SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY
OF THE CITY OF FRESNO

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848 M Street, 3rd floor / Fresno, CA 93721
(559) 621-7600
(559) 498-1870 (Fax)

Oversight Board to the Successor Agency to the Redevelopment Agency of the City of Fresno

Executive Director
Marlene Murphey

Chair
Alan Hofmann

Members
Jeff Becker
Larry Hodges
Debbie Poochigian
Doug Vagim
Rene Watahira
Larry Westerlund

AGENCY BRIEFING REPORT

Date:	January 24, 2017
To:	Oversight Board
From:	Enrique Mendez, Project Manager
Through:	Marlene Murphey, Executive Director
RE:	Agenda Item VI. - Line 10 - Historic Houses, ROPS 17-18

This obligation pertains to the relocated/rehabilitated historic structures located at the southwest corner of 'M' Street and Santa Clara.

ROPS 17-18 provides for ongoing costs associated with these structures including utilities, maintenance, repairs, inspections, etc.

Interested Parties are:

State of California acting by and through its Department of General Services
Judicial Council of California, Administrative Office of the Courts
on behalf of the Court of Appeal, Fifth Appellate District
Administrative Presiding Justice Brad R. Hill

ESSAYONS, a Limited Partnership
PENTORI, a California Corporation
The Penstar Group, Inc.

AGREEMENT
REDEVELOPMENT AGENCY OF THE CITY OF FRESNO
CONSULTANT SERVICES

THIS AGREEMENT is made and entered into effective the third day of February, 2011 by and between the REDEVELOPMENT AGENCY OF THE CITY OF FRESNO, a public body corporate and politic (hereinafter referred to as "AGENCY"), and California Associates Inc, a California Corporation (hereinafter referred to as "CONSULTANT").

RECITALS

WHEREAS, AGENCY desires to obtain professional construction management and construction staking services for the Old Armenian Town Historic Houses, hereinafter referred to as the "Project;" and

WHEREAS, CONSULTANT is engaged in the business of furnishing technical and expert services as a historical preservation and restoration archictect and hereby represents that it desires to and is professionally and legally capable of performing the services called for by this Agreement; and

WHEREAS, this Agreement will be administered for AGENCY by its Executive Director (hereinafter referred to as "Director") or his/her designee.

AGREEMENT

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

1. Scope of Services. CONSULTANT shall perform to the satisfaction of AGENCY 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 March 31, 2012, subject to any earlier termination in accordance with this Agreement. The services of CONSULTANT as described in **Exhibit A** are to commence upon AGENCY'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 515 consecutive calendar days from such authorization to proceed.

3. Compensation.

(a) CONSULTANT'S sole compensation for satisfactory performance of all services required or rendered pursuant to this Agreement shall be a total fee not to exceed $78,050, paid on a time and materials basis in accordance with the schedule of fees contained in **Exhibit A**.

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

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

4. Termination, Remedies and Force Majeure.

(a) This Agreement shall terminate without any liability of AGENCY 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 AGENCY to CONSULTANT; (iii) AGENCY'S non-appropriation of funds sufficient to meet its obligations hereunder during any AGENCY 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 AGENCY any and all unearned payments and all properties and materials in the possession of CONSULTANT that are owned by AGENCY. 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, AGENCY may withhold an amount that would otherwise be payable as an offset to, but not in excess of, AGENCY'S damages caused by such failure. In no event shall any payment by AGENCY pursuant to this Agreement constitute a waiver by AGENCY 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 AGENCY with respect to the breach.

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

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

(f) CONSULTANT shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of CONSULTANT and without its fault or negligence such as, acts of God or the public enemy, acts of AGENCY in its contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and

delays of common carriers. CONSULTANT shall notify Director in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, and shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to Director of the cessation of such occurrence.

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

(a) Any reports, information, or other data prepared or assembled by CONSULTANT pursuant to this Agreement shall not be made available to any individual or organization by CONSULTANT without the prior written approval of AGENCY. During the term of this Agreement, and thereafter, CONSULTANT shall not, without the prior written consent of AGENCY, disclose to anyone any Confidential Information. The term Confidential Information for the purposes of this Agreement shall include all proprietary and confidential information of AGENCY and the City of Fresno, 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 respectively in the AGENCY or City of Fresno.

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

(c) 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 AGENCY that CONSULTANT is 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, AGENCY relies upon the skill of CONSULTANT to do and perform such services in a skillful manner and CONSULTANT agrees to thus perform the services. Therefore, any acceptance of such services by AGENCY shall not operate as a release of CONSULTANT from said professional standards.

7. Indemnification. To the furthest extent allowed by law, CONSULTANT shall indemnify, hold harmless and defend AGENCY, the City of Fresno and each of their 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 AGENCY, the City of Fresno and each of their 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 the City of Fresno 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 AGENCY 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 AGENCY. Any failure to maintain the required insurance shall be sufficient cause for AGENCY to terminate this Agreement. No action taken by AGENCY 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 AGENCY 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 AGENCY and the City of Fresno 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 AGENCY, CONSULTANT shall immediately furnish AGENCY 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 AGENCY, the City of Fresno and each of their 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 AGENCY prior to the commencement of any services by the subcontractor.

9. Conflict of Interest and Non-Solicitation.

(a) Prior to AGENCY'S execution of this Agreement, CONSULTANT shall complete an AGENCY 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 AGENCY 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 AGENCY, 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 AGENCY 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 AGENCY or is a member of any AGENCY or City of Fresno council, commission, board, committee, or similar AGENCY or City of Fresno body. This requirement may be waived in writing by the Director, if no actual or potential conflict is involved.

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

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

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

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

10. General Terms.

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

(b) Records of CONSULTANT'S expenses pertaining to the Project shall be kept on a generally recognized accounting basis and shall be available to AGENCY or its authorized representatives upon request during regular business hours throughout the life of this Agreement and for a period of three years after final payment or, if longer, for any period required by law. In addition, all books, documents, papers, and records of CONSULTANT pertaining to the Project shall be available for the purpose of making audits, examinations, excerpts, and transcriptions for the same period of time. This Section 10(b) shall survive expiration or termination of this Agreement.

(c) Prior to execution of this Agreement by AGENCY, CONSULTANT shall have provided evidence to AGENCY 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 AGENCY that subcontractor is licensed to perform the services called for by this Agreement (or that no license is required) before beginning work.

11. 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.

12. 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 AGENCY for any purpose. AGENCY shall have no right to control or supervise or direct the manner or method by which CONSULTANT shall perform its work and functions. However, AGENCY 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 AGENCY. CONSULTANT shall have no authority to bind AGENCY absent AGENCY'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 AGENCY 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 AGENCY 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 AGENCY employment benefits, entitlements, programs and/or funds offered employees of AGENCY 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 AGENCY or to this Agreement.

13. 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.

14. Binding. Subject to Section 15, 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.

15. 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 Director. Any attempted assignment by CONSULTANT, its successors or assigns, shall be null and void unless approved in writing by the Director.

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

16. 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 of Fresno, 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

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

24. 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.

25. 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.

26. 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 other than expressly identified within this section. The parties do intend that the City of Fresno be a third party beneficiary under this Agreement and all rights, interest and benefits of this Agreement accrue to the City of Fresno.

27. 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 AGENCY and CONSULTANT.

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

REDEVELOPMENT AGENCY OF THE CITY OF FRESNO, a public body corporate and politic

By: _____
Marlene Murphey,
Executive Director
Redevelopment Agency

ATTEST:
REBECCA E. KLISCH
Ex-officio Clerk, Redevelopment Agency

By: _____
Deputy

No signature of Ex-officio Attorney required. Standard Document #RDA 6.2 has been used without modification, as certified by the undersigned.

By: _____
Terry Cox
Project Manager
Redevelopment Agency

REVIEWED BY:

_____
Marlene Murphey,
Executive Director
Redevelopment Agency

California Associates,
a Corporation

By: _____

Name: Michele Randel

Title: Architect
[if corporation or LLC, Board Chair, Pres. or Vice Pres.]

By: _____

Name: _____

Title: _____
[if corporation or LLC, CFO, Treasurer, Secretary or Assistant Secretary.]

Any Applicable Professional License:
Number: 27539
Name: Michele Randel
Date of Issuance: 2/28/11 renew

Addresses:

AGENCY:
Redevelopment Agency
Attention: Executive Director
2344 Tulare Street, Suite 200
Fresno, CA 93721
Phone: (559) 621-7600
FAX: (559) 498-1870

CONSULTANT:
California Consulting, Inc.
Attention: Michele Randel,
AIA, CSI Architecti
740 West Pinedale Avenue
Fresno, California 93711
Phone: 559-436-8561
FAX: 559-436-8576

Attachments:

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

Introduction

California Associates, Inc (Consultant) and their subconsultants will provide construction staking and construction management for site improvements, relocation of structures and the exterior restoration of the 5 historic structures for the Redevelopment Agency (RDA) of the City of Fresno (Client). The work will be based on the approved Site Plan application S-09-032 and Conditional Use Permit S-09-139 approved on June 29, 2009 by the City of Fresno's Planning and Development Department and on April 27, 2009 by the Historic Preservation Commission. Per the client, the project is desired to be divided into two phases (each to include construction and design): consisting of the move and the restoration. A third phase in the future will be the tenant improvements of the buildings. The following scope and fee schedule are based on the following:

- Approved Site Plan.
- Attached schedule – Exhibit B.
- Historic structures are to become commercial/ office spaces.
- Houses are to be moved as houses in Phase I.
- Change of occupancy shall occur during Phase II.
- All 6 structures will be moved concurrently.
- All 6 structures will be restored concurrently
- Structures will become shell buildings.
- Utilities will be brought to buildings only.
- Assumed soil remediation will not impact our project or schedule.

Scope of Work

Consultant shall furnish services for work by phase consistent with Client's development plan for the project. In general the following phases will consist of the following, as it pertains to Consultants work:

Phase I: Rough Grading and Building Relocation – Per Client's request the first phase will consist of the following improvements by the contractor:

i. Rough grading of existing site – consisting of rough grade for building pads and pavement areas. No utilities will be installed at this time.

ii. Contaminant remediation – It is presumed that vapor extraction will be used to remediate the contaminated soils at the site. According to BSK Laboratories, the extraction well area is anticipated to be 20'x20' and located in the northeast corner of the site (near Santa Clara and the existing alley). Based on discussions with BSK, it is assumed that the location of extraction system will likely not impede relocation of the existing buildings. Therefore, it is assumed that the vapor extraction system will be installed after rough grading but prior to building placement. Construction of a site vapor membrane is not anticipated and therefore excluded, as construction of this membrane would impact the construction schedule. It is anticipated that the construction of the soil remediation system will be by separate bid package.

iii. Relocation of existing structures – buildings will be relocated in their ultimate position with stem wall and raised foundation construction beneath each structure, as well as foundation subfloor repair. Additionally, building exteriors that are slated for demolition would occur in this step.

iv. Structural integrity of the structures - in compliance with the moving permit, the buildings will need to have all structural repairs identified in the Relocation Investigation dated June 2, 2009 completed. All other items can be deferred until Phase II the Restoration.

Based on the work outline above, Consultant shall furnish services outlined below:

- Construction staking.
- Construction Management services.

Phase II: Site Construction and Building Exteriors – Per Client's request the second phase will consist of the following improvements by the contractor.

i. Dry and wet utility improvements – consisting of installation of water, sewer, gas and other utilities to serve the project on-site and off-site.

ii. Finished grading of existing site – upon completing of underground utilities, the site will be finished graded for construction of pavements and hardscape.

iii. Site infrastructure – consisting of construction of concrete curb, gutter, pavements and sidewalks. Further improvements such as site lighting, landscaping and irrigation will occur with this step.

iv. Building exterior restoration – improvements within the building envelope will consist of full restoration of the exteriors, roofing, utility connections, construction of porches and ADA ramps to achieve a complete finished appearance. The City will treat these structures as shell buildings.

v. Building interiors to be cleaned and prepped for future tenant improvements to be performed at a later date. Tenant improvements are not included in this contract.

Based on the work outline above, Consultant shall furnish services outlined below:

- Construction staking & as-graded survey.
- Construction Management services.

PHASE I: CONSTRUCTION MANAGEMENT & CONSTRUCTION STAKING

- **Task 101 – Construction Staking:** Consultant shall furnish construction staking for the project consisting of one set of stakes on a one-trip per item basis. Consultant shall perform staking at request of the Client's Construction Manager (CM), the act of requesting construction staking in writing or verbally by the CM, or their representative shall constitute the authorization for construction staking. Additionally, staking or restaking shall be performed as Additional Services. As-grade survey will not be furnished at this time and will be conducted in Phase II of the project.

  Consultant services include:
  - Stake for rough grading only
  - Stake for buildings

- **Task 102 – Construction Management Services:** Consultant shall provide Construction Management Services and assistance to the Client during construction. Consultant will provide assistance based on a time and material basis. Consultant has established a budget of 4 hours a day for 89 working days for this task, further services beyond the budget may require Additional Services.

  Consultant services include:

  - Review 100% construction documents for constructability and consistency.
  - Pre-bid coordination and bid evaluation.
  - Coordinate communication between Contractor and Client.
  - Maintain daily written Progress Reports.
  - Assist Client with Contractor's RFI's.
  - Perform daily site visits to observe site construction as necessary.
  - Review shop drawings.
  - Review compaction test results.
  - Review Construction Change Orders.
  - Process payment requests.
  - Coordination of warranties and close-out documents.

Section 3 – Phase II Services – Site Construction & Building Exteriors

PHASE II: CONSTRUCTION MANAGEMENT & CONSTRUCTION STAKING

- **Task 201 – Construction Staking & Survey:** Consultant shall furnish construction staking for the project consisting of one set of stakes on a one-trip per item basis. Construction staking shall be performed by a licensed land surveyor (or their representative) as third party subconsultant to Consultant. Consultant shall perform staking at request of the Owner's Construction Manager (CM), the act of requesting construction staking in writing or verbally by the CM, or their representative shall constitute the authorization for construction staking. Additionally staking or restaking shall be performed as Additional Services. As-grade survey will be furnished at this time as final grading/improvements occur in Phase II of the project.

  Consultant services include:

  - Stake for trash enclosure
  - Stake for sewer
  - Stake for water
  - Stake for on-site lighting
  - State for site curb and valley gutters
  - As-grade survey

- **Task 202 – Construction Management Services:** Consultant shall provide Construction Management Services and assistance to the Client during construction. Consultant will provide assistance based on a time and material basis. Consultant has established a budget of 4 hours a day for 129 working days for this task, further services beyond the budget may require Additional Services.

  Consultant services include:

  - Review 100% construction documents for constructability and consistency.
  - Pre-bid coordination and bid evaluation.
  - Coordinate communication between Contractor and Client.
  - Maintain daily written Progress Reports.
  - Assist Client with Contractor's RFI's.
  - Perform daily site visits to observe site construction as necessary.
  - Review shop drawings.

- Review compaction test results.
- Review Construction Change Orders.
- Process payment requests.
- Coordination of warranties and close-out documents.

Section 4 - Level of Effort and Compensation

Consultant's fee for services described herein shall be as follows:

Phase I: Rough Grading and Building Relocation

- **Phase I: CONSTRUCTION STAKING** $4,950
- **Phase I: CONSTRUCTION MANAGEMENT** $26,700**

Total Phase I: $31,650

Phase II: Site Construction and Building Exteriors

- **Phase II: CONSTRUCTION STAKING** $7,700
- **Phase II: CONSTRUCTION MANAGEMENT** $38,700**

** Indicates tasks which have an hourly time and material fee component **Total Phase II: $46,400**

Project Total Fee: $78,050

Consultant's fee for the above described services shall be $78,050 which includes approximately $65,400 budget fee to be performed on a time and material basis. Consultant shall invoice Client proportional to the work completed by Consultant or upon each 30 calendar days. Compensation for Additional Services shall be in accordance with the hourly rate schedule below or as a lump sum proposal prepared by Client.

Client's Responsibilities and Duties

The Client shall perform the following:

- All items listed under Client's Responsibilities and Duties under separate contract for Construction Documents and Design.
- Provide Construction Manager with Approved Construction Documents.
- Provide Construction Manager with any standard forms from RDA.

Scope Exclusions

The following are to be performed by others and are hereby excluded from the scope of services:

- All items listed under Scope Exclusions under separate contract for Construction Documents and Design.
- Construction Documents and Design services performed under separate contract.

Additional Services

At Clients sole discretion; request that Consultant perform Additional Services. Both parties, prior to proceeding with these services, shall execute a written amendment to the agreement. Requests by Client or other reviewing agencies which cause for modification of the extent of the project or other previously accepted engineering or documents shall be considered Additional Services.

Right to Rely

Consistent with industry standards, Consultant shall be entitled to rely upon received data, electronic files, designs, or other information provided by the Client/City to be true and accurate.

Hourly Rate Schedule

Consultant's hourly rates for work performed as Additional Services on a time and material basis is as follows:

Labor	Rate	Reimbursable	Rate
Principal Architect	$125/hr	Mileage	$0.65/Mile
Principal Civil Engineer	$121/hr	Travel Subsistence	Cost + 10%
Principal Structural Engineer	$204/hr	Reproduction	Cost + 20%
Principal Electrical Engineer	$165/hr	Planset Shipping	Cost + 20%
Staff Engineer - CE	$116/hr	Subconsultant (raw fee only)	Cost + 10%
Staff Engineer	$99/hr		
Landscape Architect	$99/hr		
CADD Technician	$77/hr		
Construction Manager	$75/hr		
Clerical	$60/hr		

CITY OF FRESNO
City Clerk's Office (Original)

CONTRACT
REDEVELOPMENT AGENCY OF THE CITY OF FRESNO, CALIFORNIA
PUBLIC WORK

THIS CONTRACT is made and entered into by and between REDEVELOPMENT AGENCY OF THE CITY OF FRESNO, a public body corporate and politic (hereinafter referred to as "Agency"), and Davis Moreno Construction, Inc. (hereinafter referred to as "Contractor") as follows:

1. Contract Documents. The "Notice Inviting Bids," "Instructions to Bidders," "Bid Proposal," and the "Specifications" including "General Conditions," "Special Conditions," and "Technical Specifications" for the following: "M" Street Project (Bid File No. 3129) Alternates 1a, b, c copies of which are annexed hereto, together with all the drawings, plans, and documents specifically referred to in said annexed documents, including Performance and Payment Bonds, if required, and are hereby incorporated into and made a part of this Contract, and shall be known as the Contract Documents.

2. Price and Work. For the monetary consideration of One Million One Hundred Six Thousand Seven Hundred Fifty-two dollars and zero cents ($ 1,106,752), as set forth in the Bid Proposal, Contractor promises and agrees to perform or cause to be performed, in a good and workmanlike manner, under the direction and to the satisfaction of the Agency's "Engineer," and in strict accordance with the Specifications, all of the Work as set forth in the Contract Documents.

3. Payment. Agency accepts Contractor's Bid Proposal as stated and agrees to pay the consideration stated, at the times, in the amounts, and under the conditions specified in the Contract Documents.

4. Indemnification. To the furthest extent allowed by law including California Civil Code Section 2782, Contractor shall indemnify, hold harmless and defend Agency, City of Fresno and each of their 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) incurred by Agency, City of Fresno, Contractor or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of performance of this Contract. Contractor's obligations under the preceding sentence shall apply regardless of whether Agency, City of Fresno or any of their officers, officials, employees, agents or volunteers are passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused by the active or sole negligence, or willful misconduct, of Agency, City of Fresno or any of their officers, officials, employees, agents or volunteers.

If Contractor should subcontract all or any portion of the Work to be performed under this Contract, Contractor shall require each subcontractor to indemnify, hold harmless and defend Agency, City of Fresno and each of their officers, officials, employees, agents and volunteers in accordance with the terms of the preceding paragraph.

This section shall survive termination or expiration of this Contract.

5. Trench Shoring Detailed Plan. Contractor acknowledges the provisions of Section 6705 of the California Labor Code and, if said provisions are applicable to this Contract, agrees to comply therewith.

6. Worker's Compensation Certification. In compliance with the provisions of Section 1861 of the California Labor Code, Contractor hereby certifies as follows:

> I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of work of this Contract and will make my subcontractors aware of this provision.

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

Davis Moreno Construction, Inc.

By: _____

Name: Stephen Davis
(Type or print written signature.)

Title: President

Dated: 12/1/11

By: _____

Name: Darissa Davis
(Type or print written signature.)

Title: CFO

Dated: 12/1/11

REDEVELOPMENT AGENCY OF THE CITY OF FRESNO,
a public body corporate and politic

By: _____
Marlene Murphey, Executive Director, Redevelopment Agency of the City of Fresno

Dated: 12-7-11

ATTEST:
REBECCA E. KLISCH
Ex-officio Clerk

By: _____ 12/14/11
Deputy

No signature of Ex-officio Attorney required. Standard Document #RDA 11.0 has been used without modification, as certified by the undersigned.

By: _____
Terry Cox
Project Manager
Redevelopment Agency of the City of Fresno

Agency address:

Redevelopment Agency of the City of Fresno
Attention: Terry Cox, Project Manager
2344 Tulare Street, Suite 200
Fresno, CA 93721