

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

THIS AGREEMENT is made and entered into effective the [] day of [], 2019, by and between the CITY OF FRESNO, a California municipal corporation (hereinafter referred to as "CITY"), and AECOM, AECOM Technical Services Inc. (hereinafter referred to as "CONSULTANT").

RECITALS

WHEREAS, CITY desires to obtain professional Engineering services for North Avenue Grade Separation Study, hereinafter referred to as the "Project;" and

WHEREAS, CONSULTANT is engaged in the business of furnishing services as a Engineering 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 Public Works Director (hereinafter referred to as "Director") or his/her designee.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and of the covenants, conditions, and promises hereinafter contained to be kept and performed by the respective parties, it is mutually agreed as follows:

1. Scope of Services. CONSULTANT shall perform to the satisfaction of CITY the services described in **Exhibit A**, including all work incidental to, or necessary to perform, such services even though not specifically described in **Exhibit A**.

2. Term of Agreement and Time for Performance. This Agreement shall be effective from the date first set forth above and shall continue in full force and effect through the earlier of complete rendition of the services hereunder or [October 16, 2019], subject to any earlier termination in accordance with this Agreement. The services of CONSULTANT as described in **Exhibit A** are to commence upon CITY'S issuance of a written "Notice to Proceed." Work shall be undertaken and completed in a sequence assuring expeditious completion, but in any event, all such services shall be completed within 230 consecutive calendar days from such authorization to proceed.

3. Compensation.

(a) CONSULTANT'S sole compensation for satisfactory performance of all services required or rendered pursuant to this Agreement shall be a total fee not to exceed \$135,000.00, paid on a time and materials basis in accordance with the schedule of fees contained in **Exhibit A**.

(b) Detailed statements shall be rendered monthly 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.

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

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

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

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

(f) CONSULTANT shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of CONSULTANT and without its fault or negligence such as, acts of God or the public enemy, acts of CITY in its contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. CONSULTANT shall notify Director in writing as soon as it is reasonably

possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, and shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to Director of the cessation of such occurrence.

5. Confidential Information, Ownership of Documents and Copyright License.

(a) Any reports, information, or other data prepared or assembled by CONSULTANT pursuant to this Agreement shall not be made available to any individual or organization by CONSULTANT without the prior written approval of CITY. During the term of this Agreement, and thereafter, CONSULTANT shall not, without the prior written consent of CITY, disclose to anyone any Confidential Information. The term Confidential Information for the purposes of this Agreement shall include all proprietary and confidential information of CITY, including but not limited to business plans, marketing plans, financial information, designs, drawings, specifications, materials, compilations, documents, instruments, models, source or object codes and other information disclosed or submitted, orally, in writing, or by any other medium or media. All Confidential Information shall be and remain confidential and proprietary in CITY.

(b) Any and all original sketches, pencil tracings of working drawings, plans, computations, specifications, computer disk files, writings and other documents prepared or provided by CONSULTANT pursuant to this Agreement are the property of CITY at the time of preparation and shall be turned over to CITY upon expiration or termination of the Agreement or default by CONSULTANT. CONSULTANT grants CITY a copyright license to use such drawings and writings. CONSULTANT shall not permit the reproduction or use thereof by any other person except as otherwise expressly provided herein. CITY may modify the design including any drawings or writings. Any use by CITY of the aforesaid sketches, tracings, plans, computations, specifications, computer disk files, writings and other documents in completed form as to other projects or extensions of this Project, or in uncompleted form, without specific written verification by CONSULTANT will be at CITY'S sole risk and without liability or legal exposure to CONSULTANT. CONSULTANT may keep a copy of all drawings and specifications for its sole and exclusive use.

(c) If CONSULTANT should subcontract all or any portion of the services to be performed under this Agreement, CONSULTANT shall cause each subcontractor to also comply with the requirements of this Section 5.

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

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

7. Indemnification. To the furthest extent allowed by law, CONSULTANT shall indemnify, hold harmless and defend CITY and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages

(whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage), and from any and all claims, demands and actions in law or equity (including reasonable attorney's fees and litigation expenses) that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of CONSULTANT, its principals, officers, employees, agents or volunteers in the performance of this Agreement.

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

This section shall survive termination or expiration of this Agreement.

8. Insurance.

(a) Throughout the life of this Agreement, CONSULTANT shall pay for and maintain in full force and effect all insurance as required in **Exhibit B**, which is incorporated into and part of this Agreement, with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated no less than "A-VII" in the Best's Insurance Rating Guide, or (ii) as may be authorized in writing by CITY'S Risk Manager or his/her designee at any time and in his/her sole discretion. The required policies of insurance as stated in Exhibit B shall maintain limits of liability of not less than those amounts stated therein. However, the insurance limits available to CITY, its officers, officials, employees, agents and volunteers as additional insureds, shall be the greater of the minimum limits specified therein or the full limit of any insurance proceeds to the named insured.

(b) If at any time during the life of the Agreement or any extension, CONSULTANT or any of its subcontractors/sub-consultants fail to maintain any required insurance in full force and effect, all services and work under this Agreement shall be discontinued immediately, and all payments due or that become due to CONSULTANT shall be withheld until notice is received by CITY that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to CITY. Any failure to maintain the required insurance shall be sufficient cause for CITY to terminate this Agreement. No action taken by CITY pursuant to this section shall in any way relieve CONSULTANT of its responsibilities under this Agreement. The phrase "fail to maintain any required insurance" shall include, without limitation, notification received by CITY that an insurer has commenced proceedings, or has had proceedings commenced against it, indicating that the insurer is insolvent.

(c) The fact that insurance is obtained by CONSULTANT shall not be deemed to release or diminish the liability of CONSULTANT, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify CITY shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONSULTANT. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of CONSULTANT, its principals, officers, agents, employees, persons under the supervision of CONSULTANT, vendors, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.

(d) If CONSULTANT should subcontract all or any portion of the services to be performed under this Agreement, CONSULTANT shall require each subcontractor/sub-consultant to provide insurance protection, as an additional insured, to the CITY and each of its officers, officials, employees, agents and volunteers in accordance with the terms of this section, except

that any required certificates and applicable endorsements shall be on file with CONSULTANT and CITY prior to the commencement of any services by the subcontractor. CONSULTANT and any subcontractor/sub-consultant shall establish additional insured status for CITY, its officers, officials, employees, agents and volunteers by using Insurance Service Office (ISO) Form CG 20 10 11 85 or both CG 20 10 10 01 and CG 20 37 10 01 or by an executed manuscript company endorsement providing additional insured status as broad as that contained in ISO Form CG 20 10 11 85.

9. Conflict of Interest and Non-Solicitation.

(a) Prior to CITY'S execution of this Agreement, CONSULTANT shall complete a City of Fresno conflict of interest disclosure statement in the form as set forth in **Exhibit C**. During the term of this Agreement, CONSULTANT shall have the obligation and duty to immediately notify CITY in writing of any change to the information provided by CONSULTANT in such statement.

(b) CONSULTANT shall comply, and require its subcontractors to comply, with all applicable (i) professional canons and requirements governing avoidance of impermissible client conflicts; and (ii) federal, state and local conflict of interest laws and regulations including, without limitation, California Government Code Section 1090 et. seq., the California Political Reform Act (California Government Code Section 87100 et. seq.), the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations Section 18700 et. seq.) and Section 4-112 of the Fresno Municipal Code (Ineligibility to Compete). At any time, upon written request of CITY, CONSULTANT shall provide a written opinion of its legal counsel and that of any subcontractor that, after a due diligent inquiry, CONSULTANT and the respective subcontractor(s) are in full compliance with all laws and regulations. CONSULTANT shall take, and require its subcontractors to take, reasonable steps to avoid any appearance of a conflict of interest. Upon discovery of any facts giving rise to the appearance of a conflict of interest, CONSULTANT shall immediately notify CITY of these facts in writing.

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

(d) CONSULTANT represents and warrants that it has not paid or agreed to pay any compensation, contingent or otherwise, direct or indirect, to solicit or procure this Agreement or any rights/benefits hereunder.

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

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

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

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

- (i) Immediately establish and maintain a viable and ongoing recycling program, approved by CITY'S Solid Waste Management Division, for each office and facility. Literature describing CITY recycling programs is available from CITY'S Solid Waste Management Division and by calling City of Fresno Recycling Hotline at (559) 621-1111.
- (ii) Immediately contact CITY'S Solid Waste Management Division at (559) 621-1452 and schedule a free waste audit, and cooperate with such Division in their conduct of the audit for each office and facility.
- (iii) Cooperate with and demonstrate to the satisfaction of CITY'S Solid Waste Management Division the establishment of the recycling program in paragraph (i) above and the ongoing maintenance thereof.

11. General Terms.

(a) Except as otherwise provided by law, all notices expressly required of CITY within the body of this Agreement, and not otherwise specifically provided for, shall be effective only if signed by the Director or his/her designee.

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

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

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

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

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

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

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

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

13. Independent Contractor.

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

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

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

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

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

16. Assignment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CITY OF FRESNO,
a California municipal corporation

By: _____
Scott Mozier, P.E.,
Director
Public Works Department

ATTEST:
YVONNE SPENCE, CMC
City Clerk

By: _____
Deputy

No signature of City Attorney required.
Standard Document #DPW-S 28.2 has
been used without modification, as certified
by the undersigned.

By: _____
Jesus Avitia, P.E.
Deputy City Engineer
Public Works Department

REVIEWED BY:

Jesus Avitia, P.E., Deputy City Engineer
Public Works Department

Addresses:

CITY:
City of Fresno
Attention: Jesus Avitia, P.E.,
Deputy City Engineer
2600 Fresno St.
Fresno, CA 92711
Phone: (559) 621-8804
FAX: (559) [#]

Attachments:

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

AECOM, AECOM
Technical Services, Inc.

By: _____


Name: Thomas R. Barnard, PE

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

By: _____


Name: Armond Tatevossian

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

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

CONSULTANT:
AECOM Technical Services, Inc.
Attention: R. Brent Lemon,
Project Manager
2020 L Street, Suite 400
Sacramento, CA, 95811
Phone: (916) 414-1572
FAX: (916) 414-5850

Exhibit A

SCOPE OF SERVICES

**Consultant Service Agreement between City of Fresno ("City")
and AECOM ("Consultant")**

North Avenue Grade Separation Study
PROJECT TITLE

See attached Scope

Scope of Work

A list of the tasks anticipated for the North Avenue Grade Separation Feasibility Study is listed below followed by a detailed description for each task.

- Task 1: Project Management
- Task 2: Data Collection and Review
- Task 3: Alternatives Development and Screening
- Task 4: Section 190 Nomination Package

Task 1 – PROJECT MANAGEMENT AND ADMINISTRATION

AECOM will provide project management for each task for the duration of the project. Management activities will consist of administration, coordination, and quality control, as follows:

- Prepare a Project Execution Plan (PXP) which includes scope, budget, team organization, roles, contacts, production standards, a project schedule, identification of deliverables, document control procedures, a health and safety plan and quality assurance and control procedures.
- Supervise, coordinate, and monitor activities and product development for conformance with the scope of services and City standards. Interface with City staff to assure format consistency of all deliverables.
- Prepare a monthly invoice and progress report.

Performance and Quality Monitoring

As part of the PXP, a project specific Quality Assurance Plan (QAP) will define the requirements for technical reviews and detailed checking for all draft and final work products including the work produced by our subconsultants. The QAP will outline the quality assurance procedures and protocols we will use to make sure that all work performed on the project is checked and that all deliverables undergo a quality review before submittal to the City. Additionally, Risk Management strategies will be developed with identified risks logged into a Risk Register.

Coordination Meetings

AECOM will prepare for and attend a total of three (3) meetings with City Staff and other key stakeholders consisting of:

- Kick-off meeting,
- Preliminary alternative screening meeting, and
- Recommended alternative meeting.

Once per month at a minimum the AECOM project manager will conduct project check-ins with the City. These meetings are anticipated to occur for an estimated 1 hour duration over the phone and would serve as status meetings to discuss project progress, look-ahead items (4 weeks ahead) and issues/recommendations. This format serves to maintain regular communication and proactively manage project issues. For this scope it is estimated that the duration would not exceed ten (10) months and allows for ten (10) check in meetings.

Attend meetings with UPRR, BNSF and the CPUC with City staff to discuss project alternatives and obtain concept input. A total of five (5 – two per each railroad and one CPUC) two-hour meetings is assumed in this scope. Coordination with Caltrans and California High Speed Rail Authority (CHSR) will occur within the three team meetings noted above and over the phone as needed. Other railroad service providers (Amtrak and other operators on BNSF and UPRR lines) will be coordinated with via phone and documented in our third party log.

We will prepare meeting agendas to be distributed prior to the meetings and meeting minutes to be prepared and distributed within five days after a meeting. A list of action items and their status will be included with meeting handouts/minutes and will be discussed and updated at the meetings. Additional meetings can be attended on a time and materials basis, such as supporting staff with presentations to the City Council or other stakeholders.

Monthly Invoicing, Progress Reports, and Schedule

Upon notice to proceed from the City, AECOM will prepare a baseline schedule for the project which will be submitted to City staff for review and approval. This schedule then be updated each month and will accompany the monthly progress report that will be included with each monthly invoice.

Deliverables:

- Project Meetings with City Staff (3)
- Project Check-Ins (10)
- Railroad Coordination Meetings (4)
- CPUC Meeting (1)
- Risk Register
- Progress Reports, Invoices and Project Schedule
- Meeting Minutes
- Third Party Coordination Log

TASK 2 DATA COLLECTION and REVIEW**Technical Data and As-builts**

AECOM will collect and review data collected or generated by the City. This will include existing as-built data for roadways, bridges, and adjacent facilities. This research will serve as one of the resources for establishing the existing conditions of the Project site. We assume that the existing data will be sufficient for moving the project forward to selection of a preferred alternative and that positive location of utilities at this phase will not be required. Data collection will support alternative assessment and will be critical input for construction cost estimates and alternative impact evaluation.

The City will provide information on proposed development sites near or within the project area and their current status including County proposed development.

Caltrans District 6 will be requested to provide information relating to the ultimate interchange contemplated at SR99 within the project limits. All electronic CADD files will be evaluated and shown on the concept plans to inform project decisions, costs, risks and ensure compatibility with future plans.

Base Map

A base map for the project limits will be created from a variety of existing sources, City and County GIS, City topographic mapping collected for this project, as-built information, utility facility mapping and existing right of way record maps, all provided by the City. Imagery for exhibit preparation will either utilize existing City provided aerial imagery or google earth imagery. Base Mapping will utilize the topographic mapping data that will be provided by the City. This will be augmented by available GIS mapping and any other additional project data available within the project limits.

Field Review

Once the base map is progressed, AECOM will conduct an initial site visit with City staff to identify the unique features that could impact design constraints, construction constraints, and environmental impacts. It is assumed that between available existing information and the City's topographic mapping there will be sufficient information for the project commensurate to a feasibility study and supplemental field surveys will not be required.

Traffic Data Collection

The project team will obtain new count data which will include:

- 24-hr 7-day count data at the five RR crossings (3 along North Ave./UPRR/BNSF, 1 Cedar Ave./BNSF spur, 1 South Golden St. Frontage Road/BNSF). Stationary trains blocking the roadways will be counted and blocking time measured.
- Count data collection will include vehicular classifications and 24-hr 7-day count data for trains. Specifically within the Section 190 application "AUTOS" are all vehicles crossing the tracks with the exception of school buses, passenger buses and hazardous-material trucks (which will be counted separately).
- Vehicle blocking delay by train will be collected for each proposed crossing in the study limits (5). Delay is measured from the point that the warning devices are activated at the crossing to the time after the train has cleared the crossing and the warning devices are reset. For a typical day, this will require averaging the number of train occurrences at a particular crossing reported in minutes. Video data collection would allow for measuring delay and averaging daily delay over the 7-day observation period, or selecting the highest daily value.

Existing data from:

- US DOT inventory for collision data (10-years) adjacent to and at the at-grade crossings (AECOM).
- SWITRS data on North Avenue between Cedar and Maple, Cedar Ave at BNSF spur and South Golden St. Frontage Road at BNSF crossing. (City provided)
- City speed zone survey data to confirm vehicular speeds. (City provided)
- City traffic counts (City provided).

Review of Traffic Data

AECOM will review the accident data provided by the City (SWITRS) and compare against the US DOT inventory information to validate reported accidents within the two systems.

AECOM will review collected traffic data to inform preliminary intersection configurations and channelization needs. Detailed traffic operational analysis or forecast modeling will not be done during this phase of the project.

Right-of-Way Research

Using existing GIS and record map information provided by the City, the properties in the vicinity of the proposed grade separations will be identified. This information will become the basis for screening alternatives and developing cost estimates for alternatives.

Utilities

V & G Builders will lead the utility identification and coordination efforts. A master list of potential utility providers will be established and Utility A letters will be prepared and submitted to each. A Utility Tracking Log will be created to status and manage information from each utility. The Utility Tracking Log will show owner, type of utility, status of A Letter, comments and note any prior rights information available from existing record maps. Record map research and documentation will be limited to not more than eight (8) hours. Utility coordination efforts will be limited to two (2) 2-hour meetings with each utility owner total effort not to exceed twenty (20) hours. V & G Builders has also included in their scope attendance at up to two (2) 2-hour City coordination meetings. It is assumed existing roadway and track as-builts will show existing utilities adjacent to and within the railroad right of way. Using the existing as-built information for the area, utilities will be shown on the base map. This initial utility information will become the basis for screening alternatives and developing cost estimates for relocation or protecting in place.

Design Criteria

In addition to City roadway design standards, UPRR and BNSF have operational requirements and standards associated with track design and rail operations that collectively establish the project design criteria. The project design criteria will be presented in a memorandum for City review and approval. The design criteria and operational constraints will be used in a risk analysis matrix to screen and evaluate alternatives. The design criteria will be presented in memorandum format for review and approval by the City. This scope assumes submitting a Draft Design Criteria Memorandum, responding to City comments utilizing a comment resolution table (CRT) and then submitting the Final Design Criteria Memorandum.

Deliverables:

- Base Map
- Utility A Letters
- Utility Owner Tracking Log
- Draft Design Criteria Memorandum
- Final Design Criteria Memorandum with CRT of Draft Submittal

City provided information:

- As-Built Roadway and Bridge Plans
- Aerial imagery if available
- New Traffic Count Data
- Provide Blocking Delay
- Existing Traffic Data
- Accident Data from SWITRS
- Existing Right of Way Record Maps

TASK 3 – Alternative Development and Screening

AECOM will develop preliminary plans for three (3) concept alternatives to the level commensurate for a feasibility study for the City's review and input. The three (3) concept alternatives will result in the following products:

- Concept roadway and trackway plans and profiles including right-of-way and utility as-built information
- Concept roadway and trackway cross sections at critical locations
- Concept cost estimates

The preliminary plans will be developed at a level to understand local circulation needs, constraints on profile grade, general impacts to utilities and properties, as well as constraints of roadway and railroad alignments and conforms. The conceptual design of the alternatives will address key parameters that include traffic circulation and multi-modal access, geotechnical conditions, major utility conflicts, physical and environmental constraints, right of way constraints, economic and community impacts, construction phasing/staging impacts, and risk identification and assessment. This information will assist in development of construction cost estimates which will be used for screening the concept alternatives to determine which offers the best value.

Once initial horizontal alignments are developed of the three (3) concepts, AECOM will meet with the City to brainstorm screening criteria. AECOM will refine the screening criteria matrix and provide to the City for final review and approval. During this time the concept alternatives will be progressed and the preliminary concept alternative screening meeting held. A concept alternatives evaluation matrix will be developed to document the evaluation and concluding ranking of each concept alternative. A detailed review of the alternatives serves two main purposes:

- It minimizes the time spent on an infeasible alternative. It is conceivable that a fatal flaw in one or more of the alternatives will be discovered during the early developmental stage. If so, AECOM will document the decision to eliminate the alternative from further consideration and the rationale for doing so. This documentation is important because it will minimize the time spent on the alternative in the future if the alternative is revisited.
- It ensures that the feasible alternatives are refined to an extent that eliminates the discovery of a design flaw in the future. This screening process also saves time on rework of an alternative at a later stage of development.

Each concept alternative is expected to have its share of advantages and disadvantages. AECOM will develop each concept alternative, receive input from the stakeholders, refine each alternative, summarize the costs of each alternative, and list the advantages and disadvantages of each in a clear and concise format to better enable the City to make a decision on a preferred alternative. At the conclusion, we will prepare a summary white paper detailing the process and selection of the concept alternative to nominate.

Prior to proceeding with Task 4 our team will hold the recommended concept alternative meeting with City staff to confirm finalizing the recommended alternative plans and cost estimate. Prior to this meeting the AECOM team will progress the recommended concept alternative plan, profile, critical cross sections and construction cost estimate to a draft submittal for City review prior to the meeting. This concept alternative plan and profile will include bridge abutment and bent (pier) locations. The meeting will be used to address City comments. A final recommended alternative package will be submitted to the City along with a CRT addressing comments.

Deliverables:

- Location Map
- Preliminary Concept Plans for three (3) Alternatives
- Preliminary Cost Estimate for three (3) Alternatives
- Screening Criteria Brainstorm Meeting
- Concept Alternatives Screening Meeting
- Concept Alternatives Evaluation Matrix
- Draft Recommended Concept Alternative Plan, Profile and Critical Cross Sections
- Draft Recommended Concept Alternative Construction Cost Estimate
- Recommended Concept Alternative Meeting
- Final Recommended Concept Alternative Plan, Profile and Critical Cross Sections with CRT
- Recommended Concept Alternative Cost Estimate
- White Paper (decisions document)

TASK 4 – Section 190 Nomination Package

This task will consist of preparing the draft and final nomination form (GSN-1 Form) package and additional supporting materials/exhibits. Data collection for preparation of the GSN-1 Form will occur in Task 2. Coordination with UPRR, BNSF, and the CPUC will take place as noted in Task 1. This task includes work with City staff to address comments and submit final nomination package to the CPUC.

AECOM will provide up to date crossing information which RailPros will use to prepare the application to CPUC for Section 190 funding. RailPros will also advise AECOM and/or the City of Fresno of availability or opportunities to pursue other sources of funding which can be provided on a time and materials basis. This task includes the following:

- Funding application – RailPros will prepare the application for Section 190 funding and support the application with the funding agencies as pertinent.

- Meetings – In support to the application, RailPros will participate in meetings and site visits as necessary and as requested by AECOM, City of Fresno and or other stakeholders. One (1) site visit is included in this scope. Additional meetings can be attended on a time and materials basis.

This task will accomplish submittal of the Section 190 Nomination Package to the CPUC. The nomination package will include:

- Draft and Final GSN-1 Form
- Location Map (From Task 3)
- Preliminary Concept Plans, Profile and Critical Cross Sections for the selected Concept Alternative (From Task 3)
- Cost Estimate (From Task 3)

Deliverables:

- Provide Draft Section 190 Nomination Package.
- Provide Final Section 190 Nomination Package.

ASSUMPTIONS

- Existing data and City topographic information is sufficient for the feasibility level basemap.
- Design Exceptions will not be required.
- Utility asbuilts, utility surface features, and any available utility GIS information are sufficient.
- Project duration through final White Paper submittal is 10 months.
- No utility potholing.
- No public outreach.
- No geotechnical investigations or materials analysis (will use existing available information).
- No bridge advance planning studies.
- No environmental investigations and studies.
- City will provide encroachment permits/right of entries for City/County right of way and private properties if and as needed (AECOM team will coordinate with the railroad for appropriate access).
- Any right of way acquisition estimates will be based on City provided current land acquisition data and applied to areas calculated by the design team.
- No coordination or meetings with Caltrans other than to obtain the PSR for North Ave and SR 99 IC (Assume Caltrans would attend the three team meetings identified in Task 1).
- No coordination or meetings with CHSR other than to obtain design plans/asbuilts for their nearby facility (Assume CHSR would attend the three team meetings identified in Task 1).
- The three (3) project team meetings as scoped with City and stakeholders are sufficient.
- Deliverables will be submitted to the City in electronic native Microsoft Office file formats and PDF. The Section 190 Nomination Package will be provided as hard copy (3) and PDF.

SCHEDULE OF FEES

[Schedule of Fees]

Tuesday, January 22, 2019

		Project Manager	Roadway Project Engineer	Structures Project Engineer	Roadway Designer	Quality Control	Staff Engineer	Engineering Technician	Traffic Operations	Traffic Engineer	Enviro. Lead	Enviro. Staff	Railroad Coordinator	Railroad Client Manager	Project Controls	Project Controls Analyst	Admin Assistant	Sub V&G Builders	Sub RailPros	Traffic/ Train Counts & ODCs	Total Hours	TOTAL\$
		Brent Lemon	Howard Michael	Thomas Bamard	Vanessa Doctolero	Millette Litzinger			Ravi Puttagunta	Mehul Champaneri	Michael Kay	Erik Skov	Alan Boone	Craig Morgan	Rick Moreland							
	Billing Rate ==>	\$325.67	\$306.88	\$296.70	\$162.83	\$245.87	\$104.21	\$91.19	\$282.42	\$137.38	\$183.89	\$159.11	\$243.18	\$301.20	\$199.23	\$74.75	\$78.16	\$1.00	\$1.00	\$1.00		
1.0	Task 1 - Project Management																12					\$937.93
	Meetings with City (3-total)	6	6																	\$2,000.00	12	\$5,795.32
	Once Monthly Status Meetings (10-total)	10	10																			\$6,325.53
	Meetings with Railroad (4)	8											10	4							22	\$6,242.00
	CPUC Meeting (1)	2																				\$651.34
	Performance & Quality Monitoring	10																			10	\$3,256.69
	Progress Reports and Invoicing	5													2	12					19	\$2,923.78
	Schedule	5																			5	\$1,628.34
	Risk Register	5																			5	\$1,628.34
	Meeting Minutes	5																			5	\$1,628.34
	Third Party Coordination Log				8																8	\$1,302.68
	Subtotal Hours	56	16	0	8	0	0	0	0	0	0	0	10	4	2	12	12				86	
	Subtotal Cost	\$18,237	\$4,910	\$0	\$1,303	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$2,432	\$1,205	\$398	\$897	\$938	\$0	\$0	\$2,000		\$32,320.29
2.0	Task 2 - Data Collection + Investigations																				0	
	Basemap		2		8			8													18	\$2,645.94
	Site Visit	4	4		4																12	\$3,181.55
	Utility Coordination (A Ltrs, Tracking Log, Mtgs)																	\$14,700.00			0	\$14,700.00
	Design Criteria Memorandum	2	4	2	8																16	\$3,774.94
	Traffic Data Collection and Review								4	10			2							\$25,000.00	16	\$27,989.85
	Subtotal Hours	6	10	2	20	0	0	8	4	10	0	0	2	0	0	0	0				62	
	Subtotal Cost	\$1,954	\$3,069	\$593	\$3,257	\$0	\$0	\$729	\$1,130	\$1,374	\$0	\$0	\$486	\$0	\$0	\$0	\$0	\$14,700	\$0	\$25,000		\$52,292.28
3.0	Task 3 - Alternative Development + Screening																					
	Preliminary Concept Plans (3 Alts)	2	12	6	48		40														108	\$18,098.74
	Preliminary Cost Estimate (3 Alts)	1	1		16		8														26	\$4,071.61
	Concept Alts Evaluation Matrix (w/ Evaluation)	1	4		12																17	\$3,507.22
	Draft Recommended Alt. Plans and Cost	1	6		24	2															33	\$6,566.73
	Final Recommend Alt Plans and Cost	1	1		8																10	\$1,935.23
	White Paper (Decisions Document)	1	8			3					2	8									22	\$5,158.98
	Subtotal Hours	7	32	6	108	5	48	0	0	0	2	8	0	0	0	0	0				216	
	Subtotal Cost	\$2,280	\$9,820	\$1,780	\$17,586	\$1,229	\$5,002	\$0	\$0	\$0	\$368	\$1,273	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0.00		\$39,338.51
4.0	Task 4 - Section 190 Nomination Package																					
	Draft and Final GSN-1 Form																		\$9,550.00		0	\$9,550.00
	Nomination Package and Transmittal	1	1		2	1															5	\$1,204.09
	Subtotal Hours	1	1	0	2	1	0	0	0	0	0	0	0	0	0	0	0				5	
	Subtotal Cost	\$326	\$307	\$0	\$326	\$246	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$9,550	\$0.00	\$0.00		\$10,754.09
	TOTAL Hrs	70	59	8	138	6	48	8	4	10	2	8	12	4	2	12	12				369	
	TOTAL Cost	\$22,796.81	\$18,106.17	\$2,373.58	\$22,471.14	\$1,475.20	\$5,002.27	\$729.50	\$1,129.68	\$1,373.80	\$367.77	\$1,272.87	\$2,918.20	\$1,204.82	\$398.46	\$896.97	\$937.93	\$14,700.00	\$9,550.00	\$27,000.00		\$134,705.17

Labor	\$83,455.17
Subs	\$24,250.00
ODCs	\$27,000.00
TOTAL	\$134,705.17
USE	\$135,000.00

North Ave new bridge over railroad Fresno, CA RailPros Fee Estimate November 2, 2018												
		Alex Popovici CM/RR Coordination QA/QC	Mary Toutouchi Section 190 funding				Admin	Total Hours	Labor Cost per task	ODC	Subconsultant	Total
	Billing Rate	\$ 190.00	\$ 200.00				\$ 550.00					
Task - Section 190 Funding Application												
Application		10	32				1	43	\$ 8,850	\$ 700		
	Subtotal	10	32	0	0	0	1	43	\$ 8,850	\$ 700	\$ -	\$ 9,550
								0	\$ -			
								0	\$ -			
	Subtotal	0	0	0	0	0	0	0	\$ -	\$ -	\$ -	\$ -
	Total RailPros Hours	10	32	0	0	0	1	43	\$ 8,850	\$ 700	\$ -	\$9,550
	RailPros Project Fee	\$1,900	\$6,400	\$0	\$0	\$0	\$550		\$	\$ 700	\$ -	\$9,550

V & G Builders Cost Proposal
Services for North Avenue Grade Separation Feasibility Study

0

VAG SCHEDULE:		A Letters and Third Party Coordination																
YEAR:		2018-19																
PHASE:		Feasibility																
POSITION	NAME	MONTH:	N-18	D-18	J-19	F-19	M-19	A-19	M-19	J-19	J-19	A-19	S-19	O-19	N-19	D-19	J-20	TOTAL HOURS
A Letter Preparation	Tony Valdez				11	0	0	0	0	0	0	0	0	0	0	0	0	11
Tracking Log	Tony Valdez				4	4	0	0	0	0	0	0	0	0	0	0	0	8
Record Map Research	Tony Valdez				0	8	0	0	0	0	0	0	0	0	0	0	0	8
A Letter Responses	Tony Valdez				0	11	0	0	0	0	0	0	0	0	0	0	0	11
Utility Meetings	Tony Valdez				0	0	10	0	0	0	0	10	0	0	0	0	0	20
COF Meetings	Tony Valdez				0	0	0	0	0	2	0	0	0	2	0	0	0	4
AECOM Meeting	Tony Valdez				1	1	1	0	1	0	1	1	0	0	0	0	0	6
																0	0	
																		68

		Escalation Factor																	1	
POSITION	NAME	Salary	Multi	Bill	N-18	D-18	J-19	F-19	M-19	A-19	M-19	J-19	J-19	A-19	S-19	O-19	N-19	D-19	J-20	TOTAL STAFF
A Letter Preparation	Tony Valdez	90	2.4	216	-	-	2,376	-	-	-	-	-	-	-	-	-	-	-	-	\$ 2,376.00
Tracking Log	Tony Valdez	90	2.4	216	-	-	864	864	-	-	-	-	-	-	-	-	-	-	-	\$ 1,728.00
Record Map Research	Tony Valdez	90	2.4	216	-	-	-	1,728	-	-	-	-	-	-	-	-	-	-	-	\$ 1,728.00
A Letter Responses	Tony Valdez	90	2.4	216	-	-	-	2,376	-	-	-	-	-	-	-	-	-	-	-	\$ 2,376.00
Utility Meetings	Tony Valdez	90	2.4	216	-	-	-	-	2,160	-	-	-	-	-	2,160	-	-	-	-	\$ 4,320.00
COF Meetings	Tony Valdez	90	2.4	216	-	-	-	-	-	-	-	432	-	-	432	-	-	-	-	\$ 864.00
AECOM Meeting	Tony Valdez	90	2.4	216	-	-	216	216	216	-	216	-	216	216	-	-	-	-	-	\$ 1,296.00
					-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	\$ -
																				\$ 14,588.00

USE	\$ 14,700.00
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Exhibit B

INSURANCE REQUIREMENTS

Consultant Service Agreement between City of Fresno ("CITY") and AECOM ("CONSULTANT")

North Avenue Grade Separation Study
PROJECT TITLE

MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. The most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01, providing liability coverage arising out of your business operations. The Commercial General Liability policy shall be written on an occurrence form and shall provide coverage which shall include insurance 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.

MINIMUM LIMITS OF INSURANCE

CONSULTANT, or any party the CONSULTANT subcontracts with, shall maintain limits of liability of not less than those set forth below. However, insurance limits available to CITY, its officers, officials, employees, agents and volunteers as additional insureds, shall be the greater of the minimum limits specified herein or the full limit of any insurance proceeds available to the named insured:

1. **COMMERCIAL GENERAL LIABILITY:**
 - (i) \$1,000,000 per occurrence for bodily injury and property damage;
 - (ii) \$1,000,000 per occurrence for personal and advertising injury;
 - (iii) \$2,000,000 aggregate for products and completed operations; and,

- (iv) \$2,000,000 general aggregate applying separately to the work performed under the Agreement.

2. **COMMERCIAL AUTOMOBILE LIABILITY:**

\$1,000,000 per accident for bodily injury and property damage.

OR*

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

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

3. **WORKERS' COMPENSATION INSURANCE** as required by the State of California with statutory limits.

4. **EMPLOYER'S LIABILITY:**

- (i) \$1,000,000 each accident for bodily injury;
- (ii) \$1,000,000 disease each employee; and,
- (iii) \$1,000,000 disease policy limit.

5. **PROFESSIONAL LIABILITY** (Errors and Omissions):

- (i) \$1,000,000 per claim/occurrence; and,
- (ii) \$2,000,000 policy aggregate.

UMBRELLA OR EXCESS INSURANCE

In the event CONSULTANT purchases an Umbrella or Excess insurance policy(ies) to meet the "Minimum Limits of Insurance," this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies). In addition, such Umbrella or Excess insurance policy(ies) shall also apply on a primary and non-contributory basis for the benefit of the CITY, its officers, officials, employees, agents and volunteers.

DEDUCTIBLES AND SELF-INSURED RETENTIONS

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

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

- (ii) CONSULTANT shall provide a financial guarantee, satisfactory to CITY'S Risk Manager or his/her designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall CITY be responsible for the payment of any deductibles or self-insured retentions.

OTHER INSURANCE PROVISIONS/ENDORSEMENTS

The General Liability and Automobile Liability insurance policies are to contain, or be endorsed to contain, the following provisions:

1. CITY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds. CONSULTANT shall establish additional insured status for the City and for all ongoing and completed operations by use of ISO Form CG 20 10 11 85 or both CG 20 10 10 01 and CG 20 37 10 01 or by an executed manuscript insurance company endorsement providing additional insured status as broad as that contained in ISO Form CG 20 10 11 85.
2. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, officials, employees, agents and volunteers. Any available insurance proceeds in excess of the specified minimum limits and coverage shall be available to the Additional Insured.
3. For any claims related to this Agreement, CONSULTANT'S insurance coverage shall be primary insurance with respect to the CITY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents and volunteers shall be excess of CONSULTANT'S insurance and shall not contribute with it. CONSULTANT shall establish primary and non-contributory status by using ISO Form CG 20 01 04 13 or by an executed manuscript insurance company endorsement that provides primary and non-contributory status as broad as that contained in ISO Form CG 20 01 04 13.

The Workers' Compensation insurance policy is to contain, or be endorsed to contain, the following provision: CONSULTANT and its insurer shall waive any right of subrogation against CITY, its officers, officials, employees, agents and volunteers.

If the Professional Liability (Errors and Omissions) insurance policy is written on a claims-made form:

1. The retroactive date must be shown, and must be before the effective date of the Agreement or the commencement of work by CONSULTANT.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Agreement work or termination of the Agreement, whichever occurs first, or, in the alternative, the policy shall be endorsed to provide not less than a five (5) year discovery period.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the Agreement or the commencement of work by CONSULTANT, CONSULTANT must purchase

"extended reporting" coverage for a minimum of five (5) years after completion of the Agreement work or termination of the Agreement, whichever occurs first.

4. A copy of the claims reporting requirements must be submitted to CITY for review.
5. These requirements shall survive expiration or termination of the Agreement.

All policies of insurance required herein shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after thirty (30) calendar days written notice by certified mail, return receipt requested, has been given to CITY. CONSULTANT is also responsible for providing written notice to the CITY under the same terms and conditions. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, CONSULTANT shall furnish CITY with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for CITY, CONSULTANT shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than fifteen (15) calendar days prior to the expiration date of the expiring policy.

VERIFICATION OF COVERAGE

CONSULTANT shall furnish CITY with all certificate(s) and **applicable endorsements** effecting coverage required hereunder. All certificates and **applicable endorsements** are to be received and approved by the CITY'S Risk Manager or his/her designee prior to CITY'S execution of the Agreement and before work commences. All non-ISO endorsements amending policy coverage shall be executed by a licensed and authorized agent or broker. Upon request of CITY, CONSULTANT shall immediately furnish City with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

Exhibit C

DISCLOSURE OF CONFLICT OF INTEREST

North Avenue Grade Separation Study
PROJECT TITLE

		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

January 23, 2019
Date

Thomas R. Barnard, PE
(name)

AECOM Technical Services, Inc.
(company)

2020 L Street, Suite 400
(address)

Sacramento, CA 95811
(city state zip)