



City of
Los Banos
At the Crossroads of California

**REQUEST FOR PROPOSALS
FOR
FIRE DEPARTMENT MOBILE DATA COMPUTER
REPLACEMENT**

City of Los Banos
520 J Street
Los Banos, CA 93635
(209) 827-7000

Release Date
February 10, 2017

Contact Person:
Rick Spalding, IT Director

Deadline for Submissions
March 17, 2017 at 3:00 P.M.

REQUEST FOR PROPOSALS

Fire Department Mobile Data Computer Replacement

RELEASE DATE: February 10, 2017

CLOSING DATE/TIME: March 17, 2017 at 3:00 P.M.
*All proposals must be received by the closing date and time.
Faxed, emailed, and postmarked materials will be not accepted.*

CONTACT PERSON: Rick Spalding, IT Director
209 827-7000 ext 154
rick.spalding@losbanos.org

City of Los Banos
520 J Street
Los Banos, CA 93635

Hours: Monday – Friday 8:00AM – 5:00PM

I. Introduction

The City of Los Banos Fire Department is accepting proposals from qualified vendors with experience in Fire Mobile Data Computer (MDC) and in-car video equipment to design, acquire, install, and deploy a MDC/video solution to replace the existing system. The City of Los Banos Fire Department currently uses Motorola ML910 laptop computers for communicating with Police Dispatch (CAD) and other applications. The Motorola equipment was installed over eight years ago. The City wishes to consider alternatives to the existing MDC equipment based on the requirements identified below.

II. Project Background

The City of Los Banos is located in the Central/West San Joaquin Valley within Merced County. The population is approximately 39,000. Among other services, the City provides fire protection services to its residents, and utilizes Motorola ML910 MDC equipment to provide ten fire vehicles with access to Computer Aided Dispatch, mapping applications, and other services.

The existing MDC equipment is over eight years old, components are failing due to age, and the hardware resources in the MDCs are not capable of providing responsive services for applications.

III. Technical Requirements

A. Mobile Data Computers

The City is interested in purchasing ten Mobile Data Computers. These MDCs will replace the existing Motorola MDCs. Based on staff familiarity with existing Panasonic MDC equipment in Police vehicles, the City has opted to specify Panasonic MDC equipment for the Fire vehicles in accordance with Los Banos Municipal Code Section 3-10.230. The Fire Department has determined that Panasonic Toughbook CF-20 equipment is to be used for this project.

The minimum Panasonic Toughbook CF-20 hardware specifications should include the following:

- CF-20 Standard Configuration (CF-20C5-00VM)
- Second Battery
- Docking solution that provides easy removal of the MDC with minimal disconnect of external components. The docking solution should also allow for the MDC to be locked in place and not removed. The docking solution is to include a nine-pin (DB9) female serial port connection.
- Antenna pass-thru's on the docking station to support three devices (802.11, GOBI, GPS)
- Disk image management (software) solution
- Auto shut-off timer for all vehicles (Havis ChargeGuard or equivalent) to avoid the vehicle battery from completely discharging due to an MDC being left on.
- Antenna to support 802.11, GOBI, and GPS connectivity for the MDCs.

B. Mounting Hardware

The Fire Department fleet to receive MDC equipment is comprised of the following apparatus:

1. 2014 Half-Ton Ford Crew Cab (601), Command Vehicle
2. 2017 Half-Ton Chevrolet Crew Cab (602), Command Vehicle
3. 2006 F-250 Ford Crew Cab – Utility
4. 2015 Rosenberger – Fire Engine (E-651)
5. 2004 Spartan Cab – Fire Engine (E-652)
6. 2007 Spartan Cab – Fire Engine (E-653)
7. 2001 Freight Liner – Rescue (R-641)
8. 1996 Spartan Cab – Fire Engine (E-658)
9. 1991 Feder (E-One) Fire Truck (LT-670)
10. 2008 Kenworth –Water Tender (WT-681)

The MDCs should be mounted in the driver/passenger cabin when it is possible to avoid concerns related to visibility out all vehicle windows; ergonomics; interference with vehicle safety systems (including driver and passenger airbags); access to controls, console equipment, and other equipment in the vehicle cabin; and comfort for the driver and passenger. The MDC should be removable by personnel for use outside the vehicle, while also having the option of configuring the mounting hardware to disallow removal of the MDC. The MDC should be

mounted in a docking station to minimize the number of connections for external components. These factors and all costs associated with mounting equipment and installation services are to be identified in the RFP response.

Any existing mounting equipment that can be re-used when the new MDC is installed in a new vehicle should be noted in the RFP response.

MDC equipment may be excluded from one or more specific vehicles at the option of the City. If the cost to purchase and deploy the MDC equipment is different for each vehicle, the RFP response shall list these costs separately for each vehicle.

C. Video Hardware/Software Solution

The MDC solution may include an in-car video capture solution for the following vehicles:

1. 2014 Half-Ton Ford Crew Cab (601), Command Vehicle
2. 2017 Half-Ton Chevrolet Crew Cab (602), Command Vehicle
3. 2015 Rosenberger – Fire Engine (E-651)
4. 2004 Spartan Cab – Fire Engine (E-652)

For compatibility with the MDC equipment as well as the existing server that retains video recordings, Fire has opted to purchase the Arbitrator 360 video system for these systems. Only one camera is needed per vehicle.

In-car video capture equipment may be included in zero or more of these vehicles. Please identify costs for this equipment, and any services or hardware necessary to install the equipment, separate from all other costs associated with this project. If the cost to purchase and deploy the video capture solution is different for each vehicle, the RFP response shall list these costs separately for each vehicle.

IV. Scope of Services

The scope of services for this project is as follows:

A. Design

During the negotiation portion of the RFP process, before the bid is awarded, the City and the preferred vendor will determine the best overall solution that would include MDC and (if desired) camera equipment, mounting hardware, additional equipment to provide a solution meeting the requirements noted above, and installation/deployment services. The negotiated hardware and software solution, along with a timeline for the acquisition of the solution, installation, and deployment, will constitute the Scope of Services for this project. The awarded vendor will be responsible for ensuring that the negotiated hardware and software solution meets all requirements noted in this RFP.

After the bid is awarded, the City may opt for the negotiated solution to be completely installed and deployed in one vehicle and tested to ensure optimal operation. The solution may be further modified based on the results of this trial installation/deployment. The City is not to be charged for this trial installation and deployment, though the cost of the overall deployed solution may change if equipment and/or services for the overall deployment are modified.

B. Deployment

The vendor awarded this RFP will be responsible for all efforts and expenses involved with the deployment of the identified MDC and video equipment in vehicles, equipment rooms, etc in all vehicles and locations identified in the negotiated solution. All costs associated with the deployment of the MDCs and components are to be identified in the negotiated solution.

C. First-year Support Requirements

All components of the solution (MDC, video, mounting equipment) are to be supported for a minimum of one year by the successful vendor, starting at the date that the entire solution is accepted by the City. This support includes repair and/or replacement of MDC equipment, mounting hardware, and other devices purchased as part of this project that fails from any cause.

D. MDC and Video Equipment Support

Costs for four additional years of next-business-day support, beyond the first year for a total of five years for the MDC equipment by the manufacturer are to be included in the Proposal. This includes repair and/or replacement of equipment that fails from any cause.

V. Proposal Format

To facilitate the review of responses, all responses are required to adhere to the following requirements with regard to their proposal. The City strongly encourages respondents to ensure that RFP submissions are succinct and clearly organized. The RFP response must be written and organized in the exact order of each line item A-I below. If the proposal is not in this format or does not include all of the listed items, it may be deemed non responsive. For ease of handling, all responses are to be provided in a standard 8 ½" x 11" portrait format with binding on the left hand edge.

- A. Cover Letter.** Provide a letter of introduction signed by an authorized representative.
- B. Name, Title, and Contact Information.** Include the name of the person or persons who will be authorized to make representations on behalf of the vendor, with all contact information.
- C. Company History.** Provide years in business and overview of products and services offered by your company. Provide how many full-time employees the company currently employs and whether or not your company sub-contracts with other companies.

- D. Qualifications and Experience.** Provide the qualifications of the vendor and its specialized experience and technical competence that qualify it to provide the services required. Provide the names and qualifications of outside consultants and associates that will be employed to assist on the work to be performed under your proposal.
- E. References.** Provide a list of names, addresses and telephone numbers of at least five (public sector preferred) clients for which the vendor has successfully completed similar projects to that required by this RFP within the past five years. A brief synopsis should be included on at least three customers currently utilizing equipment and systems similar to those required in this RFP. Include a description of the projects, hardware installed, and the contact name and information of the customer.
- F. Description of Proposed Hardware Solution.** Provide detailed information related to your proposed solution and how it will meet the needs of our Department. Your proposed solution is to include the laptops, cameras, necessary mounting hardware, and other components in your solution necessary to satisfy the requirements identified above.

Provide information on what the City of Los Banos will need to provide in order to utilize your product. Provide specifics on the equipment specifications and why you have selected or recommend the equipment specified and/or quoted.

Identify any unique or distinctive features in your product or services that differentiate your product or services from other vendor's solutions.

- G. General Comments.** Comment on any aspect of the RFP including, but not limited to, the technical requirements and scope of work as detailed above. The proposed solution is to be described fully, including how the components of the solution adhere to all requirements noted above.
- H. Project Schedule.** Provide a proposed project schedule of time frames, milestones, for completion of the project. Project schedule must include a specified time frame for delivery of the hardware. At a minimum, the tasks identified above in each phase should be noted showing the timeframe for completing each task and identifying which staff and/or subcontractor will complete the task.
- I. Project Pricing.** Pricing shall be *enclosed in a separate sealed envelope*. Include itemized line item pricing for this project, anticipated tasks and/or deliverables. Also include in the response the anticipated payment schedule, such as the amount due at the start of each phase, amount due at the completion of identified deliverables provided during each phase, or the amount due at successful completion of each phase. The costs identified in the response with this RFP should include all anticipated expenses for all efforts, equipment, and services associated with documentation, design, hardware, configuration, deployment, and support for the first year. The City will retain ten per cent (10%) of fees billed at the completion of each milestone until final acceptance of the deliverables.

1. First Year Support

Describe if the proposed system includes first year support, maintenance, and updates of the hardware to begin upon system acceptance. If not included in base price, provide associated costs in the project pricing line item above.

2. Hardware Support

Describe in detail the level of support provided for hardware repairs. Include response times, name and address of repair site, and location of responding technicians (if a repair response is the best solution to be handled at the police facility). If parts are needed, include time frame when parts are shipped to our facility. Provide information on the parts related to our project that you regularly stock. Include support days and hours available and if vendor provides an 800 number for support.

3. Hardware Updates

- a) The vendor shall describe its hardware update or upgrade policy.
- b) Will the City incur any costs to the vendor to implement updates?

4. Annual Maintenance

Provide a quotation for maintenance of the hardware for the four years for the MDC equipment following expiration of the first year warranty period. Describe the particulars concerning this maintenance including, if applicable, remote problem diagnosis and correction as well as on-site problem correction and response time. Include a sample Maintenance Contract and include what calculation you utilize to determine the cost and what payment schedule you require.

- J. Warranty, Manufacturer.** Manufacturer shall fully warrant all materials and equipment furnished under the terms of this Proposal against poor and inferior quality. While under warranty, manufacturer shall repair or replace inoperable materials or equipment in a timely manner to minimize the disruption of City operations. A copy or description of the manufacturer's warranty shall accompany each Proposal for the material and equipment proposed, detailing the scope and length of the warranty.
- K. Warranty, Vendor.** Successful Vendor shall fully warrant all materials and equipment furnished under the terms of this Proposal against poor and inferior quality, for a period of not less than *one (1) year* from date of the final acceptance by the City. While under warranty, successful Vendor shall repair or replace inoperable materials or equipment in a timely manner to minimize the disruption of City operations.

VI. Evaluation Criteria

Based upon the responses to the RFP, the City may interview any or all of the vendors and/or award the contract without conducting interviews. The successful vendor will be required to enter into a contract with the City, including insurance/indemnity requirements.

Please see the Standard Insurance as set forth in **Attachment A**.

The selection process, including the interview, will focus on:

1. Ability to provide responsive customer service;
2. Clarity of proposal, completeness and inclusion of requested information;
3. Technical capabilities;
5. Reference checks;
6. Professional nature of firm;
7. Demonstrated municipal government experience;
8. Ability to present materials that can be understood by technical and non-technical staff;
9. Qualifications and experience of the firm and staff assigned to provide support;
10. Past performance and level of support of the firm;
11. Professional standing and financial stability of the firm;
12. Feasibility of the proposal(s) based upon the proposed scope of service; and
13. Cost effectiveness.

All interested parties are encouraged to submit proposals as the award is not based solely on lowest cost proposal submitted. Total cost will be taken into consideration, but the vendor's capabilities, competence and capacity will be considered as well. The City reserves the right to choose the overall best firm according to the City's criteria. The City of Los Banos, and its designated representatives, shall be the sole judge of its own best interest, and the proposal most advantageous to the City. The City's decisions will be final.

The project lead person and team will be required to be present at the interview and presentation. The above factors, along with other factors that the City may deem appropriate, will be used to identify the proposal that represents the best value, which will be the basis for the contract award.

The most qualified and responsive proposer will be selected for contract negotiations. If agreement cannot be reached with the first proposer, the second choice proposer (and then the third and so on) will be contacted with the first choice proposer (or other proposers, in order) dismissed from further consideration on that particular project. A contract award may be made to the responsible proposer whose proposal will be best for the City considering evaluation factors outlined above. All proposers participating in the process shall be notified in writing of the successful award.

Proposals shall be valid for a minimum of 90 days following submission.

VII. Key Action Dates/Timeline

Release of RFP: February 10, 2017

Required Vendor meeting: February 24, 2017 at 10:00am
Deadline for Receipt of Questions: February 24, 2017 at 5:00pm
Last day for addendum and changes to RFP: March 3, 2017 at 2:00pm
Deadline for Receipt of Proposal: March 17, 2017 at 3:00 P.M.
Vendor Interviews: April 3 – 7, 2017
Approximate Contract Award Date: April 21, 2017
Target completion date for project: June 30, 2017

VIII. General Terms & Conditions

Public Record: Proposer's attention is drawn to the fact that all proposal documents submitted are subject to disclosure under the California Public Records Act (Government Code Section 6250 et seq.). Information contained in the proposals may be made public after the review process has been completed, negotiations have concluded and a recommendation for award has been officially placed on the City Council agenda for consideration, and/or following award of contract, if any, by the City Council.

Additional Information: The City reserves the right to request additional information and/or clarification from any or all Proposers.

Proposal Acceptance and Rejection: The City reserves the right to reject any and all proposals and to waive any minor informalities or irregularities contained in any proposal. Acceptance of any proposal submitted pursuant to this RFP shall not constitute any implied intent to enter into a contract. The City reserves the right to call for new proposals, and to award the contract to other than the lowest cost proposal if deemed to be in the best interest of the City.

Right to Cancel and Amend: The City reserves the right to cancel, for any or no reason, in part or in its entirety, this RFP, including but not limited to: selection schedule, submittal date, and submittal requirements. If the City cancels or revises the RFP, all Proposers will be notified in writing.

Collusion: Each Proposer certifies that the company, its officers, employees and/or agents are not a party to any collusive action, fraud, or any action that may be in violation of the Sherman Antitrust Act. The Proposer certifies that the company, its officers, employees and/or agents have not offered or received any kickbacks or inducements from any other bidding Proposer, supplier, manufacturer, or subcontractor in connection with the proposal and that the company, its officers, employees and/or agents have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value. Any or all bids shall be rejected if there is any reason to believe collusion exists among the bidding Proposers. More than one bid from an individual, firm, partnership, corporation, or association under the same or different names may be rejected. Reasonable grounds for believing that a bidding Proposer has interest in more than one proposal for the work being proposed may result in rejection of all bids in which the bidding Proposer is believed to have interest.

Debarment: By submitting a proposal, the Proposer certifies that the company is not currently debarred from submitting proposals and/or bids for contracts issued by any City or political subdivision or agency of the State of California, and that it is not an agent of a person or entity that is currently debarred from submitting proposals and/or bids for contracts issued by any City or political subdivision or agency of the State of California.

Limitation: The Request for Proposals (RFP) does not commit the City of Los Banos to award a contract, to pay any cost incurred in the preparation of the firm's RFP response or to procure or contract for services or supplies. The City reserves the right to accept or reject any or all RFP responses received as a result of this request, to negotiate with all qualified sources or to cancel all or part of this RFP. The City will not reimburse the respondents to this RFP for costs incurred in the preparation of their proposal or in any other aspect of their consideration of this engagement. A respondent may withdraw and resubmit a proposal prior to the submission deadline. No re-submissions will be allowed after the submission deadline.

Project Meeting: There will be a mandatory project meeting of vendors to discuss this RFP and to provide a review of the existing Fire vehicles that will be used in this project on February 24, 2017 at 10:00am PDT at Fire Station 1, 333 7th Street, Los Banos CA 93635. Vendors will be given an opportunity to inspect all ten (10) vehicles that will be part of this solution, and will be allowed to submit questions regarding the RFP. Any questions regarding the RFP shall be asked at this meeting. Questions may also be sent to Rick Spalding (rick.spalding@losbanos.org) prior to this meeting. Questions regarding this RFP will not be accepted after February 24, 2017 at 5:00pm.

Modification of Scope: The City reserves the right to modify the contents of this document up to ten days prior to the opening of proposals.

Questions and Inquiries: The City will not give verbal answers to inquiries regarding information in this RFP, or verbal instructions prior to the submission deadline. A verbal statement regarding same by any person shall be non-binding. The City is not liable for any increased costs resulting from the Vendor accepting verbal directions. Any explanation desired by a Vendor must be requested of the City representative in writing not later than 5:00pm

February 24, 2017, and if explanation is necessary, a reply shall be made in the form of an addendum, a copy of which shall be forwarded by March 3, 2017 at 2:00pm by email to each Vendor who attended the mandatory Vendor Meeting.

Award: The firm/entity selected may be required to participate in negotiations and to submit such revisions of their proposals as may result from negotiations. The City reserves the right to award a contract/select a service provider without discussion based upon the initial proposals.

Insurance: The consultant shall maintain in full force and effect the insurance as outlined in **Attachment A**. The City reserves the right to waive or modify such insurance coverage. However, vendors and/or consultants meeting the insurance requirements will receive greater consideration during the selection procedure. All insurance shall be evidenced by a Certificate of Insurance and endorsement acceptable to the City Attorney, prior to execution of a contract. The vendor and/or consultant shall state their ability to meet the City's insurance requirements within their submittal.

Signature: The vendor and/or consultant's RFP response shall provide the following information: name, title, address and telephone number of individuals with authority to bind the service provider and also who may be contacted during the period of proposal evaluation.

Contract Requirements: The selected proposer shall be required to enter into a city-prepared Professional Services Agreement approved by the City Attorney. Proposers shall be prepared to accept the terms and conditions of the City's Standard Professional Services Agreement including all Insurance Requirements. The successful Proposer's bid and the terms and conditions stated in this RFP will be made part of the contract between the City of Los Banos and the Proposer. This RFP outlines the specifications and requirements, but not necessarily all of the terms and conditions that will be incorporated into the final agreement between the City of Los Banos and the successful Proposer. See Attachment B.

Business License: The successful proposer that is awarded the contract will be required to apply for and obtain a business license in accordance with the Los Banos Municipal Code.

Materials and Equipment: All materials and equipment shall be new and of merchantable grade, free from defect. No substitutions shall be permitted from the original specifications unless the Vendor obtains prior approval. If the item proposed differs from these specifications, Vendor shall present specific explanation of functioning and structural characteristics for those details which differ from the specifications listed herein.

Damage to Existing Equipment/Vehicles: Damage to existing equipment or vehicles by the Vendor, in the performance of his work, shall be replaced or repaired and restored to original condition by the Vendor.

Coordination of Work: All work schedules, actual work and payment request shall be coordinated through, inspected by and approved by the Fire Department prior to scheduling of project so that any interruption to the normal business operation is kept to a minimum.

Inspection: All material and workmanship shall be subject to inspection, examination and test by the City at any time and all times during which manufacture and/or installation and/or deployment are carried out. The City shall have the right to reject defective material and workmanship or require its correction.

IX. Submission Instructions

Five (5) bound copies (paper) of the proposal shall be submitted as well as (1) unbound copy capable of reproduction. Please label each copy "Proposal For Fire Department Mobile Data Computer Replacement". Proposals shall be *placed in a sealed envelope or similar secure enclosure* with the outside clearly marked "Proposal For Fire Department Mobile Data Computer Replacement". Proposals must be submitted via mail, courier, or in person. No faxed, emailed or postmarked submittals will be accepted. Proposals should be delivered/mailed to:

Lucy Mallonee
City Clerk
City of Los Banos City Hall
520 J Street
Los Banos CA 93635

Proposals are due by March 17, 2017 at 3:00 P.M. *All Proposals must be received by the closing date and time.* Late proposals will not be accepted. Proposals received after the time of closing will be returned to the Vendor unopened. Vendors mailing their proposal package must allow sufficient time to ensure receipt of their package by the time specified. It is the responsibility of the Vendor to ensure that the proposal package arrives at the **City Clerk's Office** by proposal opening date and time as specified. Proposals mailed through the U. S. Mail will be considered responsive only if received by the City Clerk prior to the proposal opening time.

Attachment A

Standard Insurance Requirements

Vendor and/or Consultant shall indemnify, defend, and hold harmless the City, its officers, officials, agents, and employees from and against any and all claims, damages, demands, liability, costs, losses and expenses, including without limitation court costs and reasonable attorneys' fees arising out of or in connection with Vendor and/or Consultant's negligent performance of work hereunder or its negligent failure to comply with any of its obligations contained in the Contract Documents, except such loss or damage which was caused by the sole negligence, or willful misconduct of the City.

In order to comply with the bonding and insurance requirements contained in your contract with the City of Citrus Heights there are several things that we require. It is our intent to facilitate consideration of every project, so we are including here a **summary** checklist for your convenience.

All bonds and insurance requirements need to be complete and submitted prior to your contract being approved.

I. GENERAL

A. Send these requirement sheets to your insurance broker for immediate compliance.

B. NO CONTRACTS WILL BE APPROVED UNTIL ALL BONDS AND CERTIFICATES ARE IN ORDER.

C. New and renewal Certificates and endorsements must reference a specific job. "All Operations" certificates are not acceptable.

D. All contractors and subcontractors working on a project or jobsite must meet the same insurance requirements you do, prior to starting work on the project or site.

E. All insurance companies must have an AM Best rating of A:VII or better.

F. Any deductibles must be declared to and approved by the City.

G. All insurance coverage, with the exception of Professional Liability coverage must be written on a full "per occurrence" basis.

H. A 30-day cancellation notice is required, and written or modified to a form that binds the insurer to provide it. For non-payment of premium, a 10-day notice is acceptable.

I. Expiration dates are required on all certificates.

J. All Bonds and Certificates must have an original signature.

II. SPECIFIC COVERAGE

A. BONDING

Faithful Performance (Completion) Bond – (CONTRACT AMOUNT)

Payment, Labor and Materials Bond – (CONTRACT AMOUNT)

Provide a current company profile from the California Department of Insurance website stating the Surety Company is an admitted insurer in the State of California (insurance.ca.gov).

B. GENERAL LIABILITY/AUTOMOBILE LIABILITY

C. GENERAL LIABILITY

\$2,000,000 General Aggregate
\$2,000,000 Products and/or Completed Operations
\$1,000,000 Each Occurrence

AUTOMOBILE LIABILITY

\$1,000,000 Combined Single Limit

D. WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY

\$1,000,000 Employer's Liability
STATUTORY Workers' Compensation

E. Professional Liability – If the contract includes legal, medical, architectural, engineering, IT, planning and other general consultant services, then Professional Liability coverage is required.

F. The consultant and its contractors and subcontractors shall secure and maintain in full force, during the contract term professional liability insurance policies appropriate to the respective professions and the work to be performed as specified. The limits of such professional liability insurance coverage shall not be less than \$1,000,000 per claim and \$2,000,000 aggregate. If requested by the City, the consultant's insurer must provide a complete, certified copy of the professional liability insurance policy.

III. ENDORSEMENTS

A. The GENERAL LIABILITY AND AUTOMOBILE LIABILITY policies are to be endorsed to contain, the following provisions:

1. The Entity, its officers, officials, employees, and agents are to be covered as insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the contractor; and with respect to liability arising out of work or operations performed by or on

behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General Liability coverage shall be provided in the form of an **Additional Insured endorsement** (CG 20 10 11 85 or equivalent) to the contractor's insurance policy, or as a separate owner's policy.

2. There must be an **endorsement** indicating that coverage is primary and non-contributory with respect to additional insureds.

3. There must be an **endorsement** that includes a severability of interest clause. (cross liability).

4. Where applicable, the General Liability policy shall contain an endorsement or provision stating that such insurance applies to the liability assumed by any subcontractor. (Owners and Contractors Protective)

5. The General Liability coverage shall be at least as broad as ISO form CG 00 01 (ed. 10/01).

6. The auto coverage shall be provided for owned, hired, and non-owned autos.

7. The auto coverage shall be as broad as ISO form CA 00 01.

B. The WORKERS COMPENSATION/EMPLOYERS LIABILITY policy must contain an endorsement with a waiver of subrogation in favor of the City of Citrus Heights for all work performed by the contractor, its employees, agents and subcontractors.

C. Acceptance of any bond, certificate of insurance, or endorsement showing proof of insurance required by your contract does not constitute approval or agreement by the City of Los Banos that the insurance requirements have been met or that the bond or insurance policies referenced on any certificates and endorsements are in compliance with your contractual requirements

ATTACHMENT B

GENERAL CONTRACT TERMS AND CONDITIONS

1. **Performance of Services/No Assignment.** Time is of the essence in performance of the Services. Consultant represents to City that Consultant possesses, or will arrange to secure from others, all of the necessary professional capabilities, experience, resources and facilities necessary to provide to City the services contemplated under this Agreement. Except as specifically authorized under this Agreement, the services to be provided under this Agreement shall not be assigned, transferred contracted or subcontracted out without the prior written approval of City.

2. **Hold Harmless and Indemnification.** To the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless City, its City Council, boards and commissions, officers, agents and employees (collectively, the “Indemnified Parties) from and against any and all claims (including, claims for bodily injury, death or damage to property), demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including, attorney’s fees, disbursements and court costs) of every kind and nature that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, its principals, officers, agents, employees, vendors, suppliers, consultants, subcontractors, anyone employed directly or indirectly by any of them or for whose acts they may be liable or any or all of them in performance, or non performance, of services under this Agreement.

Notwithstanding the foregoing, nothing herein shall be construed to require Consultant to indemnify the Indemnified Parties from any Claim arising from the active negligence or willful misconduct of the Indemnified Parties. Nothing in this indemnity shall be construed as authorizing any award of attorney’s fees in any action on or to enforce the terms of this Agreement. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by the Consultant

3. **Independent Contractor.** It is understood that City retains Consultant on an independent contractor basis and Consultant is not an agent or employee of City. The manner and means of conducting the work are under the control of Consultant, except to the extent they are limited by statute, rule or regulation and the expressed terms of this Agreement. Nothing in this Agreement shall be deemed to constitute approval for Consultant or any of Consultant’s employees or agents, to be the agents or employees of City. Consultant shall have the responsibility for and control over the means of performing the work, provided that Consultant is in compliance with the terms of this Agreement. Anything in this Agreement that may appear to give City the right to direct Consultant as to the details of the performance or to exercise a measure of control over Consultant shall mean only that Consultant shall follow the desires of City with respect to the results of the services.

3.1 The Consultant shall at all times remain an independent contractor with respect to the services to be performed under this Agreement and shall be responsible for the payment of

Federal and State Employer Withholding Taxes, Unemployment Insurance Taxes, FICA Taxes, Retirement, Life and/or Medical Insurance, and Worker's Compensation Insurance for the employees of the Consultant or any other person performing services under this Agreement. Consultant and its employees are not entitled to the rights or benefits afforded to City's employees, including disability or unemployment insurance, workers' compensation, medical insurance, sick leave, or any other employment benefit. Consultant agrees to indemnify and hold City harmless from any claims, costs, losses, fees, penalties, interest, or damages suffered by City as a result of any claim by any person or entity contrary to the provisions of this Section.

4. **Insurance.** Unless otherwise agreed, without limiting Consultant's indemnification of City, and prior to commencement of work, Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement, a policy or policies of liability insurance of the type and amounts described below and in a form satisfactory to City.

A. **Certificates of Insurance.** Consultant shall provide certificates of insurance with original endorsements to City as evidence of the insurance coverage required herein. Insurance certificates must be approved by the City Attorney prior to commencement of performance or issuance of any permit. Current certification of insurance shall be kept on file with City at all times during the term of this Agreement.

B. **Signature.** A person authorized by the insurer to bind coverage on its behalf shall sign certification of all required policies.

C. **Acceptable Insurers.** All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City Attorney.

D. **Coverage Requirements.**

i. **Workers' Compensation Coverage.** Consultant shall maintain Workers' Compensation Insurance and Employer's Liability Insurance for his or her employees in accordance with the laws of the State of California. In addition, Consultant shall require each subcontractor to similarly maintain Workers' Compensation Insurance and Employer's Liability Insurance in accordance with the laws of the State of California for all of the subcontractor's employees. Any notice of cancellation or non-renewal of all Workers' Compensation policies must be received by City at least thirty (30) calendar days (10 calendar days written notice of non-payment of premium) prior to such change. The insurer shall agree to waive all rights of subrogation against City, its officers, agents, employees and volunteers for losses arising from work performed by Consultant for City.

ii. **General Liability Coverage.** Consultant shall maintain commercial general liability insurance in an amount not less than two million dollars (\$2,000,000) per occurrence for bodily injury, personal injury, and property damage, including without limitation, contractual liability. If commercial general liability insurance or other form with a general aggregate limit is

used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement, or the general aggregate limit shall be at least twice the required occurrence limit.

iii. Automobile Liability Coverage. Consultant shall maintain automobile insurance covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than one million dollars (\$1,000,000) combined single limit for each occurrence.

iv. Professional Errors and Omissions Insurance. Consultant shall maintain professional errors and omissions insurance, which covers the services to be performed in connection with this Agreement in the minimum amount of one million dollars (\$1,000,000) per claim and in the aggregate.

E. Endorsements. Each general liability and automobile liability insurance policy shall either include or be endorsed with the following specific language:

i. The City, its elected or appointed officers, officials, employees, agents and volunteers are to be covered as additional insureds with respect to liability arising out of work performed by or on behalf of the Consultant.

ii. This policy shall be considered primary insurance as respects to City, its elected or appointed officers, officials, employees, agents and volunteers as respects to all claims, losses, or liability arising directly or indirectly from the Consultant's operations or services provided to City. Any insurance maintained by City, including any self-insured retention City may have, shall be considered excess insurance only and not contributory with the insurance provided hereunder.

iii. This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.

iv. The insurer waives all rights of subrogation against City, its elected or appointed officers, officials, employees, agents and volunteers.

v. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its elected or appointed officers, officials, employees, agents or volunteers.

vi. The insurance provided by this policy shall not be suspended, voided, or canceled, by either party except after thirty (30) calendar days (10 calendar days written notice of non-payment of premium) written notice has been received by City.

5. Ownership of Documents. All documents, information and materials of any and every type prepared by the Consultant pursuant to this Agreement shall be the property of the

City. Such documents shall include but not be limited to data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Consultant in performing work under this Agreement, whether completed or in process. The Consultant shall assume no responsibility for the unintended use by others of any such documents, information, or materials on project(s) that are not related to the scope of services described under this Agreement.

6. Confidentiality. All City information disclosed to Consultant during the course of performance of services under this Agreement shall be treated as confidential and shall not be disclosed to any other persons or parties except as authorized by City, or required by law. All documents, including drafts, preliminary drawings or plans, notes and communications that result from the services in this Agreement, shall be kept confidential unless City authorizes in writing the release of information.

7. Intellectual Property Indemnity. The Consultant shall defend and indemnify City, its agents, officers, representatives and employees against any and all liability, including costs, for infringement of any United States' letters patent, trademark, or copyright infringement, including costs, contained in Consultant's drawings and specifications provided under this Agreement.

8. Access to Records. Consultant shall maintain all books, records, documents, accounting ledgers, and similar materials relating to work performed for City under this Agreement on file for at least three (3) years following the date of final payment to Consultant by City. Any duly authorized representative(s) of City shall have access to such records for the purpose of inspection, audit and copying at reasonable times, during Consultant's usual and customary business hours. Consultant shall provide proper facilities to City's representative(s) for access and inspection. Consultant shall be entitled to reasonable compensation for time and expenses relate to such access and inspection activities, which shall be considered to be an additional service to the City, subject to the provisions of Section 4 hereinabove.

9. Conflict of Interest. The Consultant or its employees may be subject to the provisions of the California Political Reform Act of 1974 (the "Act"), which (1) requires such persons to disclose any financial interest that may foreseeably be materially affected by the work performed under this Agreement, and (2) prohibits such persons from making, or participating in making, decisions that will foreseeably financially affect such interest.

If subject to the Act, Consultant shall conform to all requirements of the Act. Failure to do so constitutes a material breach and is grounds for immediate termination of this Agreement by City. Consultant shall indemnify and hold harmless City for any and all claims for damages resulting from Consultant's violation of this Section.

Consultant warrants that neither Consultant, nor any of its employees, agents or subcontractors, has a conflict of interest with respect to the work to be performed under this Agreement, nor shall such individuals, during this term of this Agreement, acquire any interest, which would conflict in any manner with the performances of services hereunder.

10. **Nondiscrimination.** Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age.

11. **Termination.** In the event that either party fails or refuses to perform any of the provisions of this Agreement at the time and in the manner required, that party shall be deemed in default in the performance of this Agreement. If such default is not cured within a period of seven (7) calendar days, or if more than seven (7) calendar days are reasonably required to cure the default and the defaulting party fails to give adequate assurance of due performance within seven (7) calendar days after receipt of written notice of default, specifying the nature of such default and the steps necessary to cure such default, the non-defaulting party may terminate the Agreement forthwith by giving to the defaulting party written notice thereof.

Notwithstanding the above provisions, City shall have the right, at its sole discretion and without cause, to terminate this Agreement at any time by giving seven (7) calendar days prior written notice to Consultant. In the event of termination under this Section, City shall pay Consultant for services satisfactorily performed and costs incurred up to the effective date of termination for which Consultant has not been previously paid. On the effective date of termination, Consultant shall deliver to City all reports, documents and other information developed or accumulated in the performance of this Agreement, whether in draft or final form.

12. **Waiver.** A waiver by either party of any breach, of any term, covenant or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein, whether of the same or a different character. The acceptance by the City of the performance of any work or services by Consultant shall not be deemed to be a waiver of any term or condition of this Agreement.

13. **Amendments.** This Agreement may be modified or amended only by a written document executed by both Consultant and City and approved as to form by the City Attorney.

14. **Controlling Law and Venue.** City and Consultant agree that the law governing this Agreement shall be that of the State of California. Any suit brought by either party against the other arising out of the performance of or otherwise relating to this Agreement shall be filed and maintained in the County of Merced.