



City of
Los Banos
At the Crossroads of California

REQUEST FOR QUALIFICATIONS
for
**ON-CALL LANDSCAPE ARCHITECTURE, LANDSCAPE
PLAN CHECK, AND LANDSCAPE INSPECTION
SERVICES**

Date Released: June 22, 2022

**Questions with regard to submission, process, or proposal
can be emailed to:**

Niorn Than
Public Works Director / City Engineer
niorn.than@losbanos.org

**Proposals must be received prior to 4:00 p.m. July 19, 2022
at the office of City Clerk
City of Los Banos
520 J Street
Los Banos, CA 93635**

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REQUEST FOR QUALIFICATIONS
ON-CALL LANDSCAPE ARCHITECTURE, LANDSCAPE PLAN CHECK, AND
LANDSCAPE INSPECTION SERVICES

The City of Los Banos (City) is seeking qualified consulting firms to provide landscape architecture services on an on-call basis. The response to this solicitation will be in the form of a Statement of Qualifications (SOQ).

The City intends to award up to three (3) landscape architecture firms; however, the exact number will be determined depending on the quality, diversity and responsiveness of the SOQ's received. Total amount payable to the Consultant shall not exceed \$200,000 per year. The performance period becomes effective upon execution of the Agreement by both parties and shall continue in full force and effect until June 30, 2027.

All qualified firms interested in providing these services are invited to submit their SOQs. The SOQs will be evaluated and ranked according to the criteria provided in Appendix B, "Proposal Evaluation," of this Request for Qualifications (RFQ).

It shall be the Consultant's responsibility to check the City of Los Banos' website (www.losbanos.org) to obtain any addenda that may be issued.

The Consultant's attention is directed to Appendix A, "Submittal Requirements."

Submit five (5) hard copies and one (1) electronic copy in PDF format on a USB flash drive of the Consultant's SOQs. The hard copies and USB flash drive shall be mailed or submitted to the City of Los Banos, 520 J Street, Los Banos, CA 93635, prior to **4:00 p.m., Pacific Daylight Savings Time (PDT), on July 19, 2022**. SOQs shall be submitted in a sealed package clearly marked "**LANDSCAPE ARCHITECTURE SERVICES**" and addressed as follows:

City of Los Banos
Attention: City Clerk
520 J Street
Los Banos, CA 93635

Submittals received after the time and date specified above will be considered nonresponsive and will be returned to the Consultant.

Any proposals received prior to the time and date specified above may be withdrawn or modified by written request of the Consultant. To be considered, however, the modified submittal must be received prior to **4:00 p.m., PDT, on July 19, 2022**.

Unsigned submittals or submittals signed by an individual not authorized to bind the prospective Consultant will be considered nonresponsive and rejected.

Upon review of submitted proposals, the Selection Committee will determine whether interviews are necessary to determine a Consultant selection. The City reserves the right to hold interviews or make a Consultant selection based solely on the SOQs received.

This RFQ does not commit the City of Los Banos to award a contract, to pay any costs incurred in the preparation of a proposal for this request, or to procure, or contract for services. The City of Los Banos reserves the right to accept or reject any or all SOQs received as a result of this request, to negotiate with any qualified Consultant, or to modify or cancel in part or in its entirety the RFQ if it is in the best interests of the City of Los Banos to do so.

The prospective Consultant is advised that should this RFQ result in recommendation for award of a contract, the contract will not be in force until it is approved and fully executed by the City of Los Banos.

All products used or developed in the execution of any contract resulting from this RFQ will remain in the public domain at the completion of the contract.

The anticipated consultant selection schedule is as follows:

SOQ review and evaluation: July 19, 2022 through July 26, 2022

Oral interviews (if necessary): August 1, 2022 through August 5, 2022

Cost Negotiation: August 5, 2022 through August 9, 2022

Contract Award: August 17, 2022

Any questions related to this RFQ shall be submitted in writing to the attention of Nirorn Than via email at nirorn.than@losbanos.org. Questions shall be submitted before 5:00 p.m. on July 8, 2022. Answers to questions and addendum, if necessary, shall be posted on the City website before 5:00 PM PDT on July 12, 2022.

No oral questions or inquiries about the RFQ shall be accepted.

PROJECT DESCRIPTION AND BACKGROUND

The City of Los Banos (City) will select qualified consulting firms to provide on-call landscape architecture services. The consultant shall have the ability to provide in-house services, or the capacity to sublet land surveying, geotechnical engineering, landscape design, irrigation design, environmental studies (including archeological and biological), arborist services and electrical. The consultant must be knowledgeable and experienced in the preparation of construction plans and specifications and have a history of producing plans that are successfully implemented.

Consultants who plan to sublet any of the required services of a project contained in this RFQ shall include the name of the company(ies) and description of project services that may be potentially sublet.

This solicitation is not for specific projects, but for specific services. The services are to be rendered for the duration of the contract term. The City intends to award contracts to approximately three (3) landscape architecture firms; however, the exact number will be determined depending on the quality, diversity and responsiveness of the SOQ's received. The City does not guarantee a specific number or dollar amount of projects will be contracted.

SCOPE OF SERVICES

PURPOSE OF WORK

The consultant shall only perform work that is assigned in an authorized Task Order. This Contract does not guarantee that a Task Order shall be issued. The consultant may provide services to the City including, but not limited to, the following:

- **Landscape Design Services**

- Provide consulting and professional services including project planning, design, engineering, land surveying, and drafting services.
- Provide professional services during the bid process including preparation of cost estimates and specifications, project construction, and project completion.
- Provide field surveys as requested.
- Leading a team to prepare site improvement plans including but not limited to landscaping, irrigation, grading, planting, lighting/electrical plans, including design details, cost estimates, working drawings, construction documents, specifications, and bid documents, as needed, for new infrastructure, upgrades to existing infrastructure, or general aesthetic improvements for the City.
- Preparing conceptual drawings, plans and renderings as may be requested by the City for projects being contemplated or visioning sessions with the community.
- Preparing feasibility studies, preliminary documents, for new, renovation, and alteration projects, such as park playground areas, dog parks, tennis courts, pickleball courts, baseball fields, soccer fields, picnic areas and trailheads to name a few. Consider aesthetics, function, using native plant species, maintenance requirements, amenities, and providing shade.
- Attending meetings and preparing presentations for staff reports to City advisory board, commissions, and the City Council as warranted or directed by the Public Works Director or his/her designee.
- Provide maps and mapping services as requested.
- Review and provide comments on environmental documents for proposed projects submitted to the City in accordance with the California Environmental Quality Act.
- Provide other engineering and design services as requested.

- **Project Management Services**

- Providing construction advisement and/or construction management services, value engineering and advice on projects that will be constructed in phases.
- Prepare documentation, assist in warranty review, participate in project closeout, and provide as-built record drawings as needed.
- Cooperating, coordinating, and communicating with all internal City departments and divisions as necessary. Coordinate meetings with City staff, contractors and other stakeholders as the project may require.

- **Plan Review Services**

- Review Landscape Improvement Plans for compliance with the City of Los Banos Improvement Standards, master plans, and general plan.
- Review, redline and/or approve Landscape Irrigation Details and Specifications. Landscape Planting Details and Specifications
- Work flow methodology for landscape improvement plan checking
 - Upon receipt of first submittal documents to be plan checked, and within ten (10) business days, LANDSCAPE ARCHITECT shall:
 - Review for completeness of submittal. Document any submittal deficiencies and advise the CITY as necessary. Identify any additional reference materials required for a thorough plan check, such as related off-site improvement plans, maintenance issues, approved landscape conceptual plan, studies, or memoranda.
 - Review project with respect to the relationship between the on- and off-site improvements in order to achieve an understanding of the overall project concept.
 - Review conditions of approval. Review plan submittal documents for conformance with these conditions.
 - Compare construction documents against the approved landscape conceptual plan for landscape improvement for tree layout (shading), plant material density, and overall landscape improvement compared to landscape conceptual plan. Compare construction documents against approved landscape conceptual plans and existing approved conditions to verify street widths, sidewalk type and location, trail location and width, right-of-way line, and any identified or other potential discrepancies found within the construction documents or existing approved conditions . Notify CITY of any identified or potential discrepancies
 - Conduct detailed review of the plans based on the CITY's plan check protocol, professional landscape judgment, experience, and industry standards. In addition, report studies, and other supporting documentation are reviewed for accuracy and appropriateness.
 - Provide comments and redlines.
 - Prepare memorandum documenting plan check findings. These findings are then discussed in a plan check review conference held between LANDSCAPE ARCHITECT and CITY staff. All review comments are reviewed and modified as required, and formalized into an official review summary for transmittal to the plan originator.
 - On an as-requested basis, meet with plan originators to discuss and/or clarify plan check comments.

- The foregoing process applies to review through all plan checks. Subsequent plan checks shall proceed along the following steps:
 - Upon receipt or resubmitted plans and supporting documents, verify completeness of the submittals, including conformance with requests for supporting or supplemental documentation.
 - Review any additional materials, reports, studies, etc. requested as part of the preceding plan check(s) for accuracy and completeness. Verify conformance with previous plan check comments.
 - Respond to any special requests made by CITY, e.g., plan check for landscape maintenance by special Landscape and Lighting district. This type of request typically occurs when a development is condition to enter a maintenance district for on-going landscape maintenance.
 - Presuming all previous review comments and requests for additional information have been satisfactorily addressed, and no significant changes to the project are anticipated, prepare a final approval package with all required supporting documentation. Package shall include a Letter of Recommendation for Approval, and signed “Recommended for Approval”, and shall be submitted to the CITY for final processing.
- **Landscape Inspection Services**
 - Irrigation Condition of – Water meter, water meter box, water meter lid; backflow size, backflow condition, backflow cage, backflow cage condition, backflow locked; booster pump, booster pump on, booster pump locked; site pressure overall; controller type, controller locked, controller enclosure locked; electric meter on, electric meter safe, electric meter locked; low voltage connections good; master valve operational; rain/freeze sensors operational; valve boxes clean, valve boxes intact, valve box lids intact; irrigation heads working, remote controls valves working, irrigation damage; overspray, ponding, low head drainage; low site moisture, high site moisture, irrigation on, irrigation off, estimated irrigation efficiency, etc.
 - Planting Condition of – Trees, tree stakes, tree ties, tree tubes, tree trimming, tree count; shrubs healthy, shrubs trimmed to natural stance, groundcover trimmed, vines trimmed; no excess leaves, no excess debris, no excess trimmings; bark mulch condition, weeds; graffiti, trash, litter, dumping; landscape lighting, streetlight lighting; pests, gophers, fungus, disease; illegal signage.
 - Perform Irrigation Audit if needed or by request.
 - Provide an overall maintenance rating (%) and an estimated time frame (calendar days) from last visit by landscape maintenance contractor (for LMD projects)

TASK ORDERS

All work performed under this contract will require approval by the City Contract Administrator and issued through a Task Order. A task order shall be requested from the Consultant to identify and refine the scope of services prior to the City issuing the task order. The task order shall identify and refine the scope of services for any specific project. The task order shall detail the tasks required for particular projects, schedule, and projected costs. The costs will be based on the specified rates of compensation in the contract. The Contract Administrator shall confer with the consultant to establish the maximum fee, including expenses, for the specific project and the completion date.

Pursuant to an authorized Task Order, the consultant shall provide engineering services and all necessary personnel, material, transportation, lodging, instrumentation, and the specialized facilities and equipment necessary to satisfy all appropriate agencies and required to ensure

compliance with all applicable Federal, State, and Local statutes, laws, codes, regulations, policies, procedures, ordinances, standards, specifications, performance standards, and guidelines, applicable to the consultant's services and work product. The consultant is responsible for supplying and providing all necessary equipment and protective clothing in accordance with City standards.

The potential construction/design projects may vary in scope and size, and may encompass any type of landscape capital improvements including, but not limited to, park structure construction, landscape improvements, installation of specialized equipment such as splash pads or playgrounds, construction of park amenities such as pickleball courts or park signage. The project location, project limits, purpose, expected results, project deliverables, period of performance, project schedule, and scope of work to be performed shall be described in each Task Order.

The consultant shall only perform work that is assigned in an authorized Task Order and an award of a contract does not guarantee any Task Orders will be issued. Work shall not begin until the Task Order has been approved by the Contract Administrator.

The consultant shall maintain a set of project files that shall be provided to the City upon request.

The consultant shall have the ability to respond in a timely and cost-efficient manner to City requests.

For Federally Funded Projects, the City will follow the Caltrans **Architectural and Engineering** procurement process. A separate RFP will be issued to the preselected firms as a result of this RFQ. A separate ranking and scoring criteria will be issued under this RFP and the highest ranking firm will be selected to proceed with cost negotiation stage. The City reserves the right to issue the RFP publicly to all firms at the discretion of the Public Works director.

GENERAL PERSONNEL REQUIREMENTS

The consultant's personnel shall be capable, competent, and experienced in performing the types of work in this Contract with minimal instruction. Personnel skill level should match the specific job classifications, as set forth herein or in the consultant's Cost Proposal and task complexity. The consultant's personnel shall be knowledgeable about, and comply with, all applicable Federal, State, and Local laws and regulations.

The consultant is required to submit a written request and obtain the City's Contract Administrator's prior written approval for any substitutions, additions, alterations, or modifications to the consultant's originally proposed personnel and project organization, as depicted on the proposed consultant's organization chart or the consultant's cost proposals. The substitute personnel shall have the same job classification as set forth herein or in the consultant's Cost Proposal not exceed the billing rate, and meet or exceed the qualifications and experience level of the previously assigned personnel, at no additional cost to the City.

The consultant Contract Administrator shall be a Registered Professional Engineer, or a licensed/registered Landscape Architect licensed in the State of California in good standing with the State of California at all times during the Contract period, to perform the tasks described in this Contract and in the Task Orders and shall have a documented minimum five (5) years of demonstrated experience acceptable to City in management and delivery of capital improvement projects for local agencies.

In addition to other specified responsibilities, the consultant Project Administrator shall be responsible for all matters related to the consultant's personnel, subconsultants, and consultant's and sub-consultants' operations including, but not limited to, the following:

- a. Ensuring that deliverables are clearly defined and those criteria are specific, measurable, attainable, realistic and time-bound.

- b. Supervising, reviewing, monitoring, training, and directing the consultant's and sub-consultants' personnel.
- c. Assigning qualified personnel to complete the required Task Order work in coordination with the City Contract Administrator.
- d. Administering personnel actions for consultant personnel and ensuring appropriate actions taken for Subconsultant personnel
- e. Maintaining and submitting organized project files for record tracking and auditing.
- f. Developing, organizing, facilitating, and attending scheduled coordination meetings, and preparation and distribution of meeting minutes.
- g. Implementing and maintaining quality control procedures to manage conflicts, insure product accuracy, and identify critical reviews and milestones.
- h. Assuring that all applicable safety measures are in place.
- i. Providing invoices in a timely manner and providing monthly Contract expenditures.
- j. Reviewing invoices for accuracy and completion before billing to City.
- k. Managing Subconsultants.
- l. Managing overall budget for Contract and provide report to the City Contract Administrator.
- m. Ensuring compliance with the revisions in the Contract and all specific Task Order requirements.
- n. Knowledge, experience, and familiarity with prevailing wage issues and requirements in the State of California.

DELIVERABLES

As agreed upon by the City and Consultant in a Task Order for each project.

SCHEDULE

As agreed upon by the City and Consultant in a Task Order for each project.

METHOD OF PAYMENT

Consultant shall be paid based on the Specific Rates of Compensation for this Contract and for the amount as agreed upon by the City and consultant in a Task Order for each project. Consultant shall submit request for monthly progress payments.

MATERIALS TO BE PROVIDED BY THE CONSULTANT

Unless otherwise specified, the consultant shall provide all materials to complete the required work in accordance with the delivery schedule and cost estimate outlined in each Task Order.

APPENDIX A – SUBMITTAL REQUIREMENTS

These guidelines are provided for standardizing the preparation and submission of the SOQ's by all consultants. The intent of these guidelines is to assist consultants in preparation of their qualifications, to simplify the review process, and to help assure consistency in format and content.

SOQ's shall contain the following information in the order listed:

1. Introductory Letter

The introductory (or transmittal) letter shall be addressed to:

Nirorn Than P.E., Public Works Director/City Engineer
411 Madison Ave
Los Banos, CA 93635

The letter shall be on consultant letterhead and include the consultant's contact name, mailing address, telephone number, facsimile number, and email address. The letter will address the consultant's understanding of the services being requested and any other pertinent information the Consultant believes should be included. All addendums received must be acknowledged in the transmittal letter.

The letter shall be signed by the individual authorized to bind the consultant to the proposal.

2. Consultant Information, Qualifications & Experience

The City will only consider submittals from consultants that demonstrate they have successfully completed comparable projects. These projects must illustrate the quality, type, and past performance of the project team. Submittals shall include a detailed description of a minimum of three (3) projects which include the following information:

1. Contracting agency
2. Contracting agency Project Administrator/Contact Person including name, address and phone
3. Contracting agency contact information
4. Contract amount
5. Date of contract
6. Date of completion
7. Consultant Project Administrator and contact information

3. Organization and Approach

1. Describe the roles and organization of your proposed team for this project. Indicate the composition of subcontractors and number of project staff, facilities available and experience of your team as it relates to this contract. Provide an organizational chart.
2. Describe your project and management approach including plan check and inspection.
3. Describe the roles of key individuals on the team. Provide resumes and references for all key team members. Resumes shall show relevant experience, for the Project's Scope of Work, as well as the length of employment with the proposing Consultant. Key members, especially the Project Administrator, shall have significant demonstrated experience with this type of project, and should be committed to stay with the project for the duration of the project.
4. Demonstrate that the consultant's project Administrator and project staff have sufficient availability and/or that consultant has sufficient resources to timely deliver City's projects.

4. Past Experience on Municipal Projects

Include a description of past municipal projects (minimum of five) in which your firm has been involved, for comparable cities including the following:

- Project Description
- Year of Completion
- Construction Cost (or consultant cost, if not an infrastructure project)
- City Contact

5. Conflict of Interest Statement

Throughout the term of the awarded contract, any person, firm or subsidiary thereof who may provide, has provided or is currently providing design engineering services and/or construction engineering services under a contractual relationship with a construction contractor(s) on any City project related to this solicitation.

Similar to the disclosures regarding contractors, all firms are also required to disclose throughout the term of the awarded contract, any design engineering services including claim services, lead project management services and construction engineering services provided to all other clients on any City project listed in this solicitation.

In addition to the disclosures, the consultant shall also provide possible mitigation efforts, if any, to eliminate or avoid any actual or perceived conflicts of interest.

The consultant shall ensure that there is no conflict before providing services to any construction contractor on any of the City's projects related to this solicitation. The submitted documentation will be used for determining potential conflicts of interest. The City will use this documentation to determine whether the firm may provide the specified services under this contract.

If a consultant discovers a conflict during the execution of an assigned task order, the consultant must immediately notify the City Contract Administrator regarding the conflicts of interest. The City Contract Administrator may terminate the Task Order involving the conflict of interest and City may obtain the conflicted services in any way allowed by law. Failure by the consultant to notify the City Contract Administrator may be grounds for termination of the contract.

6. Litigation

Indicate if the proposing consultant was involved with any litigation in connection with prior projects. If yes, briefly describe the nature of the litigation and the result.

7. Contract Agreement

Indicate if the proposing consultant has any issues or needed changes to the proposed contract agreement included as Appendix C.

The consultant shall provide a brief statement affirming that the proposal terms shall remain in effect for ninety (90) days following the date proposal submittals are due.

8. Cost Proposal

In order to assure that the City is able to acquire professional services based on the criteria set forth in the Brooks Act and Government Code 4526, the SOQ shall include the consultant's Specific Rates of Compensation for this contract. ***The Specific Rates of Compensation shall be submitted in a separate sealed envelope from the SOQ.*** The consultant's Specific Rates of Compensation are confidential and shall remain sealed. Upon completion of the consultant selection process, only the cost proposal from the selected consultant shall be opened. All other (unopened) cost proposals shall be returned in accordance with Appendix B. These Specific Rates of Compensation are adjustable on an annual basis (one time per year) for the performance period set forth in this Contract. Consultant shall submit a request for adjustment to the rates 30 days prior to the expiration of the current rates. Consultant agreed to forego rate adjustment if the rate adjustment request was not received prior to the expiration of the current rates.

Cost proposal will be established separately under an RFP for federally funded project.

APPENDIX B – PROPOSAL EVALUATION

EVALUATION PROCESS

All submittals will be evaluated by City Selection Committee. The Committee may be composed of City staff and other parties that may have expertise or experience in the services described herein. The Committee will review the submittals and will rank the proposers. The evaluation of the proposals shall be within the sole judgment and discretion of the Committee. All contacts during the evaluation phase shall be through the Contract Administrator/Project Administrator only. Proposers shall neither contact nor lobby evaluators during the evaluation process. Attempts by Proposer to contact members of the Committee may jeopardize the integrity of the evaluation and selection process and risk possible disqualification of Proposer.

The Committee will evaluate each submittal meeting the qualification requirements set forth in this RFQ. Proposers should bear in mind that any submittal that is unrealistic in terms of the technical or schedule commitments may be deemed reflective of an inherent lack of technical competence or indicative of a failure to comprehend the complexity and risk of the City requirements as set forth in this RFQ.

The selection process may include oral interviews. The consultants will be notified of the time and place of oral interviews and if any additional information that may be required to be submitted. Interviews may be held with the top ranked candidates. In the event that the City receives no more than three SOQs, the City may opt to not conduct an oral interview.

Upon completion of the evaluation and selection process, only the cost proposals from the top three qualified consultants will be opened to begin cost negotiations. All unopened cost proposals will be returned at the conclusion of the procurement process. Upon acceptance of a cost proposal and successful contract negotiations, staff will recommend a contract be awarded.

EVALUATION CRITERIA

Proposals will be evaluated according to each Evaluation Criteria, and scored on a zero to five point rating. The scores for all the Evaluation Criteria will then be multiplied according to their assigned weight to arrive at a weighted score for each proposal. A submittal with a high weighted total will be deemed of higher quality than a proposal with a lesser-weighted total. The final maximum score for any proposal is five hundred (500) points.

Rating Scale		
0	Not Acceptable	Non-responsive, fails to meet RFQ specifications. The approach has no probability of success. For mandatory requirement this score will result in disqualification of submittal.
1	Poor	Below average, falls short of expectations, is substandard to that which is the average or expected norm, has a low probability of success in achieving project objectives per RFQ.
2	Fair	Has a reasonable probability of success, however, some objectives may not be met.
3	Average	Acceptable, achieves all objectives in a reasonable fashion per RFQ specification. This will be the baseline score for each item with adjustments based on interpretation of submittal by Evaluation Committee members.
4	Above Average/Good	Very good probability of success, better than that which is average or expected as the norm. Achieves all objectives per RFQ requirements and expectations.
5	Excellent/Exceptional	Exceeds expectations, very innovative, clearly superior to that which is average or expected as the norm. Excellent probability of success and in achieving all objectives and meeting RFQ specification.

The Evaluation Criteria Summary and their respective weights are as follows:

No.	Written Evaluation Criteria	Weight
1	Completeness of Response	Pass/Fail
2	Qualifications & Experience	30
3	Organization & Approach	15
4	Past Experience on Municipal Projects	20
5	Staff Availability	15
6	Conflict of Interest Statement	Pass/Fail
7	Proposal Format	5
8	References	15
Subtotal:		100

No.	Interview Evaluation Criteria (if interviews are necessary)	Weight
9	Presentation by Team	10
10	Q&A Response to Panel Questions	15
Subtotal:		25
Total:		125

1. Completeness of Response (Pass/Fail)

- a. Responses to this RFQ must be complete. Responses that do not include the proposal content requirements identified within this RFQ and subsequent addenda and do not address each of the items listed below will be considered incomplete, be rated a Fail in the Evaluation Criteria and will receive no further consideration. Responses that are rated a Fail and are not considered may be picked up at the delivery location within 14 calendar days of contract award and/or the completion of the competitive process.

2. Qualifications & Experience (30 points)

- a. Relevant experience, specific qualifications, and technical expertise of the firm and sub-consultants to conduct landscape architecture services on capital improvement projects.

3. Organization & Approach (15 points)

- a. Describes familiarity of project and demonstrates understanding of work completed to date and project objectives moving forward
- b. Roles and Organization of Proposed Team
 - i. Proposes adequate and appropriate disciplines of project team.
 - ii. Some or all of team members have previously worked together on similar project(s).
 - iii. Overall organization of the team is relevant to City needs.
- c. Project and Management Approach
 - i. Team is managed by an individual with appropriate experience in similar projects. This person's time is appropriately committed to the project.
 - ii. Team successfully addresses Site Planning and Programming efforts.

- iii. Project team and management approach responds to project issues. Team structure provides adequate capability to perform both volume and quality of needed work within project schedule milestones.
 - d. Roles of Key Individuals on the Team
 - i. Proposed team members, as demonstrated by enclosed resumes, have relevant experience for their role in the project.
 - ii. Key positions required to execute the project team's responsibilities are appropriately staffed.
 - e. Working Relationship with City
 - i. Team and its leaders have experience working in the public sector and knowledge of public sector procurement process.
 - ii. Team leadership understands the nature of public sector work and its decision-making process.
 - iii. Proposal responds to need to assist City during the project.
- 4. Past Experience on Municipal Projects (20 points)**
 - a. Consultant demonstrates experience with performance of services within the comparable cities for projects similar in nature to those related to this solicitation.
 - b. Consultant demonstrates successful completion of said projects.
 - c. Consultant is familiar with City standards and procedures.
- 5. Staff Availability (15 points)**
 - a. Consultant demonstrates project team staff is available and able to promptly respond to requests throughout the contract duration in order to timely deliver projects.
- 6. Conflict of Interest Statement (Pass/Fail)**
 - a. Discloses any financial, business or other relationship with the City that may have an impact upon the outcome of the contract or the construction project.
 - b. Lists current clients who may have a financial interest in the outcome of this contract or the construction project that will follow.
 - c. Discloses any financial interest or relationship with any construction company that might submit a bid on the construction project.
- 7. Proposal Format (5 points)**
 - a. Attractive, professional appearance. (Cover, internal layout, font type and size, and illustrations/photos)
 - b. Clear, concise, error-free.
- 8. References (15 points)**
 - a. Provide as reference the name of at least three (3) agencies you currently or have previously consulted for in the past three (3) years.
- 9. Presentation by Team (if necessary) (10 points)**
 - a. Team presentation conveying project understanding, communication skills, innovative ideas, critical issues and solutions.
- 10. Q&A Response to Panel Questions (if necessary) (15 points)**
 - a. Proposer provides responses to various interview panel questions.

Weighted scores for each Proposal will be assigned utilizing the table below:

No.	Evaluation Criteria	Rating (0-5)	Weight	Score (Rating * Weight)
1	Completeness of Response	N/A	Pass/Fail	Pass/Fail
2	Qualifications & Experience		30	
3	Organization & Approach		15	
4	Past Experience on Municipal Projects		20	
5	Staff Availability		15	
6	Conflict of Interest Statement		Pass/Fail	
7	Proposal Format		5	
8	References		15	
9	Presentation by Team		10	
10	Q&A Response to Panel Questions		15	
Total:			125	

APPENDIX C –SAMPLE CONTRACT AGREEMENT

PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF LOS BANOS AND [CONSULTANT NAME] FOR ON-CALL ENGINEERING SERVICES

THIS AGREEMENT is made and entered into this ____ day of _____, 2019, by and between the City of Los Banos, California, a municipal corporation, (“City,”) and [CONSULTANT NAME], a [partnership, corporation, etc.] (“Consultant”).

RECITALS

A. City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California.

B. City desires to engage Consultant as an independent contractor to provide professional engineering services for specific tasks/projects on short notice as needed to support the City’s Public Works Department/City Engineer.

C. Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement.

D. City desires to retain Consultant to render professional services under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. **Term.** The term of this Agreement shall commence upon the above written date and shall remain in effect until June 30, 2027, unless terminated earlier as set forth herein. The Consultant’s Cost Proposal is attached hereto (Exhibit A) and incorporated by reference. If there is any conflict between the approved Cost Proposal and this contract, this contract shall take precedence.

2. **Scope of Services.** Services to be performed by Consultant may include the following on an on-call basis upon reasonable notice to Consultant:

- a. Provide consulting and professional services including project planning, design, engineering, land surveying, and drafting services.
- b. Provide professional services during the bid process including preparation of cost estimates and specifications, project construction, and project completion.
- c. Provide field surveys as requested.
- d. Review Tentative Subdivision Maps, Parcel Maps, Subdivision Maps and Lot Line Adjustments for compliance with Subdivision Map Act and the Los Banos Municipal Code.
- e. Review Subdivision Improvement Plans for compliance with the City of Los Banos Improvement Standards.
- f. Review developers’ site and utility plans.

- g. Update and correct City base maps for zoning, planning, sewer and storm drainage and water systems.
- h. Provide map and maps and mapping services as requested.
- i. Preparation and review of legal descriptions for easements, Rights-of-Way, Lot Line Adjustments, etc.
- j. Update and maintain City Improvement Standards and Specifications.
- k. Review the City's requested project and/or task to be accomplished, and provide preliminary consultation, research and evaluation of same.
- l. Assist the City's Engineering Division with presentations and/or recommendations to City staff administration, or City Council.
- m. Third party review consultation related to documents prepared by the City's Engineering Division or other consultants retained by the City.
- n. Review and provide comments on environmental documents for proposed projects submitted to the City in accordance with the California Environmental Quality Act.
- o. Provide other engineering and design services as requested.

2.1 Consultant shall provide such services on an as needed basis when given written instruction to do so by the Public Works Director, or his designee. Consultant shall diligently perform all the services described in the Scope of Services.

2.2 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.

2.3 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.

3. Administration. The Public Works Director shall administer this Agreement on behalf of the City. The Public Works Director or his/her authorized representative shall represent City in all matters pertaining to the services to be rendered pursuant to this Agreement.

4. Time of Performance. Upon receipt of written Notice to Proceed from the City, Consultant shall perform with due diligence the services requested by the city and agreed on by the Consultant. 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. The failure by Consultant to perform the services in a diligent and timely manner may result in termination of this Agreement by 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.

4.1 Consultant is advised that any recommendation for contract award is not binding on City until the contract is fully executed and approved by the City.

4.2 The period of performance for each specific project shall be in accordance with the Task Order for that project. If work on a Task Order is in progress on the expiration date of this contract, the terms of the contract shall be extended by contract amendment.

5. Allowable Costs and Payments. Consultant will be reimbursed for hours worked at the hourly rates specified in Consultants Cost Proposal (Exhibit A). The specified hourly rates shall include direct salary costs, employee benefits, overhead, and fee. These rates are adjustable on an annual basis (one time per year) for the performance period set forth in this Contract. Consultant shall submit a request for adjustment to the rates 30 days prior to the expiration of the current rates. Consultant agreed to forego rate adjustment if the rate adjustment request was not received prior to the expiration of the current rates. Consultant's compensation for all work performed in accordance with this Agreement, including all reimbursable items and subconsultant fees, shall not exceed \$200,000 per year during the term of this Agreement.

5.1 In addition, Consultant will be reimbursed for incurred (actual) direct costs other than salary costs that are in the cost proposal and identified in the cost proposal and in the executed Task Order.

5.2 Specific projects will be assigned to Consultant through issuance of Task Orders.

5.3 After a project to be performed under this contract is identified by the City, the City will prepare a draft Task Order; less the cost estimate. A draft Task Order will identify the scope of services, expected results, project deliverables, period of performance, project schedule and will designate a City Project Coordinator. The draft Task Order will be delivered to Consultant for review. Consultant shall return the draft Task Order within ten (10) calendar days along with a Cost Estimate, including a written estimate of the number of hours and hourly rates per staff person, any anticipated reimbursable expenses, overhead, fee if any, and total dollar amount. After agreement has been reached on the negotiable items and total cost; the finalized Task Order shall be signed by both the City and Consultant.

5.4 Task Orders may be negotiated for a lump sum (Firm Fixed Price) or for specific rates of compensation, both of which must be based on the labor and other rates set forth in Consultant's Cost Proposal.

5.5 Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal.

5.6 When milestone cost estimates are included in the approved Cost Proposal, Consultant shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such estimate.

5.7 Progress payments for each Task Order will be made monthly in arrears based on services provided and actual costs incurred.

5.8 Consultant shall not commence performance of work or services until this contract has been approved by the City, and notification to proceed has been issued by the City's Contract Administrator. No payment will be made prior to approval or for any work performed prior to approval of this contract.

5.9 A Task Order is of no force or effect until returned to the City and signed by an authorized representative of the City. No expenditures are authorized on a project and work shall not commence until a Task Order for that project has been executed by the City.

5.10 Consultant will be reimbursed, as promptly as fiscal procedures will permit upon receipt by the City's Contract Administrator of itemized invoices. Separate invoices itemizing all costs are required for all work performed under each Task Order. Invoices shall be submitted no later than 45 calendar days after the performance of work for which Consultant is billing, or upon completion of the Task Order. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format

stipulated for the approved Cost Proposal and shall reference the project title and Task Order number. Invoices shall be mailed to the City's Contract Administrator at the following address:

City of Los Banos, Nirorn Than P.E., Public Works Director
411 Madison Avenue, Los Banos, CA 93635

5.11 The period of performance for Task Orders shall be in accordance with dates specified in the Task Order. No Task Order will be written which extends beyond the expiration date of this Contract.

5.12 The total amount payable by the City for an individual Task Order shall not exceed the amount agreed to in the Task Order, unless authorized by contract amendment.

5.13 If the Consultant fails to satisfactorily complete a deliverable according to the schedule set forth in a Task Order, no payment will be made until the deliverable has been satisfactorily completed.

5.14 Task Orders may not be used to amend this Agreement and may not exceed the scope of work under this Agreement.

5.15 The total amount payable by the City for all Task Orders resulting from this contract shall not exceed \$ 2,500,000.00. It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this contract through Task Orders.

6. Subcontracting. Nothing contained in this contract or otherwise, shall create any contractual relation between the City and any subconsultant(s), and no subcontract shall relieve Consultant of its responsibilities and obligations hereunder. Consultant agrees to be as fully responsible to the City for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Consultant. Consultant's obligation to pay its subconsultant(s) is an independent obligation from the City's obligation to make payments to the Consultant.

6.1 Consultant shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this contract shall be subcontracted without written authorization by the City's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.

6.2 Consultant shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to Consultant by the City.

6.3 All subcontracts entered into as a result of this contract shall contain all the provisions stipulated in this contract to be applicable to subconsultants.

6.4 Any substitution of subconsultant(s) must be approved in writing by City's Contract Administrator prior to the start of work by the subconsultant(s).

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 indemnities 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 indemnities, or at the City's option, reimburse the City indemnities 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 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 one million dollars (\$1,000,000) 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, 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 not less than two million dollars (\$2,000,000) in the annual aggregate.

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.

8.2 All subconsultants shall be included as additional insureds under the Consultant's policies, or the Consultant shall be responsible for causing

subconsultants to purchase the appropriate insurance in compliance with the terms of this Agreement, including adding the City as an Additional Insured to the subconsultant's policies.

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.

11. Ownership of Documents. All documents, information and materials of any and every type furnished or prepared by the Consultant or any of its subcontractors pursuant to and in the course of performance of this Agreement shall be and remain the sole and exclusive property of the City. Such documents, information and materials shall include but not be limited to all findings, reports, plans, specifications, studies, drawings, estimates, 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. City shall have the sole right to use such documents, materials and information in its discretion without further compensation to Consultant or any other party. Consultant shall, at Consultant's expense, provide such documents, materials and information to City upon prior written request.

11.1 All Documents shall be considered works made for hire and all Documents and any and all intellectual property rights arising from their creation, including, but not limited to, all copyrights and other proprietary rights, shall be and remain the property of the City without restriction or limitation upon their use, duplication or dissemination by the City. Consultant shall not obtain or attempt to obtain copyright protection as to any Documents.

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 5 hereinabove.

14. Conflict of Interest. Consultant shall disclose any financial, business, or other relationship with the City that may have an impact upon the outcome of this contract, or any ensuing City construction project. Consultant shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing City construction project, which will follow.

14.1 Consultant hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this contract.

14.2 Consultant hereby certifies that neither Consultant, nor any firm affiliated with Consultant will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.

14.3 Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this contract shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract.

14.4 Consultant hereby certifies that neither Consultant, its employees, nor any firm affiliated with Consultant providing services on this project prepared the Plans, Specifications, and Estimate for any construction project included within this contract. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.

14.5 Consultant further certifies that neither Consultant, nor any firm affiliated with Consultant, will bid on any construction subcontracts included within the construction contract. Additionally, Consultant certifies that no person working under this contract is also employed by the construction contractor for any project included within this contract.

14.6 Except for subconsultants whose services are limited to materials testing, no subconsultant who is providing service on this contract shall have provided services on the design of any project included within this contract.

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.

15.1 Consultant shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of City. Consultant shall be fully responsible to City for all acts and omissions of the subconsultant. Nothing in this Agreement shall create any contractual relationship between City and subconsultant nor shall it create any obligation on the part of City to pay or to see to the payment of any monies due to any such subconsultant other than as otherwise required by law.

16. Compliance with Laws, Rules, Regulations. Consultant's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that Consultant has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.

16.1 During the performance of this Contract, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full. Consultant and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

16.2 The Consultant shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

16.3 The Consultant, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, the Consultant shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.

16.4 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.

16.5 Consultant is aware of the requirements of California Labor Code section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. If the Services are subject to the Prevailing Wage Laws, Consultant agrees to fully comply with such Prevailing Wage Laws.

17. Debarment and Suspension Certification. Consultant's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that Consultant has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or Administrator, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicated, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to the City.

Exceptions will not necessarily result in denial of recommendations for award, but will be considered in determining Consultant responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal Highway Administration.

18. 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.

19. 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.

20. 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.

21. 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.

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:
Nirorn Than, P.E.
Public Works Director/City Engineer
411 Madison Avenue
Los Banos, California 93635

To Consultant:
NAME
TITLE
ADDRESS
ADDRESS

23. Termination. The 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.

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

[CONSULTANT NAME]

Date:

by: **[CONSULTANT CONTACT]**
[TITLE]

**CITY OF LOS BANOS,
a California Municipal Corporation**

Date:

by: **Josh Pinheiro**
City Administrator

**ATTEST:
CITY CLERK**

APPROVED AS TO FORM:

Lucille L. Mallonee
City Clerk

William A. Vaughn
City Attorney