

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

THIS AGREEMENT is made and entered into effective _____, by and between the CITY OF FRESNO, a California municipal corporation (City), and GEOSYSTEMS ANALYSIS, INC., an Arizona corporation (Consultant).

RECITALS

WHEREAS, the City desires to obtain professional consulting engineering services for City of Fresno, Leaky Acres Groundwater Recharge Facility Master Plan (Project); and

WHEREAS, the Consultant is engaged in the business of furnishing services as a Professional Engineer and hereby represents that it desires to and is professionally and legally capable of performing the services called for by this Agreement; and

WHEREAS, the 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 the City by its Director of Public Utilities (Director) or 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. The Consultant shall perform to the satisfaction of the 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 April 30, 2023, subject to any earlier termination in accordance with this Agreement. The services of the Consultant as described in **Exhibit A** are to commence upon the 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 three hundred sixty (360) consecutive calendar days from such authorization to proceed.

3. Compensation.

(a) The 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 One hundred thirty-six thousand, eight hundred and four dollars (\$136,804), paid on a time and materials basis in accordance with the schedule of fees contained in **Exhibit A**, and a contingency amount not to exceed Thirteen thousand, seven hundred

dollars (\$13,700) for any additional work rendered pursuant to Subsection (c) below and authorized in writing by the Director.

(b) Detailed statements shall be rendered monthly and will be payable in the normal course of City business. The 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 the 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. The 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 the City to the Consultant upon the earlier of: (i) the Consultant's filing for protection under the federal bankruptcy laws, or any bankruptcy petition or petition for receiver commenced by a third party against the Consultant; (ii) seven calendar days prior written notice with or without cause by the City to the Consultant; (iii) the 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, the Consultant shall (i) immediately stop all work hereunder; (ii) immediately cause any and all of its subcontractors to cease work; and (iii) return to the City any and all unearned payments and all properties and materials in the possession of the Consultant that are owned by the City. Subject to the terms of this Agreement, the Consultant shall be paid compensation for services satisfactorily performed prior to the effective date of termination. The 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 the Consultant to satisfactorily perform in accordance with the terms of this Agreement, the City may withhold an amount that would otherwise be payable as an offset to, but not in excess of, the City's damages caused by such failure. In no event shall any payment by the City pursuant to this Agreement constitute a waiver by the City of any breach of this Agreement which may then exist on the part of the Consultant, nor shall such payment impair or prejudice any remedy available to the City with respect to the breach.

(d) Upon any breach of this Agreement by the Consultant, the 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 the City improperly terminated this Agreement for default, such termination shall be deemed a termination for convenience.

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

(f) The Consultant shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Consultant and without its fault or negligence such as, acts of God or the public enemy, acts of the City in its contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The 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 the Consultant pursuant to this Agreement shall not be made available to any individual or organization by the Consultant without the prior written approval of the City. During the term of this Agreement, and thereafter, the Consultant shall not, without the prior written consent of the 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 the 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 the 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 the Consultant pursuant to this Agreement are the property of the City at the time of preparation and shall be turned over to the City upon expiration or termination of the Agreement or default by the Consultant. The Consultant grants the City a copyright license to use such drawings and writings. The Consultant shall not permit the reproduction or use thereof by any other person except as otherwise expressly provided herein. The City may modify the design including any drawings or writings. Any use by the 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 the Consultant will be at the City's sole risk and without liability or legal exposure to the Consultant. The Consultant may keep a copy of all drawings and specifications for its sole and exclusive use.

(c) If the Consultant should subcontract all or any portion of the services to be performed under this Agreement, the 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 the Consultant represents to the City that the 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, the City relies upon the skill of the Consultant and any subcontractors to do and perform such services in a skillful manner and the Consultant agrees to thus perform the services and require the same of any subcontractors. Therefore, any acceptance of such services by the City shall not operate as a release of the Consultant or any subcontractors from said professional standards.

7. Indemnification. To the furthest extent allowed by law including California Civil Code section 2782.8, the Consultant shall indemnify, hold harmless and defend the 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 the Consultant, its principals, officers, employees, agents or volunteers in the performance of this Agreement.

If the Consultant should subcontract all or any portion of the services to be performed under this Agreement, the Consultant shall require each subcontractor to indemnify, hold harmless and defend the 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, the 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 the City's Risk Manager or designee at any time and in its sole discretion. The required policies of insurance as stated in Exhibit B shall maintain limits of liability of not less than those amounts stated therein. However, the insurance limits available to the 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, the 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 the Consultant shall be withheld until notice is received by the 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 the City. Any failure to maintain the required insurance shall be sufficient cause for the City to terminate this Agreement. No action taken by the City pursuant to this section shall in any way relieve the Consultant of its responsibilities under

this Agreement. The phrase “fail to maintain any required insurance” shall include, without limitation, notification received by the 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 the Consultant shall not be deemed to release or diminish the liability of the Consultant, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify the 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 the Consultant. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of the Consultant, its principals, officers, agents, employees, persons under the supervision of the Consultant, vendors, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.

(d) If the Consultant should subcontract all or any portion of the services to be performed under this Agreement, the 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 the Consultant and the City prior to the commencement of any services by the subcontractor. The Consultant and any subcontractor/sub-consultant shall establish additional insured status for the 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 the City’s execution of this Agreement, the 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, the Consultant shall have the obligation and duty to immediately notify the City in writing of any change to the information provided by the Consultant in such statement.

(b) The 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 the City, the Consultant shall provide a written opinion of its legal counsel and that of any subcontractor that, after a due diligent inquiry, the Consultant and the respective subcontractor(s) are in full compliance with all laws and regulations. The 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, the Consultant shall immediately notify the City of these facts in writing.

(c) In performing the work or services to be provided hereunder, the Consultant shall not employ or retain the services of any person while such person either is employed by the 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) The 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 the Consultant, nor any of the 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. The 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 the Consultant should subcontract all or any portion of the work to be performed or services to be provided under this Agreement, the 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 the 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, the Consultant at its sole cost and expense shall:

(a) Immediately establish and maintain a viable and ongoing recycling program, approved by the City's Solid Waste Management Division, for each office and facility. Literature describing the City recycling programs is available from the City's Solid Waste Management Division and by calling City of Fresno Recycling Hotline at (559) 621-1111.

(b) Immediately contact the 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.

(ci) Cooperate with and demonstrate to the satisfaction of the 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 the City within the body of this Agreement, and not otherwise specifically provided for, shall be effective only if signed by the Director or designee.

(b) Records of the Consultant's expenses pertaining to the Project shall be kept on a generally recognized accounting basis and shall be available to the 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 the 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 the City until such action is resolved, or until the end of said time period whichever shall later occur. If the Consultant should subcontract all or any portion of the services to be performed under this Agreement, the 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 the City, the Consultant shall have provided evidence to the City that the Consultant is licensed to perform the services called for by this Agreement (or that no license is required). If the Consultant should subcontract all or any portion of the work or services to be performed under this Agreement, the Consultant shall require each subcontractor to provide evidence to the 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, the 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, the Consultant agrees as follows:

(a) The 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) The 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. The 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 the 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. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this nondiscrimination clause.

(c) The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the 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) The 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 the 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 the Consultant should subcontract all or any portion of the services to be performed under this Agreement, the 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, the Consultant is acting solely as an independent contractor. Neither the Consultant, nor any of its officers, agents or employees shall be deemed an officer, agent, employee, joint venturer, partner or associate of the City for any purpose. The City shall have no right to control or supervise or direct the manner or method by which the Consultant shall perform its work and functions. However, the City shall retain the right to administer this Agreement so as to verify that the 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 the Consultant and the City. The Consultant shall have no authority to bind the City absent the City's express written consent. Except to the extent otherwise provided in this Agreement, the Consultant shall bear its own costs and expenses in pursuit thereof.

(c) Because of its status as an independent contractor, the Consultant and its officers, agents and employees shall have absolutely no right to employment rights and benefits available to City employees. The 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, the Consultant shall be solely responsible, indemnify, defend and save the City harmless from all matters relating to employment and tax withholding for and payment of the 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 the City employment benefits,

entitlements, programs and/or funds offered employees of the 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, the Consultant may be providing services to others unrelated to the 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 the Consultant and there shall be no assignment by the Consultant of its rights or obligations under this Agreement without the prior written approval of the City Manager or designee. Any attempted assignment by the Consultant, its successors or assigns, shall be null and void unless approved in writing by the City Manager or designee.

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

17. Compliance With Law. In providing the services required under this Agreement, the Consultant shall at all times comply with all applicable laws of the United States, the State of California and the 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 the City and the Consultant.

[Signatures follow on the next page.]

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

CITY OF FRESNO,
a California municipal corporation

By: _____
Michael Carbajal,
Director
Department of Public Utilities

ATTEST:
YVONNE SPENCE, MMC CRM
City Clerk

By: _____
Deputy Yvonne Spence

No signature of City Attorney required.
Standard Document #DPU-S 8.3/02-2021
has been used without modification, as
certified by the undersigned.

By: Erin Augusto 3/24/2021
Erin Augusto
Engineer I
Department of Public Utilities

REVIEWED BY: Glenn Knapp 3/24/2021
Glenn A Knapp, Supervising Professional
Engineer
Department of Public Utilities

Addresses:
CITY:
City of Fresno
Attention: Erin Augusto,
Engineer I
2101 G Street,
Fresno, CA 93706
Phone: (559) 621-1608
Facsimile (559) 498-4126
E-mail: Erin.Augusto@fresno.gov

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

GEOSYSTEMS ANALYSIS, INC.],
an Arizona corporation

By: MICHAEL MILCZAREK 3/24/2021
MICHAEL MILCZAREK
Name: _____

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

By: Jason Keller 3/24/2021
Jason Keller
Name: _____

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

Any Applicable Professional License:
Number: G2301
Name: Oregon Registered Geologist
Date of Issuance: 1/4/2011

CONSULTANT:
GeoSystems Analysis, Inc.
Attention: Michael Milczarek,
Program Director
3393 North Dodge Boulevard
Tucson, AZ 85716
Phone: (520) 628-9330
Facsimile" (520) 628-1122
E-mail mike@gsanalysis.com

EXHIBIT A

SCOPE OF SERVICES

Consultant Service Agreement between City of Fresno (City) and GeoSystems Analysis, Inc. (Consultant)

City of Fresno, Leaky Acres Groundwater Recharge Facility Master Plan

Task 1. Administrative Services

Consultant will provide project management services, coordinate with subconsultants, and is responsible for ensuring high quality and timely project deliverables. Responsibilities include:

- a. Organizing a project kick-off meeting via teleconference between the Consultant Team and the City to clarify client priorities and objectives, discuss existing reports & data sets and project questions, etc.
- b. Coordinating monthly teleconference meetings with the City Project Manager to discuss key aspects of the project and resolve technical or financial issues.
- c. Coordinating Team members to ensure efficient cross-disciplinary collaboration, as well as compliance with project budget and schedule.
- d. Directing and compiling Technical Memorandum, Standard Operational Procedures Manual, and Draft and Final Project Reports.
- e. Developing and coordinating summary presentations for Interim, Draft and Final findings to the City.
- f. Monthly project accounting and invoicing to include detailed work summaries.

Consultant Services for Task 1 Services is estimated to be \$17,669.

Task 2. Document and Data Review

This Task will focus on two key areas:

- 1) operational data on recharge volumes and rates, basin operations, performance, and basin maintenance;
- 2) available data on near-surface and deeper subsurface conditions at the various basin locations. An understanding of both these conditions is necessary to determine what options are available to the City to increase recharge rates and what additional data collection may be needed.

In addition to the hydrogeologic and operations studies conducted by the USDA-ARS, we are aware that other geotechnical studies and well installations (i.e. BSK Associates), and ongoing trials/monitoring of sedimentation basins, installation of furrows, vadose zone wells, and Parjana EGRP® wick drains have been conducted by the City. The City also collects detailed data on recharge basin performance and groundwater elevations which has been helpful in identifying the most productive basins within the Leaky Acres facility. Consultant will review both hydrogeologic conditions and operational methodologies as the operations may have as much impact on the successful operation of the system as

the subsurface conditions.

Data from all studies will be compiled and the operations and hydrogeologic conditions at each of the priority basins will be summarized into a tabular format.

Consultant Services for Task 2 Services is estimated to be \$17,228.

Task 3. Hydraulics Evaluation

The focus of the of hydraulic evaluation will be to catalogue all structures and identify the control points and elevations throughout the system and to determine whether these facilities are in good condition and can be utilized in the Master Plan. In addition, a preliminary analysis of sedimentation control and basin operations will be performed. The hydraulics evaluation will build upon the Task 2 operations analysis and review of construction documents, and consist of a field review and inventory of the facility structures. The field review and surface feature inspection is very important as it is expected that much of the hydraulic system is approaching fifty years old. We assume the City will have drawings and construction documents that relate to the structures on site but has not recently surveyed the structures on the property in order to determine current conditions, thus a field survey will need to be performed to acquire the data.

Based on the facility inventory and field survey, two levels of hydraulic analysis will be performed:

- 1) sedimentation control and
- 2) optimum basin layout, control points and routing. The sedimentation analysis will calculate the retention storage volume and time needed to facilitate the removal of the majority of sediment from recharge water delivered by Fresno Irrigation District (FID). Frequency distributions will be developed for the estimated Total Suspended Solids (TSS) load based on historic water quality data from the FID, the City and other agencies (i.e. USACOE). Various historic TSS concentrations percentiles (i.e. mean, 75% and 90%) will be used to calculate the needed retention time to reduce 50%, 75% and 90% of the TSS load. We anticipate that this exercise will identify an optimum sediment basin(s) size that will function to capture the majority of TSS loading, and in addition, identify a TSS concentration that the Leaky Acres facility should not accept due to inability to remove adequate amounts of sediment (i.e. the upper 5% to 10% of historic TSS concentrations).

A basin layout and water transfer analysis will then evaluate water routing and basin sizing within the facility as a tradeoff between sedimentation control and maximizing recharge basin areas. In addition, if not within the current conditions, a plan to allow water bypass and drain individual basins in order to provide maintenance will be conducted.

Initial Task 3 findings will be presented during a regularly scheduled monthly meeting via video conference. Based on City feedback, an optimum plan layout will be developed for the basins, with recommendations for capital improvement plan in Task 7.

Consultant Services for Task 3 Services is estimated to be \$15,581.

Task 4. Geotechnical and/or Hydrogeologic Evaluation

The focus of Task 4 will be to use the historic data collection and studies (Task 2) to develop hydrogeologic conceptual models (HCMs) of individual basins, and to the extent practicable, identify potential opportunities to increase recharge rates either through operational or recharge enhancement methods. Based on our experience, basin specific hydrogeologic conditions will dictate what recharge enhancement methods are suitable. For example, if the data indicate that the fine-grained layer located at approximately 11 m below ground surface is the primary impediment to recharge, deeper subsurface technologies (i.e. drywells/boreholes) may be the most suitable recharge enhancement method. Task 4 will also include a review and evaluation of alternative recharge enhancement methods that could be used at each basin. To the extent practicable, cost estimates of additional recharge enhancement will be developed, on a per unit basis.

Consultant assumes as part of ongoing basin maintenance, the City has assessed the extent of siltation/sediment accumulation. If this data is not available, then a field characterization of surface siltation will be required as this information is needed to determine whether sediment removal is necessary as an operational improvement. A separate cost proposal for a near-surface field characterization can be prepared or recommended in Task 6.

Initial findings from Task 4 will be presented during a regularly scheduled monthly meeting via video conference. Based on City feedback, recommendations for additional geotechnical studies to close data gaps and potential pilot projects for evaluating alternative recharge enhancement methods will be provided. In conjunction with the City, a final list of high priority basins and/or pilot projects will be selected for the Task 7 plan.

Consultant Services for Task 4 Services is estimated to be \$9,640.

Task 5. Monitoring and Instrumentation Evaluation

This Task will evaluate the current system used to monitor and manage facility operations. Consultant assumes the following monitoring and control systems will need to be addressed:

- a. Basin water inflow, outflow and elevations
- b. Gates, valves and pump controls
- c. Recharge water quality
- d. Groundwater and perched water elevations
- e. Groundwater and perched water quality
- f. Recharge enhancement technology monitoring
- g. Basin maintenance scheduling and completion.

Based on the City's monitoring and management needs, Consultant and subconsult(s) will develop recommendations for an integrated monitoring system that will use telemetry or direct connection (if present) to tie into the existing SCADA system (if present) or a

new integrated system.

Consultant will provide Recommendations that will include a process for storing output from the proposed system in the existing City database or the development of a facility database to minimize data processing. Consultant has over 20 years of experience installing monitoring equipment in highly varying environmental conditions. Consultant monitoring program approach is designed to meet key objectives as summarized below:

- 1) Ensure that proposed equipment is compatible with existing equipment and meets the City's monitoring needs.
- 2) Ensure that instrument selection and installation is robust and economical.
- 3) Design and install equipment that is protected against environmental elements such as animals and vandalism.
- 4) Ensure that all instrumentation is operating correctly and within manufacturer's operating specifications and provide equipment calibration, quality assurance and quality control:
 - a. Test and verify equipment prior to and immediately following installation to assure proper functionality.
 - b. Preliminary, interim, and final calibration of sensors to assure continuous collection of a calibrated dataset.
 - c. Ensure that all instrumentation is maintained correctly.
 - d. Minimize the amount of time that instrumentation is not operating correctly, and include strategies to avoid data loss (data redundancy, backup procedures, etc.).
 - e. Ensure data quality (QA/QC approach, data management) through data process guidelines.
- 5) Database(s) design will include storage and backup system procedures to prevent data loss. Consultant has developed successful instrumentation and database management systems on multiple projects for complex data management and processing requirements. Recommendations for the Leaky Acre facility monitoring program will be developed in conjunction with the City and provided in Task 6. Estimated cost for procurement and implementation will be presented in Task 7.

Consultant Services for Task 5 Services is estimated to be \$8,287.

Task 6. Preparation of the Draft and Final Facility Technical Memorandum

Findings and recommendations from Tasks 2-5 will be summarized into a technical memorandum that will focus on:

- 1) Data gaps and a recommended study plan(s) to resolve any data gaps (Task 2);
- 2) Findings of the hydraulic evaluation and recommendations for facility operations improvement (Task 3);
- 3) Findings of the hydrogeologic evaluation and recommendations for recharge enhancement technologies and studies (Task 4), and;
- 4) Monitoring system review and recommendations (Task 5).

With input from the City, the Task 6 findings will be used to develop the primary objectives of the Master Plan and identify practical changes and improvements to operations and recharge efficiencies.

Task 6 Deliverables:

- a. One electronic file (PDF and MSWord document) of each Draft Project document as completed
- b. Six (6) hard-copies and one each electronic file (PDF and MSWord document) of the Draft Facility Technical Memorandum.
- c. Six (6) hard-copies and one each electronic file (PDF and MSWord document) of the Final Facility Technical Memorandum.
- d. A meeting with the City of Fresno to receive and discuss comments to the draft Technical Memorandum

Consultant Services for Task 6 Services is estimated to be \$24,721.

Task 7. Preparation of the Draft and Final Facility Master Plan

Based on the Task 6 Technical Memorandum, a Draft Facility Master Plan will be developed in consultation with the City of Fresno to identify necessary studies, needed operational changes and potential recharge enhancement projections. Within the master plan needed changes and improvements will be identified and sequenced to develop the capital improvement project (CIP) plan. Costs will be estimated for the improvements and laid out in the Final Facility Master Plan.

While the written document is important, we have found that the graphical representation is most useful to convey the plan to others. To this end, attention will be given to make sure graphical representation of the plan is easy to use and understand such that it can be handed to staff and decision makers to assure clear and concise communication.

We envision that the master plan and resulting capital plan will include installation of the most critical infrastructure in the early years of the plan and this will correlate to being the most financially cost effective to the City. As per the RFP, the Master Plan will provide:

- 1) An executive summary of the City's groundwater recharge program and Leaky Acres facility.
- 2) A summary of the Facility Technical Memorandum Findings.
- 3) A recommended 5-year prioritized list of potential CIP project alternatives including estimated budgets and schedules. These CIPs could include:
 - a. System upgrades and modifications to the basin configuration to improve basin management and sediment control
 - b. Operations and maintenance improvements
 - c. Required studies and implementation of recharge enhancement methods
 - d. Monitoring and control system improvements.
- 4) Recommended Standard Operational Procedures to include performance objectives and completion of targeted CIP project alternatives.
- 5) Preparation of schematic construction details of targeted 5-year CIP project alternatives.
- 6) Preparation of standard construction details for typical facility improvements.

Task 7 Deliverables:

- a. Six (6) hard-copies and one each electronic file (PDF and MSWord document) of the Draft Project Master Plan Report
- b. Ten (10) hard-copies and one each electronic file (PDF and MSWord document) of the Final Project Master Plan Report
- c. A meeting with the City of Fresno to receive and discuss comments to the draft Master Plan.

Consultant Services for Task 7 Services is estimated to be \$43,678.

SCHEDULE OF FEES

Time-and-Expense(T&E) fees will be billed in accordance with the standard billing rates shown below. GeoSystems Analysis will aim to provide the Client an update if incurred labor has reached an approximately 85% of the initial proposed budget.

Standard Hourly Labor Rates

Principal Hydrogeologist.....	\$225.00
Program Director.....	\$205.00
Project Manager.....	\$185.00
Senior Hydrologist/Hydrogeologist.....	\$175.00
Senior Soil/Restoration Scientist.....	\$165.00
Project Hydrologist/Scientist.....	\$145.00
Staff Hydrologist/Scientist.....	\$125.00
Hydrologist/Scientist II.....	\$105.00
Hydrologist/Scientist I.....	\$ 95.00
Ecologist/Biologist.....	\$ 85.00
Data Manager.....	\$120.00
Technical Editor.....	\$110.00
GIS/AutoCAD Draft Person.....	\$100.00
Laboratory Technician.....	\$ 75.00
Clerical.....	\$ 75.00

EXHIBIT B

INSURANCE REQUIREMENTS

Consultant Service Agreement between City of Fresno (City) and GeoSystems Analysis, Inc. (Consultant)

City of Fresno, Leaky Acres Groundwater Recharge Facility Master Plan

MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. The most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01, providing liability coverage arising out of your business operations. The Commercial General Liability policy shall be written on an occurrence form and shall provide coverage for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the Agreement) with limits of liability not less than those set forth under "Minimum Limits of Insurance."
2. The most current version of ISO *Commercial Auto Coverage Form CA 00 01, providing liability coverage arising out of the ownership, maintenance or use of automobiles in the course of your business operations. The Automobile Policy shall be written on an occurrence form and shall provide coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1- Any Auto). If personal automobile coverage is used, the City, its officers, officials, employees, agents, and volunteers are to be listed as additional insureds.
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Professional Liability (Errors and Omissions) insurance appropriate to the Consultant's profession. Architect's and engineer's coverage is to be endorsed to include contractual liability.

MINIMUM LIMITS OF INSURANCE

The 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 the 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 the 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

The Consultant shall be responsible for payment of any deductibles contained in any insurance policy(ies) required herein and the 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 designee. At the option of the City's Risk Manager or designee, either:

- (i) The insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees, agents and volunteers; or
- (ii) The Consultant shall provide a financial guarantee, satisfactory to the City's Risk Manager or designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall the 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. The City, its officers, officials, employees, agents and volunteers are to be covered as additional insureds. The 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 the 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, the 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 the Consultant's insurance and shall not contribute with it. The 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: The Consultant and its insurer shall waive any right of subrogation against the 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 the 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 the Consultant, the 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 the 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 the City. The 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, the Consultant shall furnish the 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 the City, the 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

The Consultant shall furnish the City with all certificate(s) and **applicable endorsements** effecting coverage required hereunder. All certificates and **applicable endorsements** are to be received and approved by the City's Risk Manager or designee prior to the 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 the City, the 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**City of Fresno, Leaky Acres Groundwater Recharge Facility Master Plan

		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: _____

N/A

☐ Additional page(s) attached.

DocuSigned by:

MICHAEL MILCZAREK

Signature

3/24/2021

Date

MICHAEL MILCZAREK

(Name)

Michael Milczarek

(Company)

GeoSystems Analysis, Inc.

(Address)

Tucson, AZ 85701

(City, State Zip)