



REPORT TO THE CITY COUNCIL

AGENDA ITEM NO. 1 D

COUNCIL MEETING 10/21/10

October 21, 2010

FROM: JOHN DUGAN, Director
Planning and Development Department

John M. Dugan
DEPARTMENT DIRECTOR

BY: CRAIG AGABASHIAN, Administrative Manager
Planning and Development Department *CA*

CITY MANAGER

SUBJECT: AUTHORIZE THE DEVELOPMENT AND RESOURCE MANAGEMENT DEPARTMENT DIRECTOR TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT FOR \$21,430.00 WITH MATRIX CONSULTING GROUP FOR THE COMPLETION OF THE DEVELOPMENT AND RESOURCE MANAGEMENT DEPARTMENT FEE STUDY AND RELATED SERVICES.

RECOMMENDATION

Staff recommends the City Council authorize the Development and Resource Management Department Director to execute the attached Professional Services Agreement with Matrix Consulting Group to complete the Planning and Building and Safety Fee Study and related services.

EXECUTIVE SUMMARY

The Development and Resource Management Department's FY11 budget includes \$1,250,000 of revenue, which represents a portion of Matrix Consulting Group's FY10 estimates of the total potential revenue to be realized from a fee study increase. The fee study must be completed, vetted with internal and external stakeholders and approved by City Council prior to realizing any additional revenue from a fee increase.

On November 27, 2007, City Council approved a \$60,000 Professional Services agreement with Matrix Consulting Group, Inc. to perform a fee study that would review the current fee structure and make recommendations for updating those fees and also perform related services. The original Agreement with Matrix ended on December 1, 2008 with approximately \$12,000 remaining unspent for unperformed work; all work was properly performed based on the City's timeline. In October 2009, City Council approved a second Professional Services Agreement with Matrix to complete the Planning Fee Study and related services, and to allow an additional \$10,000 for work not included in the original Agreement's scope. The second Agreement ended on May 31, 2010 with all of its additional services completed and approximately \$8,430 remaining unspent on the original agreement's scope. Additional services for the second Agreement included updates of the fee study to FY09 budget levels and then again to FY10 budget levels, and also "what-if" modeling to consolidate a few fees; all work was performed based on the City's timelines. As the fee study was not completed in FY10, this report is to request approval of a new Professional Services Agreement for \$21,430, which includes \$8,430 for completion of the original agreement's scope (i.e., report, stakeholder meetings and Council presentation, etc.) and \$13,000 for the update to FY11 budget levels and a high-level review and update of costs borne by external departments in support of the Planning review process.

The Department is targeting the completion of the fee study and presentation to Council before December 2010.

BACKGROUND

During the FY2008 budget process, the Planning and Development Department budgeted for the hiring of consultants to complete a Fee Study. The City last updated the Department fee rate structure in 1992, and the Operating Reserves had been decreasing over the prior 13 months.

The primary objective of the Fee Study Analysis was to develop an updated rate structure that would allow the Department to meet its:

- Operational program needs;
- Operating reserve requirements;
- Need to remain competitive within the development community;
- Need to ensure that the rate structure complies with the requirements of Proposition 218;
- Need to provide the level of service and responsiveness that the development community requires.

In September 2007, the Planning and Development Department signed a professional services agreement not to exceed \$50,000 with Kathy Eckerson for preparation and coordination services for the fee study Request for Proposals (RFP), related subsequent fee study consultant selection process, and assistance through the fee study process. The agreement utilized the City Manager exception to Administrative Order 6-19, Contracts for Consultant Services, due to the time sensitive nature of the fee study RFP, the fee study consultant selection process and coordination/completion of the study to be properly timed with the reduction of the department's operating reserve.

In October 2007, the Department issued an RFP to identify qualified Financial Consultants to assist the Department in the: (1) review of its current fee rate structure, and (2) the development and proposal of an updated fee structure. Fees to be updated included: inspection, plan check, permit, entitlement review, and related administrative charges. It is also the intent of the Department to fully involve the City's stakeholders in the project.

Through the assistance of the League of California Cities and other City departments, 18 consultants were identified. The RFP was also posted on the City website, and advertised in the Business Journal. Twelve consultant firms indicated an interest in receiving the RFP. Six provided written proposals by the November 1, 2007 deadline. Proposals were received ranging from \$28,600 to \$60,000; Matrix' proposal was \$34,500.

The Department conducted a detailed review of the proposals submitted, evaluating the consultant's objectives, firm experience, project team experience, the scope of service being proposed, completion timeframe, and project cost. The top three proposals also underwent a reference check before the "top 3" selection committee interviews were conducted on November 9, 2007. The Department's selection committee selected Matrix Consulting Group on the basis of the best overall value.

On November 27, 2007, City Council approved a \$60,000 Professional Services Agreement with Matrix Consulting Group, Inc. Additional services to be performed in conjunction with the fee study included: Cross department Analysis to determine costs born by external departments in support of the Planning review process (e.g. Application Assistance Center Costs), and the evaluation of a "one stop" permit center within the context of municipal best practices in California and the U.S. Matrix' fee for these additional requested services was \$25,500 for a total fee of \$59,800. Both of these items have been completed, but their original use has changed somewhat given the significant reductions in revenue, cost, reserves and structure changes in the Planning Enterprise Fund and its Divisions in the past few years.

In June 2008, Matrix completed an initial Fee Study Draft Summary report, which indicated significant fee level shortfalls from the actual costs to provide the services. The original Agreement with Matrix ended on December 1, 2008 prior to completion of the scope of work; approximately \$12,000 in budget remained for uncompleted work. Completion of the final report and the presentation to Council tasks remained on the main scope, and providing software and training for the Matrix fee model and providing additional meetings tasks remained on the Additional Services scope at the end of the original Agreement's term.

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

THIS AGREEMENT is made and entered into effective the _____ day of October, 2010, by and between the CITY OF FRESNO, a California municipal corporation (hereinafter referred to as "CITY"), and Matrix Consulting Group, Ltd, a Corporation (hereinafter referred to as "CONSULTANT").

RECITALS

WHEREAS, CITY desires to obtain professional financial and analytical consulting services for the Development and Resource Management Department Fee Study , hereinafter referred to as the "Project;" and

WHEREAS, CONSULTANT is engaged in the business of furnishing technical and expert services as a Financial Consultant 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 Planning Development 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 effective from the date first set forth above ("Effective Date") and shall continue in full force and effect through December 31, 2011, 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**.

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 \$21,430.00, 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 monthly for services performed in the preceding month and will be payable in the normal course of CITY business. CITY shall not be obligated to reimburse any expense for which it has not received a detailed invoice with

applicable copies of representative and identifiable receipts or records substantiating such expense.

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

4. Termination, Remedies and Force Majeure.

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

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

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

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

(e) CONSULTANT shall provide CITY with adequate written assurances of future performance, upon 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, unusually severe weather, and delays of common carriers. 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) 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 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, CITY 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 CITY 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 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) Immediately establish and maintain a viable and ongoing recycling program, approved by CITY'S Solid Waste Management Division, for each office and facility. Literature describing CITY recycling programs is available from CITY'S Solid Waste Management Division and by calling City of Fresno Recycling Hotline at (559) 621-1111.

- (ii) Immediately contact CITY'S Solid Waste Management Division at (559) 621-1452 and schedule a free waste audit, and cooperate with such Division in their conduct of the audit for each office and facility.
- (iii) Cooperate with and demonstrate to the satisfaction of CITY'S Solid Waste Management Division the establishment of the recycling program in paragraph (i) above and the ongoing maintenance thereof.

11. General Terms.

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

13. Independent Contractor.

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

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

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

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

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

16. Assignment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CITY OF FRESNO,
a California municipal corporation

Matrix Consulting Group, Ltd.,
a California Corporation

By: _____
John M. Dugan, Director
Development Department

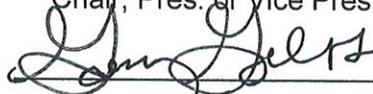
By: _____


Name: RICHARD BRADY

ATTEST:
REBECCA E. KLISCH
City Clerk

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

By: _____
Deputy

By: _____


Name: GARY GOELITZ

No signature of City Attorney required.
Standard Document #ALL 1.1 has been
used without modification, as certified by
the undersigned.

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

By: _____

Craig Agabashian
Administrative Manager
Development Department

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

Addresses:

CITY:
City of Fresno
Attention: Craig Agabashian,
Administrative Manager
2600 Fresno Street, Rm 3065
Fresno, CA 93721
Phone: (559) 621-8003
FAX: (559) 498-1012

CONSULTANT:
Matrix Consulting Group, Ltd.
Attention: Richard Brady, President
721 Colorado Avenue
Palo Alto, CA. 94303
Phone: (650) 858-0507
FAX: (650) 858-0509

Attachments:

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

SCOPE OF SERVICES Remaining from Prior Agreements
Consultant Services Agreement between City of Fresno ("City")
and Matrix Consulting Group, Inc. ("Consultant")
Development and Resource Management Department Fee Study
PROJECT TITLE

Perform all tasks remaining from original Agreement at a cost not to exceed \$8,430, including travel expenses for the following:

Project Tasks

Task 9 – Prepare a final report

Task 10 – Present the Final report to Council and Stakeholder Groups

Additional Services

Task 1 – Provide software (\$1,000) and training (\$1,000) for Matrix Fee Model

Task 5 – Provide up to six additional meetings (above the 5 proposed in the project) with Council/Stakeholders over three site visits (\$2,500 maximum including expenses).

Hourly rates

Senior Manager - \$185/hr.

Manager - \$150/hr.

Consultant - \$115/hr.



August 26, 2010

Mr. Craig Agabashian
Planning and Development Department
City of Fresno
2600 Fresno Street, 3rd Floor
Fresno, CA 93721

Dear Mr. Agabashian:

Per our discussion earlier this week, we are pleased to submit a proposal to update the Planning and Development Department's Fee Study Analysis.

1. MAIN SCOPE OF WORK

The Planning and Development Department wishes to perform the following scopes of work:

- Update the Fee Analysis for both the Planning and Building Divisions to reflect fiscal year 2010-11 budgeted staffing levels and costs, and make minor adjustments to workload and overhead calculations as needed.
- Update the survey of similar jurisdictions to reflect any changes in fee levels since the prior Fee Analysis was completed
- Include updated results into the Final Report document established for the prior Fee Analysis.

2. OPTIONAL SCOPE OF WORK

As part of the previous Fee Analysis, the Matrix Consulting Group performed a high-level review of costs born by external departments in support of the Planning and Development review process. As an optional task, we propose to update this analysis to reflect fiscal year 2010-11 costs and organizational changes.

The Matrix Consulting Group will perform the following tasks to complete this scope of work:

- One to two meetings with the same departments included in the prior analysis.
- Analysis of relevant financial data for establishing the revised hourly rates and average per project costs for each department

- Update of workload indicators for purposes of validating the analysis and identifying cost and revenue impacts
- Write up and inclusion of results into the Fee Analysis final report

2. PROPOSED PROJECT TEAM

Nicole Kissam, Vice President, of the Matrix Consulting Group would continue to manage and perform the bulk of the work for this project. Courtney Ramos, Consultant, will be a supporting analyst. The City is familiar with both of these Matrix Consulting Group project team members. We would also utilize a new addition to our project team, Greta M Davis, Senior Consultant, for project management and technical support. Her qualifications are included as an attachment to this proposal letter.

3. COST PROPOSAL

Professional fees for the scopes of work mentioned above are **\$6,500 per project, or a total of \$13,000 for both** the Main and Optional scopes of work. This amount includes all professional time this project at the following hourly rates, and travel expenses are invoiced separately.

Project Team Member	Hourly Rate
Nicole Kissam, Vice President	\$185
Greta M Davis, Senior Consultant	\$150
Courtney Ramos, Consultant	\$115

Our invoicing procedure would be monthly for time and expense incurred on each project, not to exceed the prices mentioned above.

• • •

Thank you again for considering the Matrix Consulting Group. Please contact Nicole Kissam at (650) 858-0507 with any questions.

Matrix Consulting Group

Richard Brady, President
Nicole Kissam, Vice President

Attachment – Resume for Greta Davis

GRETA M. DAVIS
SENIOR CONSULTANT, MATRIX CONSULTING GROUP

Background: Ms. Davis has extensive cost analysis experience gained through her government consulting experience for the past 25 years, including 9 years as in full-time management analyst roles for three California cities. Her clients are principally cities and counties with a few special districts. Her most recent experience has been working with clients to identify opportunities for process improvement through automation and re-engineering; thus improving accuracy, efficiency and quality while reducing cost. Her range of subject matter experience includes the following: Training and Quality Assurance, Indirect Cost Rate Studies/Federal OMB A-87 Indirect Cost Allocation Plan development, Cost of Service/User Fee Studies/Activity Based Cost Studies, Federal/State Jail Rates, Federal IV-D Indirect Cost Reimbursement Agreements, Revenue Maximization, Process Re-engineering and Process Improvement, Program Management and Budget Analysis, Generally Accepted Accounting Principles (GAAP) and Sarbanes Oxley (SOX).

Revenue Enhancement, Cost Allocation Plans and User Fee Studies: Ms. Davis worked for Maximums, Inc., a large national government consulting firm, as a project manager and consultant for almost 17 years. The following provides a list of relevant project experience gathered over her career to date:

OMB A-87 Compliant Cost Allocation Plans

California:

Galt
Long Beach
Los Angeles County Metropolitan Transportation Authority (LAMTA)*
Mountain View
Olivehain Water District
Orange County*
Solano Irrigation District
Turlock

Ohio:

Butler County
Cleveland
Columbiana County
Greater Cleveland Rapid Transit Authority (GCRTA)*
Portage
Trumbull

**Projects submitted, reviewed and approved by State or Federal cognizant agencies*

Cost of Service (User Fee) Studies

California:

Butte County	Moreno Valley
Calexico	National City
Chula Vista	Newport Beach
Covina	Oceanside
Dana Point	Orange
Encinitas	Orange County
Grover Beach	Rancho Cucamonga
Hawthorne	Rancho Palos Verdes
Imperial Beach	Rancho Santa Margarita
Irvine	Tulare
Lancaster	Turlock
Lathrop	Vallejo
Lynwood	Victorville
Malibu	Vista
Maywood	Yucaipa County
Mission Viejo	

National

Athens, OH
Detroit, MI
Henderson, NV
Montgomery County, OH

Other Cost Allocation and Financial Studies: Ms. Davis has also performed a Sheriff County-wide Booking Fee Analysis for Butte County, CA and a U.S. Marshall Per-Diem Jail Rate for Henry County, Indiana, and was responsible for the preparation of the State Jail Rate Analysis for Ventura and Placer Counties in CA. Additionally she performed Child Support Enforcement Title IV-D Agreements analyses for Union County, OH, and development of their Child Support Enforcement Agency provider agreements for Sheriff, Prosecutor, Juvenile Court, Common Pleas Court and the Clerk of Court.

GRETA M. DAVIS
SENIOR CONSULTANT, MATRIX CONSULTING GROUP

Education:

B.A., Social Science; Emphasis in Finance, University of California, Irvine, 1990

Risk Management Certificate, University of California, Riverside, 1992

MMASC – Municipal Management Association of Southern California

University of CA, Irvine Alumni Association

Exhibit B

INSURANCE REQUIREMENTS
Consultant Service Agreement between City of Fresno
and Matrix Consulting Group
Development and Resource Management Department Fee Study
PROJECT TITLE

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. The most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01, 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 policies 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.

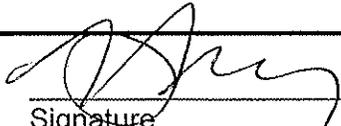
Exhibit C

DISCLOSURE OF CONFLICT OF INTEREST

Development and Resource Management Department Fee Study
PROJECT TITLE

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

Explanation: _____



 Signature
 Richard Brady

 (name)
 Matrix Consulting Group

 (company)
 721 Colorado Ave, Ste 101

 (address)
 Palo Alto, CA 94303

 (city state zip)

Additional page(s) attached.

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

THIS AGREEMENT is made and entered into effective the 22nd day of October, 2009, by and between the CITY OF FRESNO, a California municipal corporation (hereinafter referred to as "CITY"), and Matrix Consulting Group, Ltd., a California corporation (hereinafter referred to as "CONSULTANT").

RECITALS

WHEREAS, CITY and CONSULTANT entered into an agreement, dated December 1, 2007 ("Contract"), for professional financial and analytical consulting services for the Planning and Development Department Fee Study, hereinafter referred to as the "Project;" and

WHEREAS, the Contract expired December 31, 2008 and the parties desire to enter into this new Agreement to allow for the completion of the services; and

WHEREAS, before the Contract expired, CONSULTANT had completed Tasks 1-8, and additional services 2-4 and part of 5 in **Exhibit A** and was paid \$47,985; and

WHEREAS, CONSULTANT agrees that the term provided for herein for completing the services in **Exhibit A** shall be at no additional cost to CITY, and that CONSULTANT has no claim, demands or disputes against CITY related to such term; and

WHEREAS, CONSULTANT resumed performance in May 2009 and completed part of Task 9 in **Exhibit A** and was paid \$3,585 for which the parties have entered into this Agreement to memorialize such performance and payment; and

WHEREAS, the parties desire to reflect herein, as described in **Exhibit B**, additional services performed and paid from February through April of 2009 in the amount of \$4,500, additional services later requested in the amount of \$910 and provide for a contingency of \$4,590 for any future additional services authorized hereunder by the Planning and Development Director; and

WHEREAS, CONSULTANT continues to be engaged in the business of furnishing technical and expert services as a Financial Consultant 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 Planning and Development 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 balance of the services described in **Exhibit A** that were not performed prior to expiration of the Contract, including all work incidental to, or necessary to perform, such services even though not specifically described in **Exhibit A**. CONSULTANT shall perform to the satisfaction of CITY Tasks 1 and 2 of the additional services described in **Exhibit B**, including all work incidental to, or necessary to perform, such services even though not specifically described in **Exhibit B**.

2. Term of Agreement and Time for Performance. This Agreement shall be effective from February 1, 2009 ("Effective Date") and shall continue in full force and effect through May 31, 2010, subject to any earlier termination in accordance with this Agreement. The balance of 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**. The services of CONSULTANT as described in Tasks 1 and 2 of **Exhibit B** 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 B**.

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 \$12,015 for services described in **Exhibit A**, paid on the basis of the rates set forth in the schedule of fees and expenses contained in **Exhibit A**, and a contingency amount not to exceed \$10,000 for any additional work described in **Exhibit B**, rendered pursuant to Subsection (c) below and authorized in writing by the Administrator. The parties acknowledge that CONSULTANT has completed part of Task 9 in **Exhibit A** and has been paid \$3,585 of the \$12,015, in full, for such services. The parties acknowledge that CONSULTANT has completed Tasks 1 and 2 in **Exhibit B** and has been paid \$4,500 of the \$10,000, in full, for Task 1 services.

(b) Detailed statements shall be rendered monthly for services performed in the preceding month and will be payable in the normal course of CITY business. CITY shall not be obligated to reimburse any expense for which it has not received a detailed invoice with applicable copies of representative and identifiable receipts or records substantiating such expense. Notwithstanding the above, any monies that came due prior to the date first set forth above shall not be due and owing until 10 days after both parties have executed this Agreement.

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

4. Termination, Remedies and Force Majeure.

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

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

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

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

(e) CONSULTANT shall provide CITY with adequate written assurances of future performance, upon 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, unusually severe weather, and delays of common carriers. 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) 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 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, CITY 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 CITY 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 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 C** 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 D**. 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) Immediately establish and maintain a viable and ongoing recycling program, approved by CITY'S Solid Waste Management Division, for each office and facility. Literature describing CITY recycling programs is available from CITY'S Solid Waste Management Division and by calling City of Fresno Recycling Hotline at (559) 621-1111.
- (ii) Immediately contact CITY'S Solid Waste Management Division at (559) 621-1452 and schedule a free waste audit, and cooperate with such Division in their conduct of the audit for each office and facility.
- (iii) Cooperate with and demonstrate to the satisfaction of CITY'S Solid Waste Management Division the establishment of the recycling program in paragraph (i) above and the ongoing maintenance thereof.

11. General Terms.

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

13. Independent Contractor.

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

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

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

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

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

16. Assignment.

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

CONSULTANT, its successors or assigns, shall be null and void unless approved in writing by the City Manager or his/her designee.

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

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

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

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

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

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

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

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

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

25. Precedence of Documents. In the event of any conflict between the body of this Agreement and any Exhibit or Attachment hereto, the terms and conditions of the body of this Agreement shall control and take precedence over the terms and conditions expressed within the Exhibit or Attachment. Furthermore, any terms or conditions contained within any Exhibit or

Attachment hereto which purport to modify the allocation of risk between the parties, provided for within the body of this Agreement, shall be null and void.

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

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

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

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

CITY OF FRESNO,
a California municipal corporation

Matrix Consulting Group, Ltd.,
a California coporation

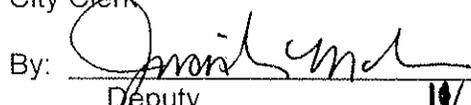
By: 
John Dugan, Director
Planning and Development
Department

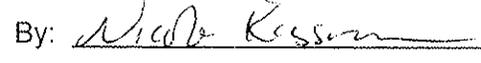
By: 

Name: Richard Brady

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

ATTEST:
REBECCA E. KLISCH
City Clerk

By: 
Deputy 10/2/09

By: 

Name: Nicole Kusun

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

APPROVED AS TO FORM:
JAMES C. SANCHEZ
City Attorney

By: 
Nancy A. Algier Date 10/9/09
Senior Deputy

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

Addresses:

CITY:
City of Fresno
Attention: Craig Agabashian, Administrative
Manager
2600 Fresno Street, Room 3065
Fresno, CA 93721
Phone: (559) 621-8003
FAX: (559) 498-1012

CONSULTANT:
Matrix Consulting Group, Ltd.
Attention: Richard Brady, President
721 Colorado Avenue
Palo Alto, CA 94303
Phone: (650) 858-0507
FAX: (650) 858-0509

Attachments:

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

SCOPE OF WORK

The Matrix Consulting Group will conduct a study of the full costs of providing user fee related services as stated in our understanding of the project. Our described approach, methodology and project processes will undoubtedly satisfy the requirements identified by the City.

1. OUR WORK PLAN FOR CONDUCTING THE PROJECT

In the task plan, which follows, is provided our detailed description of the work we would undertake to conduct the User Fee Study. Each task contains a summary of deliverables the City can expect as a result of each process involved in the project.

Task 1 Establish the City's Goals and Objectives for the Study, and Identify Trends and Plans Which Impact Cost Recovery Analysis and Policy.

To effectively analyze and present the full cost of providing City services, it is important that the project team develops an understanding of key issues which impact and shape the City's service delivery and cost recovery policies.

To develop this perspective, we plan to conduct an initial meeting with the City's management and Planning and Development Department executive staff to solidify the exact parameters of the engagement. Matrix Consulting Group's staff understands the general goals going into the engagement. However, it is essential to conduct an initial meeting of this nature to ensure the project meets the City's expectations and requirements. As a "user fee" study, the Matrix Consulting Group does not propose to evaluate any fines, taxes, utility rates, or impact fees. Services and activities included in the study are those that are defined specifically by an estimate of staff time devoted to providing each service.

Additionally, the initial meeting will review the history, current practices, and management perspectives on cost recovery and user fee implementation. This discussion provides an opportunity to answer questions about the study's process and potential impacts on current or near-term City operations, budgets, etc.

During this task of the project, the appointment of a City project management representative is imperative for the smooth flow of any engagement. This person's involvement is limited to the scheduling of interviews with key department personnel as deemed necessary by the consultants, as well as to direct our staff to the appropriate location of documents and data required throughout the engagement. At this point in the engagement, a contact person for each department should be established.

Deliverable: List of basic data requirements for the study, project schedule and employee briefing package.

Task 2 Initiate the User Fee Study Project

The project team will conduct a project "kick-off" presentation for the Department, including the goals of the engagement, the steps to complete the goals, the time frame the City can expect, the requests we will place on departmental staff, and the benefits of the engagement.

The purpose of this meeting is to attain the cooperation and support of the Planning and Development Department's staff by explaining the project, its scope, the schedule, our team, and their opportunities to participate. We will develop a hand-out for this meeting.

The Matrix Consulting Group will also provide two meetings, in addition to those identified in Task #10, with the City's stakeholder groups as identified by the City. These meetings must be scheduled in combination with site visits related to other work tasks contained in this proposed Scope of Work.

Deliverable: Project initiation presentation to all study participants.

Deliverable: Up to two additional meetings with the City's community stakeholder groups, in combination with other work tasks contained in this proposed Scope of Work.

Task 3 Develop a Summary Understanding of Staffing, Operations, and Budget Documents.

It is important that the project team understand the organization, staffing, operations, and cost structure of all departmental functions proposed for review. To develop this understanding, we will accomplish the following work steps:

- Review a complete organizational staffing schedule to determine operating costs, including management, supervisory, clerical and line employees.
- Review the Department and sub-department budgets and accounting system to identify the proper treatment for all expense items.
- Review the City's permit tracking systems to familiarize ourselves with statistics available.

Deliverable: Entry of direct cost components (staff salaries, benefits and departmental expenditures) into our user fee study analytical model.

Task 4 Develop a Schedule of Current and Potential Fees for Service.

The scope of this effort will be the fees charged by the City's Planning and Development Department, as identified in the Request for Proposals.

Current as well as potential fees and charges will be identified and documented. This involves discussion with each function within the Department in order to identify

the areas of greatest potential cost recovery, and to structure and expand existing fee schedules for both optimum cost recovery and fairness and equitability to the applicant for services.

At this time, the project team will request volume statistics to be used for staff utilization and cost/revenue comparisons later in the analysis. The City will be responsible for providing this data.

Deliverable: Documented list of fees to be included in the analysis.

Task 5 Establish Time and Activity Estimates for Each Service Provided

With the information established in Task 4, the project team will gather time and activity estimates for each of the services included in the study, using the following approach:

- Interview key personnel from each departmental function, and analyze the various activities being performed within it that are both revenue and non-revenue generating.
- Establish the net available hours for each employee. This includes 2,080 hours per year less traditional reductions for vacation, sick, training, etc., and also for estimated "non-billable" time spent in meetings and supervisory or clerical roles.
- Conduct a two-hour on-site workshop for each departmental function to initiate the collection of time estimate data.
- Gather and analyze activity statistics for the number of each permit or service completed, on average, per year.

Matrix will provide easy to understand worksheets for data collection. This task includes identification of 100% of each staff member's available hours to both fee and non-fee related services to ensure a complete and defensible analysis.

The complete allocation of staff resources through this time and activity analysis often requires a critical round of discussion and revision to ensure that estimates and data gathered are reasonable, defensible, and accurate reflections of service levels and activity.

Deliverable: Defensible and reasonable allocation of staff time to fee and non-fee related services provided by the Planning and Development Department.

Task 6 Perform Cost Analysis

The Matrix Consulting Group's costing method is a "bottom up approach" to user fee analysis. This costing method uses the time and annual activity level data collected in Task 5 to establish the cost of providing services on both a unit and annual level.

Once the time spent for a fee activity is determined for each individual or position, the Matrix Consulting Group will use its user fee software to apply all applicable City costs toward the calculation of the full cost of providing each service. The following table details a description of the typical costs considered as applicable to user fees.

Cost Component	Description
Direct	Salaries, benefits and allowable departmental expenditures
Departmental Overhead	Departmental administration/management and clerical support
City wide Overhead	City costs associated with central services such as payroll, human resources, budgeting, City management, etc. Often established through a cost allocation methodology or plan (City is responsible for providing these costs).
Cross-Departmental Support	Costs associated with review or assistance in providing specific services. For example, costs established via study of the Planning department for review of Building permits are included as overhead to building permit fees.
Off-budget items	Examples include: General Plan Update, code enforcement, and technology related costs.

Resulting costs are presented on a unit and annual level, and are compared to the existing fee schedule and City revenue reports. From this exercise, the City will obtain information about cost recovery surpluses and deficits on both a detailed and global level.

Deliverable: Detailed documentation of current charges versus the actual cost of providing services from both a cost per unit and annual cost perspective.

Task 7 Review / Revise the User Fee Study Results with the Department and City Management.

Because the analysis of fees for service is based on estimates and information provided by City staff, it is extremely important that all participants are comfortable with our methodology and with the data they have provided. Departmental staff must have a chance to review, revise and approve their documented results.

Once departmental staff agrees that the analysis reflects the reasonable costs of providing services, City management will have an opportunity to review the results. The project team will address questions and concerns regarding subsidies or surpluses, and also consider implementation strategy. While it is generally desirable to eliminate any subsidies, discussions regarding the feasibility of raising fees based on political climate, legal restrictions, and social and economic consequences must occur.

Based on these discussions, the Matrix Consulting Group's project team can develop cost recovery recommendations and analyze their associated revenue impacts.

Deliverable: Approval of analytical results at the departmental and City management levels together with the formulation of cost recovery recommendations and associated revenue impacts.

Task 8 Conduct a Comparison Survey of Fees with Similar Jurisdictions

This User Fee Study will provide the City with a reasonable estimate and understanding of the true costs of providing Planning and Development Department services. Once this information is available to policy makers, there are many reasons jurisdictions decide to set fees at a level that does not reflect the full cost of providing services. Criteria for such policies generally include:

- Charging or increasing a fee will result in a decrease of quantity of services applied for;
- Offering free or subsidized services will allow an identified group to participate in services that they cannot afford.
- Offering free or subsidized services will allow an identified group to participate in services that they cannot afford.
- Offering free or subsidized services will support activities that benefit not only the individual receiving the services, but a significant portion of the community at large.

In addition to the reasons noted above, many jurisdictions also wish to consider the local "market rates" for services as a means for assessing what types of changes in fee levels their community can bear.

The Matrix Consulting Group will conduct a comparison survey of rates and fees that encompasses the following:

- Up to five similar political jurisdictions, as chosen by City staff; and,
- The top five to ten fees for each service area involved in the study, as chosen by City staff.

The Matrix Consulting Group recommends that the number of fees and jurisdictions involved in a comparative survey should be limited to the vital few necessary to assess the market and make decisions. Using an excessive number of components to such a survey can risk creating a confusing excess of data that will obscure rather than clarify policy issues. Limiting the number of components will help keep the focus on the vital fee items with the most significant impact to the community.

Deliverable: Comparative survey of the City of Fresno's current and full cost recovery fee levels to up to similar jurisdictions.

Task 9 Prepare a Final Report

Upon the conclusion of the Study, we prepare a detailed report with summarizes the results of each of the previous work tasks described above. This report includes the following:

- A narrative describing the methodology, recommendations, and key decision making points generated from the analysis
- Appendices which compare existing and potential cost recovery on a unit and annual basis.

The report would be reviewed in draft form with the Planning and Development Department and City management. Once this review is completed, the reports would be presented to the Council and Fresno community as described in Task 9, below.

Deliverable: Preparation and approval of a Final User Fee Study Report.

Task 10 Present the Final Report to the Council and/or Stakeholder Groups

The Matrix Consulting Group is committed to the implementation of results. As such, we commonly present the results and methodology to the governing body of our client. In addition, the City may also request a presentation or discussion, led by the Matrix Consulting Group, with key community stakeholder groups, such as the BIA, Chamber of Commerce, Homeowners Associations, etc.

The presentation of results to City Officials and/or stakeholders is critical to the success of the overall engagement. Since the product from the study is often controversial, the objective of this final step is to present a very succinct, straightforward summary that provides decision makers with key information.

The Matrix Consulting Group will attend and present at up to three Council and/or stakeholder meetings.

Deliverable: Presentation of study results at up to three Council and/or stakeholder meetings.

2. PROJECT SCHEDULE

We commit to completing this User Fee Study in a 16-week timeframe as shown in the table below with the City Council and/or stakeholder presentations immediately following the completion of the analytical portion of the project. As per the City's RFP, in order to complete this Study by April 13, 2008, a start date of early December, 2007 or sooner, would be optimal. However, a start date of early January, 2008 would also still meet timeline requirements.

Task	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
1. Establish City Goals and Objectives	■															
2. Initiate User Fee Study	■	■														
3. Summary Understanding of Staffing		■	■	■												
4. Schedule of Current and Potential Fees			■	■	■											
5. Time and Activity Estimates					■	■	■	■								
6. Cost Analysis								■	■	■	■					
7. Review/Revise Results												■	■	■	■	
8. Comparative Fee Survey												■	■	■	■	
8. Final Report															■	■
10. City Council / Stakeholder Presentation																■

COMPENSATION AND FEES

We could conduct this User Fee Study at the level of detail described in the project task section of this proposal for **\$34,500**. This price includes our cost for professional time as well as all reimbursable expenses (mileage only). The table, below, summarizes this cost estimate on a task basis.

Task	Senior Manager	Manager	Consultant	TOTAL
1. Goals and Objectives	4	4	0	8
2. Initiate Project	4	8	8	20
3. Staffing / Ops / Budget	0	8	4	12
4. Schedule of Fees	4	8	8	20
5. Time and Activity Analysis	4	32	20	56
6. Perform Cost Analysis	4	24	4	32
7. Review / Revise Results	4	12	8	24
8. Comparative Fee Survey	0	4	16	20
9. Final Report	4	10	0	14
10. Presentations	4	16	0	20
TOTAL HOURS	32	126	68	226
RATE PER HOUR	\$185	\$150	\$115	
TOTAL COST	\$5,920	\$18,900	\$7,820	\$32,640
TRAVEL EXPENSES				\$1,860
TOTAL PROJECT COST				\$34,500

2,000
3,140

We would be prepared to enter into a contract either on a fixed price or not to exceed basis.

Our typical approach to invoicing is monthly up to the total contract amount. We are also open to invoicing on a deliverable basis.

ADDITIONAL SERVICES

1. SOFTWARE AND TRAINING FOR THE MATRIX CONSULTING GROUP FEE MODEL

The Matrix Consulting Group will provide the City with a copy of the Excel based analytical models utilized in the Study, and train City staff with (4) four hours of on-site training in how to perform updates in-house.

The provision of these models would come at an additional cost to the City, as follows:

- \$1,000 one-time software licensing fee
- \$1,000 training costs, includes professional time and travel expense

In addition, transfer of these analytical models requires a licensing agreement that prohibits the sharing of these models with other parties.

2. ADDITIONAL CROSS-DEPARTMENTAL SUPPORT ANALYSIS

The City has requested a more in-depth interview and analytical process for establishing costs born by external departments in support of the Planning and Development review process. The Matrix Consulting Group will perform the following tasks to establish the costs of their support to the development review process:

- One to two meetings with up to (5) five supporting departments.
- Analysis of relevant financial data for establishing the annual and/or per unit cost of providing support services to the Planning and Development Department's fees.
- Analysis of the impact of such support costs on the Planning and Development Department's total cost of providing services.
- Study of the impact of the Department's centralized processing goals, including a scenario of the analytical model which considers staffing levels and cost implications of these goals.

Professional fees for the work outlined above is \$8,200, including professional time and travel expenses.

3. PROCESS MANAGEMENT REVIEW: PHASE 1, DIAGNOSTIC ASSESSMENT

The Matrix Consulting Group will evaluate the Department's creation of a "one-stop" Permit Center within the context of best practices. This task would not only assess the current performance of the system but also ensure that the City possesses adequate benchmark measures against which to evaluate work activities in the future.

This step will compare Fresno's permit processing services against 'best practices'. In our experience analyzing these issues, we have developed a number of 'standards' that can be used against most jurisdictions. Once relevant practices and measures have been documented, we would identify deviations between Fresno and these benchmarks. Benchmarking and best practice results will be summarized in the form of a Diagnostic Assessment table that will indicate both strengths and opportunities for improvement.

Professional fees for the work outlined above are \$6,900, including professional time and travel expenses.

Complete

4. PROCESS, MANAGEMENT REVIEW: PHASE 2 REPORT WITH RECOMMENDATIONS

The Diagnostic Assessment will provide the basis for follow-up analytical activities that will focus on developing specific recommendations for improvement. Recommendations will be summarized in a report and presented to Department management for review and consideration.

Professional fees for a Report with Recommendations are \$5,700, including professional time and travel expenses.

5. ADDITIONAL STAKEHOLDER MEETINGS AS REQUIRED BY THE CITY

To maximize community involvement in the Fee Study process, the City may request additional meetings with its City Council or Stakeholder community above and beyond the five meetings proposed in the original proposal's Scope of Work (Tasks 2 and 10). The Matrix Consulting group will provide up to six (6) additional meetings, over three site visits. These additional meetings should be combined with other work tasks whenever possible, but may also be scheduled as separate site visits, if needed.

Professional fees for this task are \$2,500, including professional time and travel expenses.

Thank you again for considering the Matrix Consulting Group. Please contact Nicole Kissam at (650) 858-0507 with any questions.

Matrix Consulting Group

Richard Brady, President
Nicole Kissam, Senior Manager

Exhibit B

SCOPE OF ADDITIONAL SERVICES
Consultant Service Agreement between City of Fresno ("City")
and Matrix Consulting Group, Ltd. ("Consultant")
Planning and Development Department Fee Study
PROJECT TITLE

Consultant shall perform the following additional services in Tasks 1 and 2 to the Scope of Work in Exhibit A of the Agreement:

Task:

- 1) Update all FY08 data to FY09 data, including FY09 budgeted costs and projecting FY09 revenues - \$4,500.
- 2) Provide "What if" modeling to determine effects of reducing the number of existing Entitlement work types - \$910

Contingency for potential additional services related to results of #2 modeling above and other new information, subject to written authorization of the Planning and Development Director and written amendment in accordance with Section 3(c) of the Agreement – not to exceed \$4,590.

Total Additional Services – not to exceed \$10,000.00

Exhibit C

INSURANCE REQUIREMENTS Consultant Service Agreement between City of Fresno ("CITY") and Matrix Consulting Group, Ltd. ("CONSULTANT") Planning and Development Department Fee Study PROJECT TITLE

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. The most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01, 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 policies 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 D

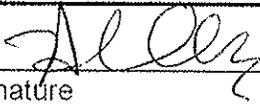
DISCLOSURE OF CONFLICT OF INTEREST

Planning and Development Department Fee Study
PROJECT TITLE

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

Explanation: _____

Also working on Land
Section review for
Planning Dept.


Signature

Richard Brady, President
(name)

Matrix Consulting Group
(company)

721 Colorado Ave, Suite 101
(address)

Additional page(s) attached.

Palo Alto, CA 94303
(city state zip)

Attachment 3
400101
19551
10/6/10

AGREEMENT
CITY OF FRESNO, CALIFORNIA
CONSULTANT SERVICES

THIS AGREEMENT is made and entered into effective the 1st day of December, 2007, by and between the CITY OF FRESNO, a California municipal corporation (hereinafter referred to as "CITY"), and Matrix Consulting Group, Ltd. (hereinafter referred to as "CONSULTANT").

RECITALS

WHEREAS, CITY desires to obtain professional financial and analytical consulting services for the Planning and Development Department Fee Study, hereinafter referred to as the "Project;" and
WHEREAS, CONSULTANT is engaged in the business of furnishing technical and expert services as a Financial Consultant 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 3-109 and Administrative Order 6-19; and
WHEREAS, this Agreement will be administered for CITY by its Planning Development 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 effective from the date first set forth above ("Effective Date") and shall continue in full force and effect through December 31, 2008, 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**.
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 \$60,000, 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 monthly for services performed in the preceding month and will be payable in the normal course of CITY business. CITY shall not be obligated to reimburse any expense for which it has not received a detailed invoice with applicable copies of representative and identifiable receipts or records substantiating such expense.
 - (c) The parties may modify this Agreement to increase or decrease the scope of services or provide for the rendition of services not required by this Agreement, which modification

shall include an adjustment to CONSULTANT'S compensation. Any change in the scope of services must be made by written amendment to the Agreement signed by an authorized representative for each party. CONSULTANT shall not be entitled to any additional compensation if services are performed prior to a signed written amendment.

4. Termination, Remedies and Force Majeure.

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

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

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

(d) Upon any termination or expiration of the Agreement, 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, unusually severe weather, and delays of common carriers. 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, 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 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) 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 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, CITY 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 CITY 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 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, and any additional insurance as may be required, 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) Immediately establish and maintain a viable and ongoing recycling program, approved by CITY'S Solid Waste Management Division, for each office and facility. Literature describing CITY recycling programs is available from CITY'S Solid Waste Management Division and by calling City of Fresno Recycling Hotline at (559) 621-1111.
- (ii) Immediately contact CITY'S Solid Waste Management Division at (559) 621-1452 and schedule a free waste audit, and cooperate with such Division in their conduct of the audit for each office and facility.
- (iii) Cooperate with and demonstrate to the satisfaction of CITY'S Solid Waste Management Division the establishment of the recycling program in paragraph (i) above and the ongoing maintenance thereof.

11. General Terms.

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

13. Independent Contractor.

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

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

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

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

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

16. Assignment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CITY OF FRESNO,
a California municipal corporation

Matrix Consulting Group, Ltd.,
a California Corporation

By: [Signature]
Nick Yovino,
Director, Planning and Development

By: [Signature]
Name: Richard P. Brady

ATTEST:
REBECCA E. KLISCH
City Clerk

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

By: Cindy Bauer 11/30/07
Deputy

By: [Signature]
Name: Trans R. Miller

No signature of City Attorney required.
Standard Document #ALL 1.1 has been
used without modification, as certified by
the undersigned.

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

By: [Signature]
Craig Agabashian
Administrative Manager
Development Department

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

Addresses:

CITY:
City of Fresno
Attention: Craig Agabashian,
Administrative Manager
2600 Fresno Street
Fresno, CA 93721
Phone: (559) 621-8003
FAX: (559) 498-1012

CONSULTANT:
Matrix Consulting Group, Ltd.
Attention: Richard Brady,
President
721 Colorado Avenue
Palo Alto, CA. 94303
Phone: (650) 858-0507
FAX: (650) 858-0509

Attachments:

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

M4713

1 of 8

SCOPE OF WORK

The Matrix Consulting Group will conduct a study of the full costs of providing user fee related services as stated in our understanding of the project. Our described approach, methodology and project processes will undoubtedly satisfy the requirements identified by the City.

1. OUR WORK PLAN FOR CONDUCTING THE PROJECT

In the task plan, which follows, is provided our detailed description of the work we would undertake to conduct the User Fee Study. Each task contains a summary of deliverables the City can expect as a result of each process involved in the project.

Task 1 **Establish the City's Goals and Objectives for the Study, and Identify Trends and Plans Which Impact Cost Recovery Analysis and Policy.**

To effectively analyze and present the full cost of providing City services, it is important that the project team develops an understanding of key issues which impact and shape the City's service delivery and cost recovery policies.

To develop this perspective, we plan to conduct an initial meeting with the City's management and Planning and Development Department executive staff to solidify the exact parameters of the engagement. Matrix Consulting Group's staff understands the general goals going into the engagement. However, it is essential to conduct an initial meeting of this nature to ensure the project meets the City's expectations and requirements. As a "user fee" study, the Matrix Consulting Group does not propose to evaluate any fines, taxes, utility rates, or impact fees. Services and activities included in the study are those that are defined specifically by an estimate of staff time devoted to providing each service.

Additionally, the initial meeting will review the history, current practices, and management perspectives on cost recovery and user fee implementation. This discussion provides an opportunity to answer questions about the study's process and potential impacts on current or near-term City operations, budgets, etc.

During this task of the project, the appointment of a City project management representative is imperative for the smooth flow of any engagement. This person's involvement is limited to the scheduling of interviews with key department personnel as deemed necessary by the consultants, as well as to direct our staff to the appropriate location of documents and data required throughout the engagement. At this point in the engagement, a contact person for each department should be established.

Deliverable: List of basic data requirements for the study, project schedule and employee briefing package.

Task 2 **Initiate the User Fee Study Project**

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The project team will conduct a project “kick-off” presentation for the Department, including the goals of the engagement, the steps to complete the goals, the time frame the City can expect, the requests we will place on departmental staff, and the benefits of the engagement.

The purpose of this meeting is to attain the cooperation and support of the Planning and Development Department’s staff by explaining the project, its scope, the schedule, our team, and their opportunities to participate. We will develop a hand-out for this meeting.

The Matrix Consulting Group will also provide two meetings, in addition to those identified in Task #10, with the City’s stakeholder groups as identified by the City. These meetings must be scheduled in combination with site visits related to other work tasks contained in this proposed Scope of Work.

Deliverable: Project initiation presentation to all study participants.

Deliverable: Up to two additional meetings with the City’s community stakeholder groups, in combination with other work tasks contained in this proposed Scope of Work.

Task 3 Develop a Summary Understanding of Staffing, Operations, and Budget Documents.

It is important that the project team understand the organization, staffing, operations, and cost structure of all departmental functions proposed for review. To develop this understanding, we will accomplish the following work steps:

- Review a complete organizational staffing schedule to determine operating costs, including management, supervisory, clerical and line employees.
- Review the Department and sub-department budgets and accounting system to identify the proper treatment for all expense items.
- Review the City’s permit tracking systems to familiarize ourselves with statistics available.

Deliverable: Entry of direct cost components (staff salaries, benefits and departmental expenditures) into our user fee study analytical model.

Task 4 Develop a Schedule of Current and Potential Fees for Service.

The scope of this effort will be the fees charged by the City’s Planning and Development Department, as identified in the Request for Proposals.

Current as well as potential fees and charges will be identified and documented. This involves discussion with each function within the Department in order to identify

the areas of greatest potential cost recovery, and to structure and expand existing fee schedules for both optimum cost recovery and fairness and equitability to the applicant for services.

At this time, the project team will request volume statistics to be used for staff utilization and cost/revenue comparisons later in the analysis. The City will be responsible for providing this data.

Deliverable: Documented list of fees to be included in the analysis.

Task 5 Establish Time and Activity Estimates for Each Service Provided

With the information established in Task 4, the project team will gather time and activity estimates for each of the services included in the study, using the following approach:

- Interview key personnel from each departmental function, and analyze the various activities being performed within it that are both revenue and non-revenue generating.
- Establish the net available hours for each employee. This includes 2,080 hours per year less traditional reductions for vacation, sick, training, etc., and also for estimated "non-billable" time spent in meetings and supervisory or clerical roles.
- Conduct a two-hour on-site workshop for each departmental function to initiate the collection of time estimate data.
- Gather and analyze activity statistics for the number of each permit or service completed, on average, per year.

Matrix will provide easy to understand worksheets for data collection. This task includes identification of 100% of each staff member's available hours to both fee and non-fee related services to ensure a complete and defensible analysis.

The complete allocation of staff resources through this time and activity analysis often requires a critical round of discussion and revision to ensure that estimates and data gathered are reasonable, defensible, and accurate reflections of service levels and activity.

Deliverable: Defensible and reasonable allocation of staff time to fee and non-fee related services provided by the Planning and Development Department.

Task 6 Perform Cost Analysis

The Matrix Consulting Group's costing method is a "bottom up approach" to user fee analysis. This costing method uses the time and annual activity level data collected in Task 5 to establish the cost of providing services on both a unit and annual level.

Once the time spent for a fee activity is determined for each individual or position, the Matrix Consulting Group will use its user fee software to apply all applicable City costs toward the calculation of the full cost of providing each service. The following table details a description of the typical costs considered as applicable to user fees.

Cost Component	Description
Direct	Salaries, benefits and allowable departmental expenditures
Departmental Overhead	Departmental administration/management and clerical support
City wide Overhead	City costs associated with central services such as payroll, human resources, budgeting, City management, etc. Often established through a cost allocation methodology or plan (City is responsible for providing these costs).
Cross-Departmental Support	Costs associated with review or assistance in providing specific services. For example, costs established via study of the Planning department for review of Building permits are included as overhead to building permit fees.
Off-budget items	Examples include: General Plan Update, code enforcement, and technology related costs.

Resulting costs are presented on a unit and annual level, and are compared to the existing fee schedule and City revenue reports. From this exercise, the City will obtain information about cost recovery surpluses and deficits on both a detailed and global level.

Deliverable: Detailed documentation of current charges versus the actual cost of providing services from both a cost per unit and annual cost perspective.

Task 7 Review / Revise the User Fee Study Results with the Department and City Management.

Because the analysis of fees for service is based on estimates and information provided by City staff, it is extremely important that all participants are comfortable with our methodology and with the data they have provided. Departmental staff must have a chance to review, revise and approve their documented results.

Once departmental staff agrees that the analysis reflects the reasonable costs of providing services, City management will have an opportunity to review the results. The project team will address questions and concerns regarding subsidies or surpluses, and also consider implementation strategy. While it is generally desirable to eliminate any subsidies, discussions regarding the feasibility of raising fees based on political climate, legal restrictions, and social and economic consequences must occur.

Based on these discussions, the Matrix Consulting Group's project team can develop cost recovery recommendations and analyze their associated revenue impacts.

Deliverable: Approval of analytical results at the departmental and City management levels together with the formulation of cost recovery recommendations and associated revenue impacts.

Task 8 Conduct a Comparison Survey of Fees with Similar Jurisdictions

This User Fee Study will provide the City with a reasonable estimate and understanding of the true costs of providing Planning and Development Department services. Once this information is available to policy makers, there are many reasons jurisdictions decide to set fees at a level that does not reflect the full cost of providing services. Criteria for such policies generally include:

- Charging or increasing a fee will result in a decrease of quantity of services applied for;
- Offering free or subsidized services will allow an identified group to participate in services that they cannot afford.
- Offering free or subsidized services will allow an identified group to participate in services that they cannot afford.
- Offering free or subsidized services will support activities that benefit not only the individual receiving the services, but a significant portion of the community at large.

In addition to the reasons noted above, many jurisdictions also wish to consider the local “market rates” for services as a means for assessing what types of changes in fee levels their community can bear.

The Matrix Consulting Group will conduct a comparison survey of rates and fees that encompasses the following:

- Up to five similar political jurisdictions, as chosen by City staff; and,
- The top five to ten fees for each service area involved in the study, as chosen by City staff.

The Matrix Consulting Group recommends that the number of fees and jurisdictions involved in a comparative survey should be limited to the vital few necessary to assess the market and make decisions. Using an excessive number of components to such a survey can risk creating a confusing excess of data that will obscure rather than clarify policy issues. Limiting the number of components will help keep the focus on the vital fee items with the most significant impact to the community.

Deliverable: Comparative survey of the City of Fresno's current and full cost recovery fee levels to up to similar jurisdictions.

Task 9 Prepare a Final Report

Upon the conclusion of the Study, we prepare a detailed report with summarizes the results of each of the previous work tasks described above. This report includes the following:

- A narrative describing the methodology, recommendations, and key decision making points generated from the analysis
- Appendices which compare existing and potential cost recovery on a unit and annual basis.

The report would be reviewed in draft form with the Planning and Development Department and City management. Once this review is completed, the reports would be presented to the Council and Fresno community as described in Task 9, below.

Deliverable: Preparation and approval of a Final User Fee Study Report.

Task 10 Present the Final Report to the Council and/or Stakeholder Groups

The Matrix Consulting Group is committed to the implementation of results. As such, we commonly present the results and methodology to the governing body of our client. In addition, the City may also request a presentation or discussion, led by the Matrix Consulting Group, with key community stakeholder groups, such as the BIA, Chamber of Commerce, Homeowners Associations, etc.

The presentation of results to City Officials and/or stakeholders is critical to the success of the overall engagement. Since the product from the study is often controversial, the objective of this final step is to present a very succinct, straightforward summary that provides decision makers with key information.

The Matrix Consulting Group will attend and present at up to three Council and/or stakeholder meetings.

Deliverable: Presentation of study results at up to three Council and/or stakeholder meetings.

2. PROJECT SCHEDULE

We commit to completing this User Fee Study in a 16-week timeframe as shown in the table below with the City Council and/or stakeholder presentations immediately following the completion of the analytical portion of the project. As per the City's RFP, in order to complete this Study by April 13, 2008, a start date of early December, 2007 or sooner, would be optimal. However, a start date of early January, 2008 would also still meet timeline requirements.

Task	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
1. Establish City Goals and Objectives	█															
2. Initiate User Fee Study	█	█														
3. Summary Understanding of Staffing		█	█	█												
4. Schedule of Current and Potential Fees			█	█	█											
5. Time and Activity Estimates					█	█	█	█								
6. Cost Analysis								█	█	█	█					
7. Review/Revise Results											█	█	█	█		
8. Comparative Fee Survey											█	█	█	█		
9. Final Report															█	█
10. City Council / Stakeholder Presentation																

COMPENSATION AND FEES

We could conduct this User Fee Study at the level of detail described in the project task section of this proposal for **\$34,500**. This price includes our cost for professional time as well as all reimbursable expenses (mileage only). The table, below, summarizes this cost estimate on a task basis.

Task	Senior Manager	Manager	Consultant	TOTAL
1. Goals and Objectives	4	4	0	8
2. Initiate Project	4	8	8	20
3. Staffing / Ops / Budget	0	8	4	12
4. Schedule of Fees	4	8	8	20
5. Time and Activity Analysis	4	32	20	56
6. Perform Cost Analysis	4	24	4	32
7. Review / Revise Results	4	12	8	24
8. Comparative Fee Survey	0	4	16	20
9. Final Report	4	10	0	14
10. Presentations	4	16	0	20
TOTAL HOURS	32	126	68	226
RATE PER HOUR	\$185	\$150	\$115	
TOTAL COST	\$5,920	\$18,900	\$7,820	\$32,640
TRAVEL EXPENSES				\$1,860
TOTAL PROJECT COST				\$34,500

We would be prepared to enter into a contract either on a fixed price or not to exceed basis.

Our typical approach to invoicing is monthly up to the total contract amount. We are also open to invoicing on a deliverable basis.

ADDITIONAL SERVICES

Each section below represents an optional service for the Department to consider in expanding the scope of their Fee Study Analysis.

1. SOFTWARE AND TRAINING FOR THE MATRIX CONSULTING GROUP FEE MODEL

The Matrix Consulting Group will provide the City with a copy of the Excel based analytical models utilized in the Study, and train City staff with (4) four hours of on-site training in how to perform updates in-house.

The provision of these models would come at an additional cost to the City, as follows:

- \$1,000 one-time software licensing fee
- \$1,000 training costs, includes professional time and travel expense

In addition, transfer of these analytical models requires a licensing agreement that prohibits the sharing of these models with other parties.

2. ADDITIONAL CROSS-DEPARTMENTAL SUPPORT ANALYSIS

The City has requested a more in-depth interview and analytical process for establishing costs born by external departments in support of the Planning and Development review process. The Matrix Consulting Group will perform the following tasks to establish the costs of their support to the development review process:

- One to two meetings with up to (5) five supporting departments.
- Analysis of relevant financial data for establishing the annual and/or per unit cost of providing support services to the Planning and Development Department's fees.
- Analysis of the impact of such support costs on the Planning and Development Department's total cost of providing services.
- Study of the impact of the Department's centralized processing goals, including a scenario of the analytical model which considers staffing levels and cost implications of these goals.

Professional fees for the work outlined above is \$8,200, including professional time and travel expenses.

3. PROCESS MANAGEMENT REVIEW: PHASE 1, DIAGNOSTIC ASSESSMENT

The Matrix Consulting Group will evaluate the Department's creation of a "one-stop" Permit Center within the context of best practices. This task would not only assess the current performance of the system but also ensure that the City possesses adequate benchmark measures against which to evaluate work activities in the future.

This step will compare Fresno's permit processing services against 'best practices'. In our experience analyzing these issues, we have developed a number of 'standards' that can be used against most jurisdictions. Once relevant practices and measures have been documented, we would identify deviations between Fresno and these benchmarks. Benchmarking and best practice results will be summarized in the form of a Diagnostic Assessment table that will indicate both strengths and opportunities for improvement.

Professional fees for the work outlined above are \$6,900, including professional time and travel expenses.

4. PROCESS MANAGEMENT REVIEW: PHASE 2 REPORT WITH RECOMMENDATIONS

The Diagnostic Assessment will provide the basis for follow-up analytical activities that will focus on developing specific recommendations for improvement. Recommendations will be summarized in a report and presented to Department management for review and consideration.

Professional fees for a Report with Recommendations are \$5,700, including professional time and travel expenses.

5. ADDITIONAL STAKEHOLDER MEETINGS AS REQUIRED BY THE CITY

To maximize community involvement in the Fee Study process, the City may request additional meetings with its City Council or Stakeholder community above and beyond the five meetings proposed in the original proposal's Scope of Work (Tasks 2 and 10). The Matrix Consulting group will provide up to six (6) additional meetings, over three site visits. These additional meetings should be combined with other work tasks whenever possible, but may also be scheduled as separate site visits, if needed.

Professional fees for this task are \$2,500, including professional time and travel expenses.

Thank you again for considering the Matrix Consulting Group. Please contact Nicole Kissam at (650) 858-0507 with any questions.

Matrix Consulting Group

Richard Brady, President
Nicole Kissam, Senior Manager

Exhibit B

INSURANCE REQUIREMENTS
Consultant Service Agreement between City of Fresno
and Matrix Consulting Group
Planning and Development Department Fee Study
PROJECT TITLE

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. The most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01, 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 policies 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

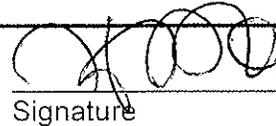
DISCLOSURE OF CONFLICT OF INTEREST

Planning and Development Department Fee Study
PROJECT TITLE

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

* If the answer to any question is yes, please explain in full below.

Explanation: _____



Signature

Richard Brady

(name)

Matrix Consulting Group

(company)

721 Colorado Avenue, Suite 101

(address)

Additional page(s) attached.

Palo Alto, CA 94303

(city state zip)