

**CITY OF MERCED
REQUEST FOR PROPOSAL**

**SELECTION OF CONSULTANT FOR
TOTAL COMPENSATION STUDY**

The City of Merced seeks proposals from qualified organizations to serve as a consultant for the preparation of a comprehensive compensation study.

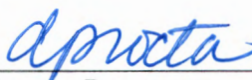
Qualified organizations are invited to submit a sealed, written original proposal plus two (2) copies of said proposal that meet the requirements described herein no later than 5:00 p.m. on April 4, 2018, to the following address:

City of Merced
Director of Support Services
678 West 18th Street
Merced, California 95340

Each envelope should be clearly marked on the outside "Compensation Study Proposal." Proposals will not be disclosed to competing firms or to the public until after all proposals are reviewed and analyzed.

This request for proposal does not commit the City of Merced to award a contract or to pay any costs incurred in the preparation of any proposal responsive to this request. The city reserves the right to accept all or part of any proposal or to cancel in part or in its entirety this request for the proposal. The City further reserves the right to accept the proposal that it considers to be in the best interest of the City.

All questions regarding this proposal should be directed to the undersigned at (209) 385-4780 or proctord@cityofmerced.org.



Deneen Proctor
Director of Support Services

INSTRUCTION TO BIDDERS

I. GENERAL INSTRUCTIONS

A. Submittal of Proposals

Proposals should be verified before submission since proposals may not be withdrawn after opening. No proposal may be corrected, altered, or signed after being publicly opened. The City will not be responsible for errors or omissions on the part of the vendor in preparation of a proposal. The City reserves the right to reject any and all proposals, or to waive any irregularities, or informalities in the proposals.

B. Withdrawal of Proposals

Organizations may withdraw their proposal, either personally or by written requests, at any time prior to the scheduled closing time for receipt of proposals.

C. Disqualified Proposals

Any proposals received after the proposal due date or with insufficient postage shall be refused and returned to vendor unopened.

D. Rights of the City

The City reserves the right to incorporate standard contract provisions into any contract negotiated as a result of a proposal submitted in response to this request.

II. BACKGROUND

A. Jurisdiction

The City of Merced is a Charter city with a Council/Manager form of government, and is governed by Municipal Code. It was incorporated on April 1, 1949. The current population of the City is approximately 84,000. The City provides all basic services and in addition provides police, fire, water, refuse and sewer service and a municipal airport.

There are approximately 183 distinct job classification in the City. The City has 487 budgeted full-time positions and 11 departments.

In 2017, the City hired Ralph and Associates to complete a Citywide Classification study.

The purpose of the proposed total compensation study is to gather and review information as to the City's comparable agencies.

The scope of the compensation study should include gross pay and total compensation with a comparison of hourly wage, incentive pay, health benefit contributions, retirement contributions and/or any other compensation offered by a jurisdiction.

The last citywide compensation study was over twelve years ago.

B. Employee Groups

Employee groups included in this study include:

Represented units:

AFSCME District Council 57 (Merced City Employees Association) – Clerical and technical positions

MERCED ASSOCIATION OF CITY EMPLOYEES – Unskilled, semi-skilled, and skilled maintenance positions

INTERNATIONAL FIRE FIGHTERS UNION –
All fire personnel – non-management

MERCED POLICE OFFICERS ASSOCIATION –
All sworn police personnel, community service officers, dispatchers, and parking enforcement officers – non-management

MERCED ASSOCIATION OF POLICE SERGEANTS – All sworn police sergeants

Unrepresented units:

EXECUTIVE MANAGEMENT – Department Heads, Police Chief, Fire Chief

MIDDLE MANAGEMENT – Mid-Managers, Police Captains and Lieutenants, Fire Deputy Chiefs

SUPERVISORY MANAGEMENT – Supervisors, Fire Battalion Chiefs

CONFIDENTIAL MANAGEMENT – Clerical and technicians who have access to confidential material involved in labor negotiations.

Memoranda of Understanding, Labor Memoranda, Pay Plans, and existing job specifications may be found on the City's website WWW.CityofMerced.org.

III. SCOPE OF STUDY

The study is to include the following scope and objectives, but is not limited to:

- A. The basic study is for all positions in the City. The existing classifications are attached as Exhibit A.
- B. Recommend salary survey benchmarks in conjunction with relevant benchmark classifications.
- C. Complete internal salary relationship analysis including the development of appropriate internal relationship guidelines (internal equity).
- D. Recommend logical and defensible comparable agencies (external equity). The comparable agencies used in the last compensation study are attached as Exhibit B.
- E. Present and explain proposed comparable agency list to City Administration.
- F. Systematically assess each classification in relation to other comparable classifications.
- G. Provide written documentation of assessment methodology and assessment for each position.
- H. Develop externally competitive and internally equitable salary recommendations for each job class included in the study.
- I. Recommend the vertical salary relationship/differentials between classes in each class series;
- J. Review and compare the City's current benefit package with the benefit packages offered by the other comparable agencies.

The City offers benefits packages that generally include the following: CalPERS Retirement, Health and welfare benefits include medical, dental, vision, life and disability plans; sick leave and vacation leave accrual; 12 paid holidays; management administrative leave, sick leave and vacation leave accrual annual sell back, and a voluntary 457 Deferred Compensation plan.

- K. Provide periodic status reports on progress as requested.
- L. Report preparation: Prepare a preliminary and final report for the City of Merced.
- M. Copies of Reports: The consultant shall provide the City with 3 copies of the preliminary report and 3 copies of the final report. Further, the consultant will be required to provide copies of the material necessary to conduct the study.
- N. Completion Date for Report: It is the intent of the City to complete this classification study as soon as feasible.
- O. May be required to present finalized classification plan to City Council and or Employee Associations.

IV. CONTENT OF PROPOSAL

A. General

Interested parties must submit an original proposal and two (2) copies, signed by a person authorized to bind the party and which, upon acceptance by the City, will be binding on the bidder. After award of the proposal, a contract between the successful bidder and the City will be executed.

B. Items for Inclusion in Proposal

All proposals shall address the following items in the order listed below and shall be numbered one (1) through seven (7) in the proposal document:

1. Description of Firm: A description of the firm, including the size, location(s), nature of work done by the firm and number of years in existence.
2. Experience of Firm: A detailed summary of studies in which the firm has acted as consultant indicating the nature and size of the study and the role of the firm. Please provide client references or contact persons who can verify this experience; please include municipalities.
3. Background of Individual Consultant's Experience: The name of the person(s) and alternate(s) who will participate in the study including identification of the person who will be directly responsible for the day-to-day work on the study on behalf of the

firm, and a brief resume of those persons' pertinent work experience.

4. Work Plan and Methodology: In submitting its proposal, each bidder must outline the procedures and methods it will utilize in conducting all phases of the Study, and addressing each item listed in Section III, SCOPE OF STUDY.
5. Time Schedule: Each bidder shall submit a proposed time schedule identifying when each major component will be started and completed.
6. Fee: Each bidder shall indicate the proposed fee to complete the study as described in the REQUEST FOR PROPOSAL including all out-of-pocket expenses except travel, lodging and meals which shall be estimated in the proposal and shall be identified as "Actual Costs Not To Exceed A Total of \$_____."
7. Other: Each bidder is encouraged to provide any additional information the bidder feels is pertinent to this proposal.

V. SELECTION OF CONSULTANT

A. Understanding of Scope of Work

B. Qualifications of Consultants

Proposals will be considered only from consultants who meet the following minimum qualifications:

1. Have demonstrated experience in conducting the type of study authorized in this REQUEST FOR PROPOSAL.
2. Have resources available to commence work immediately upon the award of this agreement and can complete work in accordance with the needs of the City.

C. Evaluation Criteria

1. Consultant's fee, including estimate of travel, lodging, and meal costs stated in proposal.
2. Terms and conditions offered by the bidder.
3. Timeliness and speed with which the bidder can complete the scope of work.

4. Experience and expertise of the bidder.
5. Knowledge of the City of Merced.
6. The comprehensiveness and rationale of the work plan and methodology outlined in the proposal.
7. Completeness of the bidder's proposal, as outlined in Section IV, CONTENT OF PROPOSAL.
8. Ability of the bidder to agree to the City's Professional Services Agreement, including insurance requirements, attached as Exhibit C.
9. At the City's discretion, an oral interview and presentation may be requested from the top two (2) or three (3) bidders.

VI. TENTATIVE SCHEDULE

Proposal Due: April 4, 2018

Return to: Deneen Proctor,
Director of Support Services
City of Merced
678 West 18th Street
Merced, California 95340

Award of Contract: May 21, 2018

CITY OF MERCED
CLASSIFICATION STUDY
REQUEST FOR PROPOSAL

MAILING LIST

COOPERATIVE PERSONNEL SERVICES
2450 Del Paso Rd #220
Sacramento, CA 95834

PUBLIC SECTOR
1215 W. Rio Salado Parkway #109
Tempe, Arizona 85281

WENDI BROWN CREATIVE PARTNERS
698 Lynn Lane
Central Point, OR 97502

DIVERSIFIED MANAGEMENT GROUP
1850 Gateway Blvd. #275
Concord, CA 94520

BRYCE CONSULTING
Attention: Jean Sullivan
3436 American River Dr., Suite 7A
Sacramento, CA 95864

ARTHUR J. GALLEGHER CO.
11060 White Rock Rd., Suite 160
Rancho Cordova, CA 95670

RENNE SLOAN HOLTZMAN AND SAKAI,
PUBLIC MANAGEMENT GROUP
555 Capital Mall, Suite 600
Sacramento, CA 95814

RALPH ANDERSON
5800 Stanford Ranch Road, Suite 410
Rocklin, CA 95765

EWING CONSULTING
501 N. El Camino, Suite 200
San Clemente, CA 92672

KOFF & ASSOCIATES
2835 Seventh Street
Berkeley, CA 94710

EXHIBIT A - CITY OF MERCED

Department	Job Title
Airport	Airport Manager
Airport	Airport Operations Technician
City Attorney	City Attorney
City Attorney	Chief Deputy City Attorney
City Attorney	Senior Deputy City Attorney
City Attorney	Legal Secretary
City Attorney	Legal Secretary
City Manager	City Manager
City Manager	Assistant City Manager
City Manager	Executive Secretary
City Manager	Assistant To The City Manager
City Manager	Assistant City Clerk
City Manager	Deputy City Clerk
City Manager	Legislative Director
City Manager	Records Clerk I
City Manager	Records Clerk II
Economic Development	Dir Of Economic Development
Economic Development	Development Associate
Engineering	City Engineer
Engineering	City Surveyor
Engineering	Land Engineer
Engineering	Senior Engineer
Engineering	Associate Engineer
Engineering	Assistant Engineer
Engineering	Engineering Technician I
Engineering	Engineering Technician II
Engineering	Engineering Technician III
Engineering	Engineering Technician IV
Engineering	Environmental Project Manager
Finance	Finance Officer
Finance	Deputy Finance Officer
Finance	Accounting Technician
Finance	Accountant I
Finance	Accountant II
Finance	Accountant III
Finance	Account Clerk I
Finance	Account Clerk II
Finance	Account Clerk III
Finance	Payroll Coordinator
Finance	Payroll Technician I
Finance	Payroll Technician II
Finance - Purchasing	Purchasing Supervisor
Fire	Fire Chief
Fire	Fire Deputy Chief
Fire	Fire Battalion Chief
Fire	Fire Captain
Fire	Fire Engineer
Fire	Fire Fighter
Fire	Fire Marshal

Department	Job Title
Fire	Fire Inspector I
Fire	Fire Inspector II
General	Management Analyst
General	Secretary I
General	Secretary II
General	Secretary III
Housing	Housing Program Supervisor
Housing	Housing Finance Specialist
Information Systems	Dir Of Information Technology
Information Systems	Information Technology Manager
Information Systems	Software Analyst I
Information Systems	Software Analyst II
Information Systems	Software Analyst III
Information Systems	Systems Engineer I
Information Systems	Systems Engineer II
Information Systems	Systems Engineer III
Information Systems	Systems Technician I
Information Systems	Systems Technician II
Information Systems	Systems Technician III
Inspection Svs	Chief Building Official
Inspection Svs	Assistant Chief Building Official
Inspection Svs	Building Inspector I
Inspection Svs	Building Inspector II
Inspection Svs	Building Inspector III
Inspection Svs	Plan Examiner I
Inspection Svs	Plan Examiner II
Personnel	Dir Of Support Services
Personnel	Insurance Coordinator
Personnel	Personnel Coordinator
Personnel	Personnel Technician I
Personnel	Personnel Technician II
Personnel	Personnel Technician III
Planning & Permitting	Assistant Planner
Planning & Permitting	Associate Planner
Planning & Permitting	Director Of Development Services
Planning & Permitting	Planner
Planning & Permitting	Planning Manager
Planning & Permitting	Planning Technician I
Planning & Permitting	Planning Technician II
Planning & Permitting	Principal Planner
Planning & Permitting	Senior Planner
Police - Administration	Community Services Officer
Police - Administration	Crime Analyst
Police - Communications	Dispatcher I
Police - Communications	Dispatcher II
Police - Communications	Lead Dispatcher
Police - Communications	Supervising Police Dispatcher
Police - Operations	Police Captain
Police - Operations	Police Chief
Police - Operations	Police Lieutenant

Department	Job Title
Police - Operations	Police Officer
Police - Operations	Police Officer Trainee
Police - Operations	Police Sergeant
Police - Operations	Senior Police Officer
Police - Pkg Enforcement	Parking Enforcement Officer I
Police - Pkg Enforcement	Parking Enforcement Officer II
Police - Records	Police Clerk I
Police - Records	Police Clerk II
Police - Records	Police Records Supervisor
Public Works - Admin	Clerk Typist I
Public Works - Admin	Deputy Pw Director
Public Works - Admin	Dir Of Public Works
Public Works - Admin	Gis Coordinator
Public Works - Admin	Safety Specialist
Public Works - Storm Drns	Pw - Sewer Coll Syst Worker
Public Works - Storm Drns	Pw Sewer Coll Sys Storm Drains Worker I
Pw - Environmental Trmt	Environmental Control Offcr I
Pw - Environmental Trmt	Environmental Control Offcr II
Pw - Environmental Trmt	Pws - Lab/Environmental Control
Pw - Facility Maint & Op	Building Maintenance Worker I
Pw - Facility Maint & Op	Building Maintenance Worker II
Pw - Facility Maint & Op	Custodian I
Pw - Facility Maint & Op	Custodian II
Pw - Facility Maint & Op	Pws-Facilities
Pw - Fleet	Equipment Service Worker
Pw - Fleet	Mechanic I
Pw - Fleet	Mechanic II
Pw - Fleet	Mechanic III
Pw - Fleet	Pwm-Operations
Pw - Fleet	Pws-Fleet
Pw - Fleet	Storekeeper
Pw - general	Maintenance Worker I
Pw - general	Maintenance Worker II
Pw - general	Maintenance Worker III
Pw - Parks	Park Worker I
Pw - Parks	Park Worker II
Pw - Parks	Park Worker III
Pw - Parks	Pwm - Tax Services
Pw - Refuse Collection	Container Maintenance Worker
Pw - Refuse Collection	Lead Refuse Equipment Operator
Pw - Refuse Collection	Pws-Solid Waste
Pw - Refuse Collection	Recycling Coordinator
Pw - Refuse Collection	Refuse Equipment Operator
Pw - Refuse Collection	Refuse Equipment Operator Trainee
Pw - Street Maintenance	Pws-Streets
Pw - Street Maintenance	Traffic Signal/Lighting Tech
Pw - Street Sweeping	Street Sweeper Oper Trainee
Pw - Street Sweeping	Street Sweeper Operator
Pw - Street Trees	Pws-Parks/Trees
Pw - Street Trees	Tree Trimmer

Department	Job Title
Pw - Wastewater System	Collection System Worker II
Pw - Wastewater System	Collection System Worker III
Pw - Wastewater System	Lead Main Sewers / Storm Drains
Pw - Wastewater System	Pws-Main Sewers/Storm Drains
Pw - Wastewater System	Sewer And Storm Drain Collection Sys Worker
Pw - Water Systems	Cross Connections Control Specialist
Pw - Water Systems	Fabrication Tech/Store Keeper
Pw - Water Systems	Finance Liaison
Pw - Water Systems	Lead - Pw Water
Pw - Water Systems	Pump Operator
Pw - Water Systems	Pwm - Water
Pw - Water Systems	Pws-Water
Pw - Water Systems	Water Conservation Specialist
Pw - Water Systems	Water Engineer
Pw - Water Systems	Water Systems Technician I
Pw - Water Systems	Water Systems Technician II
Pw - Water Systems	Water Systems Technician III
Pw - Ww Treatment Plant	Instrument Electric Tech
Pw - Ww Treatment Plant	Laboratory Technician I
Pw - Ww Treatment Plant	Laboratory Technician II
Pw - Ww Treatment Plant	Laboratory Technician III
Pw - Ww Treatment Plant	Land Application Program Lead
Pw - Ww Treatment Plant	Maintenance Electrician
Pw - Ww Treatment Plant	Pwm - Wastewater
Pw - Ww Treatment Plant	Wwtp Maintenance Electrician/Mechanic
Pw - Ww Treatment Plant	Wwtp Maintenance Supervisor
Pw - Ww Treatment Plant	Wwtp Mechanic I
Pw - Ww Treatment Plant	Wwtp Mechanic II
Pw - Ww Treatment Plant	Wwtp Operations Supervisor
Pw - Ww Treatment Plant	Wwtp Operator I
Pw - Ww Treatment Plant	Wwtp Operator II
Pw - Ww Treatment Plant	Wwtp Operator III
Recreation & Parks Admin	Director Of Parks And Recreation
Recreation & Parks Admin	Recreation Supervisor
Recreation & Parks Admin	Recreation Coordinator
Zoo	Zoo Keeper
Zoo	Lead Zoo Keeper

CITY OF MERCED				
EXHIBIT B				
2005 comparable agencies for each labor group				
AFSCME	MACE	FIRE	POA/Sgt	Unrepresented
	Atwater			
Chico		Chico	Chico	Chico
Clovis	Clovis	Clovis	Clovis	Clovis
Davis			Davis	Davis
	Fresno	Fresno	Fresno	
Lodi	Lodi	Lodi	Lodi	Lodi
	Madera			
Manteca	Manteca	Manteca	Manteca	Manteca
Merced County	Merced County			Merced County
Modesto	Modesto	Modesto	Modesto	Modesto
SLO		SLO		SLO
		Tracy	Tracy	
Turlock	Turlock	Turlock	Turlock	Turlock
Visalia	Visalia	Visalia	Visalia	Visalia

EXHIBIT C

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made and entered into this ____ day of _____, 201_, 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 _____, 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 his 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 "B" 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. RESERVED.

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 "C" 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 "C". 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. Consultant shall indemnify, protect, defend (with legal counsel selected by the City), save and hold City, its officers, employees, and agents, harmless from any and all claims or causes of action for death or injury to persons, or damage to property resulting from intentional or negligent acts, errors, or omissions of Consultant or Consultant's officers, employees, volunteers, and agents during performance of this Agreement, or from any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct, negligent acts, or omissions of Consultant or its employees, subcontractors, or agents, or by the quality or character of Consultant's work, or resulting from the negligence of the City, its officers, employees, volunteers and agents, except for loss caused by the sole negligence or willful misconduct of the City or its officers, employees, volunteers or agents. It is understood that the duty of Consultant to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall survive the termination of this Agreement and shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

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.

g. Notwithstanding any language in this Agreement to the contrary, Consultant shall be entitled to be paid pursuant to the terms of this Agreement until Consultant has obtained the insurance required by this Section 10 and provided documentation of said insurance to the City. 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. 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.

12. **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.

13. **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.

14. **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.

15. **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.

16. **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.

17. **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.

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

19. **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.

20. **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.

21. **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: _____
City Manager

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

APPROVED AS TO FORM:

BY: _____
City Attorney Date

ACCOUNT DATA:

BY: _____
Verified by Finance Officer

CONSULTANT

BY: _____
(Signature)

(Typed Name)

Its: _____
(Title)

BY: _____
(Signature)

(Typed Name)

Its: _____
(Title)

Taxpayer I.D. No. _____

ADDRESS: _____

TELEPHONE: _____

FAX: _____

E-MAIL: _____