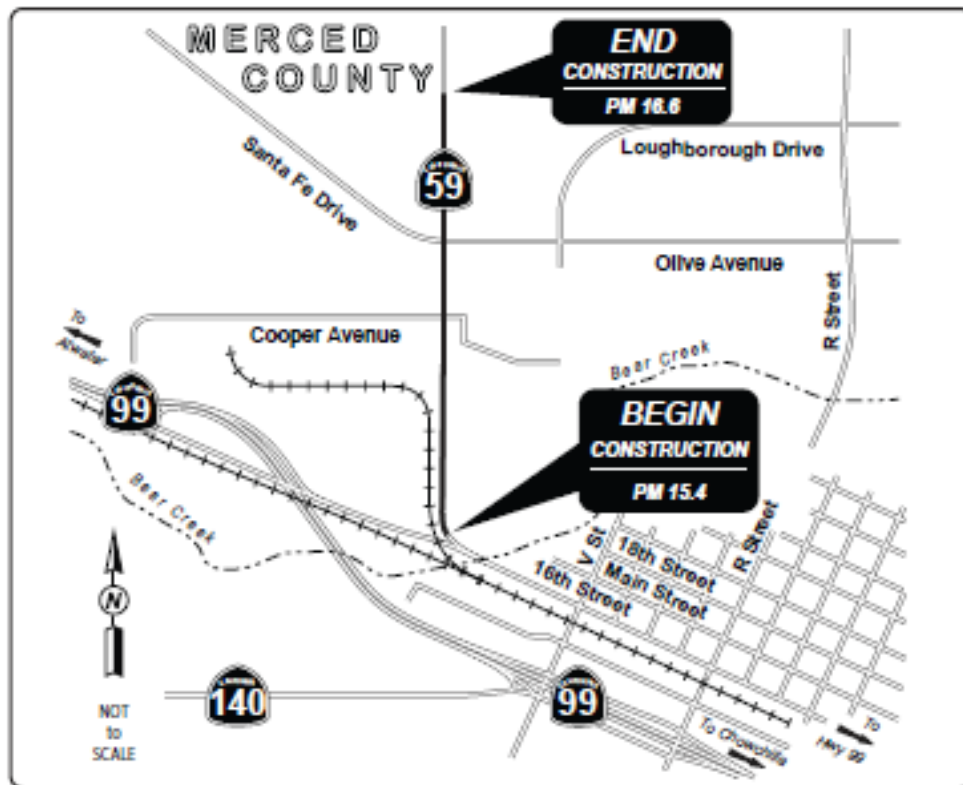


REQUEST FOR PROPOSALS

Right of Way Services

-- CITY OF MERCED --

April 28, 2025



Office of the City Engineer ♦ Telephone (209) 385-6846 ♦ www.cityofmerced.org
678 West 18th Street, Merced, CA. 95340

HIGHWAY 59 PHASE 1 WIDENING and HIGHWAY 59 BRIDGE WIDENING OVER BLACK RASCAL CREEK

The City of Merced Engineering Department invites your proposals for right of way services for the Highway 59 Phase 1 Widening and Highway 59 Bridge Widening over Black Rascal Creek Project.

Proposal Submission

All proposals shall be submitted in writing. Any exceptions to the requirements stated herein shall be clearly stated in the proposal. The proposal shall be signed by the Consultant. Please send **two (2) copies** of the proposal to:

Joe Cardoso, P.L.S
Engineering Department
City of Merced - City Hall
678 West 18th Street
Merced, CA 95340
(209) 388-7508

Proposals will be accepted at City Hall, 678 West 18th Street, Merced, California until 5:00 p.m. on **Wednesday, May 28, 2025**.

Fee Proposal:

One (1) copy of a separate fee proposal must be submitted in a separate, sealed envelope marked "Fee Proposal for Right of Way Services".

Inquiries

Questions pertaining to the RFP should be directed in writing, no later than 5:00 p.m. Tuesday, May 20, 2025, to:
Laura Ivancich, Management Analyst, ivancichl@cityofmerced.org

BACKGROUND

The City of Merced has a Federal, State, and locally funded project to replace/widen the bridges over Black Rascal Creek (Highway 59 Black Rascal Bridge) and widen State Highway 59 (Highway 59 Phase 1 – 16th Street to Olive Avenue)

- **State Highway 59 Widening (Highway 59 Phase 1 – 16th Street to Olive Avenue)** – The Project consists of widening the existing 2-lane street to a 4-lane street from 16th street approximately 600 feet south of Buena Vista Drive. The project will also address the crossing at BNSF Railroad, adding sidewalks, streetlights, Class 2 bike lanes, center medians, drainage, drainage basin and landscaping.

The project will also relocate portions of the Rascal/Micheal O’Sullivan Bike Path. The relocation of the bike path was vetted through the environmental process and recommended by the public to allow for the widening of the roadway and provide a safer path for pedestrians and bicyclist.

- **State Highway 59 Black Rascal Bridge** – The Project includes replacing the Black Rascal Creek Bridge and the South Fork Black Rascal Creek Bridge, currently two separate 2-lane bridges, with a new 4-lane bridge over Black Rascal Creek located approximately 500 feet north of Olive Avenue. The project will also include adding sidewalks, streetlights, Class 2 bike lanes, center medians, drainage, drainage basin and landscaping.

The City is seeking a firm with experience in negotiating, relocation of businesses and private residents, and appraisals.

The properties that will be impacted with this project include: a liquor store, car wash, dry cleaners, mini-storage, apartment complex, vacant lots, and residential access.

SCOPE OF WORK

The Right of Way Firm (hereinafter Consultant) shall provide a full service – start to finish right of way teams in close cooperation with the City.

1. **Key Agent** - Shall be specifically identified and assigned to the project, who must remain for the duration of the project. Selection will be based partially upon the qualifications of the identified key Agent.
2. **Appraisal** - Provide three (3) full narrative appraisal reports of each take, with consideration for possibly condemnation. The appraisals must be consistent with the

California Department of Transportation Right of Way Manual and State laws. The appraisal report must be signed by a Member Appraisal Institute (MAI) designee and be licensed in the State of California.

3. **Negotiator** - Analyzing preliminary title reports to determine potential title problems; preparing memorandums of agreement and other documents requested by the City; contacting each property owner or their representative to present the written offer in person where practical; maintaining follow up contacts and, upon acceptance of the City's offer, securing the necessary instruments for closing; responding to property owner inquiries verbally and in writing within two business days; advising property owners on the administrative settlement process, transmitting to the City any written counter offers from property owners along with supporting documentation and recommendations; and preparing final offer letters.

The Negotiator must be familiar with the State of California laws, the Uniform Relocation and Real Property Acquisition Policies Act, and the state Eminent Domain Law. All work must be consistent with California Redevelopment laws regarding acquisition and relocations.

4. **Relocation Services** – Provide relocation services to displaced business, residents, and buildings affected by the grade crossing.

CITY'S RESPONSIBILITIES

- The City shall provide the Consultant with existing relevant plans, studies, and information concerning the subject properties.
- The City shall designate a representative authorized to act in its behalf with respect to the project. The City or its representative shall examine items submitted by the Consultant and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of the Consultant's work.
- The City shall furnish required information as expeditiously as necessary for the orderly progress of the work.
- The City Attorney shall draft and/or review all sales and agreement documents. Sample agreement documents shall be provided to the Consultant.
- The City will provide all legal descriptions and work with a title company to close escrow.
- All sales, relocation, or dispositions of property shall be reviewed and accepted, rejected, or modified by the City Council.

METHOD OF COMPENSATION

Payments to Consultant shall be made upon invoices submitted by Consultant to the City for review and approval. Invoices will be paid by the City within reasonable time after said invoices received from Consultant.

Any necessary services outside the scope of the work must be identified and approved in advance by the City of Merced City Engineer or their designee. In addition, no change orders or contract amendments will be considered without prior authorization from the City Engineer or their designee. There are two (2) projects within this RFP and accounting and invoicing must be kept separate. The two (2) projects are:

1. CP200064 - Highway 59 Phase 1 Widening
2. CP200065 - Highway 59 Bridge Replacement/Widening over Black Rascal Creek

TIME OF COMPLETION

The work described herein shall have a duration of sixteen to twenty-four (16-24) months of the date of signing the appropriate agreement. Anticipate award of contract in August 2025 and expiration in August 2027.

This schedule is based upon the best information currently available and is subject to change.

Incomplete proposals may be rejected as non-responsive. The City reserves the right to waive any irregularities in the proposals.

Proposals are more likely to be viewed favorably if they are brief, concise, and specific.

SPECIAL ISSUES AND REQUIREMENTS

Form and Execution of Contract. The form of contract is Attachment A. It shall be executed and returned with the Consultant's proposal. If the Consultant is unable to execute the Contract, then the Consultant's proposal will be deemed incomplete and not considered.

Labor Code. The Consultant shall comply with Sections 3700 et seq. of Labor Code of the State of California, requiring every employer to be insured against liability for worker's compensation.

Federal-Aid Provisions. Consultant is expected to perform all right-of-way activities in accordance with the Caltrans Local Assistance Procedures Manual and Caltrans Right of Way Manual.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("Uniform Act") contains basic requirements for the acquisition of real property, which apply to all federal-aid projects. For additional details, refer to 49 CFR 24 and to the Chapter 8, "Acquisition," of the Caltrans Right of Way Manual.

For all contracts involving the receipt of federal funds, the Agreement between City and Consultant must contain Appendices A and E of the Title VI Assurances. The Consultant must include the Title VI Assurances Appendices A and E in all subcontracts to perform work under the contract.

Insurance. The Consultant shall also meet the insurance requirements in Section 10 of the contract, including liability insurance in the amount of \$1,000,000, naming the Agency as additional insured.

Conflict of Interest. The Consultant must be aware of and comply with conflict of interest rules included in the California Political Reform Act, and Section 1090 et. Seq. of the Government Code. The Political Reform Act requires City/Agency officers and committee members to file statements of interest and abide by a Conflict of Interest Code. Section 1090 limits or prohibits a public official from contracting with a body of which an official is a member. Section 1090 applies even where the officer only reviews the contract for the approving body.

Litigation. The proposal must indicate if the Consultant has been involved in any litigation in connection with prior projects. If yes, briefly describe the nature of the litigation and the result.

PROPOSAL CONTENT

The City requires the proposer to submit a concise proposal clearly addressing all of the requirements outlined in this RFP; it must contain information covering the following topics:

1. Cover Letter. The RFP shall include a cover letter signed by the team representative authorized to sign contracts stating interest and ability to perform the work, and ability to perform to above time of completion schedule (through August 31, 2027).
2. Project Experience. The RFP shall list specific related projects that the key personnel have worked on and their role in those related projects. The RFP shall include information on the qualifications and experience of the firm related to all aspects of the project.

3. Qualifications (Key Personnel). The RFP shall include information detailing the qualifications of the key personnel proposed to be assigned to the contract. The RFP shall include an organizational chart proposed for the project.
4. Project Understanding. The RFP shall include a summary of the team's understanding of the services to be provided to the City of Merced as well as any recommendations regarding additional services.
5. Special Requirements. The RFP shall include a statement of understanding and compliance with the special requirements listed herein.
6. References. The RFP shall include information on three (3) references that may be contacted to discuss the references' experience with the team; include names, telephone numbers and email addresses.
7. Cost Proposals. Each proposal shall include two (2) cost proposals (one for each project) for providing services and must be contained in a sealed envelope separate from the proposal.

SELECTION PROCEDURE

Proposals submitted will be reviewed for completeness and qualifications by City representatives and may also be reviewed by a Selection Committee. The selection process will include an interview before Selection Committee representatives. The City representative will negotiate with the most qualified Consultant to determine the final award.

The Evaluation Criteria Summary and their respective scores are as follows:

No.	Written Evaluation Criteria	Score
1	Organization of Proposal	10
2	Cost Proposal	30
3	Staff Qualifications & Approach	10
4	Project Scope	10
5	Schedule of Work	10
6	Conflict of Interest Statement	Pass/Fail
7	References	10
	Subtotal:	80

No.	Interview Evaluation Criteria	Score
8	Presentation by team	10
9	Q&A Response to panel questions	10
	Subtotal:	20
	Total:	100

The Request for Proposals does not commit the City to enter into an agreement with any of the respondents. The City reserves the right to cancel this Request for Proposals in whole or in part, and/or to accept or reject any proposal received based upon review of submitted qualifications, all at the City's sole discretion. Each respondent understands and agrees that in submitting qualifications for consideration, the decision of the City will be final. In addition, the City reserves the right to request additional clarifying information and to meet with any or all respondents at its discretion.

No payment or compensation is due or otherwise payable to persons responding to this Request for Proposals unless an agreement is entered into between the City and the successful candidate selected for the Project.

The final contract awarded to the successful candidate selected pursuant to the criteria in this Request for Proposals shall not be effective until approved by the City Council and signed by the City Manager.

Submitting materials for consideration and/or participating in this Request for Proposals constitute the respondent's acceptance of the terms and conditions herein.

REVIEW AND SELECTION SCHEDULE

Review and Selection Schedule		
Action	Date	Other
Pre-proposal Questions Submitted by Proposers	Monday May 20, 2025	Received in writing by 5:00 P.M.
Proposal Due Date	Monday May 28, 2025	Received by 5:00 P.M.
Consultant Interviews	Tuesday June 10, 2025	Block out entire Day.
City Council Contract Approval	Monday August 4, 2025, or Monday August 18, 2025	6:00 P.M. (attendance not required)

Upon conclusion of the interviews, the interview team will discuss the strengths and weaknesses of the proposals and make a decision as to which team, or independent consultants, will be recommended for final approval by the Merced City Council. The City staff will work with the selected consultant(s) to prepare a professional service contract, and to prepare and present the City Council administrative report to the Merced City Council. It is anticipated that formal consultant selection and contract award will be approved by the City Council by August 2025.

PROTEST PROCESS

A Vendor that submits a proposal that is disqualified may challenge the disqualification by filing a protest within seven (7) calendar days of the date of the City's notice of disqualification. Staff recommendations to award the agreement(s) to a particular Vendor or Vendors shall be posted on the City's website. An unsuccessful Vendor may file a protest no later than seven calendar days after the recommendation is posted on the website, except for protests regarding disqualification, which must be protested within seven days of the disqualification notice. All protests shall be in writing, filed with the City Engineer, Daryl Jordan, and include the following:

- RFP Name;
- The name, address and telephone number of the protester;
- A detailed statement describing the legal and factual grounds for the protest, including copies of relevant documents;
- The form of relief requested; and
- The signature of the protester or its authorized representative.

The City Engineer will render a written decision within 30 days after the protest is filed. The City will not request City Council authorization to award the contract until the protest process is completed.

PUBLIC RECORD

Responses to this RFP become the exclusive property of the City of Merced. At such time as the Engineering Department recommends a firm to the City Council, all proposals received in response to this RFP becomes a matter of public record and shall be regarded as public records, with the exception of those elements in each proposal which are defined by the Consultant as business or trade secrets and plainly marked as "Confidential," "Trade Secret," or "Proprietary". The City shall not in any way be liable or responsible for the disclosure of any such proposal or portions thereof, if they are not plainly marked as "Confidential," "Trade Secret," or "Proprietary" or if disclosure is required under the Public Records Act. Any proposal which contains language purporting to render all or significant portions of the proposal "Confidential," "Trade Secret," or "Proprietary" shall be regarded as non-responsive.

Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the City of Merced may not accept or approve that the information that a Consultant submits is a trade secret. If a request is made for information marked "Confidential," "Trade Secret," or "Proprietary," the City shall provide the Consultant who submitted the information with reasonable notice to allow the Consultant to seek protection from disclosure by a court of competent jurisdiction.

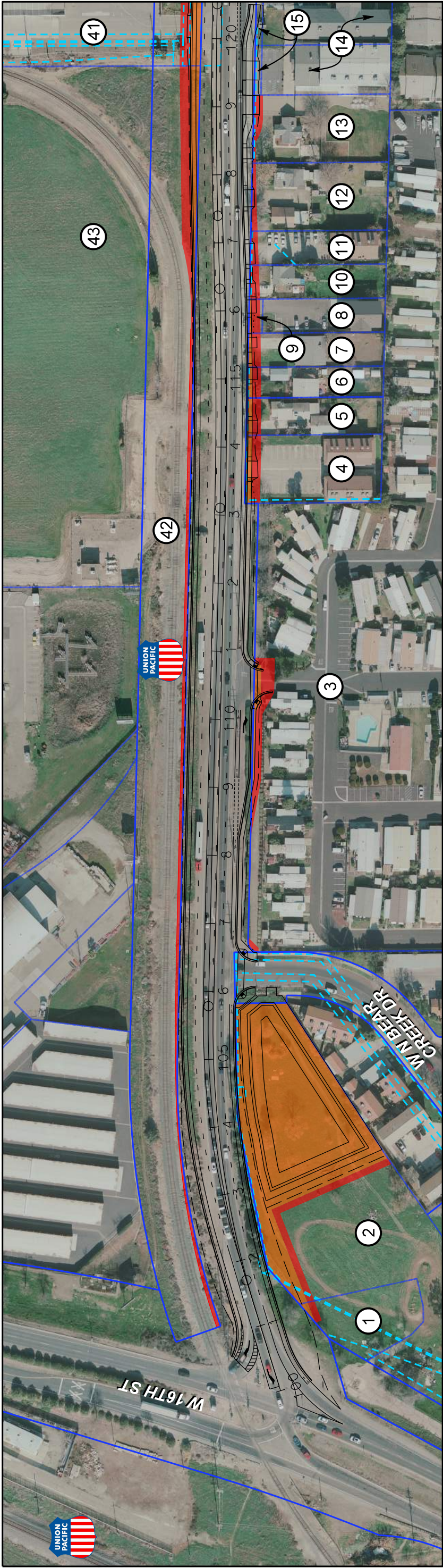
WITHDRAWAL OF PROPOSALS

A Consultant may withdraw its proposal at any time before the expiration of the time for submission of proposals as provided in the RFP by delivering a written request for withdrawal signed by, or on behalf of, the Consultant.

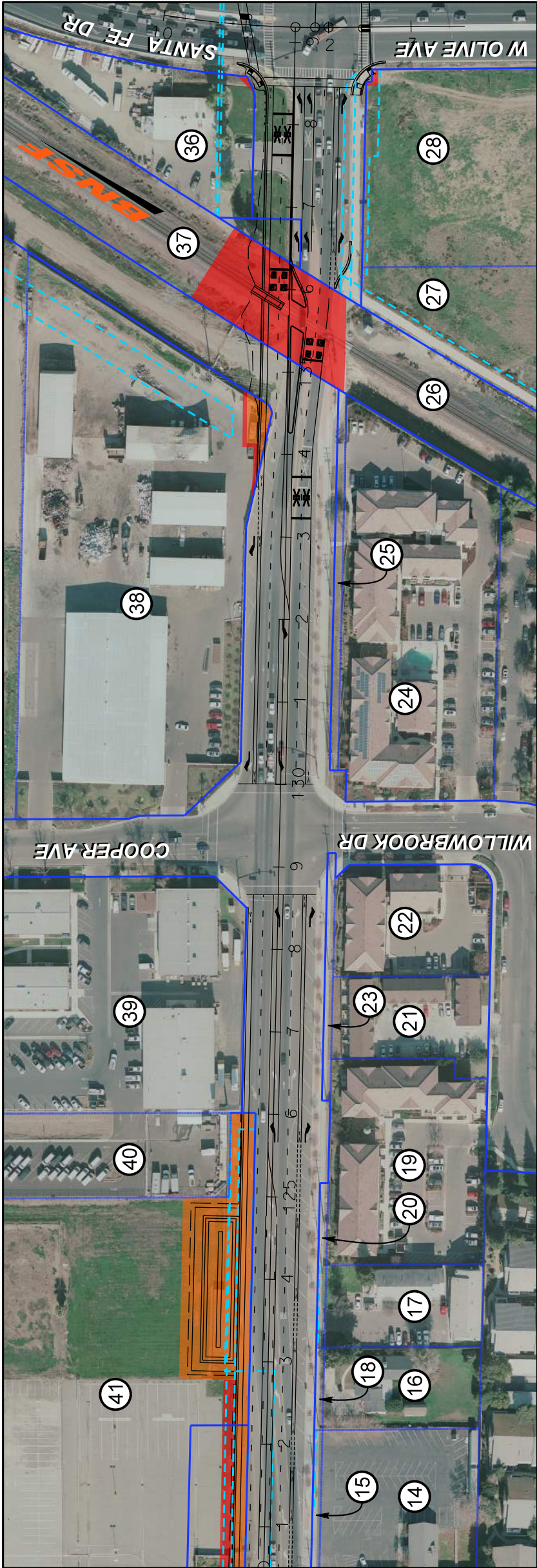
Special Requirements

The selected Consultant will be required to sign a standard agreement with the City of Merced including the following:

1. Form Contract
2. Ownership/Copyright
3. Title VI Civil Right/Equal Opportunity Assurance
4. Insurance
5. Exhibit 10-U: Conflict of Interest
6. Indemnification
7. Key Personnel



MATCH LINE
SEE BELOW LEFT



MATCH LINE
SEE ABOVE RIGHT



Scale: 1"=150'

LEGEND

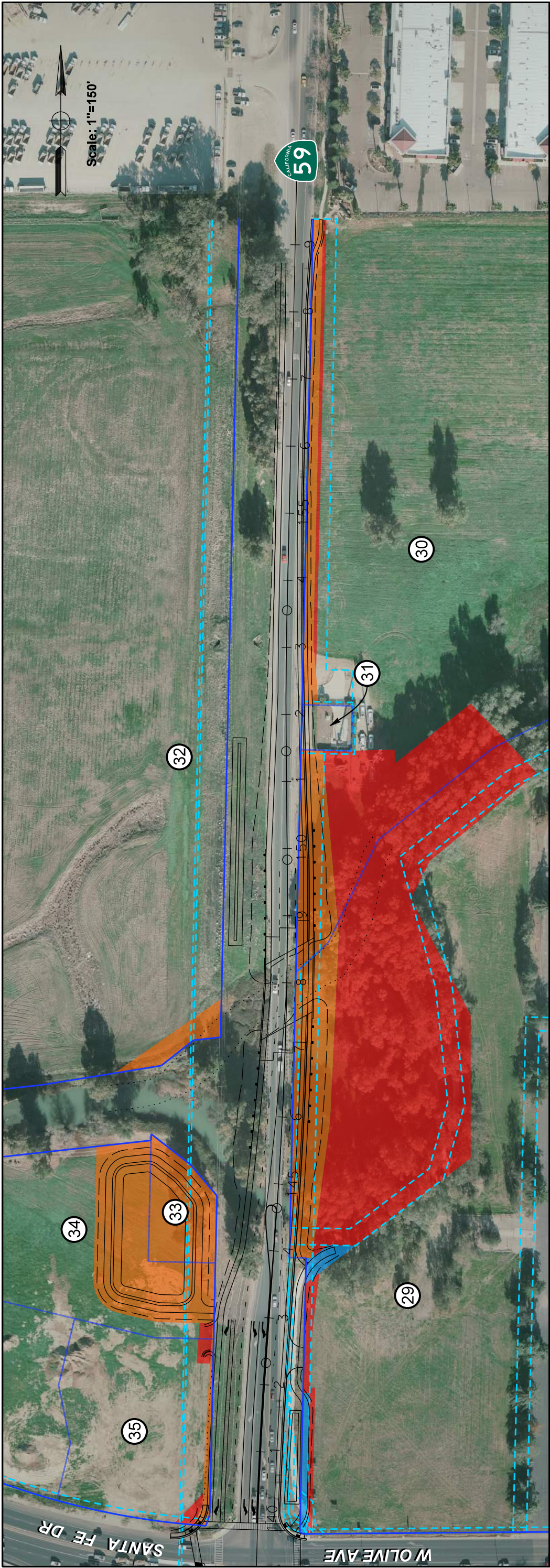
- EXISTING RIGHT OF WAY / PROPERTY LINE
- EXISTING EASEMENT
- RIGHT OF WAY ACQUISITION
- TEMPORARY CONSTRUCTION EASEMENT

DE

DOKKEN

ENGINEERING

1110 BLUE RAVINE ROAD, SUITE 200
FOLSOM, CA 95630
(916) 858-0642



ID	APN	OWNER	RW ACQUISITION			TCE			PED EASEMENT		
			ACRE	SQFT	ACRE	SQFT	ACRE	SQFT	ACRE	SQFT	ACRE
1	058-150-003	SHAFI INVESTMENTS	0.0046	200	0.0073	320	-	-	-	-	-
2	058-150-002	SHAFI INVESTMENTS	1.0588	46,120	0.0748	3,260	-	-	-	-	-
3	058-140-017	RIVERA PROPERTIES INC	0.0249	1,085	0.0699	3,045	-	-	-	-	-
4	058-140-010	OSBALDO BENAVIDES	0.0216	940	0.0301	1,310	-	-	-	-	-
5	058-140-009	FLOYD W. AND MARY O. JENSEN FAMILY TRUST	0.0106	460	0.0165	720	-	-	-	-	-
6	058-140-008	MAJOR DONALD G	0.0073	320	0.0135	590	-	-	-	-	-
7	058-140-007	MILLER NICHOLAS J.	0.0064	280	0.0149	650	-	-	-	-	-
8	058-140-021	CENTRAL VALLEY COALITION FOR AFFORDABLE HOUSING	-	-	-	-	-	-	-	-	-
9	058-140-020	REDEVELOPMENT AGENCY OF CITY OF MERCED	0.0041	180	0.0149	650	-	-	-	-	-
10	058-140-005	SARWAN S SAMRA	0.0014	60	0.0149	650	-	-	-	-	-
11	058-140-004	SAMRA SARWAN S & HARIT K	-	-	0.0129	560	-	-	-	-	-
12	058-140-003	THE MACY FAMILY TRUST	-	-	0.0165	720	-	-	-	-	-
13	058-140-002	PENTECOSTAL CHURCH OF GOD, CENTRAL CA DISTR, Inc	-	-	0.0223	970	-	-	-	-	-
14	058-110-050	CALVARY TEMPLE PENTECOSTAL CHURCH OF GOD	-	-	-	-	-	-	-	-	-
15	058-110-049	CITY OF MERCED	-	-	-	-	-	-	-	-	-
16	058-110-047	WHITE JACK	-	-	-	-	-	-	-	-	-
17	057-110-013	BAHIA HARINDER & TIRTH	-	-	-	-	-	-	-	-	-
18	058-110-048	CITY OF MERCED	-	-	-	-	-	-	-	-	-
19	058-110-075	MERCED PACIFIC ASSOCIATES LP	-	-	-	-	-	-	-	-	-
20	058-110-057/058	CITY OF MERCED	-	-	-	-	-	-	-	-	-

ID	APN	OWNER	ACRE	SQFT	ACRE	SQFT	ACRE	SQFT	ACRE	SQFT
21	058-110-051	FINPRO LLC	-	-	-	-	-	-	-	-
22	058-110-076	MERCED PACIFIC ASSOCIATES LP	-	-	-	-	-	-	-	-
23	058-110-052/054/072	CITY OF MERCED	-	-	-	-	-	-	-	-
24	058-110-074	MERCED PACIFIC ASSOCIATES LP	-	-	-	-	-	-	-	-
25	058-110-060/062/066/064	CITY OF MERCED	-	-	-	-	-	-	-	-
26	058-010-003	SAN FRANCISCO & SAN JOAQUIN VALLEY RAILWAY COMPANY	-	-	0.0849	3,700	-	-	-	-
27	058-220-002	LIRA LP	-	-	-	-	-	-	-	-
28	058-220-025	LIRA LP	-	40	0.0037	160	-	-	-	-
29	057-030-037	REM LAND GROUP LLC	0.5549	24,170	2.6503	115,445	0.0876	3,815	-	-
30	058-030-040	BRAWLEY RODNEY LEE TRUSTEE	0.5970	26,005	0.7777	33,875	-	-	-	-
31	057-030-041	CITY OF MERCED	-	-	-	-	-	-	-	-
32	057-200-076	RIDENCOUR ENTERPRISES INC A CORPORATION	0.1116	4,860	-	-	-	-	-	-
33	057-200-029	BIANCHI LOUANN	0.3433	14,956	-	-	-	-	-	-
34	057-200-090	BIANCHI LOUANN	0.6706	29,210	-	470	-	-	-	-
35	057-200-089	59 PETROLEUM LLC	0.0549	2,390	0.0348	1,516	-	-	-	-
36	057-200-042	QUAD LLC	-	-	0.0030	130	-	-	-	-
37	057-200-025	SAN FRANCISCO & SAN JOAQUIN VALLEY RAILWAY COMPANY	-	-	0.3495	15,225	-	-	-	-

ID	APN	OWNER	ACRE	SQFT	ACRE	SQFT	ACRE	SQFT	ACRE	SQFT
38	059-450-060 & 063	SJR LLC	0.0388	1,690	0.0161	700	-	-	-	-
39	059-450-065	MERCED COUNTY OFFICE OF EDUCATION	-	-	-	-	-	-	-	-
40	059-450-066	MERCED COUNTY OFFICE OF EDUCATION	-	-	-	-	-	-	-	-
41	059-450-069	HWYWAY 59 PROPERTIES LP	0.6203	27,020	0.1102	4,800	-	-	-	-
42	059-051-033	UNION PACIFIC RAILROAD COMPANY	0.0790	3,440	0.2580	11,240	-	-	-	-
43	059-051-029	ASHBY LLC	-	-	-	-	-	-	-	-

LEGEND

- EXISTING RIGHT OF WAY / PROPERTY LINE
- EXISTING EASEMENT

- RIGHT OF WAY ACQUISITION
- TEMPORARY CONSTRUCTION EASEMENT
- PEDESTRIAN EASEMENT

Attachment A “Professional Services Agreement”

SAMPLE DO NOT FILL OUT

DESIGN PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 20__, by and between the City of Merced, a California Charter Municipal Corporation, whose address of record is 678 West 18th Street, Merced, California 95340, (hereinafter referred to as “City”) and _____, a Please Select, whose address of record is _____, (hereinafter referred to as “Consultant”).

WHEREAS, City is undertaking a project to _____; and,

WHEREAS, Consultant represents that it possesses the professional skills to provide _____ services in connection with said project.

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants hereinafter recited, hereby agree as follows:

1. **SCOPE OF SERVICES.** The Consultant shall furnish the following services: Consultant shall provide the _____ services described in Exhibit “A” attached hereto.

No additional services shall be performed by Consultant unless approved in advance in writing by the City, stating the dollar value of the services, the method of payment, and any adjustment in contract time. All such services are to be coordinated with City and the results of the work shall be monitored by the _____ or designee. However, the means by which the work is accomplished shall be the sole responsibility of the Consultant.

2. **TIME OF PERFORMANCE.** All of the work outlined in the Scope of Services shall be completed in accordance with the Schedule outlined in Exhibit “Please Select” attached hereto and incorporated herein by reference. By mutual agreement and written addendum to this Agreement, the City and the Consultant may change the requirements in said Schedule.

3. **TERM OF AGREEMENT.** The term of this Agreement shall commence upon the day first above written and end on _____, 20__.

4. **COMPENSATION.** Payment by the City to the Consultant for actual services rendered under this Agreement shall be made upon presentation of an invoice detailing services performed under the Scope of Services, in accordance

with the fee schedule set forth in Exhibit "Please Select" attached hereto and incorporated herein by reference. The Consultant agrees to provide all services required under the Scope of Services in Exhibit "A" within the compensation amount set forth in Exhibit "Please Select". For Consultant's services rendered under this Agreement, City shall pay Consultant the not to exceed sum of \$.

5. METHOD OF PAYMENT. Compensation to Consultant shall be paid by the City after submission by Consultant of an invoice delineating the services performed.

6. RECORDS. It is understood and agreed that all plans, studies, specifications, data magnetically or otherwise recorded on computer or computer diskettes, records, files, reports, etc., in possession of the Consultant relating to the matters covered by this Agreement shall be the property of the City, and Consultant hereby agrees to deliver the same to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials including but not limited to those set forth hereinabove, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use.

7. CONSULTANT'S BOOKS AND RECORDS. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement. Any records or documents required to be maintained shall be made available for inspection, audit and/or copying at any time during regular business hours, upon oral or written request of the City.

8. INDEPENDENT CONTRACTOR. It is expressly understood that Consultant is an independent contractor and that its employees shall not be employees of or have any contractual relationship with the City. Consultant shall be responsible for the payment of all taxes, workers' compensation insurance and unemployment insurance. Should Consultant desire any insurance protection, the Consultant is to acquire same at its expense.

In the event Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City,

Consultant shall indemnify, protect, defend, and hold harmless the City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

9. INDEMNITY.

A. Indemnity for Professional Liability. When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend, and hold harmless City and any and all of its officials, employees and agents from and against any and all losses, liabilities, damages, costs, and expenses, including legal counsel's fees and costs but only to the extent the Consultant (and its Subconsultants), are responsible for such damages, liabilities and costs on a comparative basis of fault between the Consultant (and its Subconsultants) and the City in the performance of professional services under this agreement.

B. Indemnity for Other Than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend, and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including legal counsel's fees and costs, court costs, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or City for which Consultant is legally liable, including, but not limited to officers, agents, employees, or subcontractors of Consultant.

10. INSURANCE. During the term of this Agreement, Consultant shall maintain in full force and effect at its own cost and expense, the following insurance coverage:

a. Workers' Compensation Insurance. Full workers' compensation insurance shall be provided with a limit of at least One Hundred Thousand Dollars (\$100,000) for any one person and as required by law, including Employer's

Liability limits of \$1,000,000.00 per accident. The policy shall be endorsed to waive the insurer's subrogation rights against the City.

b. General Liability.

- (i) Consultant shall obtain and keep in full force and effect general liability coverage at least as broad as ISO commercial general liability coverage occurrence Form CG 0001.
- (ii) Consultant shall maintain limits of no less than One Million Dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage.
- (iii) The City, its officers, employees, volunteers and agents are to be named as additional insureds under the policy, as respects liability arising out of work or operations performed by or on behalf of the Consultant.
- (iv) The policy shall stipulate that this insurance will operate as primary insurance for work performed by Consultant and its sub-contractors, and that any other insurance or self insurance maintained by City or other named insureds shall be excess and non-contributory.
- (v) Consultant shall maintain its commercial general liability coverage for three (3) years after completion of the work and shall add an additional insured endorsement form acceptable to the City naming the City of Merced, its officers, employees, agents and volunteers for each year thereafter for at least three (3) years after completion of the work. Copies of the annual renewal and additional insured endorsement form shall be sent to the City within thirty (30) days of the annual renewal.

c. Automobile Insurance.

- (i) Consultant shall obtain and keep in full force and effect an automobile policy of at least One Million Dollars (\$1,000,000) per accident for bodily injury and property damage.
- (ii) The City, its officers, employees, volunteers and agents are to be named as additional insureds under the policy, as respects

automobiles owned, leased, hired or borrowed by the Consultant.

- (iii) The policy shall stipulate that this insurance will operate as primary insurance for work performed by Consultant and its sub-contractors, and that any other insurance or self insurance maintained by City or other named insureds shall be excess and non-contributory.

d. Professional Liability Insurance. Consultant shall carry professional liability insurance appropriate to Consultant's profession in the minimum amount of One Million Dollars (\$1,000,000). Architects and engineers' coverage is to be endorsed to include contractual liability.

e. Qualifications of Insurer. The insurance shall be provided by an acceptable insurance provider, as determined by City, which satisfies all of the following minimum requirements:

- (i) An insurance carrier admitted to do business in California and maintaining an agent for service of process within this State; and,
- (ii) An insurance carrier with a current A.M. Best Rating of A:VII or better (except for workers' compensation provided through the California State Compensation Fund).

f. Certificate of Insurance. Consultant shall complete and file with the City prior to engaging in any operation or activity set forth in this Agreement, certificates of insurance evidencing coverage as set forth above and which shall provide that no cancellation or expiration by the insurance company will be made during the term of this Agreement, without thirty (30) days written notice to City prior to the effective date of such cancellation—including cancellation for nonpayment of premium. In addition to any other remedies City may have, City reserves the right to withhold payment if Consultant's insurance policies are not current.

11. PREVAILING WAGES.

A. Labor Code Compliance. If the work performed under this Agreement falls within Labor Code Section 1720(a)(1) definition of a "public

works” the Consultant agrees to comply with all of the applicable provisions of the Labor Code including, those provisions requiring the payment of not less than the general prevailing rate of wages. The Consultant further agrees to the penalties and forfeitures provided in said Code in the event a violation of any of the provisions occurs in the execution of this Agreement.

B. These wage rate determinations are made a specific part of this Agreement by reference pursuant to Labor Code Section 1773.2. General Prevailing Wage Rate Determinations may be obtained from the Department of Industrial Relations Internet site at <http://www.dir.ca.gov/>.

C. After award of the Agreement, and prior to commencing work, all applicable General Prevailing Wage Rate Determinations, if applicable, are to be obtained by the Consultant from the Department of Industrial Relations. These wage rate determinations are to be posted by the Consultant at the job site in accordance with Section 1773.2 of the California Labor Code.

D. Consultant agrees to include prevailing wage requirements, if applicable, in all subcontracts when the work to be performed by the subcontractor under this Agreement is a “public works” as defined in Labor Code Section 1720(a)(1) and Labor Code Section 1771.

12. ASSIGNABILITY OF AGREEMENT. It is understood and agreed that this Agreement contemplates personal performance by the Consultant and is based upon a determination of its unique personal competence and experience and upon its specialized personal knowledge. Assignments of any or all rights, duties or obligations of the Consultant under this Agreement will be permitted only with the express written consent of the City.

13. TERMINATION FOR CONVENIENCE OF CITY. The City may terminate this Agreement any time by mailing a notice in writing to Consultant that the Agreement is terminated. Said Agreement shall then be deemed terminated, and no further work shall be performed by Consultant. If the Agreement is so terminated, the Consultant shall be paid for that percentage of the phase of work actually completed, based on a pro rata portion of the compensation for said phase satisfactorily completed at the time the notice of termination is received.

14. CONFORMANCE TO APPLICABLE LAWS. Consultant shall comply with its standard of care regarding all applicable Federal, State, and municipal laws, rules and ordinances. No discrimination shall be made by

Consultant in the employment of persons to work under this contract because of race, color, national origin, ancestry, disability, sex or religion of such person.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act (8 U.S.C.A. 1101 *et seq.*), as amended; and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any agency or instrumentality of the federal or state government, including the courts, impose sanctions against the City for such use of unauthorized aliens, Consultant hereby agrees to, and shall, reimburse City for the cost of all such sanctions imposed, together with any and all costs, including attorneys' fees, incurred by the City in connection therewith.

15. WAIVER. In the event that either City or Consultant shall at any time or times waive any breach of this Agreement by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement, whether of the same or any other covenant, condition or obligation. Waiver shall not be deemed effective until and unless signed by the waiving party.

16. INCONSISTENT OR CONFLICTING TERMS IN AGREEMENT AND EXHIBITS. In the event of any contradiction or inconsistency between any attached document(s) or exhibit(s) incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control.

Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the City are not binding upon the City unless specifically agreed to in writing, and initialed by the authorized City representative, as to each additional contractual term or condition.

17. AMBIGUITIES. This Agreement has been negotiated at arms' length between persons knowledgeable in the matters dealt with herein. Accordingly, any rule of law, including, but not limited to, Section 1654 of the Civil Code of California, or any other statutes, legal decisions, or common-law principles of similar effect, that would require interpretation of any ambiguities in this Agreement against the party that drafted this Agreement is of no application and is hereby expressly waived.

18. VENUE. This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this agreement shall be held exclusively in a state court in the County of Merced.

19. AMENDMENT. This Agreement shall not be amended, modified, or otherwise changed unless in writing and signed by both parties hereto.

20. INTEGRATION. This Agreement constitutes the entire understanding and agreement of the parties and supersedes all previous and/or contemporaneous understanding or agreement between the parties with respect to all or any part of the subject matter hereof.

21. AUTHORITY TO EXECUTE. The person or persons executing this Agreement on behalf of the parties hereto warrants and represents that he/she/they has/have the authority to execute this Agreement on behalf of their entity and has/have the authority to bind their party to the performance of its obligations hereunder.

22. COUNTERPARTS. This Agreement may be executed in one or more counterparts with each counterpart being deemed an original. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterparts executed by the other parties hereto are in the physical possession of the party or parties seeking enforcement thereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first above written.

CITY OF MERCED
A California Charter Municipal
Corporation

BY: _____
D. Scott McBride
City Manager

ATTEST:
D. SCOTT MCBRIDE, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

APPROVED AS TO FORM:
CRAIG J. CORNWELL, CITY ATTORNEY

BY: _____
City Attorney Date

ACCOUNT DATA:
M. VENUS RODRIGUEZ, FINANCE OFFICER

BY: _____
Verified by Finance Officer

{Signatures continued on next page}

CONSULTANT

BY: _____
(Signature)

(Typed Name)

Its: _____
(Title)

BY: _____
(Signature)

(Typed Name)

Its: _____
(Title)

Taxpayer I.D. No. _____

ADDRESS:

TELEPHONE: _____

FAX: _____

E-MAIL:

Exhibit 10-U: Conflict of Interest

**EXHIBIT 10-U CONSULTANT IN MANAGEMENT SUPPORT ROLE CONFLICT OF INTEREST AND
CONFIDENTIALITY STATEMENT¹**

RFP/RFQ PROCUREMENT NUMBERS (if applicable): _____

PROJECT NAME (and FPN, if applicable)²: _____

APPLICABILITY: To be filled out by local agency consultants in management support role.

☐ I am an employee of a consultant under contract to the local agency that is responsible for the procuring and administering of one or more consultant contracts containing either Federal or State funds.

☐ I am in a management position with the local agency, my title is listed below and I have attached my duty statement and scope of work.

☐ I hereby certify as follows:

1. I recuse myself from all potential conflicts of interest.
2. I will not directly or indirectly participate in, manage, or oversee any consultant selection procurement process in which the consulting firm of which I am employed is competing as a consultant or subconsultant.
3. I will not directly or indirectly influence any employee, staff member, or other individual participating in any consultant selection procurement process in which the consulting firm of which I am employed is as a consultant or subconsultant.
4. I will not directly or indirectly participate in, manage, or oversee any local agency contract that is with the consulting firm of which I am employed, regardless of whether the involvement of my employer in the contract is as a consultant or subconsultant. Among other things, this includes my not being involved in approving changes in the schedule, scope, deliverables or invoices.
5. I understand that if I am involved in any local agency contract that is with the consulting firm of which I am employed, in violation of 1. or 2. above, that local agency contract will no longer be eligible for Federal or State reimbursement because of my involvement.

☐ I certify that I have read and understand my responsibilities per **23 CFR 172.7(b)(5)**

☐ I fully understand that it is unlawful for a person to utilize any organization name (i.e. local agency) or auxiliary organization information, which is not a matter of public record, for personal gain.

¹ Each consultant staff working in a management support role shall complete a separate form.

² For on-call contracts or contracts for multiple projects, indicate accordingly.

☐ I have read and fully understand all of the above.

Date: _____

Signature: _____

Name: _____

Title: _____

Consultant Firm/Sole Proprietor: _____

**REVIEWED BY PUBLIC WORKS DIRECTOR OR AUTHORIZED LOCAL AGENCY
REPRESENTATIVE**

I have reviewed the foregoing "Conflict of Interest and Confidentiality Statement" and will ensure:

- ☐ That the foregoing named local agency consultant who is under contract and in a management support role with our local agency, abides by the foregoing terms and conditions;
- ☐ That should the foregoing named local agency consultant, who is under contract and in a management support role with our local agency, violate any of the foregoing terms and conditions, the Caltrans DLAE will be notified and such violation will be considered a breach of ethics and could be a basis for ineligibility of State or Federal project funds.
- ☐ The procedures followed to procure and execute the contract, between the local agency and the consulting firm of which I am employed, comply with all federal and state requirements. Also this contract has a specific date from _____ to _____.

Date: _____

Signature: _____

Name: _____

Title: _____

Department/Local Agency: _____

REVIEWED/CONCURRENCE BY FEDERAL HIGHWAYS

I have reviewed the foregoing "Conflict of Interest and Confidentiality Statement" and supervisor's statement.

- ☐ I concur that the consultant, who is under contract and in a management support role with the local agency, does not appear to present a conflict of interest. The local agency and the consultant should be considered eligible for federal reimbursement.
- ☐ I do not concur as I believe that the consultant, who is under contract and in a management support role with the local agency, does appear to present a conflict of interest.

Date: _____

Signature: _____

Name: _____

Position: _____

Distribution: 1) Copy to: DLAE for each Federal/State funded project
2) Copy to be returned to Local Agency by DLAE with FHWA approval

Exhibit 10-Q: Disclosure of Lobbying Activities

EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

COMPLETE THIS FORM TO DISCLOSE LOBBYING ACTIVITIES PURSUANT TO 31 U.S.C. 1352

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known Congressional District, if known _____	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known _____	
6. Federal Department/Agency: _____	7. Federal Program Name/Description: CFDA Number, if applicable _____	
8. Federal Action Number, if known: _____	9. Award Amount, if known: _____	
10. Name and Address of Lobby Entity (If individual, last name, first name, MI) _____ (attach Continuation Sheet(s) if necessary)	11. Individuals Performing Services (including address if different from No. 10) (last name, first name, MI) _____ (attach Continuation Sheet(s) if necessary)	
12. Amount of Payment (check all that apply) \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	14. Type of Payment (check all that apply) <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other, specify _____	
13. Form of Payment (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ Value _____		
15. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 12: (attach Continuation Sheet(s) if necessary)		
16. Continuation Sheet(s) attached: Yes <input type="checkbox"/> No <input type="checkbox"/>		
17. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying reliance was placed by the tier above when his transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.		
Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____		Authorized for Local Reproduction Standard Form - LLL

Standard Form LLL Rev. 04-28-06

Distribution: Orig- Local Agency Project Files

INSTRUCTIONS FOR COMPLETING EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime federal recipient at the initiation or receipt of covered federal action or a material change to previous filing pursuant to title 31 U.S.C. Section 1352. The filing of a form is required for such payment or agreement to make payment to lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress an officer or employee of Congress or an employee of a Member of Congress in connection with a covered federal action. Attach a continuation sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered federal action for which lobbying activity is or has been secured to influence, the outcome of a covered federal action.
2. Identify the status of the covered federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last, previously submitted report by this reporting entity for this covered federal action.
4. Enter the full name, address, city, state, and zip code of the reporting entity. Include Congressional District if known. Check the appropriate classification of the reporting entity that designates if it is or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the first tier. Subawards include but are not limited to: subcontracts, subgrants, and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee" then enter the full name, address, city, state, and zip code of the prime federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organization level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the federal program name or description for the covered federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.
8. Enter the most appropriate federal identifying number available for the federal action identification in item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract grant, or loan award number, the application/proposal control number assigned by the federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered federal action where there has been an award or loan commitment by the Federal agency, enter the federal amount of the award/loan commitments for the prime entity identified in item 4 or 5.
10. Enter the full name, address, city, state, and zip code of the lobbying entity engaged by the reporting entity identified in Item 4 to influence the covered federal action.
11. Enter the full names of the individual(s) performing services and include full address if different from 10 (a). Enter Last Name, First Name and Middle Initial (MI).
12. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
13. Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
14. Check all boxes that apply. If other, specify nature.
15. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity not just time spent in actual contact with federal officials. Identify the federal officer(s) or employee(s) contacted or the officer(s) employee(s) or Member(s) of Congress that were contacted.
16. Check whether or not a continuation sheet(s) is attached.
17. The certifying official shall sign and date the form, and print his/her name title and telephone number.

Public reporting burden for this collection of information is estimated to average 30-minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503. SF-LLL-Instructions Rev. 06-04