

DESIGN CONTRACT

THIS CONTRACT is made and entered into by and between the CITY OF FRESNO, a California municipal corporation (City), and C. OVERAA & CO., a California corporation (Consultant), as follows:

RECITALS

WHEREAS, the City desires to obtain professional design services for the design of plans and general construction contract documents for the parking garage at Fresno Yosemite International Airport (Project); and

WHEREAS, the City desires to utilize a Progressive Design Build delivery method to design and build the Project; and

WHEREAS, the selected design build team is composed of C. Overaa & Co. (Design/Builder) and its sub-consultants including architect and engineers from WRNS Studios and Walker Consultants shall provide design services and hereby represents that it desires to and is professionally and legally capable of performing the services called for by this Agreement; and

WHEREAS, this Agreement will be administered for the City by its Airport Department Director (Director) or designee.

1. Contract Documents. The "Request for Qualifications," "Specifications," and the "DBIA Progressive Design Build Agreement", as modified, for design services related to a parking garage at Fresno Yosemite International Airport, copies of which are annexed hereto as part of Exhibit 1, together with all the documents specifically referred to in said annexed documents are hereby incorporated into and made a part of this Contract, and shall be known as the Contract Documents.

2. Price. For the monetary consideration of \$3,000,000, as set forth in **Exhibit 1**, Consultant promises and agrees to perform or cause to be performed, in a good and workmanlike manner, and to the satisfaction of the City, and in strict accordance with the Specifications, all of the work as set forth in the Contract Documents.

3. Payment. The City accepts the Consultant's Proposal as stated and agrees to pay the consideration stated, at the times, in the amounts, and under the conditions specified in the Contract Documents. The Consultant agrees to accept electronic payment from the City.

4. Scope of Services. Consultant shall perform the services described herein and in **Exhibit 1** to complete the design of the Project more fully described in **Exhibit 1**, and this shall include all work incidental to, or necessary to perform, such design services even though not specifically described in **Exhibit 1**. By entry into this Agreement and upon City's issuance of a written "Notice to Proceed," City contracts for the services in Phase One for design. Consultant shall not perform any other Phase of the Agreement, and this Agreement shall not be a contract for any other Phase, until further performance is authorized by City's issuance of a written "Notice to Proceed" for such additional phase(s). It shall, however, remain Consultant's offer to perform all remaining phases described herein. In the event Consultant performs services without City's prior written authorization, Consultant will not be entitled to compensation for such services.

The DBIA Design Build Agreement (Agreement), as modified, contains additional terms and conditions related to this Contract. In the event of a conflict between this Contract and the Agreement, this Contract shall take precedence. However, if this Contract does not address a legal issue for this Project, the parties shall be governed by the provisions of the Agreement.

[SIGNATURES FOLLOW ON THE NEXT PAGE.]

IN WITNESS WHEREOF, the parties have executed this Contract on the day and year here below written, of which the date of execution by the City shall be subsequent to that of the Consultant's, and this Contract shall be binding and effective upon execution by both parties.

CITY OF FRESNO,
A California municipal corporation

C. OVERAA & CO.,
A California corporation

By: _____
Kevin Meikle
Director of Aviation

By: Christopher Manning
Name: CHRISTOPHER MANNING

ACP

Dated: _____

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

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

By: Eileen Hoffman
Name: EILEEN HOFFMAN

By: Brandon M. Collet 11/12/19
Brandon M. Collet Date
Senior Deputy City Attorney

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

ATTEST:
YVONNE SPENCE, CRM MMC
City Clerk

REVIEWED BY: _____

By: _____
Date
Deputy

Addresses:
CITY:
City of Fresno
Attention: Kevin Meikle
Director of Aviation
4995 E Clinton Way
Fresno, CA 93727
Phone: (559) 621-4600
FAX: (559) [#]

CONSULTANT:
C. Overaa & Co.
Attention: Colby Powell
Vice President
200 Parr Blvd
Richmond, CA 94801
Phone: (510) 234-0926
FAX: (510) 237-2435

Attachment:
Exhibit 1 – Contract Documents including Scope of Services



PROGRESSIVE DESIGN-BUILD AGREEMENT

EXHIBIT 1

Document No. 544

First Edition 2019

© Design-Build Institute of America

Washington, DC



Progressive Design-Build Agreement

This document has important legal consequences. Consultation with an attorney is recommended with respect to its completion or modification.

This **AGREEMENT** is made as of the _____ 5th _____ day of _____ December _____ in the year of 20 19 _____, by and between the following parties, for services in connection with the Project identified below:

OWNER: **City of Fresno, Airports Department**
(Name and address) **4995 E. Clinton Way**
Fresno, CA 93727-1525

DESIGN-BUILDER: **C. Overaa & Co.**
(Name and address) **200 Parr Blvd.**
Richmond, CA 94801

PROJECT:
(Include Project name and location as it will appear in the Contract Documents)
Fresno Yosemite International Airport (FAT) Parking Structure located at 5175 E Clinton Way, Fresno CA 93727

In consideration of the mutual covenants and obligations contained herein, Owner and Design-Builder agree as set forth herein.

Article 1

General

- 1.1 Duty to Cooperate. Owner and Design-Builder commit at all times to cooperate fully with each other, and proceed on the basis of trust and good faith to permit each party to realize the benefits afforded under this Agreement.
- 1.2 Definitions. Terms, words and phrases used in this Agreement shall have the meanings given them in DBIA Document No. 535, *Standard Form of General Conditions of Contract Between Owner and Design-Builder* (2010 Edition) ("General Conditions of Contract").
- 1.3 Design Services. Design-Builder shall, consistent with applicable state licensing laws, provide design services, including architectural, engineering, and other design professional services required by this Agreement. Such design services shall be provided through qualified, licensed design professionals who are either (i) employed by Design-Builder, or (ii) procured by Design-Builder from independent sources. Nothing in this Agreement is intended to create any legal or contractual relationship between Owner and any independent design professional.

Article 2

Design-Builder's Services and Responsibilities

- 2.1 General Services.
 - 2.1.1 Owner shall provide Design-Builder with Owner's Project Criteria describing Owner's program requirements and objectives for the Project as set forth in Exhibit A. Owner's Project Criteria shall include Owner's use, space, price, time, site, performance, and expandability requirements. Owner's Project Criteria may include conceptual documents, design specifications, design performance specifications, and other technical materials and requirements prepared by or for Owner.
 - 2.1.2 If Owner's Project Criteria have not been developed prior to the execution of this Agreement, Design-Builder will assist Owner in developing Owner's Project Criteria, with such service deemed to be an additional service for which additional compensation shall be paid by Owner to Design-Builder. If Owner has developed Owner's Project Criteria prior to executing this Agreement, Design-Builder shall review and prepare a written evaluation of such criteria, including recommendations to Owner for different and innovative approaches to the design and construction of the Project. The parties shall meet to discuss Design-Builder's written evaluation of Owner's Project Criteria and agree upon what revisions, if any, should be made to such criteria.
- 2.2 Phased Services.
 - 2.2.1 Phase 1 Services. Design-Builder shall perform the services of design, pricing, and other services for the Project based on Owner's Project Criteria, as may be revised in accordance with Section 2.1 hereof, as set forth in Exhibit B, Scope of Services. Design-Builder shall perform such services to the level of completion required for Design-Builder and Owner to establish the Contract Price for Phase 2, as set forth in Section 2.3 below. The Contract Price for Phase 2 shall be developed during Phase 1 on an "open-book" basis. Design-Builder's Compensation for Phase 1 Services is set forth in Section 7.0 herein. The level of completion required for Phase 1 Services is defined in Exhibit B, Scope of Services (either as a percentage of design completion or by defined deliverables).

2.2.2 Phase 2 Services. Design-Builder's Phase 2 services shall consist of the completion of design services for the Project, the procurement of all materials and equipment for the Project, the performance of construction services for the Project, the start-up, testing, and commissioning of the Project, and the provision of warranty services, all as further described in the Contract Price Amendment. Upon receipt of Design-Builder's proposed Contract Price for Phase 2, Owner may proceed as set forth in Article 2.3.

2.3 Proposal. Upon completion of the Phase 1 Services and any other Basis of Design Documents upon which the parties may agree, Design-Builder shall submit a proposal to Owner (the "Proposal") for the completion of the design and construction for the Project for the Contract Price, which shall be based on Lump Sum.

2.3.1 The Proposal shall include the following unless the parties mutually agree otherwise:

2.3.1.1 The Contract Price shall be in accordance with Section 7.1:

2.3.1.2 The Basis of Design Documents, which may include, by way of example, Owner's Project Criteria, which are set forth in detail and are attached to the Proposal (Exhibit A);

2.3.1.3 A list of the assumptions and clarifications made by Design-Builder in the preparation of the Proposal, which list is intended to supplement the information contained in the drawings and specifications and is specifically included as part of the Basis of Design Documents and further defined in the Contract Price Amendment;

2.3.1.4 The Scheduled Substantial Completion Date upon which the Proposal is based, to the extent said date has not already been established under Section 6.2.1 hereof, and a schedule upon which the Scheduled Substantial Completion Date is based and a Project Schedule for the Work as defined in Exhibit A and as further defined in the Contract Price Amendment;

2.3.1.5 If applicable, a list of Allowance Items, Allowance Values, and a statement of their basis;

2.3.1.6 If applicable, a schedule of alternate prices;

2.3.1.7 If applicable, a schedule of unit prices;

2.3.1.8 If applicable, a statement of Additional Services which may be performed but which are not included in the Proposal, and which, if performed, shall be the basis for an increase in the Contract Price and/or Contract Time(s);

2.3.1.9 If applicable, a Savings provision;

2.3.1.10 If applicable, Performance Incentives;

2.3.1.11 The time limit for acceptance of the Proposal; and

2.3.1.12 An Owner's permit list, a list detailing the permits and governmental approvals that Owner will bear responsibility to obtain.

2.3.2 Review and Adjustment to Proposal.

2.3.2.1 After submission of the Proposal, Design-Builder and Owner shall meet to discuss and review the Proposal. If Owner has any comments regarding the Proposal, or

finds any inconsistencies or inaccuracies in the information presented, it shall promptly give written notice to Design-Builder of such comments or findings. If appropriate, Design-Builder shall, upon receipt of Owner's notice, make appropriate adjustments to the Proposal.

2.3.2.3 Acceptance of Proposal. If Owner accepts the Proposal, as may be amended by Design-Builder, the Contract Price and its basis shall be set forth in an amendment to this Agreement, when mutually agreed between the parties (Contract Price Amendment). Once the parties have agreed upon the Contract Price and Owner has issued a Notice to Proceed with Phase 2, Design-Builder shall perform the Phase 2 Services, all as further described in the Contract Price Amendment, as it may be revised.

2.3.2.4 Failure to Accept the Proposal. If Owner rejects the Proposal, or fails to notify Design-Builder in writing on or before the date specified in the Proposal that it accepts the Proposal, the Proposal shall be deemed withdrawn and of no effect. In such event, Owner and Design-Builder shall meet and confer as to how the Project will proceed, with Owner having the following options:

i. Owner may suggest modifications to the Proposal, whereupon, if such modifications are accepted in writing by Design-Builder, the Proposal shall be deemed accepted and the parties shall proceed in accordance with Section 2.3.2.3 above;

ii. Owner may authorize Design-Builder to continue to proceed with the Work on the basis of reimbursement as provided in Section 7.1.2 hereof without a Contract Price, in which case all references in this Agreement to the Contract Price shall not be applicable; or

iii. Owner may terminate this Agreement for convenience in accordance with Article 9 hereof; provided, however, in this event, Design-Builder shall not be entitled to the payment provided for in Section 9.2 hereof.

If Owner fails to exercise any of the above options, Design-Builder shall have the right to (a) continue with the Work as if Owner had elected to proceed in accordance with Item 2.3.2.4 ii. above, and be paid by Owner accordingly, unless and until Owner notifies it in writing to stop the Work, (b) suspend performance of Work in accordance with Section 11.3.1 of the General Conditions of Contract, provided, however, that in such event Design-Builder shall not be entitled to the payment provided for in Section 9.2 hereof, or (c) may give written notice to Owner that it considers this Agreement completed. If Owner fails to exercise any of the options under Section 2.3.2.4 within ten (10) days of receipt of Design-Builder's notice, then this Agreement shall be deemed completed. If Owner terminates the relationship with Design-Builder under Section 2.3.2.4(iii), or if this Agreement is deemed completed under this paragraph, then Design-Builder shall have no further liability or obligations to Owner under this Agreement.

2.3.3 Project Labor Agreement.

Owner has entered into a Project Labor Agreement for this Project, Design Builder shall comply with the terms and conditions of the Project Labor Agreement for this Project. The Project Labor Agreement is attached hereto as Exhibit J.

Article 3

Contract Documents

3.1 The Contract Documents are comprised of the following:

3.1.1 All written modifications, amendments, minor changes, and Change Orders to this Agreement issued in accordance with the General Conditions;

3.1.2 The Contract Price Amendment referenced in Section 2.3.2.3 herein or the Proposal accepted by Owner in accordance with Section 2.3 herein.

3.1.3 This Agreement, including all exhibits (List for example, performance standard requirements, performance incentive arrangements, markup exhibits, allowances, unit prices, or exhibit detailing offsite reimbursable personnel) but excluding, if applicable, the Contract Price Amendment;

3.1.4 The General Conditions of Contract;

3.1.5 Construction Documents prepared and approved in accordance with Section 2.4 of the General Conditions of Contract;

3.1.6 Exhibit B, Scope of Services; and

3.1.7 The following other documents, if any:

3.1.8 The order precedence of contract documents shall be determined in accordance with the Precedence of Contract Documents provision in the General Conditions.

Article 4

Interpretation and Intent

4.1 Design-Builder and Owner, at the time of acceptance of the Proposal by Owner in accordance with Section 2.3 hereof, shall carefully review all the Contract Documents, including the various documents comprising the Basis of Design Documents for any conflicts or ambiguities. Design-Builder and Owner will discuss and resolve any identified conflicts or ambiguities prior to execution of the Agreement, or if applicable, prior to Owner's acceptance of the Proposal.

4.2 The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Contract Time(s) for the Contract Price. The Contract Documents are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards. In the event inconsistencies, conflicts, or ambiguities between or among the Contract Documents are discovered after Owner's acceptance of the Proposal, Design-Builder and Owner shall attempt to resolve any ambiguity, conflict, or inconsistency informally, recognizing that the Contract Documents shall take precedence in the order in which they are listed in Section 3.1 hereof. *(Note, the parties are strongly encouraged to establish in the Contract Price Amendment or Proposal (as applicable) the priority of the various documents comprising such exhibit or proposal.)*

4.3 Terms, words, and phrases used in the Contract Documents, including this Agreement, shall have the meanings given them in the General Conditions of Contract.

4.4 If Owner's Project Criteria contain design specifications: (a) Design-Builder is entitled to reasonably rely on the accuracy of the information represented in the design specifications and their compatibility with other information set forth in Owner's Project Criteria, including any design performance specifications; and (b) Design-Builder shall be entitled to an adjustment in its Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance have been adversely impacted by such inaccurate design specification.

4.5 The Contract Documents form the entire agreement between Owner and Design-Builder and by incorporation herein are as fully binding on the parties as if repeated herein. No oral representations or

other agreements have been made by the parties except as specifically stated in the Contract Documents.

Article 5

Ownership of Work Product

5.1 Work Product. All drawings, specifications and other documents and electronic data, including such documents identified in the General Conditions of Contract, furnished by Design-Builder to Owner under this Agreement (“Work Product”) are deemed to be instruments of service and Design-Builder shall retain the ownership and property interests therein, including but not limited to any intellectual property rights, copyrights, and/or patents, subject to the provisions set forth in Sections 5.2 through 5.5 below.

5.2 Owner’s Limited License upon Project Completion and Payment in Full to Design-Builder. Upon Owner’s payment in full for all Work performed under the Contract Documents, Design-Builder shall grant Owner a limited license to use the Work Product in connection with Owner’s occupancy of the Project, conditioned on Owner’s express understanding that its alteration of the Work Product without the involvement of Design-Builder is at Owner’s sole risk and without liability or legal exposure to Design-Builder or anyone working by or through Design-Builder, including Design Consultants of any tier (collectively the “Indemnified Parties”), and on the Owner’s obligation to provide the indemnity set forth in Section 5.5 herein.

5.3 Owner’s Limited License upon Owner’s Termination for Convenience or Design-Builder’s Election to Terminate. If Owner terminates this Agreement for its convenience as set forth in Article 9 hereof, or if Design-Builder elects to terminate this Agreement in accordance with Section 11.4 of the General Conditions of Contract, Design-Builder shall, upon Owner’s payment in full of the amounts due Design-Builder under the Contract Documents, grant Owner a limited license to use the Work Product to complete the Project and subsequently occupy the Project, and Owner shall thereafter have the same rights as set forth in Section 5.2 above, conditioned on the following:

5.3.1 Use of the Work Product is at Owner’s sole risk without liability or legal exposure to any Indemnified Party, and on the Owner’s obligation to provide the indemnity set forth in Section 5.5 herein, and

5.3.2 Owner agrees to pay Design-Builder the additional sum of **Four Hundred Fifty Thousand** Dollars (\$ **450,000**) as compensation for the right to use the Work Product to complete the Project and subsequently use the Work Product in accordance with Section 5.2 if Owner resumes the Project through its employees, agents, or third parties.

5.4 Owner’s Limited License upon Design-Builder’s Default. If this Agreement is terminated due to Design-Builder’s default pursuant to Section 11.2 of the General Conditions of Contract, then Design-Builder grants Owner a limited license to use the Work Product to complete the Project and subsequently occupy the Project, and Owner shall thereafter have the same rights and obligations as set forth in Section 5.2 above. Notwithstanding the preceding sentence, if it is ultimately determined that Design-Builder was not in default, Owner shall be deemed to have terminated the Agreement for convenience, and Design-Builder shall be entitled to the rights and remedies set forth in Section 5.3 above.

5.5 Owner’s Indemnification for Use of Work Product. Owner recognizes that in the event of an early termination of the Work, whether for convenience or for cause, Design-Builder will not have the opportunity to finish or to finalize its Work Product. Therefore, if Owner uses the Work Product, in whole or in part, or if Owner is required to indemnify any Indemnified Parties based on the use or alteration of the Work Product under any of the circumstances identified in this Article 5, Owner shall defend, indemnify, and hold harmless the Indemnified Parties from and against any and all claims, damages, liabilities, losses, and expenses, including attorneys’ fees, arising out of or resulting from the use or alteration of the Work Product, to the fullest extent permitted by applicable law.

Article 6

Contract Time

6.1 Date of Commencement. The Phase 1 Services shall commence within five (5) days of Design-Builder's receipt of Owner's Notice to Proceed unless the parties mutually agree otherwise in writing. The Work shall commence within five (5) days of Design-Builder's receipt of Owner's Notice to Proceed for Phase 2 Services ("Date of Commencement") if the Proposal is accepted and the Contract Price Amendment is amended to this Agreement unless the parties mutually agree otherwise in writing.

6.2 Substantial Completion and Final Completion.

6.2.1 Substantial Completion of the entire Work shall be achieved no later than the number of calendar days after the Date of Commencement ("Scheduled Substantial Completion Date"), as stated in the Contract Price Amendment.

6.2.2 Interim milestones and/or Substantial Completion of identified portions of the Work shall be achieved as follows: stated in the Contract Price Amendment.

6.2.3 Final Completion of the Work or identified portions of the Work shall be achieved as expeditiously as reasonably practicable. Final Completion is the date when all Work is complete pursuant to the definition of Final Completion set forth in Section 1.2.7 of the General Conditions of Contract.

6.2.4 All of the dates set forth in this Article 6 ("Contract Time(s)") shall be subject to adjustment in accordance with the General Conditions of Contract.

6.3 Time is of the Essence. Owner and Design-Builder mutually agree that time is of the essence with respect to the dates and times set forth in the Contract Documents.

6.4 Liquidated Damages. Design-Builder understands that if Substantial Completion is not attained by the Scheduled Substantial Completion Date, Owner will suffer damages which are difficult to determine and accurately specify. Design-Builder agrees that if Substantial Completion is not attained by the date stipulated in the Contract Price Amendment days after the Scheduled Substantial Completion Date (the "LD Date"), Design-Builder shall pay Owner the amount(s) as stipulated in the Contract Price Amendment as liquidated damages for each day that Substantial Completion extends beyond the LD Date.

6.5 Any liquidated damages assessed pursuant to this Agreement shall be in lieu of all liability for any and all extra costs, losses, expenses, claims, penalties, and any other damages, whether special or consequential, and of whatsoever nature, incurred by Owner which are occasioned by any delay in achieving Substantial Completion, Interim Milestone Dates (if any) or Final Completion.

6.6 Early Completion Credit. If Substantial Completion is attained on or before TBD days before the Scheduled Substantial Completion Date (the "Credit Date"), Owner shall pay Design-Builder at the time of Final Payment under Section 8.4 hereof an early completion bonus of the amount(s) stipulated on the Contract Price Amendment for each day that Substantial Completion is attained earlier than the Bonus Date.

Article 7

Contract Price

7.1 Contract Price.

7.1.1 Owner shall pay Design-Builder in accordance with the General Conditions of the Contract the sum of **THREE MILLION** Dollars (\$ **3,000,000**) for the Phase 1 Services, subject to adjustments made in accordance with the General Conditions of Contract. Unless otherwise provided in the Contract Documents, the Phase 1 Services compensation is deemed to include all sales, use, consumer and other taxes mandated by applicable Legal Requirements.

7.1.2 For Phase 2 Services, Owner shall pay Design-Builder in accordance with the General Conditions a Lump Sum Amount ("Contract Price") equal to the Lump Sum amount set forth in Section 7.2 hereof or in the Contract Price Amendment, or as set forth in the Contract Price Amendment and any adjustments made in accordance with the General Conditions of Contract.

7.1.3 For the specific Work set forth below, Owner agrees to pay Design-Builder, as part of the Contract Price, on the following basis: *(This is an optional section intended to provide the parties with flexibility to identify and price limited services.)* **NOT USED.**

7.2 Lump Sum. Owner shall pay Design-Builder in accordance with the General Conditions of the Contract the sum of **TWENTY NINE MILLION** Dollars (\$ **29,000,000**) ("Contract Price") for the Work for Phase 2 Services, subject to adjustments made in accordance with the General Conditions.. Unless otherwise provided in the Contract Documents, the Contract Price is deemed to include all sales, use, consumer, and other taxes mandated by applicable Legal Requirements.

7.3 Markups for Changes. If the Contract Price requires an adjustment due to changes in the Work, and the cost of such changes is determined in accordance with the General Conditions, the following markups shall be allowed on such changes:

7.3.1 For additive Change Orders, including additive Change Orders arising from both additive and deductive items, it is agreed that Design-Builder shall receive a Fee of FIFTEEN percent (15 %) of the additional costs incurred for that Change Order, plus any other markups set forth at Exhibit E attached hereto.

7.3.2 For deductive Change Orders, including deductive Change Orders arising from both additive and deductive items, the deductive amounts shall include:

[Check one box only]

No additional reduction to account for Design-Builder's Fee or any other markup.

or

An amount equal to the sum of: (a) _____ percent (_____ %) applied to the direct costs of the net reduction (which amount will account for a reduction associated with Design-Builder's Fee); plus (b) any other markups set forth at Exhibit _____ hereto applied to the direct costs of the net reduction.

7.4 Not Used.

7.5 Cost of the Work. – Not used, except for work performed on a Time and Material basis.

7.5.1 The term Cost of the Work shall mean costs reasonably incurred by Design-Builder in the proper performance of the Work done on a Time and Material (T&M) Basis. The Cost of T&M Work shall include only the following:

7.5.1.1 Wages of direct employees of Design-Builder performing the Work at the Site or, at locations off the Site, provided, however, that the costs for those employees of Design-Builder performing design services shall be calculated on the basis of prevailing market rates for design professionals performing such services or, if applicable, those rates set forth in an exhibit to this Agreement or as stipulated in the Contract Price Amendment.

7.5.1.2 Wages or salaries of Design-Builder's supervisory and administrative personnel engaged in the performance of the Work and who are located at the Site or working off-Site to assist in the production or transportation of material and equipment necessary for the Work.

7.5.1.3 Wages or salaries of Design-Builder's personnel stationed at Design-Builder's principal or branch offices, but only to the extent said personnel are identified in the Contract Price Amendment and performing the function set forth in said Exhibit. The reimbursable costs of personnel stationed at Design-Builder's principal or branch offices shall include a **FIFTEEN** percent (15%) markup to compensate Design-Builder for the Project-related overhead associated with such personnel.

7.5.1.4 Costs incurred by Design-Builder for employee benefits, premiums, taxes, insurance, contributions and assessments required by law, collective bargaining agreements, or which are customarily paid by Design-Builder, to the extent such costs are based on wages and salaries paid to employees of Design-Builder covered under Sections 7.5.1.1 through 7.5.1.3 hereof.

7.5.1.5 The reasonable portion of the cost of travel, accommodations and meals for Design-Builder's personnel necessarily and directly incurred in connection with the performance of the Work.

7.5.1.6 Payments properly made by Design-Builder to Subcontractors and Design Consultants for performance of portions of the Work, including any insurance and bond premiums incurred by Subcontractors and Design Consultants.

7.5.1.7 Costs incurred by Design-Builder in repairing or correcting defective, damaged or nonconforming Work (including any warranty or corrective Work performed after Substantial Completion), provided that such Work was beyond the reasonable control of Design-Builder, or caused by the ordinary mistakes or inadvertence, and not the negligence, of Design-Builder or those working by or through Design-Builder. If the costs associated with such Work are recoverable from insurance, Subcontractors or Design Consultants, Design-Builder shall exercise best efforts to obtain recovery from the appropriate source and provide a credit to Owner if recovery is obtained.

7.5.1.8 Costs, including transportation, inspection, testing, storage, and handling of materials, equipment, and supplies incorporated or reasonably used in completing the Work.

7.5.1.9 Costs less salvage value of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by the workers that are not fully consumed in the performance of the Work and which remain the property of Design-Builder, including the costs of transporting, inspecting, testing, handling, installing, maintaining, dismantling, and removing such items.

7.5.1.10 Costs of removal of debris and waste from the Site.

7.5.1.11 The reasonable costs and expenses incurred in establishing, operating and demobilizing the Site office, including the cost of facsimile transmissions, long-distance telephone calls, postage and express delivery charges, telephone service, photocopying, and reasonable petty cash expenses.

7.5.1.12 Rental charges and the costs of transportation, installation, minor repairs and replacements, dismantling and removal of temporary facilities, machinery, equipment and hand tools not customarily owned by the workers, which are provided by Design-Builder at the Site, whether rented from Design-Builder or others, and incurred in the performance of the Work.

7.5.1.13 Premiums for insurance and bonds required by this Agreement or the performance of the Work.

7.5.1.14 All fuel and utility costs incurred in the performance of the Work.

7.5.1.15 Sales, use, or similar taxes, tariffs, or duties incurred in the performance of the Work.

7.5.1.16 Legal costs, court costs, and costs of mediation and arbitration reasonably arising from Design-Builder's performance of the Work, provided such costs do not arise from disputes between Owner and Design-Builder.

7.5.1.17 Costs for permits, royalties, licenses, tests and inspections incurred by Design-Builder as a requirement of the Contract Documents.

7.5.1.18 The cost of defending suits or claims for infringement of patent rights arising from the use of a particular design, process, or product required by Owner, paying legal judgments against Design-Builder resulting from such suits or claims, and paying settlements made with Owner's consent.

7.5.1.19 Deposits which are lost, except to the extent caused by Design-Builder's negligence.

7.5.1.20 Costs incurred in preventing damage, injury, or loss in case of an emergency affecting the safety of persons and property.

7.5.1.21 Accounting and data processing costs related to the Work.

7.5.1.22 Other costs reasonably and properly incurred in the performance of the Work to the extent approved in writing by Owner.

7.5.1.23 Owner and Design-Builder agree that an escrow account in the amount of TBD Dollars shall be outlined in the Contract Price Amendment and established prior to Final Completion, which escrow shall be used to reimburse Design-Builder for the Costs of the Work incurred after Final Completion to perform warranty Work. The escrow agreement will provide that any sums not used at the expiration of the warranty period shall be returned to Owner, subject to any savings Design-Builder may be entitled to under this Agreement. In the event the warranty escrow account is exhausted, but funds remain under the contract amount, Owner shall be obligated to pay Design-Builder the Costs of the Work incurred after Final Completion to perform warranty Work up to the contract amount.

7.5.2 Non-Reimbursable Costs. The following shall be excluded from the Cost of the Work:

7.5.2.1 Compensation for Design-Builder's personnel stationed at Design-Builder's principal or branch offices, except as provided for in Sections 7.5.1.1, 7.5.1.2, and 7.5.1.3 hereof.

7.5.2.2 Overhead and general expenses, except as provided for in Section 7.5.1 hereof, or which may be recoverable for changes to the Work.

7.5.2.3 The cost of Design-Builder's capital used in the performance of the Work.

7.5.2.4 If the parties have agreed on a GMP for work being done on a Time and Material (T&M) basis, costs that would cause the T&M GMP, as adjusted in accordance with the Contract Documents, to be exceeded.

7.6 The Contract Price.

7.6.1 Design-Builder guarantees that it shall not exceed the Contract Price of **\$32,000,000** Dollars. Documents used as a basis for the contract price are identified in Section 12.2 and as further detailed in the Contract Price Amendment. Design-Builder has the sole discretion to apply payment due to overruns in one line item to savings due to underruns in any other line item. Design-Builder agrees, however, that it will be responsible for paying all costs of completing the Work which exceed the contract price, as adjusted in accordance with the Contract Documents.

7.6.2 The Contract Price includes a Contingency in the amount of **TWO MILLION** Dollars (**\$2,000,000**) which is available for Design-Builder's exclusive use for unanticipated costs it has incurred that are not the basis for a Change Order under the Contract Documents. By way of example, and not as a limitation, such costs may include: (a) trade buy-out differentials; (b) overtime or acceleration; (c) escalation of materials; (d) correction of defective, damaged or nonconforming Work, design errors or omissions, however caused; (e) Subcontractor defaults; or (f) those events under the General Conditions of Contract that result in an extension of the Contract Time but do not result in an increase in the Contract Price; or (g) an increase in parking efficiency resulting in greater than the number of spaces outlined in the project criteria found in Exhibit A. The Contingency is not available to Owner for any reason, including changes in scope or any other item which would enable Design-Builder to increase the Contract Amount under the Contract Documents. Design-Builder shall provide Owner notice of all anticipated charges against the Contingency, and shall provide Owner as part of the monthly status report required by Section 2.1.2 of the General Conditions of Contract an accounting of the Contingency, including all reasonably foreseen uses or potential uses of the Contingency in the upcoming three (3) months. Design-Builder agrees that with respect to any expenditure from the Contingency relating to a Subcontractor default or an event for which insurance or bond may provide reimbursement, Design-Builder will in good faith exercise reasonable steps to obtain performance from the Subcontractor and/or recovery from any surety or insurance company. Design-Builder agrees that if Design-Builder is subsequently reimbursed for said costs, then said recovery will be credited back to the Contingency.

7.6.3 Savings.

7.6.3.1 If the Contract Price (which is the sum of the Price in Phase 1 added to the Price of Phase 2), not including contingency and as detailed in the contract price amendment, is less than the amount outlined in Section 7.6.1, as such Contract Price may have been adjusted over the course of the Project, the difference ("Savings") shall be shared as follows:

(Choose one of the following:)

 FIFTY percent (50 %) to Design-Builder and

FIFTY percent (50 %) to Owner.

or

The first _____ Dollars (\$ _____) of Savings shall be provided to (choose either Design-Builder or Owner) _____, with the balance of Savings, if any, shared _____ percent (_____ %) to Design-Builder and _____ percent (_____ %) to Owner.

7.6.3.2 Savings shall be calculated and paid as part of Final Payment under Section 8.4 hereof, with the understanding that to the extent Design-Builder incurs costs after Final Completion which would have been payable to Design-Builder as a Cost of the Work, the parties shall recalculate the Savings in light of the costs so incurred, and Design-Builder shall be paid by Owner accordingly.

7.7 Allowance Items and Allowance Values.

7.7.1 Any and all Allowance Items, as well as their corresponding Allowance Values, are set forth in the Contract Price Amendment or the Proposal.

7.7.2 Design-Builder and Owner have worked together to review the Allowance Items and Allowance Values based on design information then available to determine that the Allowance Values constitute reasonable estimates for the Allowance Items. Design-Builder and Owner will continue working closely together during the preparation of the design to develop Construction Documents consistent with the Allowance Values. Nothing herein is intended in any way to constitute a guarantee by Design-Builder that the Allowance Item in question can be performed for the Allowance Value.

7.7.3 No work shall be performed on any Allowance Item without Design-Builder first obtaining in writing advanced authorization to proceed from Owner. Owner agrees that if Design-Builder is not provided written authorization to proceed by the date set forth in the Project schedule, due to no fault of Design-Builder, Design-Builder may be entitled to an adjustment of the Contract Time(s) and Contract Price.

7.7.4 The Allowance Value includes the direct cost of labor, materials, equipment, transportation, taxes, and insurance associated with the applicable Allowance Item. All other costs, including design fees, Design-Builder's overall project management and general conditions costs, overhead and Fee, are deemed to be included in the original Contract Price, and are not subject to adjustment notwithstanding the actual amount of the Allowance Item.

7.7.5 Whenever the actual costs for an Allowance Item is more than or less than the stated Allowance Value, the Contract Price shall be adjusted accordingly by Change Order, subject to Section 7.7.4. The amount of the Change Order shall reflect the difference between actual costs incurred by Design-Builder for the particular Allowance Item and the Allowance Value.

7.8 Performance Incentives.

7.8.1 Owner and Design-Builder have agreed to the performance incentive arrangements set forth in the Contract Price Amendment.

Article 8

Procedure for Payment

8.1 Payment for Preliminary Services. Design-Builder and Owner agree upon the following method for partial and final payment to Design-Builder for the services hereunder: *(Insert terms.)*

8.2 Contract Price Progress Payments.

8.2.1 Design-Builder shall submit to Owner on the **TWENTIETH** (20TH) day of each month, beginning with the first month after the Date of Commencement, Design-Builder's Application for Payment in accordance with the General Conditions.

8.2.2 Owner shall make payment within fifteen (15) days after Owner's receipt of each properly submitted and accurate Application for Payment in accordance with the General Conditions, but in each case less the total of payments previously made, and less amounts properly withheld under the General Conditions.

8.2.3 If Design-Builder's Fee under Section 7.4 hereof is a fixed amount, the amount of Design-Builder's Fee to be included in Design-Builder's monthly Application for Payment and paid by Owner shall be proportional to the percentage of the Work completed, less payments previously made on account of Design-Builder's Fee.

8.3 Retainage on Progress Payments.

8.3.1 Owner will retain FIVE percent (5%) of each Application for Payment provided, however, that when fifty percent (50%) of the Work has been satisfactorily completed by Design-Builder and Design-Builder is otherwise in compliance with its contractual obligations, Owner will not retain any additional retention amounts from Design-Builder's subsequent Applications for Payment. Owner will also reasonably consider reducing retainage for Subcontractors completing their work early in the Project.

8.3.2 Within fifteen (15) days after Substantial Completion of the entire Work or, if applicable, any portion of the Work, pursuant to Section 6.6 of the General Conditions of Contract, Owner shall release to Design-Builder all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, less an amount equal to: (a) the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion; and (b) all other amounts Owner is entitled to withhold pursuant to the General Conditions..

[If Owner and Design-Builder have established a warranty reserve pursuant to Section 7.5.1.23 above, the following provision should be included.]

If a warranty reserve has been established pursuant to Section 7.5.1.23 above, Owner shall at the time of Substantial Completion retain the agreed-upon amounts and establish an escrow account as contemplated by Section 7.5.1.23 above.

8.4 Final Payment. Design-Builder shall submit its Final Application for Payment to Owner in accordance with the General Conditions. Owner shall make payment on Design-Builder's properly submitted and accurate Final Application for Payment (less any amount the parties may have agreed to set aside for warranty work) within ten (10) days after Owner's receipt of the Final Application for Payment, provided that: (a) Design-Builder has satisfied the requirements for final payment set forth in the General Conditions.

8.5 Interest. Payments due and unpaid by Owner to Design-Builder, whether progress payments or final payment, shall bear interest commencing five (5) days after payment is due at the rate of one percent (1%) per month until paid.

8.6 Record Keeping and Finance Controls. Design-Builder acknowledges that this Agreement is to be administered on an "open book" arrangement relative to Costs for all work done on a Time and Material (T&M) basis only. Design-Builder shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management, using accounting and control systems in accordance with generally accepted accounting principles and as may be provided in the Contract Documents. During the performance of the Work and for a period of three (3) years after Final Payment,

Owner and Owner's accountants shall be afforded access to, and the right to audit from time to time, upon reasonable notice, Design-Builder's records, books, correspondence, receipts, subcontracts, purchase orders, vouchers, memoranda, and other data relating to the Time and Material Work, all of which Design-Builder shall preserve for a period of three (3) years after Final Payment. Such inspection shall take place at Design-Builder's offices during normal business hours unless another location and time is agreed to by the parties. Any multipliers or markups agreed to by the Owner and Design-Builder as part of this Agreement are only subject to audit to confirm that such multiplier or markup has been charged in accordance with this Agreement, but the composition of such multiplier or markup is not subject to audit. Any lump sum agreed to by the Owner and Design-Builder as part of this Agreement is not subject to audit.

Article 9

Termination for Convenience

9.1 Upon ten (10) days' written notice to Design-Builder, Owner may, for its convenience and without cause, elect to terminate this Agreement. In such event, Owner shall pay Design-Builder for the following:

9.1.1 All services performed and Work executed and for proven loss, cost, or expense in connection with the services and Work;

9.1.2 The reasonable costs and expenses attributable to such termination, including demobilization costs and amounts due in settlement of terminated contracts with Subcontractors and Design Consultants; and

9.1.3 ***(Choose one of the following:)***

The fair and reasonable sums for overhead and profit on the sum of items 9.1.1 and 9.1.2 above.

or

Overhead and profit in the amount of FIFTEEN percent (15%) on the sum of items 9.1.1 and 9.1.2 above.

9.2 In addition to the amounts set forth in Section 9.1 above, Design-Builder shall be entitled to receive one of the following as applicable:

9.2.1 If Owner terminates this Agreement prior to commencement of construction, Design-Builder shall be paid \$0 of the remaining balance of the Contract Price or, if a GMP has not been established, the remaining balance of the most recent estimated Contract Price.

9.2.2 If Owner terminates this Agreement after commencement of construction, Design-Builder shall be paid TEN percent (10%) of the remaining balance of the Contract Price.

9.3 If Owner terminates this Agreement pursuant to Section 9.1 above and proceeds to design and construct the Project through its employees, agents or third parties, Owner's rights to use the Work Product shall be as set forth in Section 5.3 hereof. Such rights may not be transferred or assigned to others without Design-Builder's express written consent and such third parties' agreement to the terms of Article 5.

Article 10

Representatives of the Parties

10.1 Owner's Representatives.

10.1.1 Owner designates the individual listed below as its Senior Representative ("Owner Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under the General Conditions: *(Identify individual's name, title, address, and telephone numbers.)*

**KEVIN MEIKLE – DIRECTOR OF AVIATION
(559) 621-4600**

10.1.2 Owner designates the individual listed below as its Owner's Representative, which individual has the authority and responsibility set forth in the General Conditions: *(Identify individual's name, title, address, and telephone numbers.)*

**MARK DAVIS – AIRPORTS PLANNING MANAGER
(559) 621-4532**

10.2 Design-Builder's Representatives.

10.2.1 Design-Builder designates the individual listed below as its Senior Representative ("Design-Builder's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under the General Conditions: *(Identify individual's name, title, address, and telephone numbers.)*

**COLBY POWELL – VICE PRESIDENT
(510) 234-0926**

10.2.2 Design-Builder designates the individual listed below as its Design-Builder's Representative, which individual has the authority and responsibility set forth in the General Conditions: *(Identify individual's name, title, address, and telephone numbers.)*

**DOUG ESPLAND – PRECONSTRUCTION PROJECT MANAGER
(510) 234-0926**

Article 11

Bonds and Insurance

11.1 Insurance. Design-Builder and Owner shall procure the insurance coverages set forth in the Insurance Exhibit attached hereto and in accordance with Article 5 of the General Conditions of Contract.

11.2 Bonds and Other Performance Security. Design-Builder shall provide the following performance bond and labor and material payment bond or other performance security:

Performance Bond.

(Check one box only. If no box is checked, then no bond is required.)

Required Not Required

Payment Bond.

(Check one box only. If no box is checked, then no bond is required.)

Required Not Required

Other Performance Security.

(Check one box only. If no box is checked, then no other performance security is required. If the "Required" box is checked, identify below the specific performance security that is being required and all salient commercial terms associated with that security.)

Required Not Required

Article 12

Other Provisions

12.1 Other provisions, if any, are as follows: *(Insert any additional provisions.)*

12.2 Listing of Exhibits and documents incorporated herein:

Exhibit A – Owner’s Project Criteria and Scope of Services
Exhibit B – Contract Price Amendment (incorporated as part of Phase 2)
Exhibit C – General Conditions (incorporated as part of Phase 2)
Exhibit D – Special Conditions (incorporated as part of Phase 2)
Exhibit E – Markups (incorporated as part of Phase 2)
Exhibit F – Federal Provisions
Exhibit G – Conflict of Interest Disclosure Form
Exhibit H – Labor Rates (incorporated as part of Phase 2)
Exhibit I – Tool and Equipment Rental (incorporated as part of Phase 2)
Exhibit J – Project Labor Agreement

OWNER:

DESIGN-BUILDER:

(Name of Owner)

(Name of Design-Builder)

(Signature)

(Signature)

(Printed Name)

(Printed Name)

(Title)

(Title)

Date: _____

Date: _____

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

By: _____
Date
Senior Deputy City Attorney

ATTEST:
YVONNE SPENCE, CRM MMC
City Clerk

By: _____
Date
Deputy

EXHIBIT A to DBIA DOCUMENT 544
for the
Fresno Airport Terminal Parking Structure

- Request for Qualification Statements dated July 10, 2019 (excluding ATTACHMENT H – DRAFT CONTRACT AGREEMENT)
- Addendum #1 to Request for Qualification Statements dated July 19, 2019
- Site Study by Overaa/WRNS/Walker dated November 6, 2019

EXHIBIT A to DBIA DOCUMENT No. 544
for the Fresno Airport Terminal Parking Structure

Site Study

November 06 2019

FAT Parking



Agenda

- 1** Site Constraints / Planning
- 2** Schemes / ROM Pricing
- 3** Recommendation
- 4** Upcoming Meetings
- 5** New Business

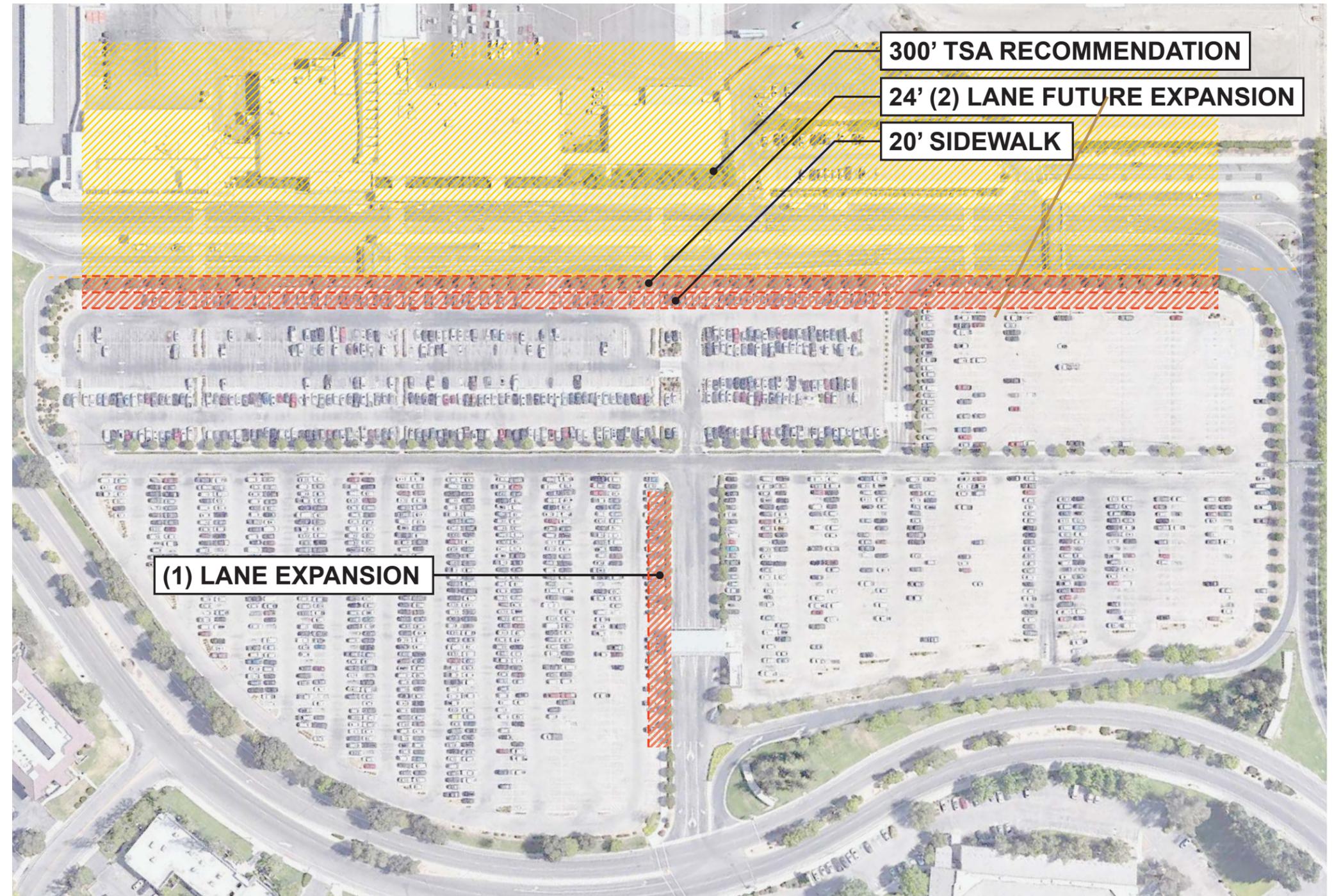
1 Site Constraints / Planning

Site Constraints

Site Study

Not included:

- Survey
- Geotechnical Report

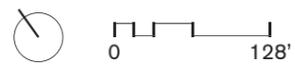
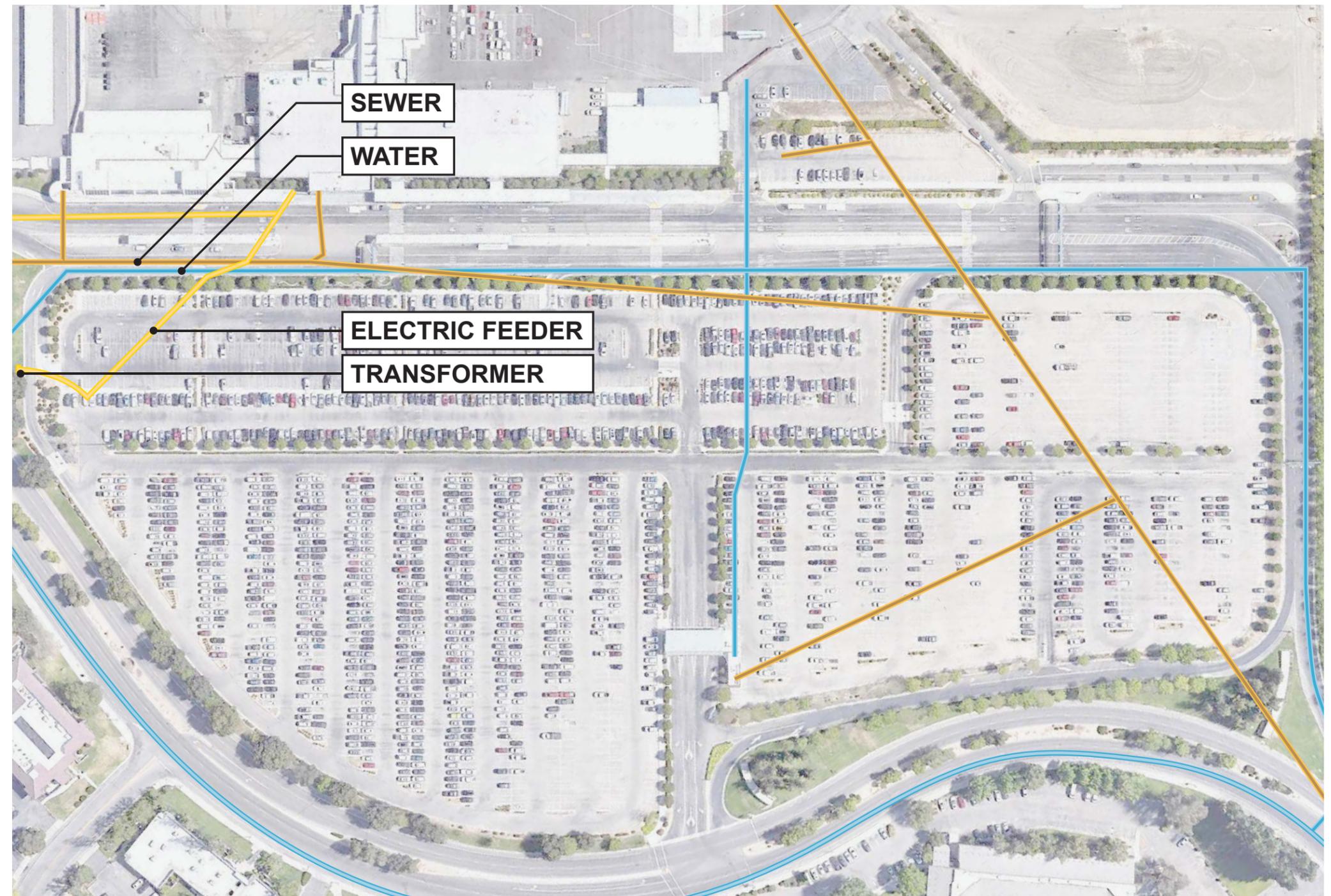


Existing Utilities

Site Study

Not included:

- Survey



Planning Code

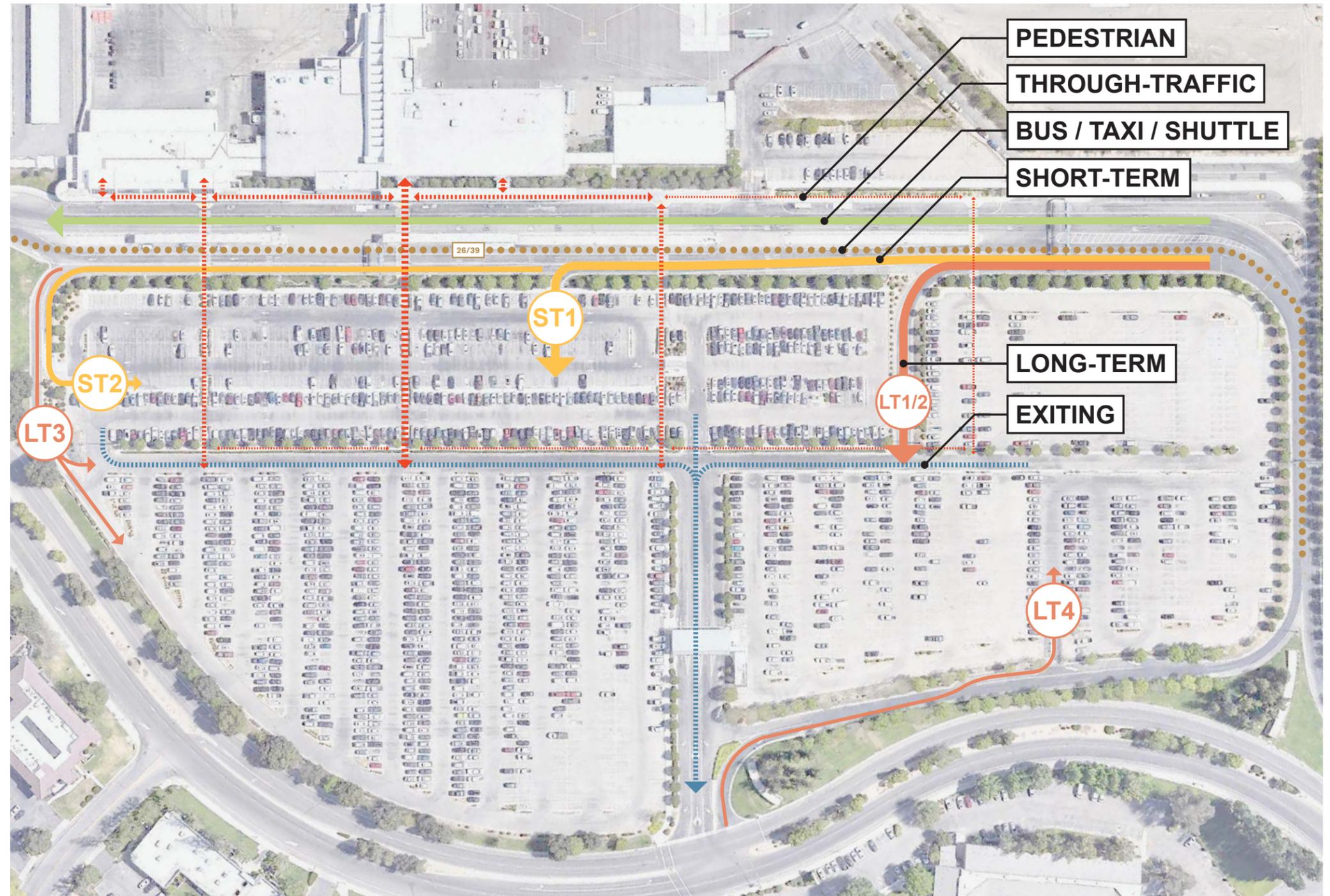
Site Study

City of Fresno
Parking Manual

	Industry Standard	Proposed	City of Fresno
Stall Width	8'-6"	9'-0"	9'-0"
Stall Length	18'-0"	18'-0"	19'-0"
2-Way Drive Aisle	24'-0"	24'-0"	27'-0"

Existing Circulation

Site Study



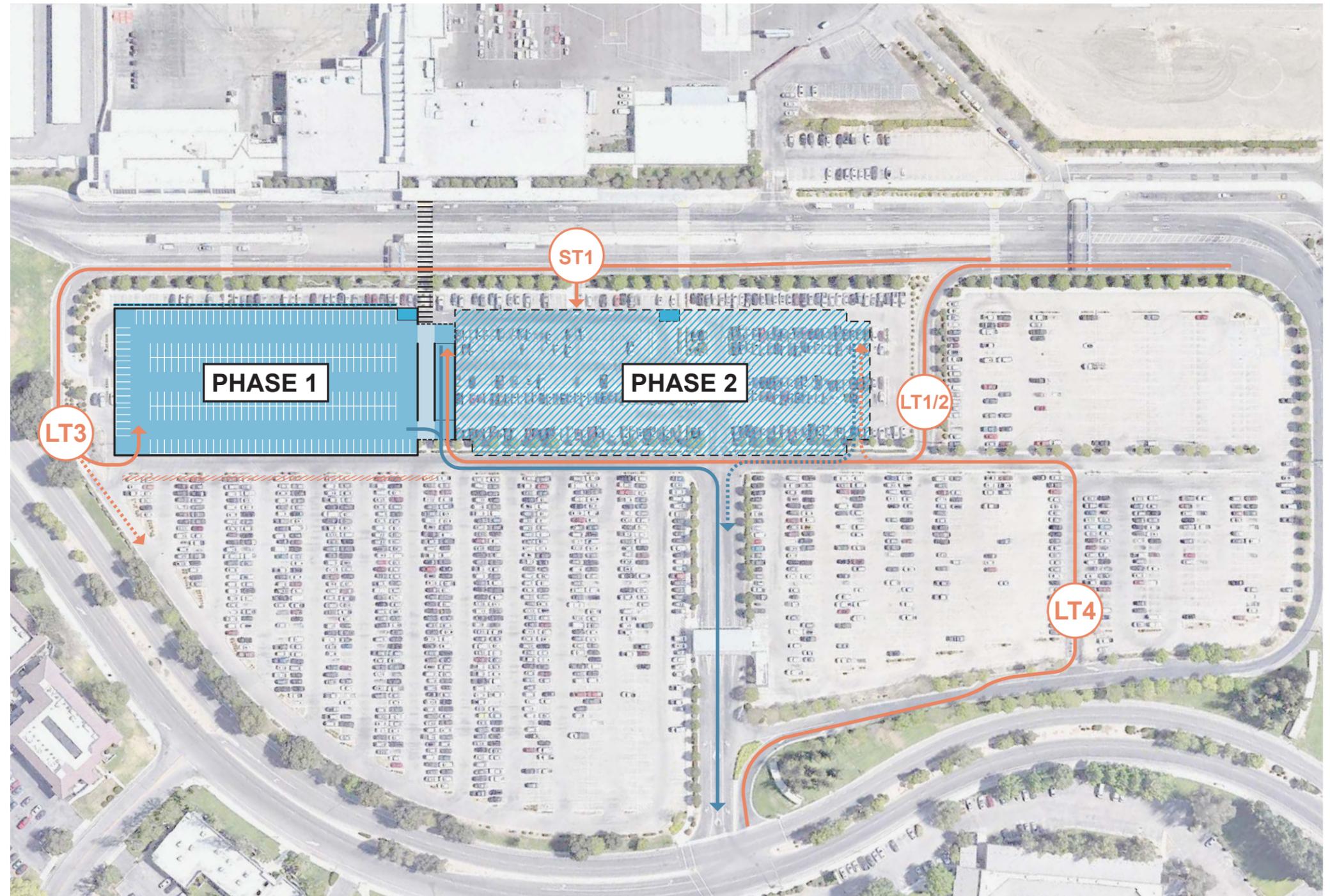
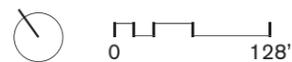
2 Schemes

Scheme A

Site Study

Structure	3 bay
Footprint	79,000 SF (186' x 424')
Levels	4 (3 elevated)
Area	316,000 SF
Stalls	921*
Displaced	266* at structure 15* at aisle 30* at toll booth
Net	+610*

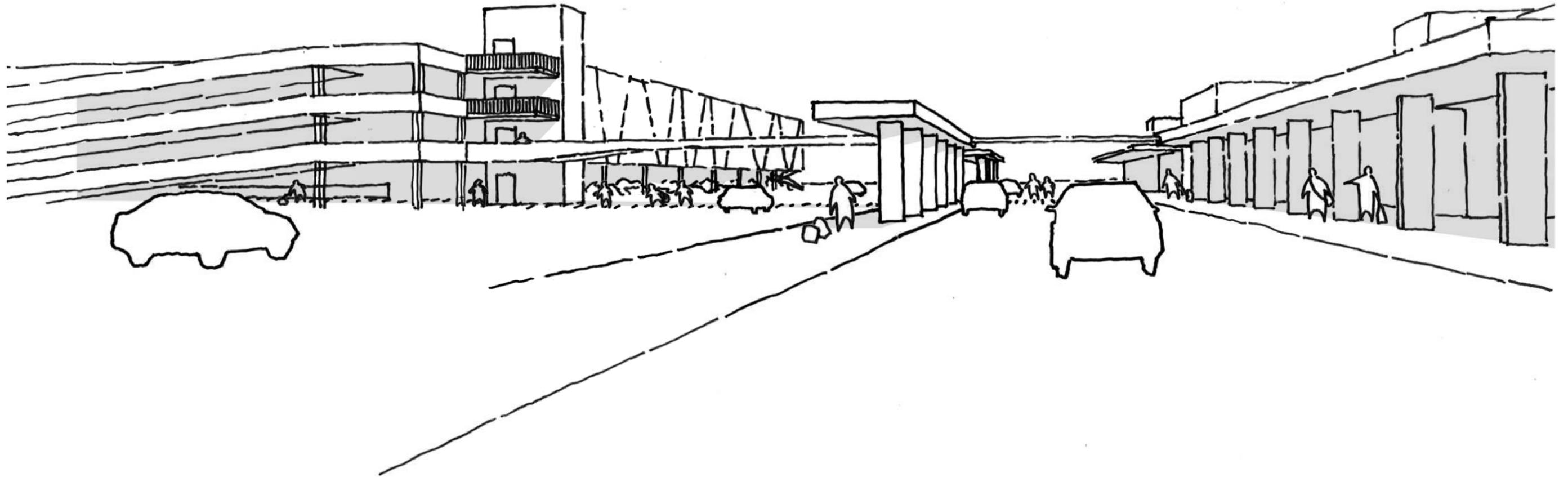
-  SITE CONSTRAINT
-  PARKING ENTRY
-  EXITING
-  PARKING STRUCTURE
-  PEDESTRIAN CANOPY
-  PHASE 2



*All values are approximate at this stage.

Scheme A

Site Study



View driving West along Terminal

Scheme A

Site Study

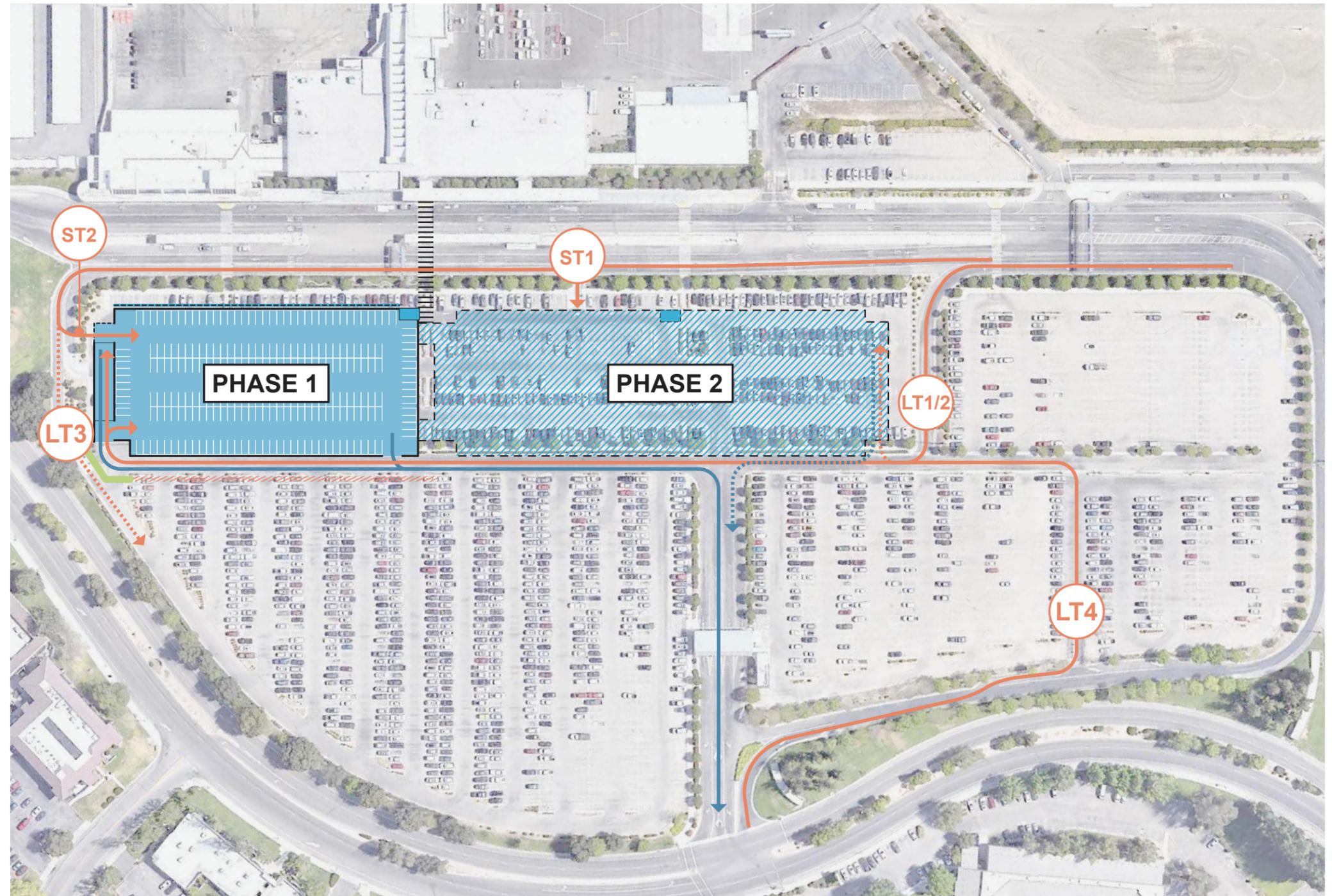
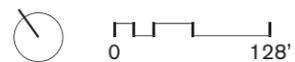
	4 Levels	5 Levels	
Structure	3 bay	Structure 3 bay	Pro + Meets project goals for parking increase and is conveniently sited with respect to terminal Con - Enclosed pedestrian passage adjacent to speed ramp - Proximity of speed ramp to elevator core
Footprint	79,000 SF (186' x 424')	Footprint 79,000 SF (186' x 424')	
Levels	4 (3 elevated)	Levels 5 (4 elevated)	
Area	316,000 SF	Area 395,000 SF	
Stalls	921*	Stalls 1,153*	
Displaced	266* at structure 15* at aisle 30* at toll booth	Displaced 266* at structure 15* at aisle 30* at toll booth	
Net	+610*	Net +842* (+232)	
Net Ratio	+1 stall /518 SF	Net Ratio +1 stall /469 SF	

Scheme B

Site Study

Structure	3 bay
Footprint	76,500 SF (212' x 389')
Levels	4 (3 elevated)
Area	306,000 SF
Stalls	913*
Displaced	255* at structure 13* at aisle 30* at toll booth
Net	+615*

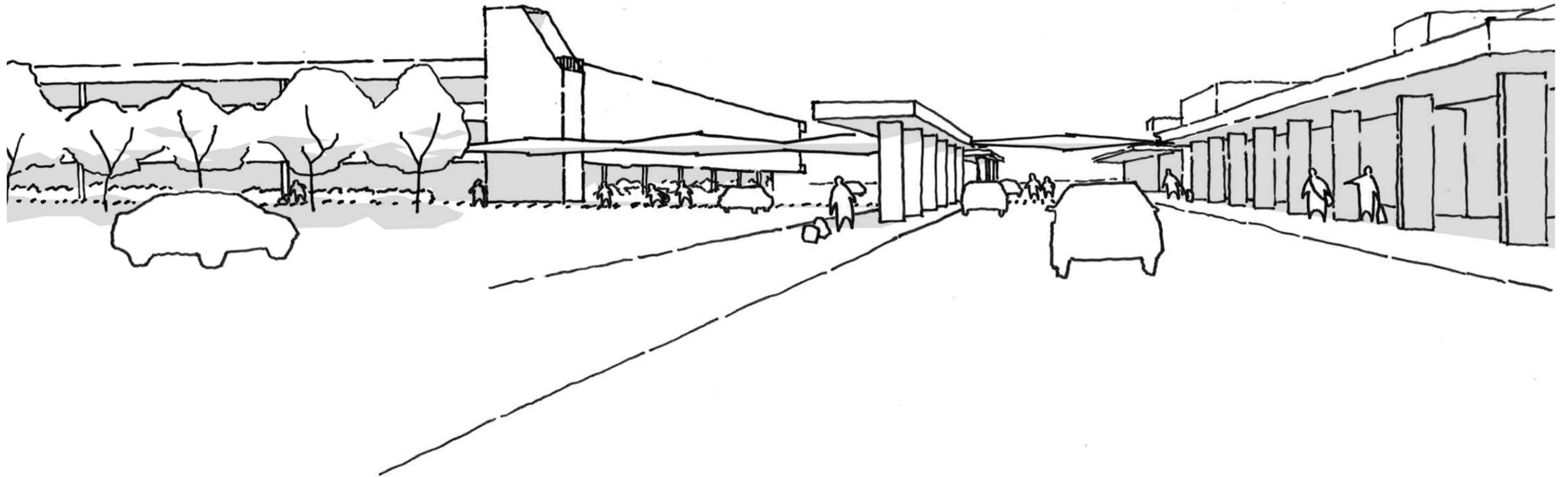
- - - SITE CONSTRAINT
- ← PARKING ENTRY
- ← EXITING
- PARKING STRUCTURE
- PEDESTRIAN CANOPY
- PHASE 2



*All values are approximate at this stage.

Scheme B

Site Study



View driving West along Terminal

Scheme B

Site Study

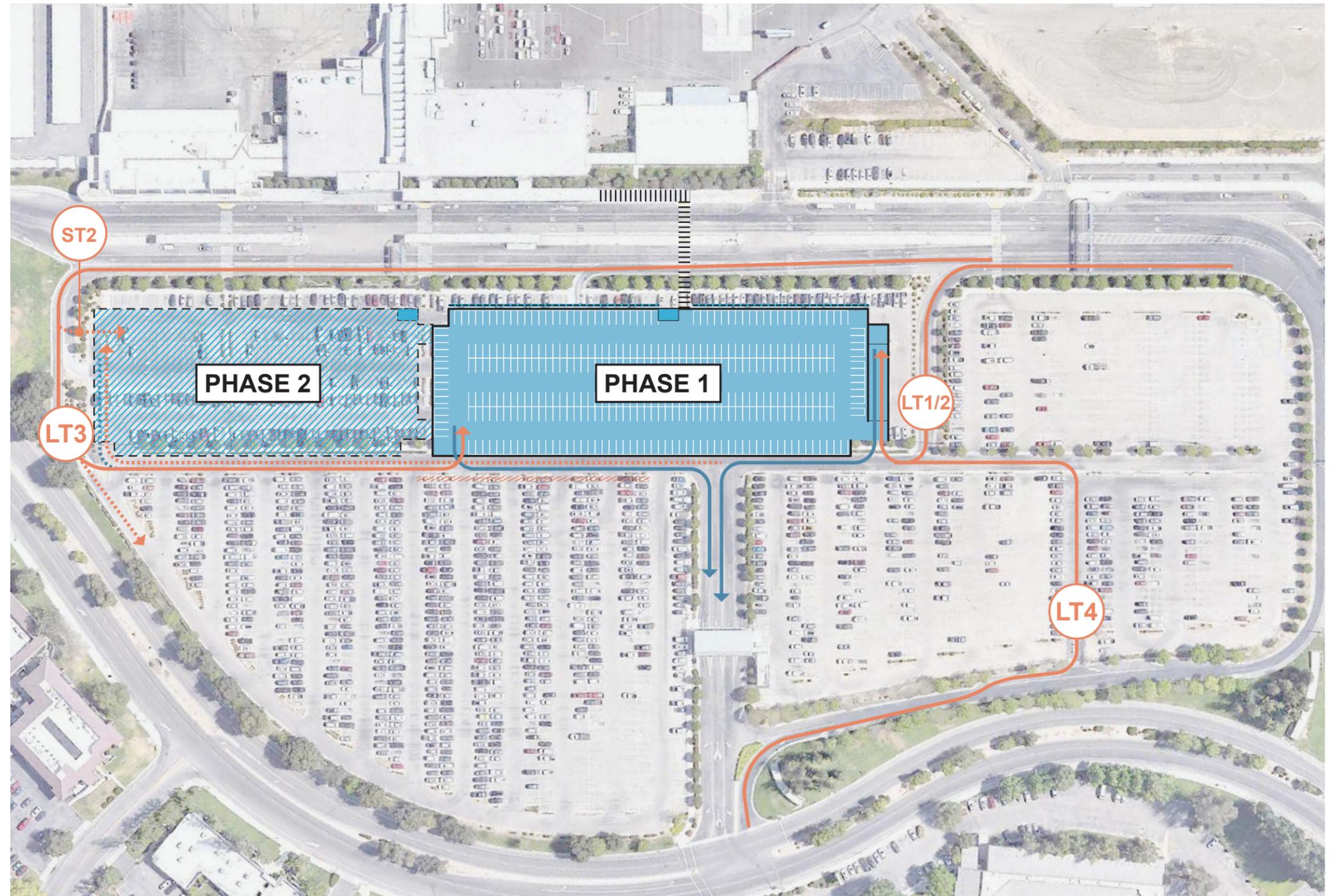
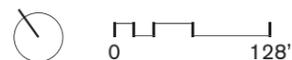
4 Levels		5 Levels		Pro
Structure	3 bay	Structure	3 bay	+ Meets project goals for parking increase and is conveniently sited with respect to terminal
Footprint	76,500 SF (212' x 389')	Footprint	76,500 SF (212' x 389')	
Levels	4 (3 elevated)	Levels	5 (4 elevated)	+ More efficient
Area	306,000 SF	Area	382,500 SF	
Stalls	913*	Stalls	1,141*	
Displaced	255* at structure 13* at aisle 30* at toll booth	Displaced	255* at structure 13* at aisle 30* at toll booth	
Net	+615*	Net	+843* (+228)	
Net Ratio	+1 stall /498 SF	Net Ratio	+1 stall /454 SF	
				Con

Phase Flip

Site Study

Structure	3 bay
Footprint	110,500 SF (186' x 595')
Levels	4 (3 elevated)
Area	442,000 SF
Stalls	1,380*
Displaced	338 at structure 18 at drive aisle 30 at toll booth
Net	+994*
Net Ratio	+1 stall /445 SF

- SITE CONSTRAINT
- ← PARKING ENTRY
- ← EXITING
- PARKING STRUCTURE
- ▨ PEDESTRIAN CANOPY
- ▨ PHASE 2



*ADA stalls not factored into this calculation.

Phase Flip

Site Study

Scheme A (5 levels)		Scheme B (5 levels)		Phase Flip	
Structure	3 bay	Structure	3 bay	Structure	3 bay
Footprint	79,000 SF (186' x 424')	Footprint	76,500 SF (212' x 389')	Footprint	110,500 SF (186' x 595')
Levels	5 (4 elevated)	Levels	5 (4 elevated)	Levels	4 (3 elevated)
Area	395,000 SF	Area	382,500 SF	Area	442,000 SF
Stalls	1,153*	Stalls	1,141*	Stalls	1,380*
Displaced	266* at structure 15* at aisle 30* at toll booth	Displaced	255* at structure 13* at aisle 30* at toll booth	Displaced	338 at structure 18 at drive aisle 30 at toll booth
Net	+842* (+232)	Net	+843* (+228)	Net	+994*
Net Ratio	+1 stall /469 SF	Net Ratio	+1 stall /454 SF	Net Ratio	+1 stall /445 SF

3 Recommendation

Recommendation

Site Study

	Scheme A	Scheme B	Phase Flip
convenient to terminal	yes	yes	yes
conforms to budget	yes	yes	no
pedestrian circulation	ok	good	good
net increase in stalls	+610	+615	+994
built area (SF)	316,000	306,000	442,000
net ratio (stalls / SF)	+1 / 518 SF	+1 / 498 SF	+1 / 442 SF

Upcoming Meetings & New Business

Site Study

What's Next

date	time	method	purpose
11/13	11a	in-person <i>Richmond</i>	SD phase kick-off
12/4	TBD	in-person <i>Fresno</i>	SD progress update
12/5	TBD		city council meeting (FAT and Overaa)

Site Study

Thanks.



WRNSSTUDIO



**EXHIBIT B to DBIA DOCUMENT 544
for the
Fresno Airport Terminal Parking Structure**

Contract Price Amendment (CPA) to be submitted and approved prior to commencing with Phase 2.

**EXHIBIT C to DBIA DOCUMENT 544
for the
Fresno Airport Terminal Parking Structure**

General Conditions are to be incorporated into this Agreement as Exhibit C prior to commencing with Phase 2.

**EXHIBIT D to DBIA DOCUMENT 544
for the
Fresno Airport Terminal Parking Structure**

Special Conditions, if any, are to be incorporated into this Agreement as Exhibit D prior to commencing with Phase 2.

EXHIBIT E to DBIA DOCUMENT 544
for the
Fresno Airport Terminal Parking Structure

Markups are to be incorporated into this Agreement as Exhibit E prior to commencing with Phase 2.

EXHIBIT F to DBIA DOCUMENT No. 544
For the Fresno Airport Terminal Parking Structure

FEDERAL PROVISIONS APPLICABLE TO ALL AGREEMENTS

A. GENERAL CIVIL RIGHTS PROVISIONS

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

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

B. CIVIL RIGHTS ACT OF 1964, TITLE VI

Compliance with Nondiscrimination Requirements:

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

- 1. Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- 2. Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
- 3. Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
- 4. Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to

the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

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

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

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

7. Title VI List of Pertinent Nondiscrimination Acts and Authorities

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

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the

Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq.).

C. FEDERAL FAIR LABOR STANDARDS ACT (MINIMUM WAGE)

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

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

EXHIBIT G to DBIA DOCUMENT No. 544
for the Fresno Airport Terminal Parking Structure
CITY OF FRESNO CONFLICT OF INTEREST DECLARATION
DISCLOSURE OF CONFLICT OF INTEREST
PARKING STRUCTURE AT FRESNO INTERNATIONAL AIRPORT

		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 

CHRISTOPHER MANNING

(name)

C.OVERAA & CO.

(company)

200 PARR BLVD.

(address)

RICHMOND, CA 94801

(city state zip)

EXHIBIT H to DBIA DOCUMENT 544
for the
Fresno Airport Terminal Parking Structure

Labor Rates are to be incorporated into this Agreement as Exhibit H prior to commencing with Phase 2.

**EXHIBIT I to DBIA DOCUMENT 544
for the
Fresno Airport Terminal Parking Structure**

Equipment Rental Rates are to be incorporated into this Agreement as Exhibit I prior to commencing with Phase 2.

**EXHIBIT J to DBIA DOCUMENT 544
for the
Fresno Airport Terminal Parking Structure**

Refer to Exhibit D of the RFQ dated July 10, 2019