



City of  
**Los Banos**  
*At the Crossroads of California*

**REQUEST FOR PROPOSALS**  
**for**  
**DOWNTOWN GATEWAY SIGN**

Date Released: December 22, 2023

Questions with regard to submissions, process, or proposals can be emailed to:

Stacy Souza Elms  
Community and Economic Development Director  
[stacy.souza@losbanos.org](mailto:stacy.souza@losbanos.org)

Proposals must be received prior to **4:00 P.M. January 26, 2024** at the office of City Clerk

City of Los Banos  
520 J Street  
Los Banos, CA 93635  
[www.losbanos.org](http://www.losbanos.org)

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**NOTICE**  
**Request for Proposal**  
**for**  
**Downtown Gateway Sign**

NOTICE IS HEREBY GIVEN that the City of Los Banos is requesting proposals from qualified contractor to build the City's downtown gateway sign.

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

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

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

Submit five (5) hard copies and one (1) electronic copy in PDF format on a USB flash drive of the firm's proposal. 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. PST on January 26, 2024. Proposals shall be submitted in a sealed package clearly marked "DOWNTOWN GATEWAY SIGN RFP" and addressed as follows:

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

No late submittals will be accepted. The City may conduct interviews of the top-ranking consultants in order to make a final selection. The successful consultant will be recommended to the City Council for authorization to enter into a Professional Services Agreement to build the Downtown Gateway sign within the City of Los Banos.

Failure to comply with the requirements set forth in this Request for Proposal 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 Submitted proposals may be withdrawn at any time prior to the submission time specified in this Request for Proposal, provided notification is received in writing before the submittal deadline.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 Consultant is solely responsible for all costs related to the preparation of the proposal.

The City of Los Banos reserves the right to reject all proposals and to waive any minor informalities or irregularities contained in this proposal. Acceptance of any proposal submitted pursuant to this Request for Proposal shall not constitute any implied intent to enter into a contract.

The contract award, if any, will be made to the consultant who, in the City's sole discretion, is best able to perform the required services in a manner most beneficial to the City. The completed Fee Schedule in **Exhibit D shall be submitted with the proposal in its own separately sealed envelope**. The Consultant shall not include this cost proposal in the USB as an electronic file. 1

The City intends to follow, but will not be bound by, the following selection timeline:

Release of Advertisement of RFP		12/22/2023
Deadline to Submit Questions/Clarifications	5:00 P.M.	01/12/2024
Addendum/Questions/Clarifications Posted	5:00 P.M.	01/19/204
Deadline for Proposal Submittal	2:00 P.M.	01/26/2024
Award Date		02/07/2024 (Tentative)

Any questions with regard to submissions, process, or proposals can be emailed to Stacy Souza Elms, Community and Economic Development Director at [stacy.souza@losbanos.org](mailto:stacy.souza@losbanos.org). Questions shall be submitted before 5:00 P.M. PST on January 12, 2024. Any response to a request for clarification, questions and answers will be posted to the City's website at [www.losbanos.org](http://www.losbanos.org) no later than 5:00 P.M. PST on January 19, 2024 and if necessary, shall become a part of the proposal as an addendum.

The Request for Proposal can be viewed and/or obtained from the City of Los Banos website at [www.losbanos.org](http://www.losbanos.org).

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

## **PROJECT DESCRIPTION**

The City of Los Banos (herein referred to as “City”) is seeking a qualified consultant (herein referred to as “Consultant”) to build the Downtown Gateway Sign (Sign). The goal of the project is to beautify the City's downtown entrance off Sixth St.

The intent of this RFP is to evaluate each interested consultant specific qualifications, experiences, and select the best-qualified consultant. In addition, all interested consultants shall have sufficient, readily available resources in the form of trained personnel, support services, specialized consultants and financial resources to carry out the work without delay or shortcomings. The work will be performed according to the attached Agreement for Services.

The city intends to award a contract to one successful consultant for the services proposed by that consultant. However, all contracts are subject to approval by the Los Banos City Council, and the city reserves the right to not award any such contract at the discretion of the Council.

### **BACKGROUND**

The City of Los Banos is located in western Merced County, in the northern portion of the San Joaquin Valley. The City is located near the junction of California State Route (SR)-152 and Interstate 5. Los Banos is the second largest city in the County.

The City is seeking a Design-Build contractor to complete the design and construction of their downtown street entrance sign. An architectural concept has been rendered and is a preferred model of design for the final product. The total budget for this project is \$500,000 to \$600,000.

### **SCOPE OF WORK**

The services and required Tasks for this RFP can be found in Exhibit C, “Services.”

### **ADDITIONAL SERVICES**

The need for additional type services may be required during the term of the contract. The interested Consultant shall submit a fee schedule for key staff which may be directly involved in the works outside of the scope of services above. This fee schedule shall be on an hourly basis.

### **COST PROPOSAL**

The consultant is to prepare the Fee Schedule attached in Exhibit D based on the tasks as listed in the scope of work and the table for additional service, if requested, based on personnel hourly rate.

## GENERAL PERSONNEL REQUIREMENTS

The consultant's personnel shall be capable, competent, and experienced in performing the types of work in the Contract with minimal instruction. Personnel skill levels 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's Contract Administrator shall have a documented minimum five (5) years of demonstrated experience acceptable to City in management and delivery of similar projects for local agencies.

In addition to other specified responsibilities, the consultant's Project Administrator shall be responsible for all matters related to the consultant's personnel, subconsultants, and consultants's and subconsultants' operations included, 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 subconsultants' 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 subconsultants' personnel.
- e. Maintaining and submitting organized project files for record tracking and auditing.
- f. Assuring that all applicable safety measures are in place.
- g. Providing invoices in a timely manner and providing monthly contract expenditures.
- h. Reviewing invoices for accuracy and completion before billing to City.
- i. Managing subconsultants.
- j. Managing overall budget for Contract and provide report to the City Contract Administrator.
- k. Ensuring compliance with the revisions in the Contract and all specific Task Order requirements.
- l. Knowledge, experience, and familiarity with prevailing wage issues and requirements in the State of California.

## DELIVERABLES

As agreed upon by the City and consultant.

## SCHEDULE

As agreed upon by the City and consultant.

## METHOD OF PAYMENT

Consultant shall be paid based on the Specific Rate of Compensation for this Contract and for the amount as agreed upon by the City and Consultant. 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.

## INSURANCE REQUIREMENTS

Before the City executes an Agreement for services, Contractor shall provide a certificate of insurance evidencing the following:

- 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.
- 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.
- 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.
- 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 one million dollars (\$1,000,000) per claim and not less than two million dollars (\$2,000,000) in the annual 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. The cost of such insurance shall be included in Consultant's bid.
- Each liability insurance certificate shall state that coverage afforded therein is primary and shall bear endorsements that provide the City be given at least 30 days written notice before any material change or cancellation of such policy, for any reason.

## **EXHIBIT A – SUBMITTAL REQUIREMENTS**

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

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

### **1. Introductory Letter**

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

Stacy Souza, Community and Economic Development  
Director 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, material availability and experience of your team as it relates to this contract.
2. Describe your project and management approach.
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 Construction Manager, 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. 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.

#### **5. 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.

#### **6. Contract Agreement**

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

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.

## **7. Cost Proposal**

The Request for Proposal includes a Fee Schedule which identifies the scope of work through task to be completed. The completed Fee Schedule in Exhibit D shall be submitted with the proposal in its own separately sealed envelope. The Consultant shall not include this cost proposal in the USB as an electronic file.

## EXHIBIT 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 RFP. 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 RFP.

The selection process may include oral interviews. The proposer will be notified of the time and place of oral interviews and if any additional information that may be required to be submitted. In the event that the City receives no more than three proposals, the City may opt to not conduct an oral interview.

### 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.

0	Not Acceptable	Non-responsive, fails to meet RFP 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 RFP.
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 RFP 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 RFP 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 RFP specification.

The consultant determined to be the most qualified, in the City's sole discretion, shall be based on the following 100-point grading system:

1. Quality of Proposal: 10 points
2. Qualification and Experience: 20 points
3. Organization and Approach: 30 points
4. Past experience: 10 points
5. Staff Availability: 10 points
6. Proposal Format and Completeness: 5 points
7. Project Schedule: 15 points

**1. Quality of Proposal (10 points)**

- a. Responses to this RFP must be complete. Responses that do not include the proposal content requirements identified within this RFP and subsequent addenda and do not address each of the items listed below will be considered incomplete.

**2. Qualifications & Experience (30 points)**

- a. Relevant experience, specific qualifications, and technical expertise of the firm and sub-consultants to construct the Downtown Gateway Sign as detailed in the scope of work.
- b. Consultant demonstrates experience with performance of services within comparable projects similar in nature to those related to this solicitation.
- c. Consultant demonstrates successful completion of said projects.
- d. Consultant is familiar with City standards and procedures.

**3. Organization & Approach (30 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 Work 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.

**4. Staff Availability (10 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.

**5. Proposal Format and Completeness (5 points)**

- a. Attractive, professional appearance. (Cover, internal layout, font type and size, and illustrations/photos)
- b. Clear, concise, error-free.

**6. Project Schedule (15 points)**

- a. The proposed project schedule will be evaluated on the overall project timeline. The schedule offering the City the short duration with the earliest start and earliest finish will receive the maximum 15 points and the subsequent proposals will receive points based on the weighted average as compared to the highest scoring consultant.

**7. Presentation by Team (if applicable) (10 points)**

- a. Team presentation conveying project understanding, communication skills, innovative ideas, critical issues and solutions.

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

No.	Evaluation Criteria	Rating (0-5)	Weight	Score (Rating * Weight)
1	Quality of Proposal		10	
2	Qualifications & Experience		20	
3	Organization & Approach		30	
4	Past Experience		10	
5	Staff Availability		10	
6	Proposal Format & Completeness		5	
7	Project Schedule		15	
<b>Total:</b>			100	
8	Presentation by Team- if applicable		10	
<b>Total:</b>			110	

## EXHIBIT C – SERVICES

### Task 1: Research and Design Meeting

Research current industry standard practices regarding similar gateway signage and provide feedback to the City on:

- Identify industry standards are commonly being used for similar projects of size and nature.
- Familiarization with the City's current sign specifications.
  - <https://losbanos.org/public-notices/request-for-proposal-downtown-gateway-sign/>
- The pros and cons on differing types of material for signage to meet industry standards and budget requirements.
- Design schedule and material lead times.
- Council approval of chosen materials and final product design.

#### Deliverables

- Design Build Alternative- consultant to provide a minimum of two (2) designs to meet the City's standards for the Gateway arch entrance as it relates to budget allowance and provided conceptual design.
- Provide supporting data, descriptions and information to adequately assess the benefits and detriments of differing styles and materials for construction.
- Submittals during construction phase.

### Task 2: Project Kickoff and Work Plan

To kick of the project, the selected team shall meet with the City to develop a final work plan on this RFP and the winning proposal. At a minimum, the following elements shall be included:

- Refined scope of work with detailed tasks and objectives.
- Detailed schedule identifying key milestones and deliverables.
- Coordination for closure of roadways with responsible agencies.
- City Staff engagement plan, which includes a defined strategy to coordinate with other efforts that are underway in the City.
- Staffing plan which identifies consultant, sub consultants, and City staff roles.

#### Deliverables

- Meeting agenda and notes.
- Project Schedule with construction portion fully developed.
- A list of subcontractors for this project.
- Evidence of liability insurance coverage and workmen's compensation for the contractor and all subcontractors.

### **Task 3: Project Close-out**

To complete the project, the selected team shall deliver construction drawings to the City.

- **Project Record Drawings:** Maintain one set of contract drawings and one set of vendor-supplied drawings. Clearly mark changes, deletions, and additions to show actual constructed conditions. Keep record drawings current. On completion of the total project, submit complete record drawings.
- **As-Constructed Drawings:** Provide as-constructed drawings by updating the Approved DB Construction Drawing AutoCAD files with information provided on the record drawings, contract modifications; and other applicable shop drawings, sketches, and data. AutoCAD files should provided.
- **Substantial Completion and Final Inspection:** Notify the City that the project, or designated portion of project, is substantially complete, and request a final inspection. Upon receipt of notification that project is substantially complete, the City will proceed with inspection or will advise the Contractor of items that prevent the project from being designated as substantially complete. When work is determined to be substantially complete, the City will prepare a list of deficiencies ("Punch List") to be corrected before final acceptance.

If, following final inspection, the work is determined to be substantially complete, City will prepare a list of deficiencies to be corrected before final acceptance. Contractor shall complete the work described on the list of deficiencies within 30 calendar days, as weather permits. If the Contractor fails to complete the work within this time frame, the City may either replace or correct the work with an appropriate reduction in the contract price or charge for re-inspection costs.

**EXHIBIT D – FEE SCHEDULE**

Consultant shall provide an itemized schedule of rates and fees which includes all billing amounts and costs for each Phase. Include Exhibit D in a sealed envelope along with the RFP.

Amounts are considered to be not-to-exceed amounts. The total project budget is between \$500,000 to \$600,000.

Design and Work Plan .....\$ \_\_\_\_\_

Materials and Installation.....\$ \_\_\_\_\_

Total Build Out Cost.....\$ \_\_\_\_\_

Consultant Rate Schedule:

The rate for any authorized additional services is shown below:

Position Title	Hourly Rate



**SAMPLE CONTRACT SUBJECT TO MODIFICATION**

**AGREEMENT FOR CONTRACT SERVICES  
BETWEEN THE CITY OF LOS BANOS AND [NAME OF CONTRACTOR]  
FOR THE LOS BANOS DOWNTOWN GATEWAY SIGN PROJECT**

THIS AGREEMENT FOR CONTRACT SERVICES is made and entered into this day of \_\_\_\_\_, 2024, between CITY OF LOS BANOS, a California municipal corporation ("City") and [NAME OF CONTRACTOR] ("Contractor");

RECITALS

- A. WHEREAS, 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. WHEREAS, Contractor submitted a responsible proposal in response to a Request for Proposals prepared by the City of Los Banos for the Los Banos Downtown Gateway sign Project;
- C. WHEREAS, City has determined that Contractor is qualified by experience and ability to render such services; and
- D. WHEREAS, City and Contractor desire to set forth their rights, duties and obligations in connection with the services to be performed.

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

1. SCOPE OF WORK AND COMPENSATION

1.01. Scope of Work. Subject to the terms and conditions set forth in this Contract, Contractor shall furnish all labor, materials, services, transportation, and equipment necessary to design and construct a Downtown Gateway Sign as described in the City's Request for Proposals dated December 22, 2023, and Contractor's Proposal dated [DATE] and as further set forth in **Exhibit A** attached hereto and incorporated herein by this reference. Contractor shall not be compensated for any work for services rendered in connection with its performance of this Contract, which are in addition to or outside of the Scope of Work, except as expressly provided for herein. It shall be Contractor's responsibility to ensure that the scope and price of any Extra Work to be performed by Contractor is approved by City in writing in advance of Contractor's commencement of the Extra Work.

1.02. Compensation. The total amount to be paid under this Contract for all of the work set forth in Section 1.01 above shall not exceed [AMOUNT OF PROPOSAL] in accordance with the Proposal submitted by the Contractor dated [DATE OF PROPOSAL], **Exhibit B** attached hereto and incorporated herein by this reference. This price includes all costs for labor, materials, tools, equipment, services, warranty, taxes, insurance, overhead, profit and all other costs necessary to perform the work in accordance with this Contract. The cost or compensation for any

## SAMPLE CONTRACT SUBJECT TO MODIFICATION

Extra Work shall be mutually agreed upon by the parties in writing.

1.03. Billing. Compensation shall be paid to Contractor *[to be negotiated by the parties]*.

1.04. Time for Performance. Time is of the essence in the performance of services under this Contract. After the Contract has been executed by City, Contractor shall begin work after the effective date of the Notice to Proceed issued by City and shall diligently and timely manner prosecute the work from the effective date of the Notice to Proceed. All work under this Contract shall be completed before the expiration of **[NUMBER] calendar days** from the commencement date specified in the Notice to Proceed. The failure by Contractor to perform the services in a diligent and timely manner shall constitute a material breach of this Contract and may result in termination of this Contract by City.

1.05. Term/Extension. *[to be negotiated by the parties]*.

### 2. GENERAL WORK REQUIREMENTS

2.01. Standards. Contractor agrees that all Services shall be performed in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Contractor represents and warrants that it, its employees and subcontractors shall have sufficient skill and experience to perform the Services and that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, including a City Business License, and that such licenses and approvals shall be maintained in good standing throughout the term of this Contract.

2.02. Public Convenience. Contractor shall so conduct its operations as to offer the least possible obstruction and inconvenience to the public and to owners of abutting property.

2.03. Traffic Control Measures. Contractor shall provide appropriate vehicular, pedestrian and bicycle traffic control measures. All work shall be planned and carried out so that there is least possible inconvenience to vehicular and pedestrian and bicycle traffic along the project area.

2.04. Sound Control Requirements. Contractor shall comply with all local sound control and noise level rules, regulations and ordinances that apply to any work performed pursuant to the Contract. Unless otherwise provided in writing, work shall be limited to Monday through Friday from 8:00 a.m. to 5:00 p.m.

2.05. Safety Requirements. Contractor shall comply with all safety requirements prescribed by applicable federal, state and local laws and regulations to ensure the safety and health of those working and the local community. Contractor shall assume all responsibility for public safety during the course of the work and all such costs shall be included in the Contract price. Whenever Contractor's operations create a condition hazardous to traffic or to the public, it shall furnish, erect and maintain, at its expense, such fences, barricades, lights, signs and other devices and take such other protective measures as are necessary to prevent accidents or damage or injury

## SAMPLE CONTRACT SUBJECT TO MODIFICATION

to the public.

2.06. **Special Provisions.** This agreement shall include all other terms and conditions, if any, as are set forth in **Exhibit C** attached hereto and incorporated herein by this reference.

### 3. CONTRACTOR'S RESPONSIBILITIES

3.01. **Responsibility for Damage.** Contractor shall be responsible for any loss or damage that may happen to the work and for any loss or damage to any of the materials of other things used or employed in performing the work.

3.02. **Indemnification and Hold Harmless.** Contractor shall indemnify, defend and save harmless City, and its officials, officers, employees, volunteers and agents against all suits, claims or losses (including attorneys' fees and expenses) that may be based on any injury or damage to, or death of any person or any damage to property that may occur, or that may be alleged to have occurred, arising from the performance of this Contract by Contractor, its subcontractors or employees, whether or not it shall be claimed that the injury was caused through an act or omission of Contractor, its subcontractors, employees or other agents, except for the sole negligence, active negligence or willful misconduct of City. Contractor shall, at its own expense, pay all charges of attorneys and all cost and other expenses arising or incurred in connection with such suits, claims or losses. If any judgment shall be rendered against City in connection with any such suit, claim or loss, Contractor shall at its own expense satisfy and discharge it.

3.03. **Insurance.** Without limiting Contractor's indemnification of City, and prior to commencement of work, Contractor shall obtain, provide and maintain at its own expense during the term of this Contract, 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. Contractor 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 Contract.

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. Contractor shall maintain Workers'

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Compensation Insurance (Statutory Limits) and Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000). Contractor 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. Contractor 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. Contractor'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. Contractor 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 one million dollars (\$1,000,000) per accident. If Contractor owns no vehicles, this requirement may be met through a non-owned auto endorsement to the CGL policy.

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 Contractor.

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 Contractor'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

## SAMPLE CONTRACT SUBJECT TO MODIFICATION

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.

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

3.04 Payment of Taxes. The Contract prices paid for the work shall include full compensation for all taxes which Contractor is required to pay, whether imposed by Federal, State or local government, including, without being limited to, Federal excise tax. No tax exemption certificate or any document designed to exempt Contractor from payment of any tax will be furnished to Contractor by City, as to any tax on labor, services, materials, transportation, or any other items furnished pursuant to the Contract. Contractor shall withhold and pay any and all sales and use taxes, withholding taxes, whether State or Federal, Social Security taxes, State Unemployment Insurance charges and all other taxes that are now or hereafter may be required to be paid or withheld under any laws.

3.05. Permits and Licenses Contractor covenants and declares that it has obtained all certificates, licenses, permits or the like required of Contractor by any and all national, state, regional, county, city or local boards, agencies, commissions, committees or other regulatory bodies in order to perform the services contracted for under this Contract. Contractor shall comply with all permits applicable to the work. Contractor has and shall maintain the appropriate State Contractor's License, pursuant to Chapter 9 of Division 3 of the California Business and Professions Code.

CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTORS' STATE LICENSE BOARD WHICH HAS JURISDICTION TO INVESTIGATE COMPLAINTS AGAINST CONTRACTORS IF A COMPLAINT REGARDING A PATENT ACT OR OMISSION IS FILED WITHIN FOUR YEARS OF THE DATE OF THE ALLEGED VIOLATION. A COMPLAINT REGARDING A LATENT ACT OR OMISSION PERTAINING TO STRUCTURAL DEFECTS MUST BE FILED WITHIN 10 YEARS OF THE DATE OF THE ALLEGED VIOLATION. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS' STATE LICENSE BOARD, P.O. BOX 26000, SACRAMENTO, CALIFORNIA 95826.

3.06. Labor Code Requirements. Attention is directed to the following requirements of the Labor Code:

a. Labor Non-Discrimination. Contractor shall comply with Section 1735 of the Labor Code which provides Contractor shall not discriminate against any employee who is employed on the work because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status or sex of such persons, except as provided in Section 12940 of the Government Code.

b. Prevailing Wages. Contractor shall comply with California Labor Code Sections 1770 to 1780, inclusive.

## SAMPLE CONTRACT SUBJECT TO MODIFICATION

c. Payroll Records. Contractor's attention is directed to the following provisions of Labor Code Section 1776. Contractor shall be responsible for the compliance with these provisions by his subcontractors. Contractor and each subcontractor shall preserve their payroll records for a period of three (3) years from the date of completion of the Contract.

d. Workers' Compensation. Pursuant to the requirements of Section 1860 of the California Labor Code, Contractor will be required to secure the payment of workers' compensation to his employees in accordance with the provisions of Section 3700 of the Labor code. By signing this Contract, Contractor certifies the following:

**"I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."**

3.07. Warranty. Contractor warrants to City that all materials and equipment furnished shall be new, free from liens, encumbrances, faults and defects, and of good quality and fit for the purpose intended.

Contractor warrants and guarantees after the date the City accepts the Work that the materials and labor necessary for the Work shall operate as warranted. During the term of this warranty **(20 year material warranty) and (5 year labor warranty)** Contractor shall, without delay, provide all materials, parts and labor, at its own expense, which are necessary to repair and/or correct any and all defects, installation or operational failures in the equipment from any cause so that said Work will function successfully as originally contemplated. Notwithstanding the foregoing, Contractor shall not be required to bear the expense of correction of any failure in the equipment that is caused by the sole or active negligence or willful misconduct of the City. Should Contractor fail to act promptly or in accordance with this requirement, or should the situation require that repairs or replacements be made before Contractor can be notified, the City may, at its option, make the necessary repairs or replacements or perform the necessary work and Contractor shall pay to the City the actual cost of such repairs. Contractor shall also pay to the City and attorneys' fees incurred to enforce this guaranty. This warranty by the Contract is in addition to any warranties or guarantees required or provided by the manufacturer or supplier.

3.08. Independent Contractor Status. Contractor shall independently perform all work under this Contract and shall not be considered an agent or employee of City; nor shall Contractor's subcontractors or employees be considered as subagents of the Owner.

3.09. Hazardous Chemicals and Wastes. Should any release, discharge, leakage, spillage, emission or pollution of any hazardous chemicals or wastes occur due to Contractor's work, then Contractor at its sole cost shall clean all affected property to the satisfaction of City and any governmental body with jurisdiction. Contractor shall immediately report any such release to the City's Project Manager. If the performance of the work outlined by these Contract Documents creates any hazardous wastes, Contractor shall properly dispose of such wastes in full accordance

## SAMPLE CONTRACT SUBJECT TO MODIFICATION

with federal, state and local laws, at its expense.

3.10. Compliance with Laws. All work performed by Contractor under this Contract shall be in accordance with applicable federal, state and local requirements, including, but not limited to environmental laws and laws regarding disposal of hazardous wastes.

3.11. Non-collusion Declaration. By executing this Contract, Contractor declares that only persons or parties interested in this Contract are those named in Contractor's Proposal and that such proposal was not made in the interest of or on behalf of any undisclosed person, firm or organization; that the proposal was genuine and not collusive or sham; that the signatory to this Contract has not directly or indirectly induced or solicited others to put in a sham proposal, or to refrain from proposing; and that the signatory to this Contract has not in a manner sought by collusion to secure for itself an advantage over other potential proposers.

3.12. Conflicts of Interest. Contractor covenants and declares that other than this Contract, it has no holdings or interests within the City or business holdings or agreements with any official, employee or representative of City and shall disclose any such holdings or interests to City in writing.

3.13. Discrimination Prohibited. Contractor covenants and agrees that in performing the services required under this Contract, Contractor shall not discriminate against any person on the basis of race, color, religion, sex, sexual orientation, national origin, ancestry, age or disability.

### 4. GENERAL PROVISIONS

4.1 Liquidated Damages. If Contractor fails to complete the Work within the Contract Time, the City will sustain damage. The actual occurrence of damages and the actual amount of the damages which the City would suffer if the Work were not completed within the Contract Time would be impracticable and extremely difficult to determine. Damages the City would suffer in the event of delay include, but are not limited to, loss of the use of the Work, costs of administration, inspection, supervision and the loss suffered by the public within the City.

Accordingly, the parties agree that the amount herein set forth is a reasonable estimate of the damages which the City shall incur upon failure of the Contractor to complete the Work within the Contract Time: **Five Hundred Dollars per day (\$500/Day)**, for each calendar day by which completion of the Work is delayed beyond the Contract Time. Contractor agrees to pay such liquidated damages as herein provided, and in case the same are not paid, agrees that the City may deduct the amount thereof from any monies due or that may become due to the Contractor under the Contract.

4.2. Termination. City shall have the right to terminate Contractor's right to proceed with some or all of the work and may terminate this Contract at any time by providing written notice thereof at least thirty (30) calendar days in advance of the termination date. In the event of termination, City shall pay Contractor for the reasonable value of services rendered by Contractor prior to termination; provided, however, City shall not in any manner be liable for lost profits which might have been made by Contractor had the contract not been terminated or had Contractor

**SAMPLE CONTRACT SUBJECT TO MODIFICATION**

completed the services required herein. The foregoing is cumulative and does not affect any right or remedy that city may have in law or equity.

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

4.4. Assignment and Subcontracting. Neither this Contract nor any interest herein nor any claim hereunder may be assigned or subcontracted by Contractor either voluntarily or by operation of law, without the prior written consent of City. No such consent shall relieve Contractor of its obligations to comply fully with the requirements of this Contract.

4.5. Records. Contractor will permit City to audit, examine, and make copies of all contracts, invoices, materials, payroll records of personnel, conditions of employment and or data relating to all matters covered by this Contract. Except as otherwise authorized, such records shall be maintained for a period of three years from the date that final payment is made under this Contract.

4.6. Waiver. Failure of City to insist upon strict performance of any of the terms and conditions hereof, or failure or delay to exercise any rights or remedies or to properly notify Contractor in the event of breach, or the acceptance of or payment for any good hereunder, shall not release Contractor of any of the warranties or obligations of this Contract and shall not be deemed a waiver of any right of City to insist upon strict performance hereof.

4.7. Notices. Any notices required to be given pursuant to this Contract 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  
520 J Street  
Los Banos, California 93635  
Attn: **[NAME]**

To Contractor: **[NAME AND ADDRESS]**

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

4.8. No Personal Liability. No member, official or employee of City shall be personally liable to Contractor or any successor in interest in the event of any default or breach by City or for any amount which may become due to Contractor or successor on any obligation under this Contract.



**SAMPLE CONTRACT SUBJECT TO MODIFICATION**

4.9. Entire Agreement. This Contract contains the entire agreement of the parties with respect to the subject matter of this Contract. Any modifications to this Contract shall be in writing.

4.10. Authority to Contract. Contractor covenants and declares that it has obtained all necessary approvals to bind Contractor to this Contract and that the representative signing the Contract is authorized to do so.

4.11. Integration. This Contract represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions herein.

4.12. Amendments. This Contract may be modified or amended only by a written document executed by both Contractor and City and approved as to form by the City Attorney.

4.13. Severability. If any part of this Contract 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 Contract shall continue to be in full force and effect.

4.14 Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Attachments, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, the conflict shall be resolved by giving precedence in the following order, if applicable: This Agreement, the City's Request for Proposals, the Contractor's Proposal.

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

**[NAME]**

**SAMPLE CONTRACT SUBJECT TO MODIFICATION**

Date: \_\_\_\_\_, 2024

\_\_\_\_\_ by:

CITY OF LOS BANOS, a California  
municipal corporation

Date: \_\_\_\_\_, 2024

\_\_\_\_\_ by:

ATTEST:  
CITY CLERK

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

APPROVED AS TO FORM:

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

**SAMPLE CONTRACT SUBJECT TO MODIFICATION**

**EXHIBIT A**

SAMPLE

**SAMPLE CONTRACT SUBJECT TO MODIFICATION**

**EXHIBIT B**

SAMPLE

**SAMPLE CONTRACT SUBJECT TO MODIFICATION**

**EXHIBIT C**

SAMPLE