



# CITY OF MERCED

## REQUEST FOR QUALIFICATIONS (RFQ)

### WATER DEPARTMENT

### ELECTRICAL ENGINEERING (INTEGRATOR) SERVICES

The City of Merced Public Works Department will accept Statement of Qualification (SOQ) submittals for the electrical engineering consulting services listed herein.

You are hereby invited to submit a proposal based upon the requirements and conditions set forth in this RFQ.

#### **Proposal Submission:**

Three (3) copies of the completed proposal and fee schedule must be submitted no later than **4:30 p.m. on Friday, March 28, 2025.**

#### **Mailing Instructions:**

Johnnie Baptista  
Public Works Manager - Water  
City of Merced Public Works  
1776 Grogan Avenue  
Merced, CA 95341

#### **Inquiries:**

Questions pertaining to this RFQ should be directed in writing, no later than 72 hours prior to proposal submission to:

Johnnie Baptista, Public Works Manager – Water  
Phone number: (209) 384-4180  
Email: [baptistaj@cityofmerced.org](mailto:baptistaj@cityofmerced.org)

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**Attachments:****A. Form of Agreement**

**OBJECTIVE**

The City of Merced Public Works Department (“City”) is seeking a qualified electrical engineering firm to provide specialized professional services for integration and automation of Supervisory Control & Data Acquisition Systems (SCADA) at Municipal Well Sites.

Contract term commencement is tentative on contract award; initial contract term shall be for three (3) years, with the option to renew for one (1) additional one (1) year period.

**CITY OVERVIEW**

The City of Merced (City) was incorporated in 1889 and operates under the Council-Manager form of government. The City is a dynamic community of approximately 88,120 people, with friendly small-town living in a mid-size city. The University of California Merced campus, opened in 2005, provides additional educational and economic opportunity, adding to the already-established growth of the region.

Located in the heart of California’s agricultural Central Valley, Merced is the region’s hub for education, culture, and business. The community offers abundant shopping, pleasant neighborhoods, and tree-lined streets. Bicycle paths along creeks link major City parks. Even with recent increases in prices, Merced’s housing remains affordable compared to many other California locations. Merced’s revitalized downtown is emerging as the entertainment center of the area. Annual events and festivals bring regional and even national recognition.

Merced’s Valley location southeast of San Francisco provides easy access to the central California coast, Sierra Nevada Mountains and national parks, and major cities. Merced has historically been considered to be the “Gateway to Yosemite”, and residents also enjoy short drives to skiing, beaches, fishing, and other outdoor attractions.

**OVERVIEW/BACKGROUND**

The City of Merced is supplied entirely by groundwater extracted by traditional turbine-motor driven deep-well pumps that range from 100 to 300 HP. Fifteen (15) of the eighteen (18) wells have Programmable Logic Controller (PLC) and Variable Frequency Drive (VFD) systems, while 3 wells still have pressure actuated soft-starts that will eventually be converted to PLC/VFD. There are two new wells almost completed, but not yet on-line. All wells have a very robust Supervisory Control and Data Acquisition (SCADA) monitoring system accessed through Ignition. There are several custom-built software programs in place used to standardize SCADA data and facilitate State regulatory reporting. We have approximately 25,000 service connections and pump between 6 and 8 billion gallons annually to meet the demand. We have one Granular Activated Carbon (GAC) treated well with stand-alone automated valving and controls. All wells are injected with sodium hypochlorite and saturated sodium fluoride. There are residual analyzers for the injected solutions. We have one electrician on staff with experience in low voltage supervisory controls and PLC programming. We have future Capital Improvement Projects (CIP) that include a surface water treatment drinking water plant, several above ground storage tanks to flatten demand curves.

We have two new well sites in the planning stage, along with continuous fine-tuning of the software and programming as it relates to data collection and report creation.

### **SCOPE OF SERVICES**

The Scope of Service is to be used as a general guide and is not intended to be a complete list of all services necessary to complete the project. Services to be provided include:

- Supervisory Control & Data Acquisition Systems (SCADA) – operator interface development and related services.
- Programming services for specialized programs, improvements, and CIP projects.
- Start-up inspection and programming confirmation on new SCADA installations
- Trouble-shooting services via cell, TEAMS, or on-site as necessary.
- On-call consultation services, plan checking, submittal review, on-site and remote contractor update meetings.
- Ensure ongoing uniformity and compatibility of software, hardware, design, and materials used in the Water system.
- Offer professional opinions and ideas for solutions. Create detailed parts lists and estimated budgets for such solutions.
- Short-notice emergency on-site support for SCADA equipment and/or software in-use at 1776 Grogan Ave. (Corp Yard), at 690 W.16<sup>th</sup> (Pump Ops), as well as at 18 Well sites at various locations throughout the city.
- Work directly with Water Operations staff developing and improving report creation.
- Share your unique understanding and awareness of future changes and improvements in technology so as to allow the Water Division to maximize the technology used in the field by personnel, an essential step in maintaining cohesiveness as the SCADA system ages while personal devices improve.

### **METHOD OF COMPENSATION**

Any necessary services outside the scope of the work must be identified and approved in advance by the City of Merced Public Works Director or his designee. In addition, no change orders or contract amendments will be considered without prior written authorization from the City Public Works Director or his designee.

Payments, upon invoice, will be made monthly based on actual hours worked or otherwise agreed upon fee structure. Invoicing shall include a detail of costs for work performed during the payment period, a summary of current invoice amounts, previous payments, and total payments to date.

### **SPECIAL ISSUES AND REQUIREMENTS**

Form and Execution of Contract. **Attachment A** is the form of the contract (*Consulting and Professional Services Contract*) the successful proposer will be expected to execute. Any exceptions to the form of the contract must be clearly stated in the proposal and may be grounds for being declared non-responsive.

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

Civil Rights Laws. Consultant, its employees, and any subcontractors shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and all other applicable non-discrimination civil rights requirements.

Insurance. The Consultant shall also meet the insurance requirements in Section 9 of the contract, including liability insurance in the amount of \$1,000,000, naming the City as additional insured.

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

City of Merced Business License. Consultant shall obtain and maintain a City of Merced Business license throughout the contracted period.

## **PROPOSAL CONTENT**

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

- a. Cover Letter. The RFQ shall include a cover letter signed by the team representative authorized to sign contracts stating interest and ability to perform the work, and ability to perform to above schedule (three year contract period).
- b. Experience and Services. The RFQ shall list and describe previous experience and expertise with providing integrator services at a scale comparable to this RFQ.
- c. Project Understanding. The RFQ shall include a summary of the team's understanding of the services to be provided to the City of Merced as well as any recommendations regarding additional services.
- d. Special Requirements. The RFQ shall include a statement of understanding and compliance with the special requirements listed herein.
- e. References. The RFQ shall include information on three (3) references that may be contacted to discuss the reference's experience with the team; include telephone number and email address.
- f. Fee Estimates. Each proposal shall include a fee estimate for providing services. Specify hours by billing grades, hourly rates, costs by task, and details of any other charges.

**PLEASE NOTE:** The City does not pay for services in advance. Therefore, do not propose contract terms that call for upfront payments or deposits.

### **PROPOSAL SELECTION**

RFQ submittal will be reviewed for completeness and qualifications by City representatives. The City representative will negotiate with the top-ranked proposer(s) to determine the final award.

This RFQ does not commit the City to enter into a contract, nor does it obligate the City to pay for any costs incurred in preparation and submission of proposals or in anticipation of a contract. The City reserves the right, without qualification, to:

- Select any proposal when such action is considered to be in the best interest of the City;
- Reject any and all proposals;
- Issue subsequent Requests for Qualifications;
- Postpone opening for its own convenience;
- Approve or disapprove the use of particular subcontractors;
- Accept other than the lowest offer;
- Exercise discretion and apply its judgment with respect to selection of any proposals submitted;
- Waive informalities and irregularities in the Proposals;
- Negotiate with any, all or none of the Proposers;
- Select proposals, based on initial proposals received, without discussion or after detailed discussions or contract negotiations;
- Enter into an agreement with another Proposer in the event the originally selected Proposer defaults or fails to execute an agreement with the City.

An agreement shall not be binding or valid with the City unless and until it is executed by authorized representatives of the City and of the Proposer.

### **PROTEST PROCESS**

Potential bidders, proposers, contractors, and sub-contractors wishing to protest or appeal a procurement or contracting decision made by the Purchasing Division must follow the procedures provided by this section. Protests or appeals which are not submitted in accordance with these procedures will not be reviewed.

#### **PROTEST SUBMISSION**

- (1) Any interested party (actual or prospective bidder or proposer) may file a written protest with the Purchasing Supervisor (PS) no later than five (5) working days after the date of mailing a Notice of Intent to Award (NIA).
- (2) The written protest may be delivered in person or via certified mail to the PS at Purchasing Division, 2525 O Street, Merced, CA 95340.

- (3) The protest must be physically received by the PS by 4:00 p.m. PST, by the fifth day during the protest period.
- (4) The protest filed with the PS shall meet the following prerequisites:
  - a. The name, address, and business telephone number of the protestor.
  - b. Identify the project under protest by name, RFP/quotation/bid number, and RFP/quotation/bid date.
  - c. Contain a concise statement of the grounds for protest; however, the RFP or bid procedures (including evaluation criteria) shall not constitute grounds for protest. Concerns related to those issues must be raised and addressed prior to the bid or proposal opening date to allow adjustments before evaluation of bids or proposals.
  - d. Include all supporting documentation, if any. Documentation submitted after filing the protest will not be considered during review of the protest or during an appeal.

#### PROTEST REVIEW AND APPEAL

- (1) Upon receipt of a protest, the PS shall review all the submitted materials and shall create and retain a written record of the review. The PS shall respond in writing at least generally to each material issue raised in the protest not later than ten (10) working days after receipt of the protest.
- (2) If the protested procurement involves federal funds, the PS shall give notice to the interested party that he or she has the right to appeal to the appropriate federal agency which shall be identified by name and address. An appeal hereunder shall be filed with the appropriate agency within five (5) working days of the dispatch of rejection notices to the interested parties.
- (3) The PS' decision may be appealed in writing to the City Manager (CM) or his or her designee(s), with a copy to the PS, not later than ten (10) working days after the date the PS' decision is mailed to the protesting party. A bid appeal review committee comprised of the CM or designee, and any other person(s) he or she selects shall review and decide the appeal based on the grounds and documentation set forth in the original protest to the PS. The appealing party may be represented by legal counsel, if desired. Each party shall bear its own costs and expenses involved in the protest and appeal process, including any subsequent litigation. The decision of the bid appeal review committee shall be final.
- (4) If the protested procurement involves federal funds, interested parties may have the right to appeal to the appropriate federal agency. When applicable, the PS shall give notice to the interested party that he or she has the right to such an appeal and shall identify the federal agency by name and address. When applicable, an appeal hereunder shall be filed with the appropriate agency within five (5) working days of the dispatch of rejection notices to the interested parties.

The City will not request authorization to award the contract until the protest process is completed.

### **PUBLIC RECORD**

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

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

### **WITHDRAWAL OF PROPOSALS**

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

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**All submittals shall be submitted in writing.** Any exceptions to the requirements stated herein shall be clearly stated in the submittal and may be grounds for being declared non-responsive.

All correspondence or communications in reference to this RFQs shall be directed to:

Johnnie Baptista, Public Works Manager -Water  
City of Merced  
1776 Grogan Avenue  
Merced, CA 95341  
(209) 384-4180  
baptistaj@cityofmerced.org

All cost for preparation of the submittals shall be borne by the applicant, and submittals received shall become the property of the City, whether accepted or rejected. Incomplete submittals may be rejected as non-responsive. The City reserves the right to reject any and all proposals submitted in response to the RFQ.



**CITY OF MERCED**  
**CONSULTING AND PROFESSIONAL SERVICES CONTRACT**

**THIS CONTRACT** is made at Merced, California, by and between the City of Merced ("City"), a California Charter Municipal Corporation, and \_\_\_\_\_, a \_\_\_\_\_, whose address of record is \_\_\_\_\_, ("Consultant") for the purpose of providing full service consulting and electrical engineering services for City of Merced Municipal Well Sites.

**WHEREAS**, City does not have sufficient personnel to perform full service consulting and electrical engineering services and thereby necessitating this Contract for professional services.

**NOW, THEREFORE**, the Parties covenant and agree, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed, as follows:

**SECTION 1.     CONSULTANT SERVICES**

- A. Subject to the terms and conditions set forth in this Contract, Consultant shall provide to City the services described in Exhibit "A," attached and incorporated herein. City and Consultant shall enter into an "Authorization of Service Agreement," substantially in the form of Exhibit "B" attached hereto and incorporated herein by this reference, for each project. City's City Manager shall have the authority to execute on City's behalf the Authorization of Service Agreement without additional approval by the City Council so long as the funding is available within the project budget. In the event additional funding is required, such Authorization of Service Agreement will require prior City Council approval. In the event of a conflict between the term of this Contract and the terms of the Authorization of Service Agreement, the terms and conditions set forth herein shall prevail over those set forth in the Authorization of Service Agreement.
- B. Pursuant to Government Code § 7550, if the compensation set forth in Section 2 exceeds the sum of five thousand dollars (\$5,000), each document or report prepared by Consultant for City pursuant to this Contract shall, in a separate section of the document or report, contain the numbers and dollar amount of the Contract and all subcontracts

under the Contract relating to the preparation of the document or written report. If multiple documents or written reports are the subject of the Contract or subcontracts, the disclosure section may also contain a statement indicating that the total contract amount represents compensation for multiple documents or written reports.

## **SECTION 2.     COMPENSATION AND REIMBURSEMENT OF COSTS**

- A. City shall pay Consultant for services rendered pursuant to this Contract, at the times and in the manner set forth in each Authorization of Service Agreement. The payments specified in the Authorization of Service Agreement shall be the only payments to be made to Consultant for services rendered pursuant to this Contract.

## **SECTION 3.     TERM AND TERMINATION**

- A. The term of this Contract shall be for three (3) years commencing on the date of this Contract. The City shall have the option to extend this Contract for a single one (1) year term. Time is of the essence.
- B. If Consultant fails to perform its duties to the satisfaction of City, or if Consultant fails to fulfill in a timely and professional manner its obligations under this Contract, then City shall have the right to terminate this Contract effective immediately upon City giving written notice thereof to Consultant.
- C. Either Party may terminate this Contract without cause on thirty (30) calendar days' written notice.
- D. City may terminate this Contract immediately upon written notice to Consultant if funding ceases or is materially decreased during the term of this Contract.
- E. In the event that City gives notice of termination, Consultant shall promptly provide to City any and all finished and unfinished reports, data, studies, photographs, charts, or other work product prepared by Consultant pursuant to this Contract. City shall have full ownership, including, but not limited to, intellectual property rights, and control of all such finished and unfinished reports, data, studies, photographs, charts, or other work product.

- F. In the event that City terminates the Contract, City shall pay Consultant the reasonable value of services rendered by Consultant pursuant to this Contract; provided, however, that City shall not in any manner be liable for lost profits which might have been made by Consultant had Consultant completed the services required by this Contract. Consultant shall, not later than ten (10) calendar days after termination of this Contract by City, furnish to City such financial information as in the judgment of the City's representative is necessary to determine the reasonable value of the services rendered by Consultant.
- G. In no event shall the termination of this Contract be construed as a waiver of any right to seek remedies in law, equity, or otherwise for a Party's failure to perform each obligation required by this Contract.

#### **SECTION 4. MISCELLANEOUS TERMS AND CONDITIONS OF CONTRACT**

- A. City shall make its facilities accessible to Consultant as required for Consultant's performance of its services under this Contract, and, upon request of Consultant at times convenient to City, provide labor and safety equipment as required by Consultant for such access.
- B. Unless otherwise agreed to in the Authorization of Services Agreement, City shall obtain, arrange, and pay for all advertisements for bids, permits, and licenses required by local, state, or federal authorities.
- C. Pursuant to the City's business license ordinance, Consultant shall obtain a City business license prior to commencing work.
- D. Consultant represents and warrants to City that it has all licenses, permits, qualifications, and approvals of any nature whatsoever that are legally required for Consultant to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Contract any licenses, permits, and approvals that are legally required for Consultant to practice its profession.
- E. Consultant shall, during the entire term of this Contract, be construed to be an independent contractor and nothing in this Contract is intended, nor shall it be construed, to create an employer/employee relationship,

association, joint venture relationship, trust, or partnership or to allow City to exercise discretion or control over the professional manner in which Consultant performs under this Contract; provided, however, that the services to be provided by Consultant shall be provided in a manner consistent with the professional standards applicable to such services. The sole interest of City is to insure that services are rendered and performed in a competent, efficient, and satisfactory manner. Consultant shall be fully responsible for payment of all taxes due to state and federal governments which would be withheld from compensation if Consultant were a City employee. City shall not be liable for deductions for any amount for any purpose relating to Consultant's compensation. Consultant shall not be eligible for coverage under City's workers' compensation insurance plan, benefits under the City's retirement plan, or be eligible for any other City benefit. No party shall be the agent of, or have a right or power to bind, the other Party without its express written consent.

In the event Consultant or any employee, agent, or subcontractor of Consultant providing services under this Contract 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.

- F. No provision of this Contract is intended to, or shall be for the benefit of, or construed to create rights in, or grant remedies to, any person or entity not a party hereto, including any third-party beneficiary.
- G. No portion of the work or services to be performed under this Contract shall be assigned, transferred, conveyed, or subcontracted without the prior written approval of City. Consultant may use the services of independent contractors and subcontractors to perform a portion of its obligations under this Contract with the prior written approval of City. Independent contractors and subcontractors shall be provided with a copy of this Contract and Consultant shall have an affirmative duty to assure that said independent contractors and subcontractors comply

with the same and agree to be bound by its terms. Consultant shall be the responsible party with respect to all actions of its independent contractors and subcontractors, and shall obtain such insurance and indemnity provisions from its contractors and subcontractors as City's Risk Manager shall determine to be necessary in his/her sole discretion.

- H. Consultant, at such times and in such form as City may require, shall furnish City with such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Contract, the costs or obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.
- I. Consultant shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to this Contract and such other records as may be deemed necessary by City to assure proper accounting for all project funds. These records shall be made available for audit purposes to state and federal authorities, or any authorized representative of City. Consultant shall retain such records for three (3) years after the expiration of this Contract, unless prior permission to destroy them is granted by City or unless a longer retention period is required by a funding source for this Contract.
- J. Consultant shall perform all services required pursuant to this Contract in the manner and according to the standards observed by a competent practitioner of Consultant's profession. All products of whatsoever nature, which Consultant delivers to City pursuant to this Contract, shall be prepared in a professional manner and conform to the standards of quality normally observed by a person practicing the profession of Consultant and its agents, employees, and subcontractors assigned to perform the services contemplated by this Contract.
- K. Unless Consultant is specifically advised in writing by City to verify data, Consultant shall be entitled to rely upon the accuracy and completeness of all data furnished by City to Consultant that is used by Consultant in providing its services under this Contract. Consultant may retain and use all data furnished to it, except such data which may be marked "confidential" and required to be returned, and may use all plans, designs, specifications, and other work product created by Consultant in providing services hereunder. Any use of such work product that includes proprietary information shall not identify City; nor

shall the manner of such use have the effect of identifying City. In any reuse by Consultant for any non-City purpose of any data, drawings, plans, etc., prepared for City, Consultant shall fully release, protect, defend, indemnify, and hold harmless City, its officials, officers, employees, and agents from all claims, costs, expenses, damage, or liability arising out of or resulting from the reuse or modification of any reports, data, documents, drawings, specifications, or other work product prepared by Consultant for City for any entity or purpose other than for City's benefit.

- L. All completed reports and other data or documents, or computer media including diskettes, and other materials provided or prepared by Consultant in accordance with this Contract are the property of City, and may be used by City. City shall have all intellectual property rights including, but not limited to, copyright and patent rights, in said documents, computer media, and other materials provided by Consultant. City shall release, defend, indemnify, and hold harmless Consultant from all claims, costs, expenses, damage, or liability arising out of or resulting from the use or modification of any reports, data, documents, drawings, specifications, or other work product prepared by Consultant, except use by City on those portions of the project for which such items were prepared.
- M. Consultant, including its employees, agents, and subconsultants, shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Contract. Consultant shall comply with all requirements of the Political Reform Act (Government Code § 81000 *et seq.*), Government Code Section 1090 *et seq.*, and other laws relating to conflicts of interest, including the following: 1) Consultant shall not make or participate in a decision made by City if it is reasonably foreseeable that the decision may have a material effect on Consultant's economic interest, and 2) if required by City Clerk, Consultant shall file financial disclosure forms with the City Clerk.

## **SECTION 5. INSURANCE**

- A. As a separate and independent covenant from any indemnity obligation hereunder, during the term of this Contract, Consultant shall maintain in full force and effect at its own cost and expense, the following insurance coverage:

1. 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.
2. General Liability.
  - (a) 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.
  - (b) Consultant shall maintain limits of no less than One Million Dollars (\$1,000,000) per occurrence for bodily injury, personal injury, and property damage.
  - (c) The City, its officers, employees, 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.
  - (d) 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.
  - (e) 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, and agents 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.

3. Automobile Insurance.

- (a) 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.
- (b) The City, its officers, employees, and agents are to be named as additional insureds under the policy, as respects automobiles owned, leased, hired, or borrowed by the Consultant.
- (c) 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.

4. 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.

B. 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:

- 1. An insurance carrier admitted to do business in California and maintaining an agent for service of process within this State; and,
- 2. 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).

C. Certificate of Insurance. Consultant shall complete and file with the City prior to engaging in any operation or activity set forth in this Contract, 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 Contract,



without thirty (30) days written notice to City prior to the effective date of such cancellation—including cancellation for nonpayment of premium. In addition to any other remedies City may have, City reserves the right to withhold payment if Consultant's insurance policies are not current.

## **SECTION 6. INDEMNIFICATION AND HOLD HARMLESS**

- A. As a separate and independent covenant and irrespective of any insurance policy or policies or limitations thereof and to the fullest extent permitted by law (including, without limitation, California Civil Code Sections 2782 and 2782.6), Consultant shall indemnify, protect, defend (with legal counsel selected by the City), save, and hold City, its officers and employees, harmless from any and all claims or causes of action for death or injury to persons, or damage to property, or expense and liability of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, attorneys' fees, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation), that arise out of, pertain to, or relate to, the negligence, recklessness, willful misconduct of Consultant or its employees, subcontractors, or agents in the performance of this Contract. 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. This indemnification and hold harmless clause shall survive the termination of this Contract 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 Contract, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

## **SECTION 7. CONTRACT INTERPRETATION, VENUE AND ATTORNEY FEES**

- A. This Contract shall be deemed to have been entered into in Merced, California. All questions regarding the validity, interpretation, or performance of any of its terms or of any rights or obligations of the parties to this Contract shall be governed by California law, and any action brought by either party to enforce any of the terms of this Contract shall be filed in the Merced County Superior Court. If any

claim, at law or otherwise, is made by either party to this Contract, the prevailing party shall be entitled to its costs and reasonable attorneys' fees.

- B. This document, including all exhibits, contains the entire agreement between the parties and supersedes whatever oral or written understanding each may have had prior to the execution of this Contract. This Contract shall not be altered, amended, or modified except by a writing signed by City and Consultant. No verbal agreement or conversation with any official, officer, agent, or employee of City, either before, during, or after the execution of this Contract, shall affect or modify any of the terms or conditions contained in this Contract, nor shall any such verbal agreement or conversation entitle Consultant to any additional payment whatsoever under the terms of this Contract.
- C. If any portion of this Contract or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Contract shall not be affected thereby and shall be enforced to the greatest extent permitted by law.
- D. The headings in this Contract are inserted for convenience only and shall not constitute a part hereof. A waiver of any party of any provision or a breach of this Contract must be provided in writing, and shall not be construed as a waiver of any other provision or any succeeding breach of the same or any other provisions herein.
- E. Each Party hereto declares and represents that in entering into this Contract, it has relied and is relying solely upon its own judgment, belief, and knowledge of the nature, extent, effect, and consequence relating thereto. Each Party further declares and represents that this Contract is made without reliance upon any statement or representation not contained herein of any other Party or any representative, agent, or attorney of the other Party. The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms, and conditions of this Contract and that the decision of whether or not to seek the advice of counsel with respect to this Contract is a decision which is the sole responsibility of each of the Parties. Accordingly, no party shall be deemed to have been the drafter

hereof, and the principle of law set forth in Civil Code § 1654 that contracts are construed against the drafter shall not apply.

- F. In the event of a conflict between the term and conditions of the body of this Contract and those of any exhibit or attachment hereto, the terms and conditions set forth in the body of this Contract proper shall prevail. In the event of a conflict between the terms and conditions of any two or more exhibits or attachments hereto, those prepared by City shall prevail over those prepared by Consultant.

## **SECTION 8. SURVIVAL**

The provisions set forth in Sections 5 and 6 of this Contract shall survive termination of the Contract.

## **SECTION 9. COMPLIANCE WITH LAWS - NONDISCRIMINATION**

- A. Consultant shall comply with all applicable laws, ordinances, and codes of federal, state, and local governments.
- B. In the performance of this Contract, Consultant shall not discriminate against any employee or applicant for employment because of race, color, ancestry, national origin, religious creed, sex, sexual orientation, disability, age, marital status, political affiliation, or membership or nonmembership in any organization. Consultant shall take affirmative action to ensure applicants are employed and that employees are treated during their employment without regard to their race, color, ancestry, national origin, religious creed, sex, sexual orientation, disability, age, marital status, political affiliation, or membership or nonmembership in any organization. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff, or termination, rates of pay, or other forms of compensation and selection for training.

## **SECTION 10. FEDERAL REQUIREMENTS**

- A. During the performance of this Contract, Consultant, for itself, its assignees, and successors in interest agrees as follows:

1. Compliance with Regulations. Consultant shall comply with the regulations relative to nondiscrimination in Federally-assigned programs of the Department of Transportation (hereinafter called "DOT") Title 49, Code of Federal Regulations, PART 21, as they may be amended from time to time (hereinafter referred to as the "Regulations") which are herein incorporated by reference and made a part of this Contract.
2. Nondiscrimination. Consultant, with regard to the work performed by it in the Contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. Solicitations for Subcontracts, Including Procurement of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by Consultant for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Consultant of Consultant's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

## **SECTION 11. REPRESENTATIVES**

- A. City's representative for this Contract is Johnnie Baptista, telephone number (209) 384-4180. All of Consultant's questions pertaining to this Contract shall be referred to the above-named person, or to the representative's designee.
- B. Consultant's representative for this Contract is \_\_\_\_\_ telephone number \_\_\_\_\_ fax number \_\_\_\_\_. All of City's questions pertaining to this Contract shall be referred to the above-named person.

- C. The representatives set forth herein shall have authority to give all notices required herein. City's City Manager is authorized to execute any amendment to this Contract, which does not increase the amount of compensation allowable to Consultant.

## **SECTION 12. NOTICES**

- A. All notices, requests, demands, and other communications hereunder shall be deemed given only if in writing signed by an authorized representative of the sender (may be other than the representatives referred to in Section 11) and delivered by facsimile, with a hard copy mailed first class, postage prepaid; or when sent by a courier or an express service guaranteeing overnight delivery to the receiving party, addressed to the respective parties as follows:

<b>To City:</b> City of Merced Johnnie Baptista 1776 Grogan Avenue Merced, CA 95341  City Clerk City of Merced 678 West 18th Street Merced, CA 95340	<b>To Consultant:</b>
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- B. Either party may change its address for the purposes of this Section by giving written notice of such change to the other party in the manner provided in this Section.
- C. Notice shall be deemed effective upon: 1) personal service; 2) two days after mailing or transmission by facsimile, whichever is earlier.

## **SECTION 13. AUTHORITY TO CONTRACT**

Each of the undersigned signatories hereby represents and warrants that they are authorized to execute this Contract on behalf of the respective parties to this Contract; that they have full right, power, and lawful authority to undertake all obligations as provided in this Contract; and that the execution,

performance, and delivery of this Contract by said signatories has been fully authorized by all requisite actions on the part of the respective parties to this Contract.

**SECTION 14. CONFORMANCE TO APPLICABLE LAWS**

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 Contract, 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.

**SECTION 15. WAIVER**

In the event that either City or Consultant shall at any time or times waive any breach of this Contract by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Contract, 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.

**SECTION 16. AMENDMENT**

This Contract shall not be amended, modified, or otherwise changed unless in writing and signed by both parties hereto by the authorized representative thereof.

**SECTION 17. COUNTERPARTS**

This Contract 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.

**SECTION 18. DATE OF CONTRACT**

The date of this Contract shall be the date it is signed by City.

IN WITNESS WHEREOF, City and Consultant have executed this Contract on the days and year set forth below:

Dated: \_\_\_\_\_, 2025

CITY OF MERCED,  
A California Charter-law Municipal  
Corporation

\_\_\_\_\_  
By: City Manager

ATTEST:  
D. SCOTT MCBRIDE, CITY CLERK

\_\_\_\_\_  
By: Assistant/Deputy City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney                      Date

Dated: \_\_\_\_\_, 2025

CONSULTANT

BY: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Typed Name)

Its: \_\_\_\_\_  
(Title)

BY: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Typed Name)

Its: \_\_\_\_\_  
(Title)

Taxpayer I.D. No. \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

TELEPHONE: \_\_\_\_\_

FAX: \_\_\_\_\_

E-MAIL: \_\_\_\_\_

**Attachments:**

**Exhibit A (Scope of Work)**

**Exhibit B (Authorization for Service Agreement)**



Description of Services to be Provided:	<i>Official Use Only</i>

  

<b>Consultant:</b>	<b>Scope of Services</b>
1. _____	
2. _____	
3. _____	
Total Amount \$_____	

(a) By completing and executing this document, Consultant agrees to be bound to the Terms and Conditions in the Consulting and Professional Services Contract dated \_\_\_\_\_, to the Terms and Conditions attached hereto and incorporated by reference, and any other terms and conditions imposed by the City and attached hereto or in the Merced Municipal Code, and makes the City an offer for the above-mentioned services at the above-mentioned price. This agreement is not binding on the City until executed by the City Manager, or his/her designee, and a Purchase Order is issued to Consultant. Any terms and conditions proposed by Consultant shall not be binding upon the City unless expressly agreed to in writing by the designated representative of the City.

The individuals executing this contract represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

Consultant	City of Merced
_____ Print Name	_____ Name of Business Entity
_____ Signature	_____ Date
_____ Position/Title	_____ Contractor's License No.: (If Applicable)

  

Accepted by City of Merced	<i>Official Use Only</i>
_____ <b>City Manager or Designee</b>	Date _____

## **TERMS AND CONDITIONS FOR SERVICES CONTRACTS**

THESE TERMS AND CONDITIONS, (“Terms and Conditions”) are made and entered into on the date shown on the attached Statement of Services, by and between the City of Merced, a California Charter Municipal Corporation, (“City”) and the Consultant, Vendor, Contractor, or Person, (“Contractor”) shown on the Authorization for Service Agreement. These Terms and Conditions, Authorization for Service Agreement, and the Consulting and Professional Services Contract shall herein be collectively referred to as the “Agreement.” Any words that Consultant adds to the Agreement or any form that Consultant uses in the course of business will not change or supersede these Terms and Conditions. The City must agree, in writing, to any change in terms and conditions. The City’s acceptance of any work or services is not an acceptance of Consultant’s conflicting terms and conditions should such exist.

1. **CONTRACTOR’S SERVICES.** Contractor shall, at its own cost and expense and as authorized and directed by the City, provide the personnel, supervision, equipment, supplies, services, administration, transportation, and other needs to complete the work described in the Authorization for Service Agreement and the City’s Purchase Order, which is hereby incorporated and made a part of these Terms and Conditions, within the agreed upon time schedule and budget. The Contractor is responsible for obtaining and administering the employment of personnel having the training, experience, licenses, and other qualifications necessary for the work assigned. All project-related costs shall be assumed and paid by the Contractor. These Terms and Conditions and Purchase Order provide the exclusive means of payment and reimbursement of costs to the Contractor by the City.

Such work shall include the following:

a. The Contractor shall perform the services as described in the Statement of Services and Purchase Order in full compliance with these Terms and Conditions and adopted City policies and guidelines as provided to the Contractor, and in compliance with all other applicable laws and regulations.

b. The Contractor shall perform all services and prepare all documents in professional form, exercising the special experience, skill, and education required for such service.

c. The Contractor shall provide finished documents of presentation quality that evidence the highest standards of investigation, professional review, public participation, and presentation.

2. SCHEDULE OF PERFORMANCE AND BUDGET. The Contractor shall satisfactorily perform the services described in the Statement of Services and Purchase Order within the Time Schedule stated or agreed to between the Contractor and the City. The Contractor shall review the remaining work and remaining budget at least monthly (or at such other interval as directed by City staff) and shall confirm that completion may be expected within the budget approved or, in the alternative, give immediate notice when it shall first appear that the approved budget will not be sufficient, together with an explanation for any projected insufficiency.

The Contractor shall immediately inform the City of any problems, obstructions, or deviations of which the Contractor becomes aware affecting Contractor's ability to complete the project in a timely, efficient, and competent manner.

3. RISK OF LOSS PRIOR TO FINAL ACCEPTANCE. Risk of loss from total or partial destruction of the work, prior to final acceptance, shall be borne by Contractor regardless of the cause. Contractor shall repair or replace such damages or destroyed work to its prior undamaged condition before being entitled to additional progress payments or final payment. Total or partial destruction or damage shall not excuse Contractor from completion of work.

4. COMPENSATION. Payment by the City to the Consultant for actual services rendered shall be made upon presentation of an invoice detailing services performed and authorized.

5. PERMITS AND LICENSES.

a. Contractor shall apply for and procure permits and licenses necessary for the work.

b. Contractor shall give notices necessary and incidental to the due and lawful prosecution of the work and shall comply duly with the terms and conditions of permits and licenses.

c. Contractor shall pay charges and fees in connection with permits and licenses.