



STAFF REPORT

MEETING DATE: October 23, 2024

PRESENTER: Josefina Alvarez, Finance Director

SUBJECT: Auditing Services Proposal and Selection of Consultant (JA)

RECOMMENDATION: Staff recommends Council adopt resolution approving consultant contract with Bryant L. Jolley, CPA Consultants in the amount not to exceed \$52,000 for conducting the auditing services for Fiscal Year 2023/2024, not to exceed \$54,000 for Fiscal Year 2024/2025, not to exceed \$55,000 for Fiscal Year 2025/2026, not to exceed \$57,000 for Fiscal Year 2026/2027 and not to exceed \$58,000 for Fiscal Year 2027/2028 and authorize the City Manager to sign the Consultant Agreement.

EXECUTIVE SUMMARY:

The City of Kerman entered into an agreement for auditor services with Bryant L. Jolley, CPA on August 20th, 2008. Cities are required to periodically issue new Requests for Proposals (RFP). Staff issued an RFP to five (5) consulting firms experienced in public agency audits and also posted the RFP on the City Website and the Kerman News. From the five RFP's issued, only one (1) responded to the RFP. Their proposal was received before the deadline of September 20, 2024 and was opened and scored by the committee that consisted of the City Clerk and the Finance Director on September 30, 2024. The committee recommends a contract award to Bryant L. Jolley, CPA Consultants based on the total tabulated scores. Scores were evaluated based on their qualifications, experiences, and approach to the scope of work and costs of services to be provided and submitted in their response to the RFP. Below is the schedule that reflects the total cost submitted by Bryant L. Jolley, CPA Consultants.

Consultant	Fiscal Year	Amount
Bryant L. Jolley, CPA	2023/2024	\$52,000
	2024/2025	\$54,000
	2025/2026	\$55,000
	2026/2027	\$57,000
	2027/2028	\$58,000

It is noted that this consultant firm conducted the previous audits starting in Fiscal Year 2007/2008 for the City and the City has been satisfied with their work.

FISCAL IMPACT:

The project was included in the 2024/2025 budget for a total project costs of \$49,500. The City is not anticipating a Single Audit for Fiscal Year 2023/2024, so the budgetted amount should cover the proposed fees.

ATTACHMENTS:

A. Resolution w/Exhibit

RESOLUTION NO. 24-___

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KERMAN APPROVING AUDITOR SERVICES AGREEMENT WITH BRYANT L. JOLLEY, CPA CONSULTANTS TO CONDUCT AUDITING SERVICES FOR FISCAL YEARS 2023/2024 THROUGH 2027/2028 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, the City of Kerman requires a consultant to conduct auditing services for Fiscal Year 2023/2024 through Fiscal Year 2027/2028 and issued a Request for Proposals (RFP) for such services; and

WHEREAS, Bryan L. Jolley, CPA (Consultant) has responded to the RFP and is qualified to provide the required services; and

WHEREAS, Consultant conducted the City's audit from Fiscal Year 2007/2008 through 2022/2023 and staff has been satisfied with their work; and

WHEREAS, the City desires to enter an agreement with Consultant for the audit services.

NOW, THEREFORE, the City Council of the City of Kerman does resolve as follows:

1. The foregoing recitals are true and correct.
2. The City Council hereby approves the Auditor Services Agreement with Bryant L. Jolley, CPA in the amount not to exceed \$52,000 for Fiscal Year 2023/2024, \$54,000 for Fiscal Year 2024/2025, \$55,000 for Fiscal Year 2025/2026, \$57,000 for Fiscal Year 2026/2027 and \$58,000 for Fiscal Year 2027/2028 attached as **Exhibit 'A'** and incorporated by reference.
3. The City Council authorizes the City Manager to execute same.
4. This resolution shall be effective immediately.

The foregoing resolution was adopted by the City Council of the City of Kerman at a regularly scheduled meeting held on the 23rd day of October 2024, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

The foregoing resolution is hereby approved.

Maria Pacheco
Mayor

ATTEST:

Josie Camacho
City Clerk

Exhibit 'A'

CITY OF KERMAN

CONSULTANT SERVICES AGREEMENT

This Consultant Services Agreement ("Agreement") is entered into between the CITY OF KERMAN, a California general law city ("City") and BRYANT L. JOLLEY, CPA ("Consultant"). This Agreement shall be effective on the date signed by City which shall occur after execution by Consultant ("Effective Date").

RECITALS

A. City has sought, by a Request for Proposals, to select a consultant to conduct the auditing services for Fiscal Year 2023/2024 through Fiscal Year 2027/2028.

B. Consultant submitted a proposal for performing the requested Services and is engaged in the business of furnishing such services as a consultant and hereby warrants and represents that it is qualified, licensed, and professionally capable of performing the Services called for in the Request for Proposals and this Agreement.

C. City has selected Consultant to perform the requested Services on the basis of Consultant's demonstrated competence and professional qualifications.

D. City desires to retain Consultant, and Consultant desires to provide City with the Services, on the terms and conditions as set forth in this Agreement.

NOW, THEREFORE, in consideration of the promises and mutual agreements herein, City and Consultant agree as follows:

AGREEMENT

1. Scope of Services. Consultant shall perform, to the satisfaction of City in accordance with this Agreement, the Services described in the "Scope of Services" set forth in **Exhibit 'A'** attached hereto and incorporated by reference herein, and as may be revised by mutual agreement of the parties. Consultant warrants that it is qualified to perform the Services under this Agreement. Consultant shall be familiar with and shall comply with all State and Federal laws and regulations applicable to the work to be performed under this Agreement.

2. Commencement of Services; Term of Agreement. The term of this Agreement shall be from the October 23, 2024 to the completion of the services described for fiscal year ending June 30, 2028 or until such time as the Agreement is terminated by either party in accordance with this Agreement, whichever is earlier.

(a) Continuity of Personnel. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and subcontractors assigned to perform the Services under this Agreement. Consultant shall notify City of any changes in Consultant's staff and subcontractors assigned to perform the Services under this Agreement.

(b) Additional Services. Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to or outside of those set forth in this Agreement or listed in **Exhibit 'A'**, unless such additional services are authorized by written amendment to the Agreement.

3. Compensation for Services. City shall compensate Consultant for rendering the Services as follows:

(a) Subject to any limitations set forth in this Agreement, City agrees to pay Consultant the fees outlined in **Exhibit 'B'**.

b) Each month Consultant shall invoice City for all work performed and expenses incurred during the preceding month. The invoice shall detail charges by the following categories: labor (by subcategory), travel, materials, equipment, supplies, and sub-consultant contracts.

(c) City shall independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. The invoiced amount shall be paid within 30 calendar days unless City disputes any charges or expenses. If any charges or expenses are disputed, City shall pay the undisputed amount, and notify Consultant of the nature and amount of the disputed charge or expense. The parties shall seek to resolve the disputed items(s) by mutual agreement.

4. Independent Contractor Status. Consultant and its subcontractors shall perform the Services as independent contractors and not as officers, employees, agents or volunteers of City. Nothing contained in this Agreement shall be deemed to create any contractual relationship between City and Consultant's employees or subcontractors, nor shall anything contained in this Agreement be deemed to give any third party, including but not limited to Consultant's employees or subcontractors, any claim or right of action against City.

5. Standard of Care. Consultant represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the services required under this Agreement in a thorough, competent and professional manner. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. In meeting its obligations under this Agreement, Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing

services similar to those required of Consultant under this Agreement. Consultant represents that to the extent Consultant utilizes subcontractors, such subcontractors are, and will be, qualified in their fields. Consultant also expressly represents that both Consultant and its subcontractors, if any, are now, and will be throughout their performance of the Services under this Agreement, properly licensed or otherwise qualified and authorized to perform the Services required and contemplated by this Agreement. Consultant and its subcontractors, if any, shall utilize the standard of care and skill customarily exercised by members of their profession, shall use reasonable diligence and best judgment while performing the Services, and shall comply with and keep themselves informed of all applicable laws and regulations.

6. Identity of Subcontractors and Sub-Consultants. Consultant shall, before commencing any work under this Agreement, provide to City in writing: (a) the identity of all subcontractors and sub-consultants (collectively referred to as "subcontractors"), if any, Consultant intends to utilize in Consultant's performance of this Agreement; and (b) a detailed description of the full scope of work to be provided by such subcontractors. Consultant shall only employ subcontractors pre-approved by City and in no event shall Consultant replace an approved subcontractor without the advance written permission of City, with the understanding that City's permission will not be unreasonably withheld. Notwithstanding any other provisions in this Agreement, Consultant shall be liable to City for the performance of Consultant's subcontractors.

7. Subcontractor Provisions. Consultant shall include in its written agreements with its subcontractors, if any, provisions which: (a) impose upon the subcontractors the obligation to provide to City the same insurance and indemnity obligations that Consultant owes to City; (b) make clear that City intends to rely upon the reports, opinions, conclusions and other work product prepared and performed by subcontractors for Consultant; and (c) entitle City to impose upon subcontractors the assignment rights found elsewhere in this Agreement.

8. Power to Act on Behalf of City. Consultant shall not have any right, power, or authority to create any obligation, express or implied, or make representations on behalf of City except as may be expressly authorized in advance in writing from time to time by City and then only to the extent of such authorization.

9. Record Keeping; Reports. Consultant shall keep complete records showing the type of Services performed. Consultant shall be responsible and shall require its subcontractors to keep similar records. City shall be given reasonable access to the records of Consultant and its subcontractors for inspection and audit purposes. Consultant shall provide City with a working draft of all reports and five (5) copies of all final reports prepared by Consultant under this Agreement.

10. Ownership and Inspection of Documents. All data, tests, reports, documents, conclusions, opinions, recommendations and other work product generated by or produced for Consultant or its subcontractors in connection with the Services, regardless of the medium, including physical drawings and materials recorded on computer discs ("Work Product"), shall be and remain the

property of City. City shall have the right to use, copy, modify, and reuse the Work Product as it sees fit. Upon City's request, Consultant shall make available for inspection and copying all such Work Product and all Work Product shall be turned over to City promptly at City's request or upon termination of this Agreement, whichever occurs first. Consultant shall not release any Work Product to third parties without prior written approval of the City Manager. This obligation shall survive termination of this Agreement and shall survive for four (4) years from the date of expiration or termination of this Agreement.

11. Confidentiality. All data, reports, conclusions, opinions, recommendations and other work product prepared and performed by and on behalf of Consultant in connection with the Services performed pursuant to this Agreement shall be kept confidential and shall be disclosed only to City, unless otherwise provided by law or expressly authorized by City. Consultant shall not disclose or permit the disclosure of any confidential information acquired during performance of the Services, except to its agents, employees, affiliates, and subcontractors who need such confidential information in order to properly perform their duties relative to this Agreement. Consultant shall also require its subcontractors to be bound to these confidentiality provisions.

12. City Name and Logo. Consultant shall not use City's name or insignia, photographs relating to the City projects for which Consultant's services are rendered, or any publicity pertaining to the Consultant's services under this Agreement in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of City.

13. Conflicts of Interest. Consultant warrants that neither Consultant nor any of its employees have an interest, present or contemplated, in the Services. Consultant further warrants that neither Consultant nor any of its employees have real property, business interests or income that will be affected by the Services. Consultant covenants that no person having any such interest, whether an employee or subcontractor shall perform the Services under this Agreement. During the performance of the Services, Consultant shall not employ or retain the services of any person who is employed by the City or a member of any City Board or Commission. City understands and acknowledges that Consultant is, as of the date of execution of this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. Consultant is unaware of any stated position of City relative to such projects. Any future position of City on such projects shall not be considered a conflict of interest for purposes of this section. City understands and acknowledges that Consultant will, perform non-related services for other governmental agencies and private parties following the completion of the Services under this Agreement, and any such future service shall not be considered a conflict of interest for purposes of this section.

14. Non-liability of Officers and Employees. No officer or employee of City shall be personally liable to Consultant, or any successors in interest, in the event of a default or breach by City for any amount which may become due Consultant or its successor, or for any breach of any obligation under the terms of this Agreement.

15. Termination of Agreement. This Agreement shall terminate upon expiration of the Term as set for above or earlier pursuant to the following.

a. Termination by City: Without Cause. This Agreement may be terminated by City at its discretion upon thirty (30) days prior written notice to Consultant.

b. Termination by City or Consultant: For Cause. Either party may terminate this Agreement upon twenty (20) days prior written notice to the other party of a material breach, and a failure to cure within that time period.

c. Compensation to Consultant Upon Termination. In the event termination is not due to fault attributable to Consultant and provided all other conditions for payment have been met, Consultant shall be paid compensation for services performed prior to notice of termination. As to any phase partially performed but for which the applicable portion of Consultant's compensation has not become due, Consultant shall be paid the reasonable value of its services provided. However, in no event shall such payment when added to any other payment due under the applicable part of the work exceed the total compensation of such part as specified in Section 3 herein. In the event of termination due to Consultant's failure to perform in accordance with the terms of this Agreement through no fault of City, City may withhold an amount that would otherwise be payable as an offset to City's damages caused by such failure.

d. Effect of Termination. Upon receipt of a termination notice (or completion of this Agreement), Consultant shall: (i) promptly discontinue all Services affected (unless the notice directs otherwise); and (ii) deliver or otherwise make available to the City, without additional compensation, all data, documents, procedures, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Consultant in performing this Agreement, whether completed or in process. Following the termination of this Agreement for any reason whatsoever, City shall have the right to utilize such information and other documents, or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared under this Agreement by Consultant. Consultant may not refuse to provide such writings or materials for any reason whatsoever.

16. Insurance. Consultant shall obtain and maintain in full force and effect during the term of this Agreement the insurance policies set forth in **Exhibit 'C'** attached hereto and incorporated herein by this reference. All insurance policies shall be subject to City approval as to form and content. Consultant shall provide City with copies of required certificates of insurance upon request.

17. Indemnity and Defense. Consultant hereby agrees to indemnify, defend and hold the City, its officials, officers, employees, agents, and volunteers harmless from and against all claims, demands, causes of action, actions, damages, losses, expenses, and other liabilities, (including

without limitation reasonable attorney fees and costs of litigation) of every nature arising out of the acts, errors, or omissions constituting negligence, gross negligence, willful misconduct or fraud of Consultant or its subcontractors relating to the performance of Services described herein. Consultant's duty to defend and indemnify City shall not extend to injuries or damages that are the result of City's sole negligence or willful misconduct.

Consultant's duty to defend shall immediately arise when a claim is asserted and/or a lawsuit is initiated against the City arising out of or occurring in connection with the acts, errors, or omissions constituting negligence, gross negligence, fraud or willful misconduct of Consultant or its subcontractors relating to the performance of Services described herein and regardless of whether others may owe the City a duty of defense and/or indemnity. Consultant and City agree that said indemnity and defense obligations shall survive the expiration or termination of this Agreement for any items specified herein that arose or occurred during the term of this Agreement for a period of two (2) years.

18. Assignment. Neither this Agreement nor any duties or obligations hereunder shall be assignable by Consultant without the prior written consent of City. In the event of an assignment to which City has consented, the assignee shall agree in writing to personally assume and perform the covenants, obligations, and agreements herein contained. In addition, Consultant shall not assign the payment of any monies due Consultant from City under the terms of this Agreement to any other individual, corporation or entity. City retains the right to pay any and all monies due Consultant directly to Consultant.

19. Form and Service of Notices. All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered, or sent by mail addressed as follows:

To City:	John Jansons City of Kerman 850 S Madera Avenue Kerman, CA 93630	To Consultant:	Bryant L. Jolley, CPA 901 "N" Street, Suite 104 Firebaugh, CA 93622
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Notice shall be deemed effective on the date personally delivered or transmitted by facsimile or email; or if mailed, three (3) days after deposit of the same in the custody of the United States Postal Service.

20. Entire Agreement. This Agreement, including the attachments, represents the entire Agreement between City and Consultant and supersedes all prior negotiations, representations or agreements, either written or oral with respect to the subject matter herein. This Agreement may be amended only by written instrument signed by both City and Consultant.

21. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

22. Authority. The signatories to this Agreement warrant and represent that they have the legal right, power, and authority to execute this Agreement and bind their respective entities.

23. Severability. In the event any term or provision of this Agreement is declared to be invalid or illegal for any reason, this Agreement will remain in full force and effect and will be interpreted as though such invalid or illegal provision were not a part of this Agreement. The remaining provisions will be construed to preserve the intent and purpose of this Agreement and the parties will negotiate in good faith to modify any invalidated provisions to preserve each party's anticipated benefits.

24. Applicable Law and Interpretation and Venue. This Agreement shall be interpreted in accordance with the laws of the State of California. The language of all parts of this Agreement shall, in all cases, be construed as a whole, according to its fair meaning, and not strictly for or against either party. This Agreement is entered into by City and Consultant in the County of Fresno, California. Consultant shall perform the Services required under this Agreement in the County of Fresno, California. Thus, in the event of litigation, venue shall only lie with the appropriate state or federal court in Fresno County.

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

26. Amendments and Waiver. This Agreement shall not be modified or amended in any way, and no provision shall be waived, except in writing signed by the parties hereto. No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision. Failure of either party to enforce any provision of this Agreement shall not constitute a waiver of the right to compel enforcement of the remaining provisions of this Agreement.

27. Third Party Beneficiaries. Nothing in this Agreement shall be construed to confer any rights upon any party not a signatory to this Agreement.

28. Non-Discrimination. Consultant shall not discriminate on the basis of any protected class under federal or State law in the provision of the Services or with respect to any Consultant employees or applicants for employment. Consultant shall ensure that any subcontractors are bound to this provision. A protected class, includes, but is not necessarily limited to race, color, national origin, ancestry, religion, age, sex, sexual orientation, marital status, and disability.

29. Compliance with All Laws. In providing the services required under this Agreement, Consultant shall at all times comply with all applicable laws of the United States, the State of

California, and with all applicable regulations promulgated by federal, state, regional, or local administrative and regulatory agencies, now in force and as they may be enacted, issued, or amended during the term of this Agreement.

30. Execution in Counterparts. This Agreement may be executed in counterparts such that the signatures may appear on separate signature pages. A copy or an original, with all signatures appended together, shall be deemed a fully executed Agreement.

Now, therefore, the City and Consultant have executed this Agreement on the date(s) set forth below.

BRYANT L. JOLLEY, CPA

CITY OF KERMAN

By: _____
Bryant L. Jolley, CPA

By: _____
John Jansons, City Manager

Date: _____

Date: _____

Exhibit 'A'

SCOPE OF SERVICES

The Auditor will perform an audit of all funds of the City of Kerman for the fiscal year ended June 30, 2024 and each of the subsequent years of the audit firm's contract with the City. The audit will be conducted in accordance with auditing standards generally accepted in the United States of America and *Government Auditing Standards*, issued by the Comptroller of the United States. The City's Report on Audited Financial Statements (RAFS) will be prepared and word processed by the Auditor. The RAFS will be in full compliance with GASB 34. The Auditor will render their auditors' report on the basic financial statements which will include both Government-Wide Financial Statements and Fund Financial Statements. The Auditor will also apply limited audit procedures to Management's Discussion and Analysis (MD&A) and required supplementary information pertaining to the General Fund and each major fund of the City.

The Auditor will perform a single audit on the expenditures of federal grants in accordance with OMB Circular A-133 and render the appropriate audit reports on Internal Control over Financial Reporting based upon the audit of the City's financial statements in accordance with *Government Auditing Standards* and the appropriate reports on compliance with Requirements Applicable to each Major Program, Internal Control over Compliance and on the Schedule of Expenditures of Federal Awards in Accordance with OMB Circular A-133. The single audit report will include appropriate schedule of expenditures of federal awards, footnotes, findings and questioned costs, including reportable conditions and material weaknesses, and follow up on prior audit findings where required.

The Auditor shall perform agreed-upon auditing procedures pertaining to the City's GANN Limit (Appropriations Limit) and render a letter annually to the City regarding compliance.

The Auditor shall issue a separate "management letter" that includes recommendations for improvements in internal control, accounting procedures and other significant observations that are considered to be non-reportable conditions. Management letters shall be addressed to the City Manager.

The audit firm shall prepare the Annual State Controller's Reports for the City of Kerman as part of their Audit & Related Reports and at no additional cost to either entity.

Exhibit 'B'

COMPENSATION

Service	2024	2025	2026	2027	2028
City audit, including GANN limit review, management report, AFR and GASB 68 and 87 journal entries	\$42,000	\$43,000	\$44,000	\$45,000	\$46,000
Single Audit per major program, if required	\$5,000	\$5,500	\$5,500	\$6,000	\$6,000
State Controller Reports for Streets and City, if requested	\$5,000	\$5,500	\$5,500	\$6,000	\$6,000
Total for Fiscal Year (not to exceed)	\$52,000.00	\$54,000.00	\$55,000.00	\$57,000.00	\$58,000.00

HOURLY RATES

	Hourly Rates	Hours Required	Audit Fee
Partner	\$300	20	\$6,000.00
Manager	\$200	105	\$21,000.00
Staff	\$150	100	\$15,000.00
Total		225	\$42,000.00

Exhibit 'C'

INSURANCE

A. Insurance Requirements. AUDITOR shall provide and maintain insurance, acceptable to the City Manager or City Council, in full force and effect throughout the term of this AGREEMENT, against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by AUDITOR, its agents, representatives or employees. Insurance is to be placed with insurers with a current AM. Best's rating of no less than A:VII. AUDITOR shall provide the following scope and limits of insurance:

(1) Minimum Scope of Insurance. Coverage shall be at least as broad as:

1) Insurance Services Office form Commercial General Liability coverage (at least as broad as the most recent Insurance Services Office (ISO) Form CG 00 01).

2) As broad as the most recent edition of Insurance Services Office form number CA 00 01 covering Business Automobile Liability, including code 1 "any auto".

3) Workers' Compensation statutory insurance as required by the Labor Code of State of California and Employer's Liability insurance and covering all persons providing services on behalf of the AUDITOR and all risks to such persons under this AGREEMENT.

4) Professional Liability Insurance that insures against professional errors and omissions that may be made in performing professional services associated to the AUDITOR's profession.

(2) Minimum Limits of Insurance. AUDITOR shall maintain limits of insurance no less than:

1) General Liability: \$1,000,000 per occurrence, \$2,000,000 general aggregate, and \$1,000,000 products and completed operations for bodily injury, personal injury and property damage.

2) Automobile Liability: \$1,000,000 per accident combined single limit for bodily injury and property damage.

3) Workers' Compensation and Employer's Liability: Statutory Workers' Compensation as required by the Labor Code of the State of California and Employers Liability limits of \$1,000,000 per accident/disease.

- 4) Professional Liability Errors and Omissions: \$1,000,000 per occurrence and in the aggregate.

B. Other Provisions. Insurance policies required by this AGREEMENT shall contain the following provisions:

- (1) All Policies. Each insurance policy required by this paragraph 15 shall be endorsed and state the coverage shall not be suspended, voided, cancelled by the insurer or either party to this AGREEMENT, reduced in coverage or in limits except after 30 days' prior written notice by Certified mail, return receipt requested, has been given to the City Manager, City of Kerman. If a carrier will not provide the required notice of cancellation, the AUDITOR shall provide written notice to the City of a cancellation no later than 3 business days before cancellation.

- (2) General Liability and Automobile Liability Coverage.

- 1) CITY, and its respective elected and appointed officers, officials, employees, agents, and volunteers are to be covered and named as additional insured as respects: liability arising out of activities AUDITOR performs; ongoing and products and completed operations of AUDITOR; premises owned, occupied or used by AUDITOR; or automobiles owned, leased, hired or borrowed by AUDITOR. The coverage shall contain no special limitations on the scope of protection afforded to CITY, and their respective elected and appointed officers, officials, or employees.

- 2) AUDITOR's insurance coverage shall allow and be endorsed primary insurance with respect to CITY, and its respective elected and appointed, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by CITY, and its respective elected and appointed officers, officials, employees or volunteers, shall apply in excess of, and not contribute with, AUDITOR's insurance.

- 3) Coverage shall allow and be endorsed to include a waiver of subrogation in favor of the CITY, and its respective elected and appointed, its officers, officials, employees and volunteers.

- 4) AUDITOR's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

- 5) Any failure to comply with the reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to CITY, and its respective elected and appointed officers, officials, employees or volunteers.

(3) Workers' Compensation and Employer's Liability Coverage.

Unless the City Manager otherwise agrees in writing, the insurer shall agree to waive all rights of subrogation against CITY, and its respective elected and appointed officers, officials, employees and agents for losses arising from work performed by AUDITOR and provide a waiver of subrogation endorsement.

C. Other Requirements. AUDITOR agrees to deposit with CITY, at or before the effective date of this contract, certificates of insurance necessary to satisfy CITY that the insurance provisions of this contract have been complied with. The City Attorney may require that AUDITOR furnish CITY with copies of original endorsements effecting coverage required by this Section. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. CITY reserves the right to inspect complete, certified copies of all required insurance policies, at any time.

(1) AUDITOR shall furnish certificates and endorsements from each subcontractor identical to those AUDITOR provides.

(2) Any deductibles or self-insured retentions must be declared to and approved by CITY. At the option of CITY, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CITY or its respective elected or appointed officers, officials, employees and volunteers or the AUDITOR shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims.

(3) The procuring of such required policy or policies of insurance shall not be construed to limit AUDITOR's liability hereunder or to fulfill the indemnification provisions and requirements of this AGREEMENT.