



HOUSING SUCCESSOR AGENCY TO THE
REDEVELOPMENT AGENCY
OF THE CITY OF FRESNO

Request for Proposals to Purchase and Redevelop Property in
Downtown Fresno, California

RFP NO. 041923EM

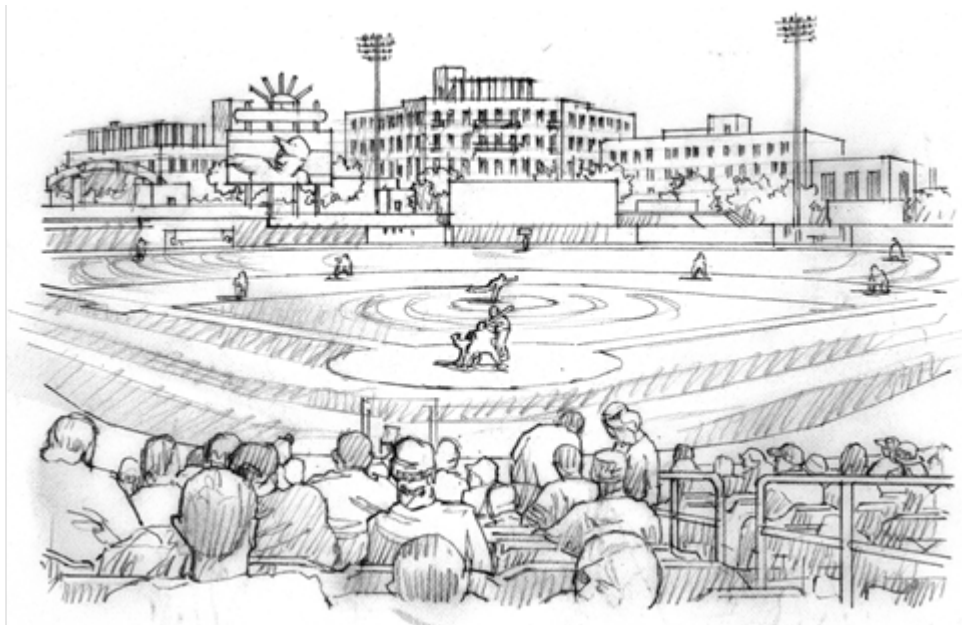


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**REQUEST FOR PROPOSALS TO PURCHASE
AND REDEVELOP PROPERTY
IN DOWNTOWN FRESNO, CALIFORNIA
RFP NO. 041923EM**

DEVELOPMENT OPPORTUNITY

Fresno is the fifth largest city within the State of California and is one of the fastest growing with a population of approximately 556,339 and countywide population of approximately 1,032,114. It is centrally located in the San Joaquin Valley, mid-way between San Francisco and Los Angeles, and is the business and cultural capital of Central California.

The Housing Successor Agency to the Redevelopment Agency of the City of Fresno is offering an opportunity to submit offers to purchase and redevelop property located at the southwest corner of Fulton and Kern Streets in Downtown Fresno's Fulton Corridor Specific Plan (FCSP) area. The FCSP is within a major transportation hub bounded by and proximate to Freeways 41 to the east, 180 to the north and 99 to the west as well as major rail lines including Amtrak to the east and the Southern Pacific line and future High-Speed Rail (HSR) and Station to the west. In addition to its location within a major transportation hub, a prominent attribute of the site is its adjacency to Chukchansi Park, a multi-purpose stadium and minor league baseball facility.

Through the Request the Agency is seeking qualified parties to purchase and redevelop the subject property into a multi-story, mixed-income, mixed-use development that includes affordable and market rate housing along with ground floor retail, office, or entertainment uses. Along with the primary objective for revitalization of the property, the Request also seeks to enhance and leverage the site's locational value on Fulton Street as an entertainment destination in the center of the greater downtown area. Responses shall include but are not limited to the following information:

- Purchase Offer
- Description of qualifications and experience
- Description of development proposal and timeframe
- Estimate of costs and source of funds
- Financial capacity to complete proposed development within the identified timeframe

THE PROPERTY

The property is located at 887 Fulton Street at the corner of Kern and Fulton Streets in downtown Fresno, CA. The site's Fulton Street frontage of about 75 feet is enhanced with vehicular traffic, wide sidewalks and on-street parking constructed from a US Department of Transportation TIGER program award of about \$20 million. The site's 150-foot Kern Street frontage west of Fulton Street is a pedestrian-only space to serve as a forecourt for the eastern entrance of Chukchansi Park. Home Run alley is situated on the west side of the property.

The property consists of a single rectangular shaped parcel of land identified as APN 468-282-21T (please see Attachment A) with a total of 11,250 square feet or .26 acres. The parcel includes a commercial building with approximately 33,370 square feet divided into a basement of 11,250 SF, 1st Floor of 11,250 SF and 2nd floor of 11,250 SF. The combined First and Second Floors provide 22,500 SF net rental space. Built in 1960, the building has been vacant and suffers from water damage. An MAI appraisal dated February 22, 2021, gives a value of \$775,000 net of deductions including removal/disposal of interior improvements, abatement (e.g., lead based paint, asbestos, mold) and roof replacement. Appraisal and environmental surveys are available at:

<http://fresnorda.com/housing-successor-agency/>

Proposers of all new construction should include estimates of site clearance as part of the submission relative to the purchase offer and estimated project costs. Proposers of new construction and/or rehabilitation will be responsible to perform due diligence relative to any necessary required entitlements and/or permits. The selected Developer will be responsible to obtain all applicable entitlements and/or permits.

Plans, Zoning and Development Standards

The subject parcel and surrounding properties in this area have a planned land use designation of Downtown Core (DTC) in the City of Fresno General Plan.

The Downtown Core (DTC) is the cultural, civic, shopping, and transit center of Fresno and the region. This designation is applied to the traditional central business district of the city near the proposed High Speed Rail station and oriented around the restored section of Fulton Street. New buildings will be up to 15 stories in height and will be located at or near the sidewalk. Ground floor spaces will have active frontages with commercial, retail, multi-family housing, and office activity to support active streetscapes and walking. Upper floors and the floor area behind storefronts will accommodate a wide variety of office, civic, lodgings, housing, or additional commercial uses.

Plan goals affecting the property include those within the Downtown Neighborhoods Community Plan (DNCP) and Fulton Corridor Specific Plan (FCSP).

Plan documents including the DNCP, FCSP, Fresno General Plan, Fresno Housing Element and the DTC are available at:

<https://www.fresno.gov/darm/general-plan-development-code/>.

With respect to historic information an historic resources survey of the area may be found in the Downtown Fresno (Fulton Corridor) Historic Resources Survey (Revised April 2014) available at:

https://www.fresno.gov/darm/wp-content/uploads/sites/10/2016/11/FultonCorridorSurveyReport_050314.pdf.

Street and Alley Right-of-ways

As referenced above, the reintroduction of two-way traffic to Fulton Street as well as Merced, Mariposa and Kern Streets improved functionality and helps to support greater economic activity by improving visibility and access. All other street right-of-ways around the property are improved City streets.

Utilities and Easements

Water and sewer lines for the property are in the adjacent street and alley right-of-ways and are not anticipated to pose any problems for future service. A new downtown water tank, transmission and distribution mains serve to bolster water service for forthcoming downtown development.

NEIGHBORHOOD

Located near the property are multiple venues that host concerts, plays, live entertainment, cultural and sporting events. Among these sites are Selland Arena, the Exhibit Hall, Saroyan Theatre, the Convention Center, Fulton Street, and the Chukchansi Park. Major proximate employers include the City and County of Fresno, the Internal Revenue Service, Community Medical Center, the Federal Court, and State Appellate Court. Recent downtown employment has been further stimulated by the future High Speed Rail line and station.

In recent years the Cultural Arts District, one-half to one mile north of the property has experienced major urban residential growth along its corridors. The area is enjoying mixed use development of over 450 residential units along with ground floor commercial space. The Cultural Arts District continues to grow with the Mural District Lofts 28 residential unit development well underway. Rehabilitation of the Hotel Fresno, a National Historic Register Site, is nearing completion and will add 79 unique residential units. Closer to the property, one hundred rental residential units along with ground floor commercial are planned in the historic JC Penney Building. On Fulton Street, the historic Pacific Southwest Building has 6 upper floors with 24 residential units and plans to add additional units.

The City's Downtown Neighborhoods Community Plan (DNCP), an extension of the General Plan, provides policy direction for the Downtown and the neighborhoods immediately adjacent. The Fulton Corridor Specific Plan (FCSP) translates that policy direction into detailed goals and actions for revitalization of the Downtown and its seven sub areas. The property is in The Fulton District sub area, Fresno's traditional business center that experienced major reinvestment with the reopening of Fulton Street introducing two-way traffic. The

City's Downtown Development Code, integral to the planning program and part of the Fresno Municipal Code, helps define clear design outcomes while simplifying the process for entitling uses.

It may be noted that the DNCP boundary overlaps eight of the nine Redevelopment Project Areas including the Central Business District. None of the nine constituent redevelopment plans contain any land use, zoning, property development, circulation requirements or regulations. Accordingly, land use and development standards for all projects within the nine Redevelopment project areas are subject to the DNCP and Downtown Development code.

FRESNO MUNICIPAL CODE – RFP PROCESS

FMC Section 4-204 states, in part “real property may be sold, encumbered by an option, or leased for a period exceeding five years only after an open and competitive RFP process is initiated by Council action, and is in compliance with state law concerning disposition of surplus land; exclusive negotiating agreements are not permitted.” The competitive RFP process applies to the property.

The full text of code requirements can be found here:

https://library.municode.com/ca/fresno/codes/code_of_ordinances?nodeId=MUCOFR_CH4CIPUCOSA_ART2SAMOPR_S4-204DIREPR

CALIFORNIA SURPLUS LAND ACT

The property has been determined to be surplus property and is subject to the Surplus Land Act (SLA) and the requirements of California Government Code §§ 54220-54234.

The SLA requires local agencies that are disposing of surplus land to first offer the property to affordable housing developers and other public agencies for the purpose of affordable housing or open space. Pursuant to the SLA, local agencies must officially declare surplus land either “surplus land” or “exempt surplus land,” as supported by written findings, before the local agency may take any action to dispose of the land.

Pursuant to the SLA - the City in its capacity as Housing Successor Agency approved Resolution No. 2022-118 declaring the property to be surplus land. Written notice of availability was sent to entities and agencies identified in California Government Code Section 54222. During the response period, no written notification of interest was received. Pursuant to the SLA the Agency may proceed with an RFP with the provision that not less than 15% if the total number of residential units shall be sold or rented to lower income households and must remain affordable for 45-55 years (depending on whether rental or owner-occupied units.)

HCD requires a Covenant or Restriction to be recorded on the property. A Sample of which is attached here to as Attachment C.

Prior to finalizing any Purchase and Sale Agreement, the City is required to provide Notice to the State's Housing and Community Development Department

("HCD"). They have 30 days to object to the sale of the property or ask for more documentation and or information.

CALIFORNIA PUBLIC RECORDS ACT

The proposals received shall become the property of the Agency and are subject to public disclosure. Those parts of a proposal which are defined by the Proposer as business or trade secrets as that term is defined in California Evidence Code, Section 3426.1, and are reasonably marked "Trade Secrets," "Confidential" or "Proprietary" and placed in a separate envelope shall only be disclosed to the public if such disclosure is required or permitted under the California Public Records Act or otherwise by law. Proposers who indiscriminately and without justification identify most or their entire proposal as exempt from disclosure may be deemed non-responsive. Proposals, excluding confidential information, will be available for review after the posting of staff recommendations.

REGULATED COMMUNICATIONS ORDINANCE

The award of any agreement for the sale of City property is subject to Fresno City Council approval and execution of mutually agreed upon terms and conditions to be detailed in either the Disposition and Development Agreement or the Purchase and Sale Agreement.

Neither the expression of your organization's interest, nor the submission of your organization's qualifications and any documents or other information, nor the acceptance thereof by the City of Fresno, nor any correspondence, discussions, meetings or other communications between your organization and the City of Fresno impose any obligation on the City. The City has no obligation to Respondents. The Respondent's costs of participation or information preparation in response to this RFP are not compensable. The City of Fresno hereby notifies all Respondents that no person shall be excluded from participation in, denied any benefits of, or otherwise discriminated against in connection with the award and performance of any contract on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation or on any other basis prohibited by law.

The Regulated Communications in City Procurement Process Ordinance (Article 6, Chapter 4 of the Fresno Municipal Code) became effective May 7, 2004. With certain specified exceptions, the Ordinance provides that no Respondent, Bidder, Proposer (as the case may be) shall initiate, engage in, or continue any communication to or with any City elected official concerning or touching upon any matter which is the subject of this competitive procurement process.

Any Respondent, Bidder, Proposer or elected official (as the case may be) who initiates, engages in, continues in, or receives any regulated communication shall file the written disclosure required by the Regulated Communications in City Procurement Process Ordinance.

Any Respondent, Bidder, or Proposer violating the Regulated Communications in

City Procurement Process Ordinance may be disqualified from participating in this procurement process and/or determined to be non-responsible.

The City of Fresno reserves all its rights at law and equity with respect to this RFP including, but not limited to, the unqualified right, at any time and in its sole discretion, to change or modify this RFP, to seek clarification and additional information from Respondents, to request any or all Respondents to make a presentation, or to request or deny any one-on-one meetings between the City of Fresno and the Respondent.

TERMS AND CONDITIONS

Outreach to Small Business Enterprises in Subcontracting

The Agency hereby notifies all Proposers that it is the policy to provide all small business enterprises, including minority, women, and disabled veteran business enterprises, equal access and opportunity for participation in the performance of all construction contracts, professional service contracts, and procurement of supplies, equipment and other services. Therefore, the Agency requests that a Proposer who intends to subcontract a portion of the work seek out small business enterprises that are potential subcontractors, suppliers, or consultants, and actively solicit their interest, capability and prices.

Right to Reject all Proposals

The Agency reserves the right to reject all proposals or to waive minor irregularities. The Agency has no obligation to enter into an agreement with any party in respect to purchase and development of the site as a result of their response to this offering.

Due Diligence

The Request for Proposals to Purchase and Redevelop Property contains a description of the property and other relevant information that is deemed accurate. However, this information should not be viewed as comprehensive or complete and the **Agency makes no representations in respect to any factors affecting the development of the site.** Prior to entering into an agreement, it is assumed that the prospective firm(s) will have completed their own due diligence. The cost of preparing any responses to this Request shall be borne by the respondents and shall not be reimbursed by the Agency.

Non-Discrimination Requirement

By submission of this proposal, the applicant represents that it and any subsidiary substantially owned by it, does not and will not discriminate against any employee or applicant for employment because of race, religion, sex, color, national origin, sexual orientation, ancestry, marital status, physical condition, pregnancy or pregnancy-related conditions, political affiliation or opinion, age, or medical condition. This requirement will be part of the contract.

PROPOSAL REQUIREMENTS

Proposers/Developers are required to present their firm's qualifications, a proposed purchase offer, a development proposal and timeframe, a conceptual plan/design, and a budget and financing plan. The following list includes the required elements of the proposal.

Cover Letter

Include a cover letter indicating the nature of the Proposer/Developer Team: joint venture, corporate developer, limited liability corporation, franchisee, etc. The letter must include the name, address, email, telephone and fax number(s) of the company and person(s) authorized to represent the Proposer/Developer Team.

Table of Contents

A Table of Contents for the material contained in the response.

Proposer/Developer Team Qualifications

Describe the ownership structure and Proposer/Developer Team. The description of Proposer/Developer Team should include principals, team members and/or partners, the project architect, and general contractor, if known.

Principals

- Proposer's/Developer's qualifications and experience
- Description of projects completed
- Individuals expected to be assigned to the project and their specific responsibilities, duties etc.

Other Team Members

- Other team members and/or partners (such as limited or equity partners or LLC members) and their specific responsibilities, duties etc.
- Relevant experience and projects completed by the team members and/or partners

Project Architecture Firm and General Contractor (if known)

- Qualifications and experience including projects completed

Relevant Projects

Describe the most relevant projects including the following information:

- Project description including design time and completion dates, location, size, project costs and dollar value
- Project photographs
- Brief description of the development team for each project cited; and
- Contact information

Development Proposal

- Describe the proposed development and provide a conceptual design for new construction or rehabilitation of the property

- Identify number of affordable and market rate residential units, describe type of units, square footage and rental rates
- Describe non-residential units (e.g., office, retail entertainment) and provide estimated square footage
- Describe the conceptual plan in the context of the immediate area and its contribution to the neighborhood
- Describe additional revitalization and positive economic benefits that may result from the project
- Describe or give evidence of market demand for the elements of the proposal
- Describe the conceptual parking plan (e.g., on-site, underground, off-site, combination)
- Describe and conceptually illustrate the building envelope(s) and exterior space

Purchase Proposal

- Submit purchase proposal and describe financing of the purchase price

Budget and Financing

Describe the ownership/financing structure of the proposed development, including:

- Evidence that the development team has the financial capabilities and can secure financing to carry out the proposed development
- Estimated total project cost
- Estimated per unit and square footage cost
- Preliminary development budget, sources and uses
- Estimated construction debt
- Estimated amount of equity contributed to project; and
- Estimated amount of permanent debt on project

Describe ownership and permanent financing structure of the proposed development such as:

- Conventional financing
- Low Income Housing Tax Credits
- Public Financing

SUBMISSION, REVIEW, AND SELECTION

Due Date

All proposals are due by 5:00 p.m. Monday, June 19, 2023. Proposals received after this deadline will not be considered.

Submissions

Qualified Developers interested in submitting a proposal may do so by visiting the City's Planet Bids website at www.fresno.gov/generalservices/ under the "Bid Opportunities" subsection on the right side of the screen. If your proposal is under 10 MB you may email it to enrique.mendez@fresno.gov.

The Agency hereby notifies all Proposers that no person shall be excluded from

participation in, denied any benefits of, or otherwise discriminated against in connection with the award and performance of any contract on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation or on any other basis prohibited by law.

Submissions are Final

No corrections or modifications to the proposal may be made after the due date.

Confidentiality of Submissions

While the Agency shall endeavor to keep any confidential information private, it reserves the right to release the name of all proposers, as well as a summary of their proposals, to the media, the public, or any party that requests it.

Inquiries

Questions pertaining to the RFP should be directed to Executive Director Marlene Murphey or Project Manager Enrique Mendez in writing online through PlanetBids or via email at Marlene.Murphey@fresno.gov or Enrique.Mendez@fresno.gov. Please include the RFP number shown above and "887 Fulton Street RFP" in the subject line when communicating.

Conflict of Interest

The Agency seeks to avoid conflict of interest or any appearance of conflict of interest. Therefore, all Proposers and their sub-consultants are required to provide a Disclosure of Conflict of Interest (see City Forms below). Provide a statement of conflict you, your firm, and/or other key staff may have regarding these services. The statement should not only include actual conflicts, but also any working relationships that may be perceived by disinterested parties as a conflict. If there are no potential conflicts of interest identified, state so in your proposal. Complete and return Attachment B – Disclosure of Conflict of Interest as part of the RFQ/P for the Developer and each sub-consultant.

Evaluation/Selection Process

All responses will be evaluated by representatives from the Agency and City and may include other relevant entities.

Following the evaluation of the responses, the evaluation team may elect to interview some or all the respondents or may otherwise seek clarification or amplification of the material submitted or may reject all proposals.

From the evaluation (a) a proposer/developer may be selected (b) a purchase and development agreement may be negotiated with the proposer/developer or (c) all responses may be rejected. If selected proposer is not prepared to enter an agreement for development, the recommendation/acceptance of the proposer may be withdrawn, and another proposer considered.

Agreements to Purchase and Develop the Property

The Agency anticipates that it will utilize a Purchase/Sale and Development

Agreement. The Agreement is expected to contain the terms of purchase, scope and schedule of development, and the conveyance.

Pursuant to FMC 4-204, the City shall not approve any purchase and sale agreement that would cause or allow City owned real property to be conveyed, except upon the following terms and conditions:

(1) The agreement shall require closing of escrow no later than 12 months from Council approval.

(2) The agreement shall not be extended, except upon a showing of extraordinary good cause, compliance with all terms of the agreement, due diligence, and meeting all performance standards and target dates in the agreement; all extensions must be approved by Council, at the discretion of Council, in open session and any extension may not exceed 180 days from the date of Council approval. No agreement shall be extended more than once. Any agreement that lapses without a Council approved extension prior to expiration may not be extended.

(3) To be effective, the agreement shall require a deposit paid to the City in the amount of at least 10 percent of the purchase price, which shall not be refundable, unless the City is in breach of the agreement; the failure of the City to approve an extension of the agreement shall not be deemed cause to refund a deposit.

(4) Purchase prices shall be at fair market appraised value, unless the Council makes findings there are substantial community benefits resulting from the sales agreement that justify a price less than market value.

(5) The agreement shall contain a standard reverter clause, approved by the City Attorney's Office, if the sale involves property to be utilized for a specified purpose and/or is sold with the city provided any type of subsidy for the project; the agreement shall require a reverter to the city if the project for which the property is sold is not completed within 36 months of the transfer of title, unless the Council makes findings at the time of approving the agreement that the project will require a longer period for completion; in such a case, the longer time for completion may be approved. The Council may approve one or more extensions to complete not exceeding 12 months each upon a finding of good cause.

The Council may vary from the above provisions detailed in FMC Section 4-204, upon making findings of good cause and clear and convincing benefits to the public, and by a supermajority approval of at least five votes.

Developer responses should demonstrate an understanding and acknowledgement of these requirements.

Upon recommendation of a proposal and negotiation of an agreement, the successful Proposer will be required to execute and return the Agreement in a timely manner. Should the successful Proposer fail or refuse to execute the Agreement, the Agency reserves the right to withdraw the

recommendation/acceptance of the Proposer and, at its discretion, accept the proposal of another Proposer.

DEVELOPMENT SCOPE

The work to be performed by the selected development firm may include, but is not limited to, the following:

- Negotiate a purchase and development agreement with the Agency
- Prepare final design plans and specifications
- Prepare the necessary environmental assessments
- Obtain approval for and comply with all necessary permits and entitlements
- Secure financing for the development
- Obtain the necessary bonds and insurances
- Comply with all local, State, and federal labor requirements
- Perform work within budget and proposed timeframe

DOCUMENTS FOR REVIEW

The following sources of information are available for review online:

Downtown Fresno Partnership: Property Based Improvement District
<https://www.downtownfresno.org/about>

City of Fresno Fulton Mall Reconstruction Project
<https://www.fresno.gov/publicworks/construction/fulton-street-reconstruction-project/>

Housing Successor to the Redevelopment Agency of the City of Fresno
<http://fresnorda.com/housing-successor-agency/>

City of Fresno Historic Preservation Commission
<https://www.fresno.gov/darm/historic-preservation/>

INSURANCE AND INDEMNITY AND BONDS (NON-NEGOTIABLE)

(a) Throughout the life of the agreement, the developer shall pay for and maintain in full force and effect all insurance as required herein with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated no less than “A-VII” in the Best’s Insurance Rating Guide, or (ii) as may be authorized in writing by the City’s Risk Manager or his/her designee at any time and in his/her sole discretion. The required policies of insurance as stated herein shall maintain limits of liability of not less than those amounts stated therein. However, the insurance limits available to the City, its officers, officials, employees, agents, and volunteers as additional insureds, shall be the greater of the minimum limits specified therein or the full limit of any insurance proceeds to the named insured.

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

(c) The fact that insurance is obtained by the developer shall not be deemed to release or diminish the liability of the developer, including, without limitation, liability under the indemnity provisions of the agreement. The duty to indemnify the City shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by the developer. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of the developer, vendors, suppliers, invitees, contractors, subcontractors, or anyone employed directly or indirectly by any of them.

Coverage shall be at least as broad as:

1. The most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01, providing liability coverage arising out of your business operations. The Commercial General Liability policy shall be written on an occurrence form and shall provide coverage for “bodily injury,” “property damage” and “personal and advertising injury” with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the Agreement) with

limits of liability not less than those set forth under "Minimum Limits of Insurance."

2. The most current version of ISO *Commercial Auto Coverage Form CA 00 01, providing liability coverage arising out of the ownership, maintenance, or use of automobiles in the course of your business operations. The Automobile Policy shall be written on an occurrence form and shall provide coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1-Any Auto). If personal automobile coverage is used, the City, its officers, officials, employees, agents, and volunteers are to be listed as additional insureds.
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

Minimum Limits of Insurance - The developer, or General Contractor if developer subcontracts with such, shall procure and maintain for the duration of the contract, and for 5 years thereafter, insurance limits of liability not less than those set forth below. However, insurance limits available to the City, its officers, officials, employees, agents, and volunteers as additional insureds, shall be the greater of the minimum limits specified herein or the full limit of any insurance proceeds available to the named insured:

1. Commercial General Liability
 - (i) \$2,000,000 per occurrence for bodily injury and property damage;
 - (ii) \$2,000,000 per occurrence for personal and advertising injury;
 - (iii) \$4,000,000 aggregate for products and completed operations; and,
 - (iv) \$4,000,000 general aggregate applying separately to the work performed under the Agreement.
2. Commercial Automobile Liability
\$1,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation Insurance as required by the State of California with statutory limits and employer's liability with limits of liability not less than:
 - (i) \$1,000,000 each accident for bodily injury;
 - (ii) \$1,000,000 disease each employee; and,
 - (iii) \$1,000,000 disease policy limit.
4. Builders Risk (Course of Construction) insurance in an amount equal to the completed value of the project with no coinsurance penalty provisions. (Only required if the project includes new construction of a building, or renovation of, or addition to, an existing building.)
5. Contractors' Pollution Legal Liability (limits of liability of not less than the following:

- (i) \$1,000,000 per occurrence or claim; and,
- (ii) \$2,000,000 general aggregate per annual policy period.

In the event the agreement involves any lead-based, mold or asbestos environmental hazard, either the Commercial Auto policy or other appropriate insurance policy shall be endorsed to include Transportation Pollution Liability insurance covering:

- (a) Materials to be transported by the applicant pursuant to the agreement.
- (b) In the event the agreement involves any lead-based environmental hazard (e.g., lead based paint), and/or asbestos environmental hazard (e.g., asbestos remediation), and/or mold environmental hazard (e.g., mold remediation) the Commercial Pollution Liability insurance policy or other appropriate policy shall be endorsed to include coverage for lead-based environmental hazards and/or asbestos environmental hazards and/or mold environmental hazards and “microbial matter including mold”.

Umbrella or Excess Insurance - In the event the developer purchases an Umbrella or Excess insurance policy(ies) to meet the “Minimum Limits of Insurance,” this insurance policy(ies) shall “follow form” and afford no less coverage than the primary insurance policy(ies). In addition, such Umbrella or Excess insurance policy(ies) shall also apply on a primary and non-contributory basis for the benefit of the City, its officers, officials, employees, agents, and volunteers.

Deductibles and Self-Insured Retentions - The developer shall be responsible for payment of any deductibles contained in any insurance policy(ies) required herein and the developer shall also be responsible for payment of any self-insured retentions. Any deductibles or self-insured retentions must be declared on the Certificate of Insurance, and approved by, the City’s Risk Manager or 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 to the City, its officers, officials, employees, agents, and volunteers; or
- (ii) The developer shall provide a financial guarantee, satisfactory to the City’s Risk Manager or his/her designee, guaranteeing payment of losses and related investigations, claim administration and defense expenses. At no time shall the City be responsible for the payment of any deductibles or self-insured retentions.

Other Insurance Provisions/Endorsements

- (i) All policies of insurance required herein shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after thirty (30) calendar days written notice has been given to the City, except ten (10) days for nonpayment of premium. The developer is also responsible for providing written notice to the City under the same terms and conditions. Upon issuance by the insurer, broker, or agent of a

notice of cancellation, non-renewal, or reduction in coverage or in limits, the developer shall furnish the City with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for the City, the developer shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than fifteen (15) calendar days prior to the expiration date of the expiring policy.

- (ii) The Commercial General and Automobile Liability insurance policies shall be written on an occurrence form. The Contractors Pollution Liability insurance policy shall be written on either an occurrence form, or a claims-made form.
- (iii) The Commercial General, Automobile and Contractors Pollution Liability insurance policies shall be endorsed to name the City, its officers, officials, agents, employees, and volunteers as an additional insured. The developer shall establish additional insured status for the City and for all ongoing and completed operations under both Commercial General and Commercial Pollution Liability policies by use of ISO Forms or an executed manuscript insurance company endorsement providing additional insured status. The Commercial General endorsements must be as broad as that contained in ISO Form: CG 20 26 04 13.
- (iv) All such policies of insurance shall be endorsed so the developer's insurance shall be primary, and no contribution shall be required of the City. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees, agents, and volunteers. If the developer maintains higher limits of liability than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits of liability maintained by the developer.
- (v) Should any of these policies provide that the defense costs are paid within the Limits of Liability, thereby reducing the available limits by defense costs, then the requirement for the Limits of Liability of these policies will be twice the above stated minimum limits.
- (vi) For any claims related to the agreement, the developer's insurance coverage shall be primary insurance with respect to the City, its officers, officials, agents, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, agents, employees, and volunteers shall be excess of the developer's insurance and shall not contribute with it.
- (vii) The Workers' Compensation insurance policy shall contain, or be endorsed to contain, a waiver of subrogation as to the City, its officers, officials, agents, employees, and volunteers.

- (viii) The Builder's Risk Insurance shall have the policy endorsed to provide the City of Fresno to be named as Loss Payee.

All certificates and applicable endorsements shall be reviewed and approved by the City's Risk Management Division prior to the Agency's execution of the agreement and before work commences. All non-ISO endorsements amending policy coverage shall be executed by a licensed and authorized agent or broker. Upon request of the City, the developer shall immediately furnish the City with a complete copy of any insurance policy required under the agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. All subcontractors working under the direction of the developer shall also be required to provide all documents noted herein.

Claims-Made Policies - If any coverage required is written on a claims-made coverage form:

- (i) The retroactive date must be shown and must be before the effective date of the agreement or the commencement of work by the developer.
- (ii) Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of the work or termination of the agreement, whichever first occurs.
- (iii) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the agreement, or work commencement date, the developer must purchase "extended reporting" period coverage for a minimum of five (5) years after completion of the work or termination of the agreement, whichever first occurs.
- (iv) A copy of the claims reporting requirements must be submitted to the City for review.
- (v) These requirements shall survive expiration or termination of the agreement.

Maintenance of Coverage - If at any time during the life of the Agreement or any extension, the developer or any of its subcontractors fail to maintain any required insurance in full force and effect, all work under the agreement shall be discontinued immediately until notice is received by the City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to the City. Any failure to maintain the required insurance shall be sufficient cause for the City to terminate the agreement. No action taken by the City hereunder shall in any way relieve the developer of its responsibilities under the agreement. The phrase "fail to maintain any required insurance" shall include, without limitation, notification received by the City that an insurer has commenced proceedings, or has had proceedings commenced against it, indicating that the insurer is insolvent.

The fact that insurance is obtained by the developer shall not be deemed to release or diminish the liability of the developer, including, without limitation,

liability under the indemnity provisions of the agreement. The duty to indemnify the City shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by the developer. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of the developer, its principals, officers, agents, employees, persons under the supervision of the developer, vendors, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.

Subcontractors - If the developer subcontracts any or all of the services to be performed under this agreement, the developer shall require, at the discretion of the City's Risk Manager or designee, subcontractor(s) to enter into a separate Side Agreement with the City to provide required indemnification and insurance protection. Any required Side Agreement(s) and associated insurance documents for the subcontractor must be reviewed and preapproved by City's Risk Manager or his/her designee. If no Side Agreement is required, the developer will be solely responsible for ensuring that its subcontractor maintain insurance coverage at levels no less than those required by applicable law and is customary in the relevant industry.

Indemnity - The developer shall indemnify, hold harmless and defend the City and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by the City, the developer or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of performance of the agreement. The developer's obligations under the preceding sentence shall apply regardless of whether the City or any of its officers, officials, employees, agents, or volunteers are passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs, or damages caused by the active negligence or by the willful misconduct of the City or any of its officers, officials, employees, agents, or volunteers.

If the Developer should subcontract all or any portion of the work to be performed under this Contract, the developer 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.

Property Insurance - The developer shall maintain in full force and effect, throughout the remaining life of this Agreement, a policy(ies) of property insurance acceptable to the City, covering the Project premises, with limits reflective of the value of the Project premises upon issuance of the Certificate of Completion or substantial completion of the project referenced in this agreement, including fire and Extended Comprehensive Exposure (ECE) coverage in an amount, form, substance, and quality as acceptable to the City's Risk Manager or his/her

designee. The City shall be added by endorsement as a loss payee thereon.

Bond Obligations - The developer or its General Contractor shall obtain, pay for, and deliver good and sufficient payment and performance bonds along with a Primary Obligee, Co-Obligee or Multiple Obligee Rider in a form acceptable to the City from a corporate surety, admitted by the California Insurance Commissioner to do business in the State of California and Treasury-listed, in a form satisfactory to the City and naming the City as Obligee.

A. The "Faithful Performance Bond" shall be at least equal to one hundred (100) percent of the developer's estimated construction costs as reflected in the developer's pro forma budget, to the guarantee faithful performance of the Project, within the time prescribed, in a manner satisfactory to the City, consistent with this agreement, and that all material and workmanship will be free from original or developed defects.

B. The "Payment Bond" shall be at least equal to one hundred (100) percent of construction costs approved by the City to satisfy claims of material supplies and of mechanics and laborers employed for this Project. The bond shall be maintained by the developer in full force and effect until the Project is completed and until all claims for materials and labor are paid and as required by the applicable provisions of Chapter 7, Title 15, Part 4, Division 3 of the California Civil Code.

C. The "Material and Labor Bond" shall be at least equal to one hundred (100) percent of the developer's estimated construction costs as reflected in the developer's pro forma budget, to satisfy claims of material supplies and of mechanics and laborers employed for this Project. The bond shall be maintained by the developer in full force and effect until the Project is completed, and until all claims for materials and labor are paid, released, or time barred, and shall otherwise comply with any applicable provision of the California Code.

D. In lieu of the bonds required above, the City, in its sole discretion, may accept from the developer an Irrevocable Standby Letter of Credit issued with the City named as the sole beneficiary in the amounts(s) of the bonds required above. The Standby Letter of Credit is to be issued by a bank, and in the form acceptable to the City. This Irrevocable Standby Letter of Credit shall be maintained by the developer in full force and effect until the City is provided with a recorded Notice of Completion for the construction of the Project and shall be subject to and governed by the laws of the State of California.

Attachment B

DISCLOSURE OF CONFLICT OF INTEREST

		YES*	NO
1	Are you currently in litigation with the City of Fresno or any of its agents?	<input type="checkbox"/>	<input type="checkbox"/>
2	Do you represent any firm, organization or person who is in litigation with the City of Fresno?	<input type="checkbox"/>	<input 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 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 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 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 type="checkbox"/>
* If the answer to any question is yes, please explain in full below.			

Explanation: _____

☐ Additional page(s) attached.

Signature

(Name)

(Company)

(Address)

(City state zip)

Attachment C

Sample Covenant or Restriction to be Recorded (per Government Code Section 54233 and/or 54233.5)

If ten (10) or more residential units are developed on the Property, not less than 15 percent of the total number of residential units developed on the property shall be sold or rented at affordable housing cost, as defined in Section 50052.5 of the California Health and Safety Code, or affordable rent, as defined in Section 50053 of the California Health and Safety Code, to lower income households, as defined in Section 50079.5 of the California Health and Safety Code. Rental units shall remain affordable to and occupied by lower income households for a period of 55 years for rental housing and 45 years for ownership housing. The initial occupants of all ownership units shall be lower income households, and the units shall be subject to an equity sharing agreement consistent with the provisions of paragraph (2) of subdivision (c) of 65915 of the California Government Code. These requirements shall be covenants or restrictions running with the land and shall be enforceable against any owner who violates a covenant or restriction and each successor-in-interest who continues the violation by any of the entities described in subdivisions (a) to (f), inclusive, of Section 54222.5 of the California Government Code.

Date: _____

_____ [LOCAL AGENCY NAME]

By: _____

Name: _____

Title: _____