requirements to state compliance with applicable law (§12); following the American rule on attorneys' fees (§23); and addressing limitation of liability (new).

We have successfully signed services agreements with thousands of clients and we commit to working in good faith to successfully negotiate a mutually agreeable contract on a timely basis should we be awarded this work



Signature of Authorized Person

Colleen Rozillis

Type or Print Name of Authorized Person

B. APPENDIX B ATTACHMENT 2

Respondent's Name: Moss Adams LLP
(Submit with Proposal, if applicable)

ATTACHEMENT 2

CERTIFICATION FOR LOCAL PREFERENCE

Project Name: PROFESSIONAL CONSULTING SERVICES TO DEVELOP THE
UPDATE TO THE CURRENT FEE STRUCTURE FOR THE PLANNING
AND DEVELOPMENT DEPARTMENT

We certify that we qualify as a local business pursuant to Fresno
Municipal Code Section 4-109(b)(1).

Primary Office ☒
Branch Office (NO PO Box) ☐
(mark as applicable)

Location of Business

Address: 265 E. River Park Circle
Suite 110
Fresno, CA 93720

Phone: (559) 389-5700

The undersigned Respondent hereby declares under penalty of perjury under the laws of the State of California that the information contained on this CERTIFICATION FOR LOCAL PREFERENCE is correct and complete.

The above Statement is part of the Proposal. Signing this Proposal on the signature page thereof shall also constitute signature of this Certification.

Respondents are cautioned that making a false certification may subject the certifier to criminal prosecution.

ADDENDUM NO. 1



City of
Planning and Development - (559) 621-8084 - www.fresno.gov
2600 Fresno St, Room 3043
Fresno, California 93721-3622

Planning & Development Department
Jennifer Clark, Director of Development

**ADDENDUM NO. 1
REQUEST FOR QUALIFICATIONS
Consultant Services to
Develop the Update to the Current Fee Structure for the Planning and Development Department
Bid File No. 12300440**

NOTICE TO ALL BIDDERS

This Addendum is attached to and made a part of the above entitled specifications for the City of Fresno with a scheduled bid opening of **5:00p.m. Monday, November 14, 2022.**

All changes and or clarifications will appear in **bold underlined type.**

PLANS AND/OR SPECIFICATIONS

The following changes below will be a part of and subject to provisions of the project plans and/or specifications.

The bidder is responsible for recognizing changes to the Bid Proposal as called for on this addendum and shall submit a signed copy of Addendum No. 1 with the Bid Proposal.

1. Response to Submitted Written Bid Questions:

Question 1: Does the City want to take into account cross-departmental support as part of Building and Planning fee study, for example, Public Works spends time reviewing Planning applications, is the intent to capture that time and cost?

Response: **The City has an expectation of 100% cost recovery for work completed for a planning entitlement and a building permit. To the extent that another City department spends time to review and approve or provide comments on an entitlement or a plan check or a permit, all City costs should be included.**

Question 2: Has the City / department ever conducted a formal fee study? If yes, when was it conducted? Was it conducted internally or externally? If externally, by whom and what was the project budget?

Response: **Yes, the last fee study was done in 2018. The study was conducted by NBS Government Finance Group; the contracted amount was not to exceed \$50,000.**

Question 3: Is there an anticipated implementation date for these fees?

Response: It is anticipated that the study will be completed and adopted by the Fall of 2023 with implementation January 2025.

Question 4: We would like to confirm that as part of the SOQ, the City is only interested in obtaining hourly rates for staff? Not, a full price quote?

Response: A full price quote is not being requested in the SOQ Requirements. The minimum requirements are listed under IV. Statement of Qualification Requirements (SOQ) within the RFQ.

Question 5: The Statement of Qualifications Requirements section does not specify a section for the work plan, should a detailed work or task plan be provided?

Response: The minimum requirements are listed under IV. Statement of Qualification Requirements (SOQ) within the RFQ.

Question 6: Are the TOC, cover page, and cover letter all included in the 25 page limit?

Response: The minimum requirements are listed under IV. Statement of Qualification Requirements (SOQ) within the RFQ.

Question 7: The requirements for inclusion in the SOQs include the Legal Documents which state "Exhibit B" for both attachments. However, below in the RFQ, the documents are labeled as Appendix B. Can you please confirm that Appendix B, Attachments 1 and 2 are the attachments required for inclusion?

Response: Appendix B, Attachments 1 (Statement of Acceptance of the Indemnification and Insurance Requirements) and Attachment 2 (Certification For Local Preference) are the attachments required for inclusion. Specifications have been updated and attached to this addendum.

Question 8: Is the Exhibit C, Disclosure of Conflict of Interest due in this submission as well? It is not listed as a requirement in the what to include in SOQs but 9(a) states "prior to execution of this agreement..." in regards to that exhibit. If it is required in the submission, please indicate where you'd like it in the SOQ

Response: Exhibit C, Disclosure of Conflict of Interest is not due with submission.

**Consultant Services to Develop the Update to the Current Fee Structure for the
Planning and Development Department
Bid File No. 12300440 Addendum 1
Page 3 of 3**

City of Fresno

Charles Clark

Charles Clark
Building Services Manager

The bidder shall sign below indicating he/she has thoroughly read and understands the contents of this Addendum.

Signed: *CM*

Company: Moss Adams LLP

This addendum is being distributed ONLINE only. The bidder shall submit a signed copy of this addendum with their bid.

Addenda to date: 1
October 26, 2022

Addendum

Rev. 10-2021

III. Additional Scope of Services

Prepare best practices based upon current and desired services for the Parking Division for the City, following the above 14 steps outlined in II and shall conduct a comparative analysis to Fresno's benchmark cities of fines for violation of law. If the consultant feels that additional tasks are warranted, they must be clearly identified in the consultant's quote.

IV. Statement of Qualification Requirements (SOQ)

The response shall include at a minimum the information listed herein; incomplete or unclear information may be grounds for rejection. The response shall be organized as follows:

- ☐ Cover Letter
- ☐ Overview of the firm
- ☐ Summary of company's experience and performance on similar project/contracts completed in the last five years, including references
- ☐ Resumes for the Contract Manager and key support staff including education, relevant past projects experience, applicable licensing and certifications, and description of their assignments on this contract
- ☐ Listing of client references associated with completed projects/contracts would be desirable
- ☐ Rate Sheet
- ☐ Legal Documents
 - a. Statement of Acceptance of the Indemnification and Insurance Requirements, **APPENDIX** ~~Exhibit~~ B Attachment 1
 - b. Local Preference Certification (if applicable), **APPENDIX** ~~Exhibit~~ B Attachment 2
- ☐ The SOQ should be concise and should not exceed twenty-five (25) pages. (Note: required exhibits and signed addenda do not count towards the maximum page count)

V. Schedule

The tentative schedule for hiring and engaging the Consultant is as follows:

- RFQ Responses due to City by 5:00 pm on November 14, 2022.
- If held, invitations to interview – week of November 21, 2022.

All dates are subject to change, Consultant will be notified via email of any schedule changes.

Addendum 1

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ADDENDUM NO. 2



City of
Planning and Development - (559) 621-8084 - www.fresno.gov
2600 Fresno St, Room 3043
Fresno, California 93721-3622

Planning & Development Department
Jennifer Clark, Director of Development

ADDENDUM NO. 2 REQUEST FOR QUALIFICATIONS

Consultant Services to Develop the Update to the Current Fee Structure for the Planning and Development Department

Bid File No. 12300440

NOTICE TO ALL BIDDERS

This Addendum is attached to and made a part of the above entitled specifications for the City of Fresno with a scheduled bid opening of **5:00 P.M. Monday, November 14, 2022.**

All changes and or clarifications will appear in **bold underlined type.**

The Bid Opening Date has been changed to 5:00 P. M. Monday, November 28, 2022.

PLANS AND/OR SPECIFICATIONS

The following changes below will be a part of and subject to provisions of the project plans and/or specifications.

The bidder is responsible for recognizing changes to the Bid Proposal as called for on this addendum and shall submit a signed copy of Addendum No. 2 with the Bid Proposal.

- I. **Remove and Replace Page 1 with attached Page 1 (addendum no 2) which adds language to include the Fire Department.**
- II. **Remove and Replace Page 2 with attached Page 2 (addendum no 2) which adds language to include the Fire Department.**

**Consultant Services to Develop the Update to the Current Fee Structure for the Planning and
Development Department
Bid File No. 12300440
Addendum 2
Page 2 of 2**

City of Fresno

Charles Clark

Charles Clark
Building Services Manager

The bidder shall sign below indicating he/she has thoroughly read and understands the contents of this Addendum.

Signed: *Chi* _____

Company: Moss Adams LLP _____

This addendum is being distributed ONLINE only and will not be sent by U.S. Mail. The bidder shall submit a signed copy of this addendum with their bid.

Addenda to date: 2
November 3, 2022

Addendum

Rev. 10-2021

**THE CITY OF FRESNO IS INVITING CONSULTANTS
TO SUBMIT STATEMENT OF QUALIFICATIONS TO PROVIDE PROFESSIONAL
CONSULTING SERVICES TO DEVELOP THE UPDATE TO THE CURRENT FEE
STRUCTURE FOR FIRE AND THE PLANNING AND DEVELOPMENT DEPARTMENTS**

BID FILE NO. 12300440

I. Introduction

The City of Fresno (City) Planning & Development Department (Department) is issuing this Request for Qualifications (RFQ) for a qualified consultant to provide professional consulting services to develop the update to the current fee structure for Fire and the Planning and Development Departments.

Under the California Constitution, cities may establish fees for service or fines for violation of law through the framework as defined in Article XIII C, Section 1:

- (1) A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.
- (2) A charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.
- (3) A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.
- (4) A charge imposed for entrance to or use of local government property, or the purchase, rental, or lease of local government property.
- (5) A fine, penalty, or other monetary charge imposed by the judicial branch of government or a local government, as a result of a violation of law.

The City is seeking professional services to evaluate, establish a clear basis of fees for service, charges for use of public property (parking) and fines for violations of law.

II. Scope of Services

The primary objective is to conduct a Comprehensive Fee Study to include reviewing and updating all fees and charges for services, recommending additional fees, and establishing a goal for cost recovery for Building and Safety and Planning Divisions.

Alternative add-on services may include a cost recovery and fee analysis as well as fines for the Parking Services Division **and Fire Department.**

Scope Elements

Prepare a Comprehensive Fee Study for the City, which may include the following elements (if the consultant feels that additional tasks are warranted, they must be clearly identified in the consultant's proposed scope):

1. Work and meet with City staff to refine the project scope, purpose, uses and goals of the City's Comprehensive User Fee Study to ensure that the study will be both accurate and appropriate to the City's needs. Review project schedules and answer any questions pertaining to the successful development of the study.
2. Meet with staff and conduct interviews as needed to gain an understanding of the City's processes and operations. Conduct a comprehensive review of the City's existing fees, rates and charges.
3. Identify the total cost of providing each City service at the appropriate activity level and in a manner consistent with all applicable laws, statutes, rules and regulations governing the collection of fees, rates, and charges by public entities including, but not limited to, Proposition 26 and Proposition 218.
4. Compare service costs with existing recovery levels. This should include any service areas where the City is currently charging for services as well as areas where perhaps the City should charge, considering the City's practices, or the practices of similar or neighboring cities.
5. Recommend potential new fees and charges for services the City currently provides but does not have any fees and/or charges established. Recommendations should be based on practices by surrounding cities that may charge for similar services, industry best practices, or the consultant's professional opinion. The City is particularly interested in incentive programs offered in other agencies to promote economic development and the goals of the City.
6. Recommend appropriate fees and charges based on the firm's analysis together with the appropriate subsidy percentage of those fees where full cost recovery may be unrealistic.
7. Prepare a report that identifies each fee service, its full cost, recommended and current cost recovery levels. The report should also identify the direct cost, the indirect cost, and the overhead cost for each service.

-2- (Addendum No. 02)

SCHEDULE OF FEES AND EXPENSES

Service Description

Planning and Development Fee Study Phases

1 - 4 \$97,500

Total - \$97,500

Staff Level Hourly Rate

Partner \$350

Senior Manager \$300

Manager \$250

Senior \$200

Staff \$150

Associate \$110

Fee Details

- Progress Billing Progress billings are based on hours and expenses completed at the time of billing.
- Bills are due upon receipt.
- CONSULTANT reserves the right to charge interest on accounts over 30 days past due.
- Direct travel expenses will be billed monthly as incurred.

EXHIBIT B

INSURANCE REQUIREMENTS

Consultant Service Agreement between City of Fresno (CITY) and [Consultant Name] (CONSULTANT)

[Project Title]

MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. 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 with limits of liability not less than those set forth under “Minimum Limits of Insurance.”
2. The Automobile Policy shall be written on an occurrence form and shall provide coverage for owned (if any), hired, and non-owned automobiles or other licensed vehicles). 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:

1. **COMMERCIAL GENERAL LIABILITY:**
 - (i) \$1,000,000 per occurrence
 - (ii) \$2,000,000 general aggregate
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 per occurrence

5. PROFESSIONAL LIABILITY (Errors and Omissions):

- (i) \$1,000,000 per claim; 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

- (i) 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.

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 via blanket endorsement.
2. 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.

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 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, and may be redacted to protect confidential information.
5. These requirements shall survive expiration or termination of the Agreement.

For all policies of insurance CONSULTANT shall provide thirty (30) calendar days prior written notice of any cancellation, reduction, or material change in coverage, provided, however, that CONSULTANT shall not be obligated to provide such notice if, concurrently with such cancellation, reduction or material change, CONSULTANT obtains coverage from another insurer meeting the requirements described below. 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 will be solely responsible for ensuring that its subcontractors maintain insurance coverage at levels no less than those required by applicable law and is customary in the relevant industry.

VERIFICATION OF COVERAGE

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 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, provided that such policy may be redacted to protect confidential information. This requirement shall survive expiration or termination of this Agreement.

Exhibit C
Conflict of Interest

Disclosure and Acknowledgement
Agreed Upon Procedures (AUPs)

| | | 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: _____



Signature

Colleen Rozillis, Partner
(Name)

999 Third Ave, N Suite 2800

(Address)

Seattle, WA 98104
(City State Zip)

Exhibit D
Scope of Work