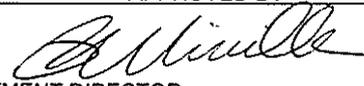


AGENDA ITEM NO.	2A
COUNCIL MEETING	04/25/13
APPROVED BY	
	
DEPARTMENT DIRECTOR	
CITY MANAGER 	

April 25, 2013

FROM: PATRICK N. WIEMILLER, Director
Department of Public Utilities

BY:  MARTIN A. QUERIN, PE, Assistant Director
Department of Public Utilities - Water Division

 KENNETH G. HEARD, Chief of Operations
Department of Public Utilities - Water Division

 ROBERT C. LITTLE, Water System Supervisor
Department of Public Utilities - Water Division

SUBJECT: AWARD A REQUIREMENTS CONTRACT IN THE ANNUAL AMOUNT OF \$430,000 TO BSK ASSOCIATES TO PROVIDE TESTING SERVICES FOR POTABLE AND NON-POTABLE WATER SAMPLES AND AUTHORIZE THE DIRECTOR OF PUBLIC UTILITIES OR HIS DESIGNEE TO SIGN THE CONTRACT ON BEHALF OF THE CITY (CITYWIDE)

RECOMMENDATION

1. Staff recommends that the City Council award a five-year contract with a possible extension of up to twelve months, to BSK Associates of Fresno, in the estimated annual amount of \$430,000 to provide water testing services of both potable and non-potable water samples.
2. Authorize the Director of Public Utilities, or his designee, to sign the Contract on behalf of the City.

EXECUTIVE SUMMARY

As required by the United States Environmental Protection Agency (USEPA) and the State of California Department of Public Health (DPH), the Water Division submits thousands of samples each year for analysis to contract laboratories. Samples are collected from both potable and non-potable sources and analyzed for physical, chemical and bacteriological properties to determine the effectiveness of treatment and/or suitability for domestic use and consumption.

A Request for Proposal (RFP) for Professional Consulting Services for Laboratory Analysis of Potable and Non-Potable Water was issued November 28, 2012. Submissions were due no later than January 25, 2013. Staff recommends award of a five-year contract with a possible extension of up to twelve months to BSK Associates of Fresno in the estimated annual amount of \$430,000.

BACKGROUND

As required by the USEPA and DPH, the Water Division submits thousands of samples each year for analysis to contract laboratories. Samples are collected from both potable and non-potable sources and analyzed for physical, chemical and bacteriological properties to determine the effectiveness of treatment and/or suitability of supply water for domestic use and consumption.

Specifications for an RFP for a new five-year contract with provisions for an extension up to twelve months were prepared. The RFP sought multiple elements including Project Management, Certification, Experience, Capabilities, Pricing, Electronic Reporting Capabilities, and Additional Services to name a few. Award for this contract would be based on the total score of the multiple elements.

A Notice Inviting Proposals was published in the Business Journal on November 28, 2012, and request for proposals were distributed directly to eight potential consultants; four local and four out-of-town laboratories who had expressed direct interest. Other interested Proposers were given until December 21, 2012 to request a set of specifications. No additional requests were received. The deadline for submitting proposals was January 25, 2013 at 5:00 PM. Three proposals were received on the due date before the deadline. One each from APPL Inc, BSK Associates, and Moore Twining.

A Selection Committee, consisting of five Water Division employees familiar with the laboratory needs of the division evaluated the proposals. The Water Quality Supervisor served as the Project Manager and facilitator during the evaluation period and was charged with distribution of the materials, contact with proposers and compilation of scores.

All three proposals were found to be responsive. One proposer failed to provide a sufficient number of CD's containing the requested electronic material, consequently, that material was copied to a network drive and distributed electronically. Each evaluator received a complete set of the three proposals, instructions, and scoring sheet on January 28, 2013. The evaluators then met on February 22, 2013, to discuss comments and tally scores. All five evaluators were in complete agreement with evaluations and ranking scores.

In accordance with the specifications, the proposals were evaluated for the following criteria:

Experience, Expertise, Laboratory Certifications, Qualifications, the Comprehensive Quality Assurance and Control plan (QA/QC), Pricing, References, Sample Reports, Internet Presence, Electronic Communication Abilities, and Resumes.

Of the three proposers, only BSK Associates submitted a complete packet with all requested documents and addressed all issues. Both APPL and Moore Twining were lacking in submitted documents and failed to address all issues. In addition, APPL and Moore Twining were found lacking in capabilities and/or experience in some of the more critical elements such as electronic reporting and internet presence.

BSK's submission was the most informative of the three, providing great detail on most issues. BSK maintains the highest certificate ratings possible in the industry, and the highest of the three proposers. They were the only one able to provide references to current contracts with utilities of similar size to Fresno, i.e. two large Sacramento utilities. They provided a list of additional services and employee training courses, most of which would be free of charge and they will extend a 40% discount on all additional testing not specifically requested under the Scope of Services. They are current in all the various reporting methods we require and are experienced and active in the use of internet based data storage systems, which the Water Division will

REPORT TO THE CITY COUNCIL

Award Requirements Contract for Water Analysis

April 25, 2013

Page 3

migrate to in the near future. BSK is a large laboratory, thus they have the least need to sub-contract work to other laboratories. They are USEPA certified to perform all seven methods for UCMR 3 in-house and offer a 30% discount on any validation samples that may be required. BSK's exceptional proposal, experience, abilities and current familiarity with the City's needs resulted in an overall rating of first place.

BSK's annual pricing over the five year contract averages 9% higher than the lowest proposal. However, the committee ranked BSK higher in capability, experience and services offered. As these services were solicited by the RFP process, the lowest bidder does not have to be selected. The Selection Committee, therefore, recommends that the contract be awarded to BSK Associates, which the committee ranked highest overall. The contract for these services has been approved as to form by the City Attorney's Office.

FISCAL IMPACT

This contract will not have any impact to the General Fund. For FY 2013, it is funded through appropriations in the Water Enterprise Fund approved by the City Council with the adoption of the annual budget and is covered through current customer user rate revenues. It will continue to be funded in subsequent fiscal years in the same manner for the length of the contract.

Attachments: Fiscal Impact Statement
Consultant Services Contract

FISCAL IMPACT STATEMENT

PROGRAM: TESTING SERVICES FOR POTABLE AND NON-POTABLE WATER
SAMPLES

Project ID: WM00002 Fund: 40101 Org: 411501 Act: SMPL

<u>RECOMMENDATION</u>	<u>TOTAL OR CURRENT</u>	<u>ANNUALIZED COST</u>
Direct Cost	<u>109,400.00</u>	<u>430,000.00</u>
Indirect Cost	<u> </u>	<u> </u>
TOTAL COST	<u>109,400.00</u>	<u>430,000.00</u>
Additional Revenue or Savings Generated	<u> </u>	<u> </u>
Net City Cost	<u>109,400.00</u>	<u>430,000.00</u>
Amount Budgeted (If none budgeted, identify source)	<u>131,100.00</u>	<u>545,900.00</u>

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

THIS AGREEMENT is made and entered into effective the 25th day of April, 2013, by and between the CITY OF FRESNO, a California municipal corporation (hereinafter referred to as "CITY"), and BSK Associates (hereinafter referred to as "CONSULTANT").

RECITALS

WHEREAS, CITY desires to obtain professional laboratory testing services for potable and non-potable water analysis, hereinafter referred to as the "Project;" and

WHEREAS, CONSULTANT is engaged in the business of furnishing technical services as an analytical laboratory facility and hereby represents that it desires to and is professionally and legally capable of performing the services called for by this Agreement; and

WHEREAS, CONSULTANT acknowledges that this Agreement is subject to the requirements of Fresno Municipal Code Section 4-107 and Administrative Order No. 6-19; and

WHEREAS, this Agreement will be administered for CITY by its Department of Public Utilities Director (hereinafter referred to as "Administrator") or his/her designee.

AGREEMENT

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

1. Scope of Services. CONSULTANT shall perform to the satisfaction of CITY the services described in **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 for a period of 5 years effective from the date first set forth above ("Effective Date") and shall continue in full force and effect through April 25, 2018, subject to any earlier termination in accordance with this Agreement. The services of CONSULTANT as described in **Exhibit A** are to commence upon the Effective Date and shall be completed in a sequence assuring expeditious completion, but in any event, all such services shall be completed prior to expiration of this Agreement and in accordance with any performance schedule set forth in **Exhibit A**. Upon expiration of the Agreement, CONSULTANT shall aid CITY in continuing, uninterrupted, the requirements of the Agreement, by continuing to perform on a temporary basis, when specifically requested to do so in writing by the Administrator prior to expiration, for a specified term not to exceed twelve months. Such continuance shall be subject to provisions set forth herein, and all other terms and conditions remaining the same as if the Agreement had been extended for such a temporary period by an amendment hereto.

3. Compensation.

(a) CONSULTANT'S sole compensation for satisfactory performance of all services required or rendered pursuant to this Agreement shall be an annual total fee not to exceed \$600,000.00 paid on the basis of the rates set forth in the schedule of fees and expenses contained in **Exhibit A**.

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

(c) The parties may modify this Agreement to increase or decrease the scope of services or provide for the rendition of services not required by this Agreement, which modification shall include an adjustment to CONSULTANT'S compensation. Any change in the scope of services must be made by written amendment to the Agreement signed by an authorized representative for each party. CONSULTANT shall not be entitled to any additional compensation if services are performed prior to a signed written amendment.

(d) The fees and rates in **Exhibit A** shall remain fixed for the first 36 months of the Agreement. Sixty days prior to the 3-year anniversary date, CONSULTANT may submit proposed fee and rate adjustments for the following 24- month period (and any extension period) to the Director. CONSULTANT must provide adequate documentation to substantiate any request for price increase. Any increase for any fee or rate shall not exceed, unless otherwise approved by the Director, the percent change for the following Consumer Price Index (CPI) as published by the Bureau of Labor Statistics: Pacific Cities and U.S. City Average: Los Angeles-Riverside-Orange Counties. The basis of the index shall be established as the last available month at the date of the 3-anniversary of the Agreement. Any new rates, mutually agreed upon by CONSULTANT and Director, shall commence no sooner than the 1st day of month 37 and shall remain in effect for the remainder of the Agreement period and any extension period.

4. Termination, Remedies and Force Majeure.

(a) This Agreement shall terminate without any liability of CITY to CONSULTANT upon the earlier of: (i) CONSULTANT'S filing for protection under the federal bankruptcy laws, or any bankruptcy petition or petition for receiver commenced by a third party against CONSULTANT; (ii) 7 calendar days prior written notice with or without cause by CITY to CONSULTANT; (iii) CITY'S non-appropriation of funds sufficient to meet its obligations hereunder during any CITY fiscal year of this Agreement, or insufficient funding for the Project; or (iv) expiration of this Agreement.

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

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

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

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

(f) CONSULTANT shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of CONSULTANT and without its fault or negligence such as, acts of God or the public enemy, acts of CITY in its contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, and unusually severe weather. The parties agree that the delays of common carriers are expressly excluded from those occurrences which are beyond the reasonable control of CONSULTANT hereunder and shall not constitute an excusable delay. CONSULTANT shall notify Administrator in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, and shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to Administrator of the cessation of such occurrence.

5. Confidential Information and Ownership of Documents.

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

(b) Any and all writings and documents prepared or provided by CONSULTANT pursuant to this Agreement are the property of CITY at the time of preparation and shall be turned over to CITY upon expiration or termination of the Agreement. CONSULTANT shall not permit the reproduction or use thereof by any other person except as otherwise expressly provided herein.

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

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

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

7. Indemnification. To the furthest extent allowed by law, CONSULTANT shall indemnify, hold harmless and defend CITY and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage), and from any and all claims, demands and actions in law or equity (including reasonable attorney's fees and litigation expenses) that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of CONSULTANT, its principals, officers, employees, agents or volunteers in the performance of this Agreement.

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

This section shall survive termination or expiration of this Agreement.

8. Insurance.

(a) Throughout the life of this Agreement, CONSULTANT shall pay for and maintain in full force and effect all insurance as required in **Exhibit B** or as may be authorized in writing by CITY'S Risk Manager or his/her designee at any time and in his/her sole discretion.

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

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

the supervision of CONSULTANT, vendors, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.

(d) Upon request of CITY, CONSULTANT shall immediately furnish CITY with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

(e) If CONSULTANT should subcontract all or any portion of the services to be performed under this Agreement, CONSULTANT shall require each subcontractor to provide insurance protection in favor of CITY and each of its officers, officials, employees, agents and volunteers in accordance with the terms of this section, except that any required certificates and applicable endorsements shall be on file with CONSULTANT and CITY prior to the commencement of any services by the subcontractor.

9. Conflict of Interest and Non-Solicitation.

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

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

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

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

(e) Neither CONSULTANT, nor any of CONSULTANT'S subcontractors performing any services on this Project, shall bid for, assist anyone in the preparation of a bid for, or perform any services pursuant to, any other contract in connection with this Project unless fully disclosed to and approved by the City Manager, in advance and in writing.

CONSULTANT and any of its subcontractors shall have no interest, direct or indirect, in any other contract with a third party in connection with this Project unless such interest is in accordance with all applicable law and fully disclosed to and approved by the City Manager, in advance and in writing. Notwithstanding any approval given by the City Manager under this provision, CONSULTANT shall remain responsible for complying with Section 9(b), above.

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

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

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

(i) Within 90 days of agreement effective days, establish and maintain a viable and ongoing recycling program, approved by CITY'S Solid Waste Management Division, for each office and facility. Literature describing CITY recycling programs is available from CITY'S Solid Waste Management Division and by calling City of Fresno Recycling Hotline at (559) 621-1111.

11. General Terms.

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

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

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

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

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

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

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

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

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

13. Independent Contractor.

(a) In the furnishing of the services provided for herein, CONSULTANT is acting solely as an independent contractor. Neither CONSULTANT, nor any of its officers, agents or employees shall be deemed an officer, agent, employee, joint venturer, partner or associate of CITY for any purpose. CITY shall have no right to control or supervise or direct the

manner or method by which CONSULTANT shall perform its work and functions. However, CITY shall retain the right to administer this Agreement so as to verify that CONSULTANT is performing its obligations in accordance with the terms and conditions thereof.

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

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

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

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

16. Assignment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BSK Associates,
a California corporation

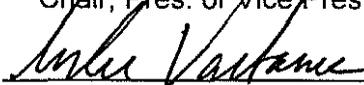
By: _____
Patrick N. Wiemiller, Director
Department of Public Utilities

By: 
Name: Brad Meadows

ATTEST:
YVONNE SPENCE, CMC
City Clerk

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

By: _____
Deputy Date

By: 
Name: Mike Vartanian

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

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

By:  4-9-13
Karen J. Ray Date
Deputy Attorney

Any Applicable Professional License:
Number: 1180
Name: CA-DPH
Date of Issuance: April 30, 2012

Addresses:

CITY:
City of Fresno
Attention: Robert Little,
Water System Supervisor
1910 E. University Ave
Fresno, CA 93703
Phone: (559) 621-5355
FAX: (559) 457-1440

CONSULTANT:
BSK Associates
Attention: Brad Meadows, Vice President
1414 Stanislaus St.
Fresno, CA 93706
Phone: (559) 497-2888
FAX: (559) 485-6935

Attachments:

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

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Exhibit A

SCOPE OF SERVICES Consultant Service Agreement between City of Fresno ("City") and BSK Associates ("Consultant") Laboratory Analysis of Potable and Non-Potable Water PROJECT TITLE

Management of Services

Consultant shall designate an experienced project manager to this project; such that all services called for in this Agreement will be performed under the direction of this manager. The project manager shall also serve as the key contact person for the City.

Analytical Methods

The City utilizes many test methods to ascertain the water quality provided to Fresno customers. Many of these tests are identified in Title 22 and UCMR 3; several are not, but are still necessary to the City's needs. The following is a list of most methods that can be expected from the City at any time. It should be noted that this is not a complete list nor are the specific requirements described.

Title 22 & Miscellaneous

EPA 504.1, 505, 515, 524.2, 525.2, 531.1, 547, 548, 549, 552.2, Nitrate (NO₃), TOC by method 5310C, Manganese, Fluoride, TTHM, HAA5, Bromide, Bromate, G-1 group- (General Mineral, General Physical, Inorganic), Alkalinity, Perchlorate, Gross Alpha, Radium 226, Radium 228, Uranium, MTBE, Arsenic, 1,2,3-TCP, Total Chromium, Hex Chromium, 1,4-Dioxane, Orthophosphate, Lead & Copper, Iron, Turbidity, BOD, Total Suspended Solids, DO, and Carbon Profile (ash, moisture, iodine, dust, sieve and density.)

Bacteriological

Coliform, Present/Absent by Colilert (SM 9223), Coliform Total & E. Coli by 1X10 MTF Colilert (SM 9223) or equal, and Heterotrophic Plate Count (48 hours) (SM 9215B) or equal.

UCMR 3

Methods 200.8, 218.7, 300.1, 522, 524.3, 537, & 539, or approved equals

Estimated Quantities

As prescribed in Title 22, sample frequency varies widely depending on methods, concentrations and treatment requirements. System wide sampling of all well sites occurs every three years in the City for what is known as Triennial sampling and includes most if not all of the constituents identified in Title 22 for a large ground water system in the central valley region of California. However, there is also much sampling that happens annually, quarterly, monthly and even weekly. Because of the variety of tests and varied frequencies, only an annual average of the most common methods can be provided. These are only estimated quantities and can change at any time. Note that the majority of bacteriological samples are delivered to the City lab.

<u>Test/Method</u>	<u>Estimated Annual Quantity</u>
Coliform, Present/Absent by Colilert	3800
Coliform Total & E. Coli by 1X10 MTF Colilert	3200
Heterotrophic Plate Count	3200
EPA 504.1*	900
EPA 524.2*	500
Nitrates (NO3)	2200
G-1*	<20
EPA 525*	<20
Manganese	50
TTHM / HAA5	50

* Indicates system wide testing of these methods that adds approximately 250 additional samples every third year.

Record Retention

Consultant shall retain all test results, graphs, reports and quality control data for at least five (5) years after the final payment.

Chain of Custody

Because of the many routine sample routes the City has developed over the years, the City shall use its own pre-printed Chain of Custody forms for much of the sample work. Consultant shall be required to accept these forms. However, the City is willing to consider modifications that may ease processing by Consultant staff. Occasionally, Consultant forms may be used, especially by other City divisions who routinely submit samples on behalf of the City's Water Division such as City's Construction Management Division. The City will complete a separate Chain of Custody for rush samples and for standard turn-around time sample so as not to delay the rush results. Consultant shall be responsible to split the report and return results as they are finalized, if there is a delay for certain sub-contracted testing methods.

Sample Containers

Consultant shall be required to supply all sample bottles for each test including those samples that are to be analyzed by a sub-consultant. The bottles shall be clean, sterile, and include labels and any preservatives appropriate for the requested analysis. For bacteriological samples, a de-chlorinating agent is required due to the City's use of sodium hypochlorite for disinfection purposes. City staff may submit Bacti samples utilizing our labels and sample bottles from our own stock of bottles supplied by IDEXX Laboratories, Inc. Due to the large volume of sample bottles that can be generated during a sample day, the use of bar-coding or other automated sample label identification is strongly encouraged. The Consultant shall maintain a sufficient quantity and variety of sample bottles to meet routine sampling requirements. The Consultant shall be notified in advance of major sample events so that preparations can be made.

Sample Custody, Transfer and Transportation

Local Laboratories

City staff will collect and submit to Consultant's local laboratories all samples that are to be analyzed. Such local laboratories in the greater Fresno area shall maintain a sample reception area. City staff will collect sample bottles from the laboratory and return samples and chain of custody to the same location. Laboratory staff will validate the samples and chain of custody for accuracy, include appropriate comments as necessary, sign off as accepted and provide city staff with a copy. To accommodate pickup and delivery, the service hours shall be Monday – Friday, 7:30 AM – 5:00 PM. In most situations, samples will be delivered before 3:30 PM. If necessary, the City shall make arrangements with the labs for samples submitted after 5:00 PM or on weekends. The primary laboratory of Consultant shall be responsible for receiving and transporting all samples to any sub-contractor(s) they may use. Sample(s) delayed so as to exceed hold time or temperature, lost or damaged in transportation to other laboratories by common carrier or other means shall be re-sampled by City staff. To offset the expense of City staff to resample, all costs for shipping and analysis of the second or more sets shall be waived of the standard laboratory fees and charges for each required method. Waived fees and charges shall appear as a credit or "No Charge" on invoices.

Out of Town Laboratories

Any out of town laboratories of Consultant or its sub-consultant shall also maintain a local presence for the purposes of warehousing sample bottles, sample receiving, chain of custody transfer and shipping and must meet the other criteria listed above for local laboratories. A sufficient variety and quantity of sample bottles, shipping containers, ice, labels, etc, shall be maintained on site. City owned equipment will not be used for shipping purposes. There shall be no separate or additional cost to the City for transport of samples to the laboratory by either a common carrier or other means. Sample(s) delayed so as to exceed hold time or temperature, lost or damaged in transportation to an out of town primary laboratory or other laboratories shall be resampled by City staff. Repeat samples shall be expedited in both transportation and analysis in order to meet as closely as possible the original timeline. To offset the expense of City staff to resample, all costs for shipping and analysis of the second or more sets shall be waived of the standard laboratory fees and charges for each required method. Waived fees and charges shall appear as a credit or "No Charge" on invoices.

Sample Storage and Disposal

Samples with remaining volume shall be stored by Consultant for a minimum of thirty (30) calendar days after the postmarked date of the final analytical report (or longer if required by the State or U.S. EPA), and then disposed of by Consultant at no extra cost. Samples are subject to chain-of custody procedures until final disposal. Bacteriological samples are exempt from this requirement.

Sample Hold Times

Hold times for samples shall begin at the time of sample collection. All required analysis shall be performed within the stated hold times of each method type. Consultant shall notify City of any samples that miss their hold times and Consultant shall issue a letter on company letterhead stating the reason the sample was missed. City staff will resample the source if possible. The City will not accept results or pay for analysis of samples outside of their hold time. In the case of laboratory error where hold times are exceeded, repeat samples will be expedited in order to meet the original timeline and all fees and charges shall be waived. Waived fees and charges shall appear as a credit on invoices.

Turn Around Times

Result reporting requirements vary depending upon the sample type, when during the month they are collected, and whether they are routine or rush samples. One very important notification requirement is if a sample exceeds a Maximum Contaminant Level, (MCL.) As soon as a result is determined to exceed an MCL, City staff is to be notified immediately by FAX and phone, live person only, voice message is not acceptable. The only exception to this requirement is for treatment site results. It is expected that the influent and mid-treatment samples could exceed the MCL and immediate notification is not required. The effluent and most blend sample points are the compliance points and cannot exceed the MCL. Immediate notifications for these sample points are required. Same notification requirements exist for bacteriological results that are Present for P/A test, >2.2 for total coliform, >0.1 for E.coli and >500 for HPC.

Routine Sample Results. Final reports for routine sample results are to be reported to the City within 20 days but as soon as possible. Temporary exceptions may be granted on a case by case basis and it is understood that certain sub-contracted work may take longer than the 20 day period.

Treatment Site Results. Certain compliance based samples from treatment sites are collected weekly and are typically identified as an Influent, Effluent, Vessel Port, PTA or Blend sample and are made up of Nitrate, TOC, Manganese, 504.1 and 524.2 samples. Final results of any of these samples collected in a given month shall be reported to the City no later than the 7th (seventh) calendar day (earlier if the 7th is a weekend or holiday) of the following month. This requirement is necessary so that the City may complete operational reports that are submitted to the State Health Department by the 10th of each month. These samples shall not be considered Rush samples.

Rush Sample Results. Occasionally, samples will be submitted that require a quick turnaround, either 1, 2, or 5 days. In most cases, these samples are related to common tests from City treatment sites but could include any source or method. Rush samples are typically submitted on a separate chain of custody so as to not impact processing of other samples. Results for rush samples are to be faxed or phoned to key City staff.

Bacteriological Samples. The City owns and operates its own ELAP certified laboratory for the analysis of bacteriological samples. City performs the analysis for the majority of these samples but will also rely on Consultant for a portion of the work. There are two categories for bacteriological samples that are submitted for analysis; Routine and Special. Routine samples typically cover both well head and distribution sample routes or some subset of a route. Special samples are usually associated with construction or repair projects in the distribution system or wells, or special operational issues that require result notification as soon as possible. The City cannot wait for all the "final paperwork" to be complete before results are sent. The City needs notification of results as soon as they are read at the completion of incubation time. If at any time during incubation it is determined that the sample is positive, Consultant shall notify City at that time. Special samples are submitted on a chain of custody form with a large "Special Sample Instructions" box printed in the middle of the page. The instructions are self explanatory but basically list the email addresses of City staff that need to be notified of the results and there is a check box next to their names. The sampler will check off the appropriate staff.

After Hours / Emergency Samples

On occasion, the City has needed to submit samples after normal business hours and on weekends. This is rare and can include bacteriological or Title 22 samples. The City makes every attempt to avoid these situations but when it can't, it tries to provide as much advance notice as possible. The City will need assistance from Consultant in these types of situations.

Analytical Reporting Requirements

State Reporting. As required in Title 22, Consultant shall report appropriate test results to the State of California Department of Health Services using the standard reporting tools and methods such as EDT and Write-On. The City of Fresno is a large system with frequent changes to its sources list. It is suggested that the Water Systems and Source Libraries file be updated frequently from the State's website.

City of Fresno Reporting. The City currently maintains its own in-house database called Water Quality Information System, (WQIS.) Consultant is required to provide to the City all analytical results in an Excel file format that are uploaded into the WQIS. Two different formats are used depending on sample type. The City will provide the Consultant with these formats prior to commencing work. Consultant shall also provide City three reports in the following order:

- 1- All results, EDT and non-EDT format.
- 2- A complete report including cover letter, case narrative, test results, QC data, certificate of analysis and chain of custody.
- 3- Submission Invoice.

These reports are maintained in City's file system. The City has moved to electronic data storage system using PDF Optical Character Recognition, (OCR) format. OCR allows City staff to quickly file and retrieve data and Consultant shall be required to produce these reports in PDF/OCR format. The only exception to the OCR requirement is for the chain of custody form which cannot be effectively converted to OCR because of the many hand writing styles. Email subject formats are very specific and will be shared prior to commencing work.

WaterTrax Reporting. The City is currently in the process of developing a contract with WaterTrax for handling electronic reporting from Consultants. WaterTrax is an internet based information management and reporting system that allows Consultants to upload data which is then stored on redundant servers. Contracted users are then allowed access to secure areas to review and approve data, set alarm and notification levels, and generate reports. Consultants and laboratories must be registered users to upload to WaterTrax. It is the City's intention to completely move away from its WQIS, but while in transition the Consultant will be required to report to WaterTrax and also to the City using the Excel formats. Consultant shall be responsible to upload both internal data and data generated by sub-contract labs if sub-contract labs do not already have the ability.

Internet Presence

Consultant must maintain an internet presence that allows the City password protected access to its data. City staff shall be able to access its data from any internet connected device, not just City-owned computers. Multiple staff members shall be allowed to access data using their own

individual login identification. Only the City's designated Water Division Administrator shall approve and authorize Consultant to grant password access to City staff. The City shall have access to not only completed reports but the ability to track the current status of samples that are in process. Multiple search criteria shall allow City staff to query the database. Search criteria shall include at a minimum: sample date, submission number, test method, sample location, and process status.

Other Services

Upon City's request, Consultant shall research and report detections for chemicals below DLR's, retrieve and produce chromatographs of analysis, prepare special reports and provide other professional services at the hourly rates set forth in the Schedule of Fees and Expenses of Attachment A-1 to this Exhibit A.

Pricing

The fee for each sample method shall be inclusive of all costs associated with the sample to include sample container, preservatives, processing, analyzing, reporting, transportation (if necessary), storage, disposal, etc. Aside from credits and surcharges for "rush" samples there shall be no hidden costs or additional charges appearing on invoices.

Invoicing

The City will be invoiced for each chain of custody for each complete set of sample(s) submitted by City staff. Partial invoicing is not acceptable. Multiple invoices shall not be totalized together on one page. Invoices shall be individually emailed to the City as a PDF in OCR format and each invoice will become part of the submission record maintained by the City. Email subject formatting is specific and will be shared prior to commencing work. Invoices shall not be sent before the final reports are delivered. Any waived charges shall appear as a credit on invoices.

SCHEDULE OF FEES AND EXPENSES

Consultant's Schedule of Fees and Expenses are attached hereto as Attachment A-1.

Exhibit B

INSURANCE REQUIREMENTS

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

Laboratory Analysis of Potable and Non-Potable Water

PROJECT TITLE

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. The most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01, which shall include insurance for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations, products and completed operations, and contractual liability.
2. The most current version of Insurance Service Office (ISO) Business Auto Coverage Form CA 00 01, which shall include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1- Any Auto).
3. Workers' Compensation insurance as required by the California Labor Code and Employer's Liability Insurance.
4. Professional Liability (Errors and Omissions) insurance appropriate to CONSULTANT'S profession. Architect's and engineer's coverage is to be endorsed to include contractual liability.

Minimum Limits of Insurance

CONSULTANT shall maintain limits of liability of not less than:

1. General Liability:
 - \$1,000,000 per occurrence for bodily injury and property damage
 - \$1,000,000 per occurrence for personal and advertising injury
 - \$2,000,000 aggregate for products and completed operations
 - \$2,000,000 general aggregate applying separately to the work performed under the Agreement
2. Automobile Liability:
 - \$1,000,000 per accident for bodily injury and property damage
3. Employer's Liability:
 - \$1,000,000 each accident for bodily injury
 - \$1,000,000 disease each employee
 - \$1,000,000 disease policy limit

4. Professional Liability (Errors and Omissions)

\$1,000,000 per claim/occurrence
\$2,000,000 policy aggregate

Umbrella or Excess Insurance

In the event CONSULTANT purchases an Umbrella or Excess insurance policy(ies) to meet the "Minimum Limits of Insurance," this insurance policy(ies) shall "follow form" and afford no less coverage than the primary insurance policy(ies).

Deductibles and Self-Insured Retentions

CONSULTANT shall be responsible for payment of any deductibles contained in any insurance policy(ies) required hereunder and CONSULTANT shall also be responsible for payment of any self-insured retentions. Any deductibles or self-insured retentions must be declared to, and approved by, the CITY'S Risk Manager or his/her designee. At the option of the CITY'S Risk Manager or his/her designee, either (i) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CITY, its officers, officials, employees, agents and volunteers; or (ii) CONSULTANT shall provide a financial guarantee, satisfactory to CITY'S Risk Manager or his/her designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall CITY be responsible for the payment of any deductibles or self-insured retentions.

Other Insurance Provisions

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

1. CITY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds.
2. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, officials, employees, agents and volunteers.
3. CONSULTANT'S insurance coverage shall be primary and no contribution shall be required of CITY.

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

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

1. The "Retro Date" must be shown, and must be before the effective date of the Agreement or the commencement of work by CONSULTANT.
2. Insurance must be maintained and evidence of insurance must be provided for at least 5 years after any expiration or termination of the Agreement or, in the alternative, the policy shall be endorsed to provide not less than a 5-year

discovery period. This requirement shall survive expiration or termination of the Agreement.

3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a "Retro Date" prior to the effective date of the Agreement, CONSULTANT must purchase "extended reporting" coverage for a minimum of 5 years following the expiration or termination of the Agreement.
4. A copy of the claims reporting requirements must be submitted to CITY for review.
5. These requirements shall survive expiration or termination of the Agreement.

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

Acceptability of Insurers

All policies of insurance required hereunder shall be placed with an insurance company(ies) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A-VII" in Best's Insurance Rating Guide; or authorized by CITY'S Risk Manager.

Verification of Coverage

CONSULTANT shall furnish CITY with all certificate(s) and **applicable endorsements** effecting coverage required hereunder. All certificates and **applicable endorsements** are to be received and approved by the CITY'S Risk Manager or his/her designee prior to CITY'S execution of the Agreement and before work commences.

Exhibit C

DISCLOSURE OF CONFLICT OF INTEREST

Laboratory Analysis of Potable and Non-Potable Water
PROJECT TITLE

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

Explanation: _____

Mike Vartanian, CFO

Signature

4/8/13
Date

Mike Vartanian (CFO, BSK Associates)

BSK Associates

1414 Stanislaus St.

Additional page(s) attached.

Fresno, CA 93706