

## **REQUEST FOR PROPOSALS**

### **Specialized Auditing Services**

**NOTICE IS HEREBY GIVEN** that the City of Los Banos (“City”) is issuing this Request for Proposal (“RFP”) for **Specialized Auditing Services of its Capital Projects**.

Proposers are solely responsible for ensuring proposals are received by the City on or before the submittal deadline. Proposals must be received no later than **3:00 p.m., on May 20, 2025**, at the following address:

City of Los Banos  
Attn: Lucille L. Mallonee, City Clerk  
520 J Street  
Los Banos, CA 93635

An original copy must be signed by a representative authorized to bind the company. Proposals submitted by facsimile or email are not acceptable and will not be considered. **The original signed proposal and two (2) duplicates are to be submitted in sealed packages with the name of the Proposer and RFP title clearly marked on the outside of the package.**

Failure to comply with the requirements set forth in this RFP may result in disqualification. Proposals and/or modifications received subsequent to the hour and date specified above will not be considered. Submitted proposals may be withdrawn at any time prior to the submission time specified in this RFP, provided notification is received in writing before the submittal deadline. Proposals cannot be changed or withdrawn after the submittal deadline. No handwritten notations or corrections will be allowed. The responding Proposer is solely responsible for all costs related to the preparation of the proposal.

The City reserves the right to reject 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 contract award, if any, will be made to the firm who, in the City’s sole discretion, is best able to perform the required services in a manner most beneficial to the City.

Please submit all inquiries to [Minnie.moreno@losbanos.org](mailto:Minnie.moreno@losbanos.org).

# ***City of Los Banos***

## **RFP for Specialized Auditing Services**

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# ***City of Los Banos***

## **RFP for Specialized Auditing Services**

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**I. INTRODUCTION**

**A. General Information**

The City of Los Banos is requesting proposals from qualified certified public accountant firms to audit its Capital Projects. The audit is responsible for providing: (a) an independent appraisal of City operations to ensure policies and procedures are in place and comply with current laws and regulations, inclusive of purchasing and contracting; (b) information that is accurate and reliable; (c) assurance that assets are properly recorded and safeguarded; (d) assurance that risks are identified and minimized; and (e) assurance that resources are used economically and efficiently and that the City's objectives are being achieved. The audit will cover Capital Projects from July 1, 2022 – June 30, 2024.

To be considered, the original signed proposal and two (2) duplicates of the proposal are to be submitted in sealed packages with the name of the Proposer and RFP title clearly marked on the outside of the package. Proposals must be submitted to Lucille L. Mallonee, City Clerk, 520 J Street, Los Banos, CA 93635, by **3:00 p.m. on May 20, 2025**. Proposals submitted by facsimile or email are not acceptable and will not be considered. The City reserves the right to reject any or all proposals submitted.

During the evaluation process, the City of Los Banos reserves the right, where it may serve the City's best interest, to request additional information or clarification from proposers, or to allow corrections of errors or omissions. At the discretion of the City of Los Banos, firms submitting proposals may be requested to make oral presentations as part of the evaluation process.

The City reserves the right to retain all proposals submitted and to use any idea(s) in a proposal regardless of whether that proposal is selected. Submission of a proposal indicates acceptance by the firm of the conditions contained in the request for proposals, unless clearly and specifically noted in the proposal submitted and confirmed in the contract between the City of Los Banos and the firm selected.

It is anticipated the selection of a firm will be completed by June 1, 2025. Following the notification of the selected firm, a recommendation and proposed contract will be prepared for review and approval by the City Council at its **June 18, 2025** meeting. The City reserves the right to reject any or all proposals, to waive any non-material irregularities or information in any proposal, and to accept or reject any items or combination of items.

**B. Term of Engagement**

It is the intent of the City to contract for the services presented herein for a term of 6 months. The proposal package shall present all-inclusive audit fees for the contract term.

**II. NATURE OF SERVICES REQUIRED**

**A. Scope of the Work to be Performed**

- **Review Capital Projects Records:** Conduct a comprehensive analysis of the City of Los Banos' Capital Projects from July 1, 2022 – June 30, 2024.

- **Identify Anomalies:** Detect and document any evidence of fraud, misappropriation, or deviations from applicable laws and regulations.
- **Evaluate Internal Controls:** Assess the efficiency and adequacy of the existing financial controls and provide recommendations for enhancements.
- **Present Findings:** Deliver a detailed report summarizing observations, conclusions, and actionable recommendations for improvement.

### III. DESCRIPTION OF THE GOVERNMENT

#### A. Background Information

The City of Los Banos is located in the west portion of Merced County, servicing an area of 8.5 square miles with a population of 47,485. The City's fiscal year begins on July 1<sup>st</sup> and ends on June 30<sup>th</sup>.

The City of Los Banos was incorporated on May 8, 1907 as a general law city, which operates under the council/manager form of government. The city government is divided into seven departments: Administration, Community and Economic Development, Finance, Fire, Police, Recreation and Public Works.

The City of Los Banos' operating budget in FY 2024-25 is approximately \$119.1 million for all funds combined.

### IV. TIME REQUIREMENTS

#### A. Proposal Calendar

The following is a list of key dates up to, and including, the date proposals are to be submitted:

| <u>Date</u>    | <u>Activity</u>                           |
|----------------|-------------------------------------------|
| April 23, 2025 | Request for Proposal issued               |
| May 5, 2025    | Deadline for submitting questions         |
| May 20, 2025   | Due date for proposals (due by 3:00 p.m.) |
| June 18, 2025  | Contract awarded by City Council          |

#### B. Date Audit May Commence

The audit may begin immediately upon approval and submission of all required terms.

#### C. Date Reports Are Due

The auditor shall provide all drafts and recommendations for improvements to the Finance Director within a reasonable time period after the last day of fieldwork. The auditor should be available for any meetings that may be necessary to discuss the draft audit reports. Once all issues of discussion are resolved, the completed report is to be delivered to the Finance Director. It is anticipated that this process will be completed and the final products to be delivered no later than December 31, 2025.

**V. ASSISTANCE TO BE PROVIDED TO THE AUDITOR AND REPORT PREPARATION**

**A. Finance Department and Clerical Assistance**

The Finance Department staff will be available during the audit to assist the firm by providing information, documentation, and explanations. Minnie Moreno, Finance Director, will be responsible for acting as the liaison between the audit firm and the accounting personnel.

**B. Work Area, Telephone, and Office Equipment**

The City will provide the auditor with reasonable workspace, desks and chairs. The auditor will also be provided with access to a telephone, copy machine, fax machines and Wi-Fi connection.

**C. Report Preparation**

Report preparation, editing, printing, binding shall be the responsibility of the auditor.

- Audit Finding and Recommendations Report

**VI. PROPOSAL REQUIREMENT**

**A. General Requirements**

The City will not give verbal answers to inquiries regarding information in this RFP, or verbal instructions prior to the submission deadline. All questions shall be submitted in writing. A verbal statement regarding same by any person shall be non-binding. The City is not liable for any increased costs resulting from the Proposer accepting verbal directions. Any explanation desired by a Proposer must be requested of the City representative in writing no later than **May 5, 2025 at 5:00 p.m.**

Inquiries concerning the Request for Proposals and the subject of the Request for Proposals must be made to:

Minnie Moreno  
Finance Director  
520 J Street  
Los Banos, CA 93635  
(209) 827-2422  
[Minnie.moreno@losbanos.org](mailto:Minnie.moreno@losbanos.org)

Submission of Proposal. Proposals submitted by facsimile or email are not acceptable and will not be considered. The original signed proposal and two (2) duplicates are to be submitted in sealed packages with the name of the Proposer and RFP title clearly marked on the outside of the package. The Proposal shall be received by City Clerk of the City of Los Banos **by 3:00 p.m. on May 20, 2025** for a proposal to be considered. The Proposal should address the items listed below. The Proposal should be addressed as follows:

City of Los Banos  
Lucille L. Mallonee  
**City Clerk**  
520 J Street  
Los Banos, CA 93635

### **B. Format for Technical Proposal**

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. 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.

- Title Page showing the request for proposals subject; the firm's name; the name, address and telephone number of the contact person; and the date of the proposal.
- Table of Contents identifying the materials submitted by section and page number. Cross-referencing to section and page number in the RFP would be helpful.
- Signed Transmittal Letter briefly stating the Proposer's understanding of the work to be done; the commitment to perform the work within the time period; and the name(s) of the person(s) authorized to represent the Proposer, title, address, and telephone number.
- Detailed Proposal following the order set forth in Section C below.

### **C. Contents of Technical Proposal**

The purpose of the Technical Proposal is to demonstrate the qualifications, competence and capacity of the firm seeking to undertake an independent audit of the City in conformity with the requirements of this request for proposals. As such, the substance of proposals will carry more weight than the form or manner of presentation. The Technical Proposal should demonstrate the qualifications of the firm and of the particular staff to be assigned to this engagement. It should also specify an audit approach that will meet the request for proposals requirements.

The Technical Proposal should address all points outlined in the request for proposals, (excluding any cost information which shall be submitted in a separate sealed envelope included with the Technical Proposal package. The proposal should be prepared simply and economically, providing a straightforward, concise description of the proposer's capabilities to satisfy the requirements of this request for proposals. While additional data may be presented, the following subjects must be included. They represent the criteria against which the proposal will be evaluated.

#### **1. License to Practice in California**

An affirmative statement should be included verifying the firm and all assigned key professional staff are properly licensed to practice in California.

#### **2. Independence**

The firm should provide an affirmative statement that it is independent of the City of Los Banos as defined by auditing standards generally accepted in the United States of America and the General Accounting Office's *Government Auditing Standards*.

**3. Firm Qualifications and Experience**

To qualify the firm must have extensive experience in specialized audits of local governments. The Proposer should state the size of the firm, the size of the firm's governmental audit staff, the location of the office from which the work on this engagement is to be performed, and the number and nature of the professional staff to be employed in this engagement on a full-time basis and the number and nature of the staff to be so employed on a part-time basis. Staff consistency is an important consideration.

The Proposer should provide the range of activities performed by the local office, e.g., audit, accounting, tax service and/or management consulting services.

The Proposer must provide a list of all current municipal clients.

The Proposer is also required to submit a copy of a report on its most recent external quality control review (peer review), with a statement whether that quality control review included a review of specific government engagements )required by Government Audit Standards [1994]).

The Proposer shall also provide information on the results of any Federal or State desk reviews or field reviews of its audits during the past three (3) years. In addition, the Proposer shall provide information on the circumstances and status of any disciplinary action taken or pending against the firm during the past three (3) years with State regulatory bodies or professional organizations.

**4. Partner, Supervisory and Staff Qualifications and Experience**

Identify the principal supervisory and management staff, including engagement partners, managers, other supervisors and specialists who would be assigned to this engagement. Include resumes, indicating whether each such person is registered or licensed to practice as a certified public accountant in California. Provide information on the government auditing experience of each person, including information on relevant continuing professional education for the past (3) three years and membership in professional organizations relevant to the performance of this audit.

Provide as much information as possible regarding the number, qualifications, experience and training, including relevant continuing professional education, of the specific staff to be assigned to this engagement. Indicate how the quality of staff over the term of the agreement will be assured. Engagement partners, managers, other supervisory staff and specialists may be changed if those personnel leave the firm, are promoted or are assigned to another office. These personnel may also be changed for other reasons with the express prior written permission of the City. However, in either case, the City retains the right to approve or reject replacements.

Other audit personnel may be changed at the discretion of the Proposer provided that replacements have substantially the same or better qualifications or experience.

**5. Similar Engagements with Other Government Entities**

For the firm's office that will be assigned responsibility for the audit, list the most significant engagements (maximum - 5) performed in the last three (3) years that are similar to the engagement described in this request for proposals. These engagements should be ranked on the basis of

total staff hours. Indicate the scope of work, date, engagement partners, total hours, and the name and telephone number of the principal client contact.

Please provide a list of not less than five client references for whom services similar to those outlined in the RFP are currently being provided. For each reference listed provide the name of the organization, dates for which the service(s) are being provided, type of service(s) being provided and the name, address and telephone number of the responsible person within the reference's organization. The City reserves the right to contact any or all of the listed references regarding the audit services performed by the Proposer.

#### **6. Specific Audit Approach**

The proposal should set forth a work plan, including an explanation of the audit methodology to be followed, to perform the services required in Section II of this request for proposals. In developing the work plan, reference should be made to such sources of information as City of Los Banos' budget and related materials, organizational charts, manuals, programs, and financial and other management information systems.

Proposers will be required to provide the following information on their audit approach:

- Proposed segmentation for the engagement;
- Level of staff and number of hours to be assigned to each proposed segment of the engagement;
- Sample size and the extent to which statistical sampling is to be used in this engagement;
- Type and extent of analytical procedures to be used in this engagement;
- Approach to be taken to gain and document an understanding of the City's internal control structure;
- Approach to be taken in determining laws and regulations that will be subject to audit test work; and
- Approach to be taken in drawing audit samples for purposes of tests of compliance.

#### **7. Identification Anticipated Potential Audit Problems**

The proposal should identify and describe any anticipated potential audit problems, the firm's approach to resolving these problems and any special assistance that will be requested from the City.

**NO DOLLAR AMOUNTS SHOULD BE INCLUDED IN THE TECHNICAL PROPOSAL.**

#### **8. Insurance Coverage**

The Auditor shall provide Commercial General Liability Insurance and Comprehensive Automobile Liability each in the amount of at least \$2,000,000 and Professional Liability Insurance in the amount of \$2,000,000. Provide Worker's Compensation with statutory limits of liability and Employer's Liability coverage with minimum \$1,000,000 limits of liability. For General Liability and Automobile coverage's name the City of Los Banos as an additional insured.

For the Worker's Compensation coverage's provide a Waiver of Subrogation naming the same entity. Revise the certificates cancellation clause to delete "endeavor" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company."

**D. Contents of Cost Proposal**

**1. Total All-Inclusive Maximum Price**

The cost proposal should contain all pricing information relative to performing the audit engagement as described in this request for proposals. The total all-inclusive maximum price to be bid is to contain all direct and indirect costs including all out-of-pocket expenses. The City will not be responsible for expenses incurred in preparing and submitting the technical proposal or the sealed dollar cost bid. Such costs should not be included in the proposal.

The cost proposal should be submitted in the format provided in Attachment A, "AUDIT WORK COST PROPOSAL FORM" and Attachment B, "ESTIMATE OF COST." **The cost proposal shall be submitted in a separate sealed envelope, to be included with the Technical Proposal package.**

**2. Manner of Payment**

Progress payment will be made on the basis of hours of work completed during the course of the engagement and out-of-pocket expenses incurred in accordance with the firm's proposal. Interim billings shall cover a period of not less than a calendar month.

**VII. EVALUATION PROCEDURES**

**A. Review of Proposals**

City Staff, consisting at a minimum, of the following, will evaluate submitted proposals:

Minnie Moreno, Finance Director

**B. Evaluation Criteria**

Proposals will be evaluated using three (3) sets of criteria. Firms meeting the mandatory criteria will have their proposals evaluated and scored for both technical qualifications and price. The following represent the principal selection criteria, which will be considered during the evaluation process.

Mandatory Elements:

- The audit firm is independent and licensed to practice in California.
- The firm has no conflict of interest with regard to any of the work performed by the firm for the City.
- The firm adheres to the instructions in this request for proposals on preparing and submitting the proposal.
- The firm submits a copy of its last external quality control review report and the firm has a record of quality audit work.
- The firm's past experience and performance on comparable government engagements.

- The quality of the firm's professional personnel to be assigned to the engagement and the quality of the firm's management support personnel to be available for technical consultation.
- Adequacy of proposed staffing plan for various segments of the engagement.
- Thoroughness of approach to conducting the audit of the City and demonstration of the understanding of the objectives and scope of the audit.
- Commitment to timeliness in the conduct of the audit.
- Maximum fees to conduct the audit.
- \$2,000,000 insurance requirement.

All interested parties are encouraged to submit proposals to the RFP, as the award is not based solely on the lowest cost proposal submitted. Total cost will be taken into consideration, but the Proposer'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, and its designated representatives, shall be the sole judge of its own best interest, the proposal, and the resulting negotiated agreement. The City's decisions will be final.

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 ranked proposer, the City may open negotiations with the next ranked proposer(s). 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.

## **VIII. SPECIAL CONDITIONS**

### **A. Contract and Insurance Requirements**

The selected proposer shall be required to enter into a city-prepared Professional Services Agreement (Attachment C) 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.

### **B. Reservations**

This RFP does not commit the City to award a contract, to defray any costs incurred in the preparation of a proposal pursuant to this RFP, or to procure or contract for work. No payment of any kind will be provided to the Proposer responding to this RFP, or parties they represent, for obtaining any of the information solicited.

### **C. Public Records**

All proposals submitted in response to this RFP become the property of the City. Information in the proposal, unless specified as trade protected, may be subject to public review. Any information contained in the proposal that is proprietary must be clearly designated. Marking the entire proposal as proprietary will be neither accepted nor honored. Proprietary information submitted in response to this RFP will be handled in accordance with the California Public Records Act.

### **D. 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.

### **E. Proposer's Questions**

The City will not give verbal answers to inquiries regarding information in this RFP, or verbal instructions prior to the submission deadline. All questions shall be submitted in writing to Minnie Moreno, Finance Director, at [Minnie.moreno@losbanos.org](mailto:Minnie.moreno@losbanos.org). A verbal statement regarding same by any person shall be non-binding. The City is not liable for any increased costs resulting from the Proposer accepting verbal directions. Any explanation desired by a Proposer must be requested of the City representative in writing no later than May 5, 2025 at 5:00 p.m. and if explanation is necessary, a reply shall be made in the form of an addendum, a copy of which shall be posted on the City website at [www.losbanos.org](http://www.losbanos.org) on or before May 12, 2025.

### **F. Additional Information**

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

### **G. Conflict of Interest**

Proposer covenants that the company, its officers, employees and/or agents presently have no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services requested herein by the City. Proposer further covenants that, in the performance of any contract or agreement resulting from this RFP, no subcontractor or person having such an interest shall be employed. Proposer certifies that to the best of Proposer's knowledge, no one who has or will have any financial interest under any contract or agreement resulting from this RFP is an officer or employee of the City.

### **H. Release of Public Information**

Proposers who respond to this RFP who wish to release information to the public regarding selection, contract award or data provided by the City must receive prior written approval from the City before disclosing such information to the public.

### **I. Non-Assignment**

If a contract is awarded, the selected Proposer shall neither assign, nor delegate, in part or in whole, any duties without the prior written consent of the City which shall not be unreasonably withheld.

**J. 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.

**K. 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.

**L. Equal Employment Opportunity Compliance**

The selected Proposer shall not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Proposer shall take affirmative action to ensure that all employees and applicants for employment shall be treated with equality in all aspects of employment processes including, but not limited to, hiring, transfer, promotion, training, compensation and termination, regardless of their race, creed, color, sex, national origin, age, or physical handicap.

**M. Right to Audit**

The selected Proposer shall maintain such financial records and other records as may be prescribed by the City or by applicable federal and state laws, rules, and regulations. The selected Proposer shall retain these records for a period of three years after final payment, or until they are audited by the City, whichever event occurs first. These records shall be made available during the term of the contract or service agreement and the subsequent three-year period for examination, transcription, and audit by the City or its designees.

**IX. ATTACHMENT A**

| Services Task              | Amount |
|----------------------------|--------|
| Review Capital Projects    |        |
| Identify Anomalies         |        |
| Evaluate Internal Controls |        |
| Present Findings           |        |
| Total:                     |        |

**X. ATTACHMENT B**

| ESTIMATE OF COST            |
|-----------------------------|
| <b>Name of Firm:</b>        |
| <b>Address:</b>             |
|                             |
|                             |
| <b>Contact Information:</b> |
|                             |
|                             |
|                             |

**XI. ATTACHMENT C**

**PROFESSIONAL SERVICES AGREEMENT SAMPLE**

**SAMPLE-SUBJECT TO MODIFICATION**

**PROFESSIONAL SERVICES AGREEMENT  
FOR SPECIALIZED AUDITING SERVICES  
[Consultant Name]**

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2025, by and between the City of Los Banos, a California municipal corporation (herein referred to as “City”) and << Consultant Name >> (herein referred to as “Consultant or Auditor”).

**RECITALS**

A. WHEREAS, City proposes to have Consultant perform the services described herein below;

B. WHEREAS, Consultant represents that it has that degree of specialized expertise contemplated within California Government Code, Section 37103, and holds all necessary licenses to practice and perform the services herein contemplated;

C. WHEREAS, City has solicited and received a proposal from Consultant, has reviewed the previous experience and evaluated the expertise of Consultant, and desires to retain Consultant to render professional services under the terms and conditions set forth in this Agreement;

D. WHEREAS, City and Consultant desire to contract for specific services described below and desire to set forth their rights, duties and liabilities in the services to be performed; and

E. WHEREAS, no official or employee of City has a financial interest, within the provisions of California Government Code, Sections 1090-1092, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1. **The Contract Documents.** The complete Contract consists of the following documents: This Professional Services Agreement and attached Exhibits; the City’s Request for Proposals for Specialized Auditing Services dated <<Date>>; Auditor’s Proposal for Specialized Auditing Services dated <<Date>>. These documents are all incorporated by reference. The documents comprising the complete contract are collectively referred to as the Contract Documents. Any and all obligations of the City and the Auditor are fully set forth and described therein. All of the above documents are intended to cooperate so that any work called for in one

and not mentioned in the other or vice versa is to be executed the same as if mentioned in all documents. In the event of any conflict between the printed provisions of this Contract and those of the City's Request for Proposal and Auditor's Proposal for Specialized Auditing Services, the provisions of this Contract shall prevail.

2. **Term.** The term of this Agreement shall commence on <<Date>> and shall terminate upon completion of specialized auditing services <<Date>> through <<Date>>, as set forth in **Exhibit A**, unless terminated earlier as set forth herein.

3. **Scope of Services.** Consultant shall provide the professional services described in **Exhibit A** attached hereto and incorporated herein by this reference and as set forth in Auditor's Proposal of Specialized Auditing Services dated <<Date>> attached hereto as **Exhibit B** and incorporated herein by this reference.

Notwithstanding services described above, the City may request and Consultant may agree to perform other services. The scope of such services and compensation shall be agreed to in writing, signed by both parties and shall become a part of this Agreement.

3.1. All professional services shall be performed by Consultant or under Consultant's supervision. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional Consultants in accordance with sound professional practices.

3.2 Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

4. **Time of Performance.** Time is of the essence in the performance of services under this Agreement and the services shall be performed to completion in a diligent and timely manner in accordance with the time requirements set forth in **Exhibit C** attached hereto and incorporated herein by this reference. The failure by Consultant to perform the services in a diligent and timely manner may result in termination of this Agreement by the City.

Notwithstanding the foregoing, Consultant shall not be responsible for delays due to causes beyond Consultant's reasonable control. However, in the case of any such delay in the services to be provided for the Project, each party hereby agrees to provide notice to the other party so that all delays can be addressed.

5. **Compensation.** City shall pay Consultant for the services on a time and expense not-to-exceed basis in accordance with the provisions of this Section and the Pricing Proposal submitted by Consultant attached hereto as **Exhibit D** and incorporated herein by reference. Consultant's compensation for all work performed in accordance with this Agreement, including all reimbursable items and sub Auditor fees, shall not exceed the annual amounts set forth in the Audit Work Cost Proposal Form set forth in **Exhibit D** unless authorized in writing by the City and approved by the City Council.

5.1 Consultant shall submit monthly invoices to City describing the work performed the preceding month. Consultant's bills shall include the name of the person who performed the work, a brief description of the services performed and the specific Task in the Scope of Services to which it relates, the date the services were performed, the number of hours spent on all work billed on an hourly basis, and a description of any reimbursable expenditures. No billing rate changes shall be made during the term of this Agreement without the prior written approval of City. City shall pay Consultant no later than thirty (30) days after receipt of the monthly invoice by the City.

5.2 City shall reimburse Consultant only for those costs or expenses specifically approved in this Agreement, or specifically approved in advance by City. Unless otherwise approved, such costs shall be limited and in accordance with Schedule of charges set forth in the Proposal attached hereto as **Exhibit D** and incorporated herein by reference.

5.3 Consultant shall not receive any compensation for Additional Work without the prior written authorization of City. As used herein, "Additional Work" means any work that is determined by City to be necessary for the proper completion of the Project, but which is not included within the Scope of Services and which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Compensation for any authorized Additional Work shall be billed in accordance with the Billing Rates as set forth in **Exhibit D** and on the terms set forth in this Article 5.

6. **Contract Administration.** The Finance Director shall have the authority to act for City under this Agreement. The Finance Director or his/her authorized representative shall represent City in all matters pertaining to the services to be rendered pursuant to this Agreement. Consultant shall designate a representative for purposes of this Agreement who shall have the authority to act for Consultant under this Agreement.

7. **Indemnification.** When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend, and hold harmless City and any and all of its officials, employees and agents from and against any and all losses, liabilities, damages, costs, and expenses, including legal counsel's fees and costs but only to the extent the Consultant (and its Sub consultants), are responsible for such damages, liabilities and costs on a comparative basis of fault between the Consultant (and its Sub consultants) and the City in the performance of professional services under this agreement.

Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend, and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including legal counsel's fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or City for which Consultant

is legally liable, including, but not limited to officers, agents, employees, or subcontractors of Consultant.

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.

In the event the City indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from Consultant's performance of this agreement, the Consultant shall provide a defense to the City indemnitees, or at the City's option, reimburse the City indemnitees their costs of defense, including reasonable legal counsels' fees, incurred in defense of such claims.

8. **Insurance.** 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 (Statutory Limits) and Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000). Consultant shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its officers, agents, employees, and volunteers.

ii. General Liability Coverage. Consultant shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than two million dollars (\$2,000,000) per occurrence, four million dollars (\$4,000,000) general aggregate, for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability. Consultant's general liability policies shall be primary and non-contributory, and be endorsed using Insurance Services Office form CG 20 10 to provide that City and its officers, officials, employees, and agents shall be additional insureds under such policies. For construction contracts, an endorsement providing completed operations to the additional insured, ISO form CG 20 37, is also required.

iii. Automobile Liability Coverage. Consultant shall provide auto liability coverage for owned, non-owned, and hired autos using ISO Business Auto Coverage form CA 00 01, or the exact equivalent, with a limit of no less than two million dollars (\$2,000,000) per accident. If Consultant owns no vehicles, this requirement may be met through a non-owned auto endorsement to the CGL policy.

iv. Professional Errors and Omissions Insurance. Consultant shall maintain professional liability insurance that insures against professional errors and omissions that may be made in performing the Services to be rendered in connection with this Agreement, in the minimum amount of two million dollars (\$2,000,000) per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this agreement, and Consultant agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this agreement.

E. Endorsements. Each general liability and automobile liability insurance policy shall 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, canceled, or reduced in coverage or in limits, 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.

8.1 Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

9. **Nondiscrimination.** In the performing of this Agreement, Consultant shall not discriminate against any subcontractor, employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation race, religion, color, national origin, handicap, ancestry, sex or age.

10. **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.

10.1 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 10.

11. **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 all findings, reports, documents, information and data including, but not limited to, electronic media, computer tapes or discs,

files, and tapes furnished or prepared or accumulated by the Consultant in performing work under this Agreement, whether completed or in process.

12. **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, excepting that information which is public record and subject to disclosure pursuant to the Public Records Act, or otherwise required by law. All documents, including drafts, notes and communications that result from the services in this Agreement, shall be kept confidential unless City authorizes in writing the release of information, excepting that information which is public record and subject to disclosure pursuant to the Public Records Act, or otherwise required by law.

13. **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.

14. **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 represents that neither Consultant, nor any of its employees, agents or subcontractors, have 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.

15. **Assignment.** This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

16. **Compliance with Laws, Rules, Regulations.** Consultant shall perform the services required by this Agreement in compliance with all applicable Federal and California

employment laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement.

17. **Integration; Amendment.** This Agreement represents the entire understanding of City and Consultant as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered in it. This Agreement may not be modified or altered except by amendment in writing sign by both parties.

18. **Severability.** If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null, and void insofar as it is in conflict with said laws, but the remainder of the Agreement shall continue to be in full force and effect.

19. **Waiver/Validity.** Consultant agrees that waiver by City of any one or more of the conditions of performance under this Agreement shall not be construed as waiver of any other condition of performance under this Agreement. The acceptance by the City of the performance of any work or services by Contractor shall not be deemed to be a waiver of any term or condition of this Agreement.

20. **Jurisdiction.** 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 this Agreement shall be filed and maintained in the County of Merced.

21. **Licenses and Permits.** Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to City that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain a valid Business License from City during the term of this Agreement.

22. **Notice.** Any notices required to be given pursuant to this Agreement shall be deemed to have been given by their deposit, postage prepaid, in the United States Postal Service, addressed to the parties as follows:

To City:  
City of Los Banos  
Finance Director

520 J Street  
Los Banos, California 93635

To Consultant:

<<Name>>

<<Address>>

Nothing hereinabove shall prevent either City or Consultant from personally delivering any such notices to the other.

23. **Acceptance Of Facsimile Or Electronic Signatures.** The Parties agree that this Contract, agreements ancillary to this Contract, and related documents to be entered into in connection with this Contract will be considered signed when the signature of a party is delivered by facsimile transmission or scanned and delivered via electronic mail. Such facsimile or electronic mail copies will be treated in all respects as having the same effect as an original signature.

24. **Termination.** City may, in its sole discretion, terminate this Agreement at any time and for any reason whatsoever by giving written notice of such termination to Consultant. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City. In the event of such termination, Consultant shall be entitled to compensation for all services rendered and work performed for City to the date of such termination.

[SIGNATURES BEGIN ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates set forth below.

<<Name>>

Date: \_\_\_\_\_, 20\_\_

by: <<Name>> <<Title>>

**CITY OF LOS BANOS, a California  
municipal corporation**

Date: \_\_\_\_\_, 20\_\_

by: Gary Brizzee, Interim City Manager

**ATTEST:  
CITY CLERK**

\_\_\_\_\_  
**Lucille L. Mallonee, City Clerk**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**William A. Vaughn  
City Attorney**

**Exhibits to be added by Staff**

SAMPLE