

**TO: WIB Executive Committee**

**DATE: 01/31/05**

**FROM: Program Planning & Development Committee**

**For Action**

**For Information**

**For Discussion**

**SUBJECT: Request for Proposal for Basic Education Services for PLATO Labs to begin July 1, 2005.**

**PROPOSED MOTION(S): Approve a RFP for PLATO Basic Education Services at the Worknet Employment Resource Centers in Merced and/or Los Banos.**

**DISCUSSION: The Worknet Employment Resource Centers in Merced and Los Banos have PLATO Laboratories to provide basic education services to enrolled Workforce Investment Act participants. The Lab in Los Banos also provides these services to enrolled CalWORKS clients.**

**Presently, and since 1994, the Merced Adult School provides these services in the Merced One-Stop. In Los Banos, since 1997, Merced College has been the program provider. Both contracts are due to expire June 30, 2005.**

**The Workforce Investment Act and Merced County's Procurement Procedures dictate that all contracts should be competitively bid. The original PLATO contracts were negotiated under the Job Training Partnership Act and have been continued as sole source agreements. Since that time, the capabilities of educational organizations have grown to the extent that competition for the PLATO contracts now exists.**

**Bidders will be asked to bid on services at either or both Labs. The Merced Lab requires an instructor 3 hours per day, 5 days a week. The Los Banos Lab requires an instructor(s) 40 hours per week.**

**The RFP will open March 8, 2005 and close April 19, 2005. The WIB could approve the contract May 12<sup>th</sup> with the BOS signing during June 2005. The new contracts will begin July 1, 2005. The Program Planning & Development Committee approved this recommendation during its January 23, 2005 meeting.**

**ATTACHMENT(S): Draft RFP**

Issue Date: March 8, 2005

**COUNTY OF MERCED  
REQUEST FOR PROPOSAL  
NUMBER XXXX  
FOR**

**MERCED PLATO BASIC EDUCATION LAB SERVICES  
AND/OR  
LOS BANOS PLATO BASIC EDUCATION SERVICES**

Notice is hereby given that sealed proposals will be received at the Merced County Department of General Services for performing all work necessary in accordance with the "SCOPE OF WORK" and other related documents provided herein. Please carefully read and follow the instructions. **Proposals shall be in a sealed envelope, box or appropriate package with the proposal number and closing date marked on the outside and mailed or delivered to:**

County of Merced  
Department of General Services  
2222 "M" Street, Room 1  
Merced, California 95340  
Attn. Leon "Sandy" Teague, deputy Director  
General Services-Purchasing

Any Bidder who wishes their proposal to be considered is responsible for making certain that their proposal is received in the Merced County Department of General Services Office by the closing date. Proposals must bear original signatures. **NO ORAL, TELEPHONIC, TELEGRAPHIC, ELECTRONIC (E-MAIL) OR FACSIMILE PROPOSALS WILL BE CONSIDERED. PROPOSALS RECEIVED AFTER THE DEADLINE WILL BE REJECTED REGARDLESS OF POSTMARK DATE AND WILL BE RETURNED TO THE BIDDER UNOPENED.**

**CLOSING DEADLINE DATE: 4:00 P.M., ON APRIL 19, 2005**

**PROPOSALS WILL BE CONSIDERED LATE WHEN THE OFFICIAL DEPARTMENT OF GENERAL SERVICES TIME CLOCK READS 4:01 P.M.**

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## DEFINITIONS

**Academic Credit** – Credit received while a participant is in training, which is applicable toward a secondary school diploma, a post-secondary degree, or a certificate of completion, consistent with State laws and the requirements of an accredited educational agency.

**Basic Skills** – Must include a determination that an individual:

- Computes or solves problems, reads, writes or speaks English at or below grade level 8.0; or
- Is unable to compute or solve problems, reads, writes or speaks English at a level necessary to function on the job, in the individual's family or society.

**Basic Skills Training** – Training provided to enhance locally defined inadequacies in levels of basic literacy skills (as defined above) which would improve an individual's ability to function in the labor market and in society.

**Bidder** - A person, partnership, firm, corporation, or joint venture submitting a bid proposal for the purpose of obtaining a County Contract.

### **Bonds –**

**Bid Bond** – Also referred to as Bid Security. A bond that is submitted with Bidder's proposal to compensate the County for damages it might suffer if successful bidder refuses to execute the contract that may be derived from this proposal. Generally, it is 10% of the amount of Bidder's bid as bid security.

**Performance Bond** – A bond to ensure completion of the project as requested under the "Scope of Work". The Performance Bond is backed by a surety who guarantees the project will be completed in accordance with the specifications of the proposal.

**Payment Bond** – A bond to protect sub-contractors and suppliers. It ensures that the surety backing the bond will pay the sub-contractors and suppliers if the general contractor does not.

**Case Management** – The provision of a client-oriented approach to the delivery of services, designed to:

- Prepare and coordinate comprehensive employment plans, such as the Individual Service Strategies (ISS), for participants to ensure access to a full array of services for participants required under workforce investment activities; i.e., support services, assistance in obtaining basic education, and/or skills training, job and career counseling, referral for drug/alcohol addictions or other personal problems, including long-term follow-up.
- To provide job and career counseling during program participation and after job placement.

**Closing Date/Time** - The last day and time the Request for Proposal must be received in the office of the Department of General Services.

**Collaboration** – A mutually beneficial alliance of groups or organizations that come together to achieve common goals. This alliance is characterized by well-defined relationships that include a commitment to mutual relationships and goals; jointly developed sharing of resources. It is expected those collaborative relationships will coordinate activities/services in a manner that transcends individual agency strategies, and will integrate diverse missions, language and cultural concerns to focus on the needs of the customers. Collaboration is strengthened by a formal written agreement, which delineates the responsibilities of each group, organization, or entity.

**Contract** - Comprises the Request for Proposal (RFP), any addenda thereto, the bid proposal, and the purchase order if appropriate. The Contract constitutes the entire agreement between the County and the awarded Bidder.

**Contractor** - The Bidder awarded the Contract derived from this RFP.

**Contract Administrator** - The Contract Administrator will be the single authority to act for the County under the Contract.

**Cost Reimbursement Contract** – A contract format which provides for the reimbursement of allowable costs which have been identified and approved in the contract budget, and incurred in the operation of the program. Back-up documentation is required to justify payments made under this type of contract.

**County** - The County of Merced, a political subdivision of the State of California.

**Deliverable** - The physical evidence such as documentation, certification of completion, hardware/software delivery, etc. which shows that a specific work has been completed as specified in the Scope of Work.

**Discount** - A percentage amount allowed off invoices for prompt payment.

**Duly Appointed Officer** - Person who has the legal authority to enter into and sign Contracts on behalf of the firm.

**Enrollment** – An eligible participant who has been referred for WIA services and for whom enrollment documents have been completed and entered into the Service Delivery Area's (SDA) Management Information System (MIS).

**Evaluation Committee** - A committee established to review and evaluate bid proposals to determine the Contract award. The committee includes representatives of the department seeking the goods or services and staff from the Department of General Services.

**Exiter** – Is defined as a customer who has an inactivation or termination date within the quarter (hard exit date) or who does not receive any WIA-funded or non-WIA funded partner service for 90 days and is not scheduled for future services, except follow-up services (soft exit).

**Follow-up Services** – All youth participants must receive some form of follow-up services for a minimum duration of 12 months after exiting the program. The types of services provided must be based on the needs of the individual. Follow-up services may include: leadership development; supportive services; regular contact with the youth's school/employer, including addressing work related problems that arise; assistance with job development, career development and further education; school peer support groups, adult mentoring, and tracking the progress of the youth after training.

**Formal Date of Award** - Effective date the Board of Supervisors take formal action to award the subject RFP to the most responsive Bidder.

**Intake** – Include the screening and determination of an applicant for eligibility and: (1) a determination of whether the program can benefit the individual; (2) and identification of the employment and training activities and services which would be appropriate for that individual; (3) a determination of the availability of an appropriate employment and training activity; (4) a decision on selection for participation and (5) the dissemination of information on the program.

**Joint Ventures** - Two or more corporations or entities that form a temporary union for the purpose of the RFP.

**Lead Agency** – The organization submitting the proposal requesting a direct contract with the Workforce Investment Board. The Lead Agency will be responsible for ensuring compliance with all terms and conditions of the contract, administration and fiscal management of the contract, and will be held accountable for program results. Lead agencies submitting proposals that incorporate a collaborative relationship with other entities in the provision of comprehensive and integrated youth services, must clearly identify the collaborating organization(s), the services they will provide, and the funding to support those services.

**Local Board** – Merced County Workforce Investment Board

**Notice of Intent to Award** - Letter sent by County to all participating Bidders advising them of the date the County Board of Supervisors will hear and possibly take action in awarding the Contract to the apparent successful Bidder as recommended by the Evaluation Committee.

**Objective Assessment** – An examination of the academic levels, skills levels, and service needs of a participant used to develop a service strategy and employment goal. Assessments are client centered evaluations of a participant’s basic skills; education; occupational skills; prior work experience; employability that takes into account the participant’s family situation; attitude towards work, motivation, behavior patterns affecting employment; interests and aptitude (including interests and aptitudes for non-traditional occupations); financial resources; supportive service needs and developmental needs.

**Objectives/Sub-Tasks** - Detailed activities that comprise the actual performance of the Goal/Task. The total of all Goals/Tasks and Objectives/Sub-Tasks makes up the “Scope of Work”.

**Outcomes** – Documented effect or impact of a service or intervention on an individual. Outcomes are what the program efforts are designed to achieve. Proposal outcomes must be stated in terms of measurable indicators.

**Prime Contractor** - The Bidder who is awarded the Contract and designated as the legal entity. The Prime Contractor will hereafter also be known as the Contractor. Any subcontracting, Joint Ventures, or other legal arrangements made by the Contractor during this project are the sole responsibility of the Contractor.

**Project Director** - The person named by the County who will oversee the project associated with the RFP who will be the first contact regarding any questions, problems, and any other issues that arise during the Contract period.

**Proposal Deadline** - The closing date associated with this proposal.

**Registration** – The process for collecting information to determine an individual’s eligibility for services under WIA. Adults and dislocated workers must be registered when they receive workforce investment activities beyond self-service and informational services. All youth eligible for WIA services must be registered in order to receive those services. At the point of registration, participants are counted for performance measurement purposes.

**Scope of Work** - The mutually agreed to document which describe tasks, dependencies, the sequence and timing of events, deliverables, and responsible parties associated with the various phases of the proposal.

**Service Provider** – An entity such as a Community Business Organization, an educational institution, or a commercial organization, which delivers services to WIA participants under contract with the Department of Workforce Investment.

**Subcontractors** - Any person, entity or organization, to which Contractor or County has delegated any of its obligations hereunder.

**Sub-recipient** – A legal entity to which a sub-award of Federal funds is made and that is accountable to the recipient for the use of funds provided. When the organization performs the following activities, a Federal award to a sub-recipient is indicated:

- Determines eligibility for the Federally funded program
- Has its performance measured against the objectives of the Federal program
- Has responsibility for programmatic decision making
- Has responsibility for adherence to applicable Federal program compliance requirements
- Uses the Federal funds to carry out a program of the organization as opposed to providing goods or services for a program

**Work Plan** – The mutually agreed to document that describes program activities, tasks, the sequence of enrollments and timing of events, deliverables, responsible parties associated with the various phases and outcomes of the proposals.

# SECTION 1

## INTENT OF THE REQUEST FOR PROPOSAL

### 1.1.1. INTRODUCTION

The County of Merced, on behalf of the Merced County Workforce Investment Board, is looking for qualified proposals from organizations interested in providing basic education services to CalWORKS and Workforce Investment Act (WIA) participants. These services will be provided by qualified certificated instructors located at either or both of the Worknet Employment Resource Center's PLATO Laboratories in Merced and/or Los Banos, California

### 1.2. BACKGROUND INFORMATION

In accordance with the Workforce Investment Act, the Merced County Workforce Investment Board is offering WIA funding to organizations and entities to provide basic education services as an "intensive" service to enrolled WIA participants. Basic education services have been an integral part of the WIA Adult and Dislocated Worker programs since WIA inception and are considered critical elements in the development of a viable workforce. The presentation of the basic education services will be through the use of PLATO Pathways Version 4.X software at the Merced and Los Banos One-Stop PLATO Labs

### 1.3. CONTRACT TERM

The Contract term shall be for a period of one (1) year. The start date will tentatively commence July 1, 2005, with a scheduled completion date of June 30, 2006 contingent on appropriate and sufficient funding.

### 1.4. PRE-PROPOSAL CONFERENCE

A Pre-Proposal conference will be held to allow County staff to discuss all relevant issues associated with the Request for Proposal and to permit Bidders an opportunity to ask questions. While attendance is not required, all potential Bidders are strongly encouraged to attend. Each firm will be limited to not more than two (2) representatives in attendance.

Please submit, in writing, any questions about the Request for Proposal that you would like answered at the pre-proposal conference to the Department of General Service as referenced above or fax your questions to (209) 725-3535, no later than three (3) working days before the conference. This will allow for a more thorough response.

The Pre-Proposal conference may be taped and answers may be provided in writing by mail following the conference. Please contact the Merced County Department of General Services at (209) 385-7690 for confirmation of your attendance. **Oral answers at the conference will not be binding on the County.**

The location, date and time will be as follows:

Location: Department of Workforce Investment, 1880 West Wardrobe, Merced, CA  
95340, Large Conference Room.

Date: Tuesday, March 29, 2005

Time: 10:00 a.m.

### 1.5. SCHEDULED ACTIVITIES

To the extent achievable, the following schedule shall govern the review, evaluation and award of the proposal. The County reserves the right to modify the dates below in accordance with its review process.

<u>Activity</u>	<u>Estimated Schedule Date</u>
1.5.1. Availability of the Request for Proposal	March 8, 2005
1.5.2. Deadline for Submission of Questions from Bidders to be addressed at Pre-Proposal Conference	March 22, 2005
1.5.3. Pre-Proposal Conference	March 29, 2005
1.5.4. Deadline for Submission of Interpretation and/or Written Questions in relationship to the Request for Proposal	April 5, 2005
1.5.5. Closing Date for the Request for Proposal	April 19, 2005
1.5.6. Review of Request for Proposal by Evaluation Committee	April 26, 2005
1.5.7. Interviews and Oral Presentations	April 28, 2005
1.5.8. Evaluation Committee's recommendation to the Board of Supervisors for appropriation action	May 31, 2005
1.5.9. Contract Performance to Commence	July 1, 2005

## SECTION 2

### SCOPE OF WORK

#### 2.1. PROGRAM OVERVIEW

##### 2.1.1 Program Goals

The Workforce Investment Act of 1998 (WIA) authorizes intensive employment and education services to adults and dislocated workers who are unemployed and are unable to obtain employment by themselves, or who have been properly assessed and deemed to be in need of basic education services, or, who are employed, but need basic education services to obtain or retain employment that allows for self-sufficiency. It is the goal of the program that basic education services will lead to employment that will lead to self-sufficiency.

##### 2.1.2 Program Objectives

The Merced County Workforce Investment Board is seeking programs that demonstrate consistency with the requirements of WIA and CalWORKS and will provide at a minimum, the following basic education services through the One-Stop PLATO Labs:

- Mathematics: Basic math, Algebra, Geometry, Trigonometry.
- Science: Chemistry, Biology, Earth Science.
- Communications: Language Arts, Writing, Reading.
- Social Studies: Geography, Economics, Behavioral Science, Political Science, History.
- Quality Control Measures: Data Collection, Charting & Graphing, Control Charts.
- Life & Job Skills
- Pre-employment Competencies
- The Employment Partnership
- Assessment

##### 2.1.3 Geographic Area

PLATO basic education services will be provided from the Worknet Employment Resource Centers in Merced and Los Banos. Services may be provided at either or both of the Labs.

##### 2.1.4. Target Groups

Eligibility for services funded under this RFP are limited to enrolled and referred WIA participants at both the Merced and Los Banos locations, and enrolled and referred CalWORKS participants at the Los Banos location. It is estimated that 200 CalWORKS clients will be served during the year.

##### 2.1.5 Program Design

The program should be designed to provide the following for the Merced PLATO Lab location:

- To provide a qualified certificated instructor, proficient in PLATO Pathways, Version 4.X, who will be stationed in the Merced PLATO Lab for up to 15 hours per week, 3 hours per day between 8:00 am – 12:00 am, for a total of 52 weeks.
- To provide training materials and supplies to students utilizing the PLATO Basic Education Laboratory.

- To maintain records of time and attendance of students.
- To keep track of Average Daily Attendance (ADA) or its equivalent, and apply it to all applicable invoices submitted for payment.

The program should be designed to provide the following for the Los Banos PLATO Lab location:

- To provide a qualified certificated instructor, proficient in PLATO Pathways, Version 4.X, who will be stationed in the Los Banos PLATO Lab to work for a period of 51 weeks, 40 hours per week during July and August 2005; and 43 hours per week September 2005 through June 2006. Lab will be open from 8:00am.
- To provide training materials and supplies to students utilizing the PLATO Basic Education Laboratory.
- To maintain records of time and attendance, preparing time cards according to schedules required by the Department of Workforce Investment and CalWORKS.
- Keep track of Average Daily Attendance or its equivalent and apply it to all applicable invoices submitted for payment.

#### 2.1.6 Periodic Reporting

A monthly report on program status will developed by the Provider and furnished to the County. This report will include total number of clients served each day and into which program, WIA or CalWORKS, the student is enrolled.

#### 2.1.7 Requirements of Proposal Content

Every Bidder will be required to submit a written proposal that describes the costs and basic education services to be provided by their instructor (s) in the PLATO Basic Education Labs. At a minimum, each proposal will describe the following

- A detailed budget
- A description of your Project Management Plan
  - Fiscal management: Describe fiscal management systems you have in place.
  - Project Administrator: Who will administer the contract? What are the qualifications of the Project Administrator?
  - Staffing Plan: Provide an organizational chart and bios of instructors

## 2.2. SPECIFIC COMPLIANCE

- The Workforce Investment Act of 1998
- The Family Economics Security Act (FESA), California Unemployment Insurance Code, Section 15000
- Title 20 CFR Section 667.630
- Executive Order No.11246 "Equal Employment Opportunity" as amended by E.O. 11375
- Nontraditional Employment for Women Act of 1992
- The Age Discrimination Act of 1975 (as amended)
- The Americans with Disabilities Act of 1990
- The Byrd Anti-Lobbying Amendment
- Executive Order 12549, Debarment and Suspension, as amended by E.O. 12689
- California Energy Policy and Conservation Act (PL 96-163, 89 Stat 871)
- California Drug-Free Workplace Act of 1990

## SECTION 3

### INFORMATION TO BIDDERS

#### 3.1. REQUEST FOR PROPOSAL CLOSING DATE

The proposal must be received in the Merced County Department of General Services on or before **4:00 p.m. on April 19, 2005**. The proposal must be in a sealed envelope, box, or appropriate package, with the name and address of the Bidder, Request for Proposal Number, and closing date clearly marked on the outside. For the purposes of this proposal, the time specified will be as defined by the official time clock in the office of the Department of General Services, 2222 "M" Street, Room 1, Merced, California 95340. It is the sole responsibility of the submitting Bidder to ensure that its proposal is received before the submission deadline. Submitting Bidder shall bear all risks associated with delays in delivery by any person or entity, including the U.S. Mail. **PROPOSALS RECEIVED AFTER THE DEADLINE WILL BE REJECTED REGARDLESS OF POSTMARK DATE AND WILL BE RETURNED TO THE BIDDER UNOPENED.**

Proposal must be mailed or delivered personally to:

Merced County Department of General Services  
2222 "M" Street, Room No. 1  
Merced, California 95340  
Attention: Leon "Sandy" Teague, Deputy Director  
General Services-Purchasing

Without law or policy to the contrary, if the Bidder took reasonable steps to submit the proposal in due time, and failure of the proposal to be on hand at the time of closing was not the result of negligence or other fault of the Bidder, but was the result of negligence by the County, the County reserves the right to accept such proposal.

#### 3.2. ANNOUNCEMENT OF PROPOSALS

All proposals received by the published date and time for submission will be publicly announced at the Department of General Services at 2222 "M" Street, Merced, California 95340. The name of each Bidder will be publicly read and recorded. All other information contained in the proposals shall be confidential to avoid disclosure of contents prejudicial to competing Bidders during the evaluation process. Representatives from organizations submitting proposals may be present, but attendance at the announcement of the proposals is not mandatory. No award decision, pricing, or exchange of views will be discussed at the proposal announcement.

#### 3.3. INTERPRETATION, CORRECTIONS AND ADDENDA

The Bidder must carefully examine the specifications, terms and conditions provided in the Request for Proposal and become fully informed as to the requirements set forth therein. If anyone planning to submit a proposal discovers any ambiguity, conflict, discrepancy, omission or error in the proposal, has any questions in relationship to the "Scope of Work", or any other related matters, shall immediately notify the contact person as shown below of such concern in writing and request clarification or modification of the document(s) no later than the deadline as set forth under Section 1.5., "SCHEDULED ACTIVITIES". No further requests for clarification or objections to the proposal will be accepted or considered after this date. Any change in the proposal will be made only by written addendum, issued by the Department of General Services to each firm in receipt of the Request for Proposal and shall be incorporated in the proposal.

The Bidder shall sign and date the addendum and submit same with the proposal. **Any oral communication by the County's designated contact person or any other County staff member concerning this proposal is not binding on the County and shall in no way modify this proposal or the obligations of the County or any Bidders.**

The Bidder may FAX requests to (209) 725-3535, e-mail to [steague@co.merced.ca.us](mailto:steague@co.merced.ca.us) or mail to:

Merced County Department of General Services  
2222 "M" Street, Room No. 1  
Merced, California 95340  
Attention: Leon "Sandy" Teague, deputy Director  
General Services-Purchasing

All inquiries shall be directed to the designated County staff person shown above. Contact with any other County personnel, any undue "badgering" of such County personnel by the Bidder is prohibited. Failure to comply with this request may be considered cause for disqualification of your proposal.

### **3.4. DISCUSSION WITH RESPONSIBLE BIDDERS AND CLARIFICATIONS TO PROPOSAL**

Discussions may be conducted with Bidders, who submit proposals determined to be responsive and have the potential of being selected for an award, for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Such clarifications may be permitted after submission of proposals and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing Bidders to anyone outside the Evaluation Committee. The purpose of such discussions shall be to examine Bidders:

- Qualifications.
- Proposed method of performance.
- Proposed personnel and facilities.
- Compensation.

All Bidders submitting a proposal for consideration agree that their company will be willing to enter into a negotiated, final Contract if awarded this proposal. Such negotiated changes will not change the "Scope of Work".

### **3.5. ANNOUNCEMENT OF APPARENT SUCCESSFUL BIDDER**

Based upon the qualifying proposals and respective evaluations, the Evaluation Committee will recommend to the Merced County Board of Supervisors an apparent successful Bidder. The Board of Supervisors will then officially decide to select or reject the recommendation of the Evaluation Committee and the respective department.

### **3.6. FALSE OR MISLEADING STATEMENTS**

Proposals which contain false or misleading statements, or which provide references which do not support an attribute or condition claimed by the Bidder, may be rejected. If, in the opinion of the County, such information was intended to mislead the County in its evaluation of the proposal, and the attribute, condition or capability is a requirement of this proposal, it will be the basis for rejection of the proposal.

### **3.7. RULES FOR WITHDRAWAL OR REVISION OF PROPOSALS**

A proposal which is submitted prior to the deadline may be withdrawn or revised anytime prior to, but not after, the deadline for receipt of proposals, provided that the request for withdrawal or revision is in writing and executed by the Bidder's duly authorized representative. The request for withdrawal or revision of the proposal must be filed with the County of Merced, Department of General Services, before the deadline for the receipt of proposals. The withdrawal of a proposal shall not prejudice the right of a Bidder to submit a new proposal, provided the Bidder can submit the new proposal by the deadline stated herein.

### **3.8. SUBCONTRACTING**

Any Bidder using a Subcontractor(s) must clearly explain the use of the Subcontractor(s) and list the name(s) of the Subcontractor(s) providing work under this proposal (Attachment A-3, "Subcontractor List"). The selected Bidder will be fully responsible for all work performed under this proposal and will be considered as the Prime Contractor. Any SubContracting, or other legal arrangements made by the Bidder are the sole responsibility of the Bidder. Any Contract that is entered into between the selected Bidder and the Subcontractor(s) shall contain provisions for federal and state access to the books, documents, records, and inspection of work.

### **3.9. JOINT VENTURES**

In the event a proposal is submitted jointly by more than one organization, one legal entity must be designated as the Prime Contractor. All other participants shall be designated as Subcontractors.

### **3.10. CONFIDENTIALITY**

The contents of all proposals, correspondence, agenda, memoranda, or any other medium which discloses any aspect of a Bidder's proposal shall be held in the strictest confidence until the Contract is awarded and signed. THE CONTENTS OF ALL WORKING PAPERS, TRADE SECRETS, PROPRIETARY DATA, AND DISCUSSIONS RELATING TO THE BIDDER'S PROPOSAL SHALL BE HELD CONFIDENTIAL INDEFINITELY UNLESS THE PUBLIC INTEREST IS BEST SERVED BY AN ITEM'S DISCLOSURE BECAUSE OF ITS DIRECT PERTINENCE TO A DECISION AGREEMENT OR AN EVALUATION OF THE PROPOSAL. A disclosure of such working papers or discussions by the Bidder may be a basis for rejecting the Bidder's proposal and ruling the Bidder ineligible for further participation.

The Bidder should clearly mark any of the information within their proposal that is proprietary. Designating the entire proposal as proprietary is not acceptable and will not be honored. Submission of a proposal by a Bidder shall constitute an agreement to the provision for public announcement. Merced County shall have the sole discretion and exclusive authority to determine if any other party has properly obtained the right to have access to this confidential information.

### **3.11. PUBLIC AGENCY PARTICIPATION**

Any public agency, i.e., city, district, public authority, public agency, municipality and other political subdivision or a public corporation of California (hereinafter referred to as Public Agency) located in the State of California shall have the option of participating in any award made as a result of this proposal at the same prices, and terms and conditions. The County is not an agent, partner, or representative of the Public Agency, and is not obligated or liable for any financial responsibility in connection with purchase orders issued by any Public Agency. The Public Agency shall accept sole responsibility for placing orders or payments to the successful Bidder.

### 3.12. CONTRACT AGREEMENT - TERMS AND CONDITIONS, STATUTES AND RULES

The proposal itself is only a reference point to the County's standard Contract and is not the legal document itself. The successful Bidder will be required to enter into a negotiated and final Contract with the County, specifically identifying the "Scope of Work" as well as the County's general terms and conditions. Bidder agrees to incorporate by reference the County's solicited proposal, the Bidder's responding proposal and any other documentation deemed necessary by the County into any Contract that may be derived from this proposal and shall conform to all applicable statutes, rules and regulations of the federal government, the State of California and the County of Merced. Nothing in this proposal shall be construed to prohibit either party from proposing additional terms and conditions during negotiation of the resulting Contract. A Sample Contract (**Attachment A**) has been provided herein for each Bidder's review.

**Any Contract that may be developed as a result of this proposal will not become legally binding until it has been approved by the Merced County Board of Supervisors and signed by the Chairperson.**

## SECTION 4

### GENERAL PROVISIONS

#### 4.1. GENERAL INFORMATION

- 4.1.1. THE COUNTY RESERVES THE RIGHT, AT ITS SOLE DISCRETION, TO REJECT ANY OR ALL PROPOSALS OR ANY PART THEREOF, TO WAIVE ANY INFORMALITIES IN THE PROPOSAL AND MINOR IRREGULARITIES, TECHNICAL DEFECTS OR CLERICAL ERRORS, TO MAKE AN AWARD ON THE BASIS OF SUITABILITY, QUALITY OF SERVICE(S) TO BE SUPPLIED, THEIR CONFORMITY WITH THE SPECIFICATIONS AND FOR THE PURPOSES FOR WHICH THEY ARE REQUIRED, AND NOT CONFINED TO PRICE ALONE. THE COUNTY SHALL NOT BE LIABLE FOR ANY COSTS INCURRED BY THE BIDDER IN CONNECTION WITH THE PREPARATION AND SUBMISSION OF THIS OR ANY OTHER PROPOSAL.
- 4.1.2. Each proposal must include the firm's name, address, dated and related data, and signed by a corporate officer, partner of the company, or agent authorized by the organization.
- 4.1.3. Each proposal must be submitted on such forms provided herein (if provided in the proposal), and must be placed in a sealed envelope or carton with the proposal number and closing date visibly displayed on the outside. **PROPOSALS RECEIVED AFTER THE DEADLINE WILL BE REJECTED REGARDLESS OF POSTMARK DATE AND WILL BE RETURNED TO THE BIDDER UNOPENED.**
- 4.1.4. All proposals shall remain firm for at least one hundred twenty (120) days following the proposal closing date. The County reserves the right to withhold an award of the proposal for one hundred twenty (120) days from date of closing.
- 4.1.5. All proposals and accompanying documentation (including Financials) submitted by the Bidders will become the property of the County and will not be returned. Proposals shall be based on the material contained in the proposal. Bidders are instructed to disregard any prospective oral representations it may have received prior to the solicitation of the proposal.
- 4.1.6. Cost for developing and preparing the proposal is solely the responsibility of the Bidder whether or not any award results from this solicitation. Further, the cost of developing and preparing responses to the proposal will not be allowed as direct or indirect charges under any resulting Contract.
- 4.1.7. No alteration in any of the terms, conditions, delivery, price, quality, quantities, or specifications will be effective without prior written consent of the County.

#### 4.2. DETERMINATION OF BIDDER'S RESPONSIBILITY

##### 4.2.1 Responsible Bidder

A responsible Bidder is a Bidder who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the Contract. It is the County's policy to conduct business only with responsible Bidders.

#### **4.2.2. Non-responsible Bidder**

The County may declare a Bidder to be non-responsible for purposes of this proposal if the Bidder had done any of the following:

- Committed any act or omission which negatively reflects on the Bidder's quality, fitness or capacity to perform any Contract that may be derived from this proposal with the County or a Contract with any other public entity, or engaged in a pattern or practice which negatively reflects on same;
- Committed an act or omission which indicates a lack of business integrity or business honesty; or
- Made or submitted a false claim against the County or any other public entity.
- Submitted false, incomplete or unresponsive statements or omitted requested documentation in connection with this proposal.

#### **4.3. PUBLIC DISCLOSURE**

All public records of the County are available for disclosure except the contents of the proposals received in response to an RFP, which are not open for public review until the awarded Bidder and the County have signed the Contract.

In the event that an unsuccessful Bidder files an official request to view the awarded Bidder's proposal, the County must comply with the appropriate public disclosure procedures. However, information specifically designated in the proposal as proprietary will not be made available.

#### **4.4. QUALIFICATIONS OF BIDDER**

The County may make such investigation as it deems necessary to determine the ability of the Bidder to provide the services requested herein, and the Bidder shall furnish to the County all information and data for this purpose as the County may request. The County reserves the right to reject any proposal should the evidence submitted by, or investigation of, the Bidder fails to satisfy the County that such Bidder is properly qualified to carry out the obligations of the proposal and to complete the requirements contemplated therein.

#### **4.5. DISQUALIFICATION OF BIDDER**

A Bidder may be disqualified and the proposal rejected, in addition to any other cause for rejection as set forth elsewhere in this proposal, or for any, but not limited to, one of the following reasons:

- Proof of collusion among Bidders, in which case all proposals involved in the collusive action will be rejected and any participant to such collusion will be barred from future bidding until reinstated as a qualified Bidder.
- Lack of responsibility and cooperation as shown by past work or services.
- Being in arrears on existing Contracts with the County or having defaulted on previous Contracts.
- Delivery of their proposal after the deadline specified in the proposal.
- Incomplete information or missing documents as required in the proposal.

#### **4.6. INTEGRITY OF EXPENDITURE**

The Bidder assures that every reasonable course of action will be taken to maintain the integrity of expenditure of public funds and to avoid any favoritism, or questionable or improper conduct, if

awarded any Contract that may result from this proposal.

#### **4.7. GRATUITIES**

Neither the Bidder nor any person, firm, or corporation employed by the Bidder shall give, directly, or indirectly, to any employee or agent of the County, any gift, money, or anything of value, or any promise, obligation, or Contract for future reward or compensation, neither during the proposal process nor during the performance of any Contract period resulting from this proposal.

#### **4.8. CONFLICT OF INTEREST**

The Bidder covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of this proposal. Bidder shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or subcontractors, and the County. Bidder shall make all reasonable efforts to ensure that no County officer or employee, whose position in the County enables them to influence any award of this proposal or any competing offer, shall have any direct or indirect financial interest resulting from any contract that may be derived from this proposal or shall have any relationship to the Bidder or officer or employee of the Bidder, nor that any such person will be employed by Bidder in the performance of any contract that may be derived from this proposal without immediate divulgence or such fact to the County.

#### **4.9. INDEMNIFICATION**

Bidder shall indemnify, defend and hold harmless County, its officers, employees, agents and assigns from and against any and all claims, demands liability, judgments, awards, interest, attorney's fees, costs and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the performance of this proposal or any agreement that may be derived from this proposal. Bidder's liability for indemnity under this proposal or any agreement that may be derived from this proposal shall apply, regardless of fault, to any acts or omissions, willful misconduct or negligent conduct, whether active or passive, on the part of the Bidder, unless the claim, demand liability, judgment, award, interest, attorney fee, cost or expense is caused solely by the negligent or willful misconduct of the County, its officers, employees, agents or assigns. Bidder will on request and at its expense defend any action suit or proceeding arising hereunder and shall reimburse and pay the County for any loss, cost, damage or expense (including the cost of its attorneys) suffered by it hereunder.

#### **4.10. INDEPENDENT CONTRACTOR**

It is expressly understood that in the performance of any services resulting from this proposal, Bidder is an independent Contractor and is not an agent or employee of the County and warrant that all persons assigned to the program/project are employees of the Bidder. In the event the awarded Bidder shall employ others to complete or perform the services provided, Bidder shall be solely responsible and hold the County harmless from all matters relating to the payment of such person(s).

It is mutually understood and agreed that no employee-employer relationship will be created and that the awarded Bidder shall hold County harmless and be solely responsible for withholding, reporting and payment of any federal, state or local taxes, contributions or premium imposed or required by workers' compensation, unemployment insurance, social security, income tax or other statutes or codes applying to Bidder, or its Subcontractors and employees, if any.

It is mutually agreed and understood that the Bidder, its Subcontractors and employees, if any, shall have no claim under any Contract that may result from this proposal or otherwise against County for vacation pay, sick leave, retirement or social security benefits, occupational or non-occupational injury, disability or illness, or loss of life or income, by whatever cause.

**4.11. EXTENSION OF CONTRACT**

In the event the successful Bidder offers to supply their service to the County for the same price as awarded from the result of this proposal for any succeeding period, or in the event the successful Bidder is willing to negotiate any justifiable price increase at the time of the succeeding Contract renewal period, and it would be economical and in the best interest of the County, and provided the services have been to the satisfaction of the County, the County reserves the right to extend any Contract resulting from this proposal on a term-by-term basis to the successful Bidder awarded the Contract.

**4.12. CANCELLATION DUE TO LACK OF FUNDING SOURCE**

The County reserves the right to cancel any Contract that may be derived from this proposal upon thirty (30) calendar day's written notice in the event funds are not appropriated by the supporting governing body to continue such services.

**4.13. FEDERAL AND STATE RULES RELATED TO EMPLOYMENT PRACTICES AND NON-DISCRIMINATION**

During the performance of the Contract, the Contractor and its Subcontractors shall not discriminate unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, sexual preference, medical condition, marital status, age or sex. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.

The Contractor and its Subcontractors shall further comply with the Civil Rights Act of 1964 (and any amendments thereto and the rules and regulations thereunder) and Section 504 of Title V of the Vocational Rehabilitation Act of 1973 as amended.

Contractor shall also comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 1200 et seq.), the regulations promulgated, thereunder (California Administrative Code, Title 2, Section 7285.0 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Government Code, Sections 11135 - 11139.5) and the regulations or standards adopted by the State of California to carry out such articles.

The Contractor shall include the non-discrimination and compliance provisions of this clause in all SubContracts to perform work or services performed under the Contract.

**4.14. FEDERAL, STATE, AND LOCAL TAXES**

The awarded Bidder shall pay all taxes lawfully imposed upon it with respect to this proposal or any product delivered with respect to the Contract. The County makes no representation whatsoever as to the exemption from liability to any tax imposed by any government entity on the awarded Bidder.

#### **4.15. DISPUTES AND APPEALS**

Bidder agrees to attempt to resolve disputes that may result from this proposal by administrative process and negotiations in lieu of litigation. In connection with any appeal, Bidder shall be afforded an opportunity to be heard, and to offer evidence in support of its appeal.

#### **4.16. OSHA REQUIREMENTS**

All material, equipment, or labor submitted under this proposal by Bidder shall meet the required standards of OSHA 1970 and CA-OSHA 1973 as last revised. Bidder warrants that the described material, equipment or labor meets all appropriate OSHA safety and health requirements. Further, it warrants that the said material or equipment will not produce or discharge in any manner or form, directly or indirectly, chemicals or toxic substance that could pose a hazard to the health or safety of anyone who may use the material or equipment or come into contact with the material or equipment.

#### **4.17. ENVIRONMENTAL PROTECTION**

The Bidder awarded the Contract resulting from this proposal shall be in compliance with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (41 USC 1857(h)), Section 508 of the Clean Water Act (33 USC, 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR, Part 15) which prohibits the use under nonexempt federal Contracts, grants, and loans of facilities included on the EPA List of Violating Facilities. The Contractor shall report violations to the applicable federal agency and the US EPA Assistant Administrator for enforcement.

#### **4.18. DRUG FREE WORK PLACE**

The awarded Bidder must certify that it will provide a drug-free workplace as set forth by the Federal Drug-Free Workplace Act of 1988 or as last revised.

#### **4.19. PREVAILING WAGE RATES**

Should the proposal call for the Bidder to be responsible for any site preparation activities, the Bidder will be required to certify adherence to the requirements of all state and federal laws relating to the payment of prevailing wage rates for work performance under public Contract laws, specifically, as covered by the federal Davis-Bacon Act and California Labor Code 1720.

#### **4.20. LEGAL CONSIDERATIONS**

Any Bidder, by submission of a response to this proposal, and any subsequent contract that may be derived from this proposal, shall be deemed and have agreed to be bound by the laws of the State of California in all respects as to interpretation, construction, operation, effect and performance.

Notwithstanding any other provisions of this proposal, any dispute concerning any question of fact or law arising under this proposal, or arbitration arising out of any contract that may be awarded as a result of this proposal, shall be tried in Merced County, unless the parties agree otherwise or are otherwise required by law.

**4.21. PATENT INDEMNITY**

The awarded Bidder shall hold the County, its officers, agents, and employees, harmless from liability of any nature in kind, including costs and expenses, from infringement or use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article, or appliance furnished or used in connection with this proposal. The Bidder may also be required to furnish a bond or other indemnification to the County against any and all loss, damage, costs, expenses, claims, and liability for patent or copyright infringement.

**4.22. OUT-OF-STATE BIDDER**

Where the Bidder is an Out-Of-State Bidder, not doing business in the State of California, the package bid or purchase price, for the purpose of determining the lowest price bid, shall be increased by applicable retail rate of general sales tax and use tax when and where applicable.

To facilitate compliance with these requirements, each Bidder possessing a California general sales tax license ID number shall enter that number in the transmittal letter. Any Bidder who cannot or does not enter such a number may not be considered to be doing business in California, and the bid price will be increased by the California General Sales Tax Rate at the current rate for all taxable items.

**4.23. LOCAL BUSINESS PURCHASING PREFERENCE**

Notwithstanding any other provision contained herein to the contrary, a five percent (5%) preference shall be granted to local business whenever the purchasing agent of Merced County purchases services, supplies, materials and/or equipment for county use through the competitive bid process, which shall be defined herein to include quotes, bids, and proposals. The purchasing agent in evaluating competitive bids shall determine the lowest responsive Bidder, and if the lowest responsive Bidder is a non-local Bidder then a five percent (5%) preference shall be granted to local Bidders. Local preference only applies to the procurement of services, supplies, materials and/or equipment, and will not apply to bids conducted with other public agencies nor when prohibited by state or federal statutes or regulations to be awarded to the "lowest responsible Bidder" or other wise exempted from local preference. The total amount of such a preference granted in a single competitive bid shall not exceed \$5,000 over a non-local Bidder.

The five percent (5%) local preference shall be deducted from the total dollar amount bid by local Bidders on competitive quotes and bids, and assess on the total evaluated aggregate score obtained by local Bidders on proposals (County of Merced Ordinance No. 1678, Chapter 5.12.025, "Local Business Purchasing Preference" Policy).

**SECTION 5**  
**SPECIAL PROVISIONS**

**5.1. INSURANCE AND TAXES**

Prior to commencement of any work associated with this proposal, the successful Bidder shall purchase and maintain the following types of insurance for the minimum limits indicated during the term of the Contract and provide a Certificate of Endorsement from the successful Bidder's Insurance Carrier guaranteeing such coverage to the County. The successful Bidder shall include all Subcontractors as insured under its policies or shall furnish separate certificates or endorsements for each Subcontractor. All Subcontractors shall be subject to all of the requirements stated herein.

5.1.1. Commercial General Liability: \$1,000,000.00 per occurrence and \$2,000,000.00 annual aggregate covering bodily injury, personal injury and property damage. The County and its officers, employees and agents shall be endorsed to above policies as additional insured for using ISO form CG2023, as to any liability arising from the performance of any contract resulting from this proposal.

5.1.2. Automotive Liability: \$1,000,000.00 per accident for bodily injury and property damage, or split limits of \$500,000.00 per person/\$1,000,000.00 per accident for bodily injury and \$250,000.00 per accident for property damage.

The County and its officers, employees and agents shall be endorsed to above policies as Additional Insured for such liability as may be incurred in the performance of any Contract resulting from this proposal.

5.1.3. Workers' Compensation Statutory coverage, if and as required according to the California Labor Code, including Employers' Liability limits of \$1,000,000.00 per accident. The policy shall be endorsed to waive the insurer's subrogation rights against the County.

**5.2. INSURANCE CONDITIONS**

5.2.1. Insurance is to be placed with admitted insurers rated by A.M. Best Co. as A:VII or higher. Lower rated, or approved but not admitted insurers, may be accepted if prior approval is given by the County's Risk Manager.

5.2.2. Each of the required policies, noted above, shall be endorsed to provide the County with thirty (30) days prior written notice of cancellation. The County is not liable for the payment of premiums or assessments on the policy. No cancellation provisions in the insurance policy shall be construed in derogation of the continuing duty of successful Bidder to furnish insurance during the term of any contract resulting from this proposal.

5.2.3. These requirements assume that standard insurance policy forms, terms, and conditions will apply to cover the expected risk exposures for the intended "Scope of Work". Additional qualifying policy conditions or special endorsements may be specified in the negotiated Contract depending on the final "Scope of Work" agreed on by County and successful Bidder. Insurance questions may be directed to the Department of General Services for response from the County's Risk Manager.

**5.3. BUSINESS LICENSE**

Prior to the performance of any Contract derived from this proposal, the awarded Bidder, and its Subcontractors, shall secure and maintain a Merced County Business License. County requires that no person shall conduct, or carry-on a business, whether or not for profit, located in whole or in part at a fixed place of business within the County and outside the limits of any incorporated city, without first obtaining a license to operate (County of Merced Ordinance No. 1705, Chapters 6.04 to 6.58, "Business License and Temporary Business License"),

## SECTION 6

### INSTRUCTIONS FOR SUBMITTING PROPOSAL AND PROPOSAL CONTENT REQUIREMENTS

#### 6.1. GENERAL INFORMATION

This section describes the required proposal format and content. The proposal should contain the requested information organized by the prescribed section and subsection numbers and titles. Any information provided beyond that required in the proposal should be contained in a section entitled "Optional Exhibits and Attachments".

Each Bidder shall submit a complete proposal, along with requested copies, providing all information requested and a complete description of the functional operation of the program/project proposed. Failure to follow the prescribed format may result in rejection of your proposal.

Proposals must be complete in all aspects. A proposal may be rejected if it is conditional or incomplete, or if it contains any alteration of form or other irregularities of any kind. A proposal may be rejected if any such defect or irregularity constitutes a material deviation from the proposal requirements. The proposal must contain all costs required by the proposal.

It is the sole responsibility of the submitting Bidder to ensure that its proposal is received before the submission deadline. Submitting Bidder shall bear all risks associated with delays in delivery by any person or entity, including the U.S. Mail. **PROPOSALS RECEIVED AFTER THE DEADLINE WILL BE REJECTED REGARDLESS OF POSTMARK DATE AND WILL BE RETURNED TO THE BIDDER UNOPENED.** Facsimile or electronically transmitted proposals will not be accepted, since they do not contain original signatures.

Proposals must be clearly marked as stated herein and must be received by the date and time specified. Proposals submitted under improperly marked covers may be rejected. If discrepancies are found between two or more copies of the proposal, the proposal may be rejected. However, if not so rejected, the master copy will provide the basis for resolving such discrepancies.

The proposal must be typed. Every part of the proposal must be legible and of sufficient print clarity to allow copying of the document. Mistakes/Errors may be crossed out and corrections typed or printed adjacent to the mistake/error and initialed in ink by the person signing the proposal.

Special bindings, colored displays, etc., are not necessary. A single three-ring binder divided into sections by labeled tab index sheets is sufficient. Attachments that are not included in the binder should be clearly labeled according to the sections and titles provided therein. The proposal should be clear, complete and consistent with the proposal content requirements.

#### 6.2. NARRATIVE DESCRIPTION OF THE BIDDER'S PROPOSAL

The merit of each proposal received in response to this proposal will be judged largely on the basis of each Bidder's narrative description of their proposal. It is important that your proposal contain all information required for an effective review process. Your responding proposal should be written in such a manner to provide sufficient detail to enable the Evaluation Committee members to know what is planned at every stage, and to make a judgment as to the probable success of your proposed effort.

Your proposal should provide a clear and concise description of the services to be provided by your company in response to the County's requested "Scope of Work". Describe your overall philosophy and goals in functional and operating terms - stated as what you will do, not what might be done in carrying out the County's requested objectives under the RFP's "Scope of Work". Address each of the activities to be undertaken as a means of reaching the County's objective under the proposal. The description should be precise and concrete and designed to have measurable outcomes.

### 6.3. NUMBER OF COPIES TO BE SUBMITTED

Please submit two **(2) original signature hard copies** to be signed in blue ink (original copies marked as such) and ten **(10) hard copies**, and if possible, one copy on computer disk (total 13 copies). The disk must be a standard IBM compatible format readable by the County; using word processing software that is Windows based, preferably Microsoft Word. Bidder also to submit one (1) copy of your Financial Statement as set forth herein.

### 6.4. PROPOSAL FORMAT

The proposal must be developed on the forms provided in this package, or must follow the proposal content requirements in the order in which they appear in the proposal. Proposals that do not conform to this format may not be considered for evaluation. Proposals must be typewritten and submitted on standard 8 ½ " by 11" paper. Each page must be clearly and consecutively numbered. All proposals must be submitted in the name of the legal entity or authorized agency. Proposals must be signed in ink by the officer or officers legally authorized to bind the company, partnership or corporation.

The content and sequence of the proposal will be as follows:

- Signature Page
- Cover Letter
- Table of Contents
- Executive Summary
- Exceptions
- Bidder's Qualifications
- Approach
- Financial Statement
- Cost Proposal

#### 6.4.1. SIGNATURE PAGE

Bidder must complete and return the enclosed Signature Page (**Attachment A-1, "Signature Page"**). The Signature Page must be signed in blue ink by the officer or officers legally authorized to bind the company, partnership, or corporation.

#### 6.4.2. COVER LETTER

The Cover Letter must be a maximum of a one (1) page introducing the Bidder. The Cover Letter must include the Bidder's name, address, e-mail address, telephone and facsimile numbers of the person or persons to be used for contact and who will be authorized to represent the Bidder.

### **6.4.3. TABLE OF CONTENTS**

The Table of Contents must be a comprehensive listing of the contents included in your proposal. This section must include a clear definition of the material, exhibits and supplemental information identified by sequential page numbers and by section reference numbers.

### **6.4.4. EXECUTIVE SUMMARY**

The Executive Summary shall condense and highlight the contents of the Bidder's Business Proposal to provide the Evaluation Committee with a broad understanding of the Bidder's approach, qualification, experience and staffing.

### **6.4.5. EXCEPTIONS**

This portion of the proposal will note any exceptions to the requirements and conditions taken by the Bidder. Exceptions should clearly explain why the Bidder is taking exception to the requirements. If exceptions are not noted, the County will assume that the Bidder's proposal meets those requirements as specified herein.

Exceptions shall be noted as follows:

- Exceptions to the Scope of Work
- Exceptions to General Provisions
- Exceptions to Special Provisions
- Exceptions to Instructions for Submitting Proposal and Proposal Content Requirements
- Exceptions to any other part of this RFP

### **6.4.6. BIDDER'S QUALIFICATIONS**

Bidder shall provide a concise statement demonstrating that the Bidder's company's has the qualifications and experience capability to perform the requirements of this proposal. The following sections must be included:

#### **6.4.6.1 History**

Provide a brief history of your company, including the number of years in business. State whether your organization is an individual proprietorship, partnership, corporation, or private nonprofit organization, and the date your company was formed or incorporated. Provide a statement as to any judgment, litigations, licensing violations, or other violations, outstanding or resolved, against your company in the past five (5) years.

#### **6.4.6.2 Background and Experience**

A summary of relevant background information describing your company's experience of major accomplishments and/or activities similar to the requirements set forth under this proposal, which demonstrates your company's ability to provide the service described in your proposal.

#### 6.4.6.3. References

Provide a list of at least five (5) customer references (**Attachment A-2, Reference List**), include the firm's name; the name, title, and telephone number of a contact person; the dollar amount of the Contract; and the dates that these services were completed. Bidder may provide sample material of your company's work to substantiate your previous experience.

#### 6.4.6.4. Staff Assignment

A brief description of the experience and qualifications of the proposed key staff members assigned to this program/project and what percentage of their time will be devoted to the program/project. Show their function, level of education, degree and license, if appropriate, and a detailed resume for each person. Additionally, the Bidder must specify where the staff will be located and identify the program/project manager.

### 6.4.7. APPROACH

The Bidder's proposal shall clearly describe in detail how the Bidder will meet the requirements of this proposal and perform the Scope of Work. Additionally, the proposal should provide any special or unique qualifications which the Bidder believes it possesses to meet the requirements of this proposal. Only those levels of performance the Bidder actually believes can be accomplished should be stated as measurable objectives. Each of the major tasks, or activities to be undertaken, as a means of reaching such objectives, must be specifically identified. Display the essential points of activity in a time sequence showing the amount of time allotted to each activity.

(A benchmark chart may be completed to display the time frame for achieving and accomplishing each major program/project task or activity. Flowcharts and other related graphics may accompany this section.)

### 6.4.8. FINANCIAL STATEMENT

Provide copies of the company's most current and prior two (2) fiscal years financial statements. Statements should include the company's assets, liabilities and net worth. At a minimum, include the Balance Sheet (Statement of Financial Positions), Income Statement (Statement of Operations), and the Retained Earnings Statement. If audited statements are available, these should be submitted to meet this requirement. Financial statements will be kept confidential if so stamped on each page. THIS INFORMATION SHOULD BE PLACED IN A SEPARATE SEALED ENVELOPE AND MARKED "BIDDER'S FINANCIAL STATEMENT" ON THE OUTSIDE OF THE ENVELOPE.

### 6.4.9. COST PROPOSAL FORMAT

It is essential that all responding Bidders include and clearly detail all costs, payment schedules, categorization of line items, and/or other related costs associated with your proposal. All proposals must have a narrative providing a thorough and clear explanation of your costs.

## SECTION 7

### BASIS OF AWARD, SELECTION PROCESS AND EVALUATION CRITERIA

#### 7.1. BASIS OF AWARD

Award will be made to the Bidder whose proposal demonstrates to be the most qualified, responsive and advantageous to the County. **The County shall not be obligated to accept the lowest cost proposal, but will make an award in the best interests of the County after all factors have been evaluated.**

THE COUNTY RESERVES THE RIGHT TO REJECT ANY OR ALL PROPOSALS OR ANY PART THEREOF, TO WAIVE ANY INFORMALITIES IN THE PROPOSAL AND MINOR IRREGULARITIES, TECHNICAL DEFECT OR CLERICAL ERRORS, TO MAKE AN AWARD ON THE BASIS OF SUITABILITY, QUALITY OF SERVICE(S) TO BE SUPPLIED, THEIR CONFORMITY WITH THE SPECIFICATIONS AND FOR THE PURPOSES FOR WHICH THEY ARE REQUIRED, AND NOT BE CONFINED TO COST ALONE. False, incomplete, or non-responsive statements in connection with the proposal may be deemed sufficient cause for rejection. The County shall be the sole judge in making such determination.

The County reserves the right to cancel or discontinue with the proposal process and reject any or all proposals in the event it determines that there is no longer a requirement for the furnishing of such items, materials, equipment and/or services, funding is no longer available for this proposal, or it is otherwise in the County's best interest to cancel the proposal process.

#### 7.2. SELECTION OF REQUEST FOR PROPOSAL

An Evaluation Committee consisting of selected personnel will be established to evaluate the proposals. It is the intent of the Evaluation Committee to select an apparent successful Bidder with a recommendation to be forwarded to the Board of Supervisors based on the evaluation of all elements to this proposal. Selection will not be made on cost alone, but will be based upon the most responsive proposal.

#### 7.3. EVALUATION CRITERIA

The Evaluation Committee will consider only those proposals which have been considered responsive to the proposal. Any proposal which fails to meet the requirements of the proposal will be considered non-responsive and may be rejected. Responsiveness includes attention to detail in following the proposal format. The Evaluation Committee may also contact and evaluate the Bidder's and the Subcontractors references; contact any Bidder to clarify any response; contact any current users of a Bidder's services; solicit information from any available source concerning any aspect of a proposal; and seek and review any other information deemed pertinent to the evaluation process. The Evaluation Committee shall not be obligated to accept the lowest priced proposal, but shall recommend such proposal that is the most qualified, responsive and cost-effective proposal and in the best interest of the County.

7.3.1. Proposals shall be ranked on a total weighted score of 100, and shall be evaluated in accordance with the following criteria and respective weight factor:

<u>Criteria</u>	<u>Weight Factor</u>
7.3.1.1. Overall responsiveness to the Request for Proposal; which includes clarity, completeness and general quality of the proposal submitted.	10
7.3.1.2. Comprehensiveness of the Bidder's submitted proposal; which takes into account the Bidder's understanding of the desired "Scope of Work" and the ability to perform such work as evidenced by Bidder's proposal response.	25
7.3.1.3. Related technical capability, expertise and experience of the Bidder and staff personnel in providing similar services; which includes current and past experience.	10
7.3.1.4. Cost of services proposed in relationship to the "Scope of Work".	45
7.3.1.5. Financial Statements, Copy of latest Audit, IRS Form 99 for non-profit organizations.	10
<b>TOTAL WEIGHTED SCORE</b>	<b>100</b>

#### **7.4. PRESENTATIONS/DEMONSTRATIONS**

##### **7.4.1. ORAL PRESENTATIONS**

Selected Bidder(s) may be asked to make oral presentations further explaining their proposal. The Bidder's original proposal cannot be changed in any aspect during the oral presentation. Bidder(s) will be advised as to the time and place for such presentations and they should be prepared to discuss all aspects of their proposal.

#### **7.5. NOTICE OF INTENT TO AWARD**

A "Notice of Intent to Award" will be sent to all participating Bidders advising them of the date that the Board of Supervisors will hear and consider action on the recommendation of the Evaluation Committee. This "Notice of Intent to Award" will be sent to all participating Bidders by U.S. postal mail or facsimile no later than ten (10) working days prior to the scheduled Merced County Board of Supervisors' meeting acting upon said "Intent to Award".

#### **7.6. NEWS RELEASES**

News releases by the Bidder pertaining to the award resulting from this proposal shall not be made without prior written approval of the County.

#### **7.7. DEBRIEFING**

A debriefing shall be held before the award of the Contract upon the timely request of an unsuccessful Bidder for the purpose of receiving information concerning the evaluation of the Bidder's proposal. The request must be in writing, dated, signed either by the Bidder or a legally authorized individual on behalf of the Bidder and be received by the County's Department of General Services at 2222 "M" Street, Merced, California 95340 within three (3) working days following the County's U.S. postal mail

or facsimile of the "Notice of Intent to Award". Each requesting Bidder will be allotted a maximum of one hour for any debriefing conference. The information provided by the County will be based on the factors leading to the recommendation and selection of the apparent successful Bidder. The debriefing may be held, in the discretion of the County, by telephone conference call. The debriefing is not the forum to challenge the proposal's specification, requirements, or the selection criteria. The debriefing procedure provided herein to all requesting and unsuccessful Bidders to the County's Request for Proposal is the exclusive and sole remedy and means of receiving information upon the respective Bidder's evaluation and preliminarily challenging the award of the Contract.

## **7.8. PROTEST**

The protest process is made available in the event that an unsuccessful Bidder cannot reach agreement with the County after undergoing the debriefing process described herein above.

Should an unsuccessful Bidder request a debriefing to review the information leading to the recommendation of the apparent successful Bidder, and believes its proposal to be the most responsive to the County's proposal and that the County has incorrectly selected another Bidder for award, the appealing Bidder may submit a protest of the selection as described below:

All protests must be made in writing, dated, signed by the Bidder or an individual authorized to sign Contracts on behalf of the protesting Bidder, and contain a statement of the reason(s) for protest; citing the law(s), rule(s) and regulation(s) or procedure(s) on which the protest is based. The protesting Bidder must provide facts and evidence to support the protest.

Protest(s) to County's Intent to Award must be sent either by U.S. mail, postage prepaid, or by personal delivery to:

County Executive Officer  
County of Merced  
2222 "M" Street  
Merced, California 95340

copy to:  
County Director of General Services  
County of Merced  
2222 "M" Street  
Merced, California 95340

All protests in relationship to the County's intended award decision must be received by the County Executive Officer no later than seven (7) working days following the County's U.S. postal mail or facsimile of the "Notice of Intent to Award" to the Bidder.

## **7.9. PROTEST PROCEDURES**

A Bidder protesting the results of any of the processes described herein must follow the procedures set forth. By submitting a "Letter of Intent to Protest", the Bidder has agreed that the protest procedures herein shall precede any action in a judicial or quasi-judicial tribunal regarding this proposal. Protests that do not follow these procedures shall not be considered. The protest procedures constitute the sole administrative remedy available to the Bidder under this procurement. Upon exhaustion of this remedy no additional recourse is available with the County of Merced.

Upon receipt of the formal protest, the County Executive Officer, or his/her designee, will attempt to resolve the protest. If the protest has not been resolved, the Bidder will have an opportunity to address the Board of Supervisors stating their concerns. The decision of the Merced County Board of Supervisors constitutes the final step of the Bidder's administrative remedy.

A protest shall be disallowed when, in the judgement of the County Executive Officer, or his/her designee, or County Board of Supervisors, it has been submitted: (1) as a delay tactic; (2) for the purpose of posturing the protester advantageously for future procurement; (3) in a form that deviates from the one prescribed; (4) without adequate factual basis or merit; or (5) in an untimely manner.

In the event that a protesting Bidder does not appear at the protest hearing as scheduled by Merced County, the protest will be disallowed.

**ATTACHMENT A-1**

**SIGNATURE PAGE**

(BIDDER TO COMPLETE AND PLACE IN FRONT OF PROPOSAL)

INDIVIDUAL/COMPANY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
(P.O. Box/Street) (City) (State) (Zip)

CONTACT PERSON: \_\_\_\_\_

TITLE: \_\_\_\_\_

TELEPHONE NO. \_\_\_\_\_ FAX NO. \_\_\_\_\_

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

The undersigned hereby certifies that he/she is a duly authorized official of their organization and has the authority to sign on behalf of the organization and assures that all statements made in the proposal are true, agrees to furnish the item(s) and/or service(s) stipulated in this Request for Proposal at the price stated herein, and will comply with all terms and conditions set forth, unless otherwise stipulated.

\_\_\_\_\_  
Authorized Representative - Name Title

\_\_\_\_\_  
Signature Date

Business License No.: (Merced City) \_\_\_\_\_

(Merced County) \_\_\_\_\_

Professional License No.: \_\_\_\_\_

Taxpayer Identification No.: \_\_\_\_\_

**ATTACHMENT A-2**

**REFERENCE LIST**

(BIDDER TO COMPLETE AND RETURN WITH PROPOSAL)

List Five (5) Reference where the same or similar Scope of Work were provided

**REFERENCE NO. 1 - COMPANY NAME:**

\_\_\_\_\_

\_\_\_\_\_

ADDRESS:

\_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ TITLE:

\_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_ FAX \_\_\_\_\_ NUMBER:

\_\_\_\_\_

AMT. OF CONTRACT: \_\_\_\_\_ DATE AND TYPE OF SERVICE \_\_\_\_\_

**REFERENCE NO. 2 - COMPANY NAME:**

\_\_\_\_\_

\_\_\_\_\_

ADDRESS:

\_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ TITLE:

\_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_ FAX \_\_\_\_\_ NUMBER:

\_\_\_\_\_

AMT. OF CONTRACT: \_\_\_\_\_ DATE AND TYPE OF SERVICE \_\_\_\_\_

**REFERENCE NO. 3 - COMPANY NAME:**

\_\_\_\_\_

\_\_\_\_\_

ADDRESS:

\_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ TITLE:

\_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_ FAX \_\_\_\_\_ NUMBER:

\_\_\_\_\_

AMT. OF CONTRACT: \_\_\_\_\_ DATE AND TYPE OF SERVICE \_\_\_\_\_

**REFERENCE NO. 4 - COMPANY NAME:**

\_\_\_\_\_

\_\_\_\_\_

ADDRESS:

\_\_\_\_\_

—

CONTACT PERSON: \_\_\_\_\_ TITLE:

\_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_ FAX \_\_\_\_\_ NUMBER:

\_\_\_\_\_

AMT. OF CONTRACT: \_\_\_\_\_ DATE AND TYPE OF SERVICE \_\_\_\_\_

**REFERENCE NO. 5 - COMPANY NAME:**

\_\_\_\_\_

\_\_\_\_\_

ADDRESS:

\_\_\_\_\_

—

CONTACT PERSON: \_\_\_\_\_ TITLE:

\_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_ FAX \_\_\_\_\_ NUMBER:

\_\_\_\_\_

AMT. OF CONTRACT: \_\_\_\_\_ DATE AND TYPE OF SERVICE \_\_\_\_\_

**ATTACHMENT A-3**  
**SUBCONTRACTOR LIST**

(BIDDER TO COMPLETE AND RETURN WITH PROPOSAL)

**SUBCONTRACTOR NO. 1 - COMPANY NAME:**

\_\_\_\_\_

\_\_\_\_\_

ADDRESS:

\_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ TITLE:

\_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_ FAX \_\_\_\_\_ NUMBER:

\_\_\_\_\_

AMT. OF CONTRACT: \_\_\_\_\_ DATE AND TYPE OF SERVICE \_\_\_\_\_

**SUBCONTRACTOR NO. 2 - COMPANY NAME:**

\_\_\_\_\_

\_\_\_\_\_

ADDRESS:

\_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ TITLE:

\_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_ FAX \_\_\_\_\_ NUMBER:

\_\_\_\_\_

AMT. OF CONTRACT: \_\_\_\_\_ DATE AND TYPE OF SERVICE \_\_\_\_\_

**SUBCONTRACTOR NO. 3 - COMPANY NAME:**

\_\_\_\_\_

\_\_\_\_\_

ADDRESS:

\_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ TITLE:

\_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_ FAX \_\_\_\_\_ NUMBER:

\_\_\_\_\_

AMT. OF CONTRACT: \_\_\_\_\_ DATE AND TYPE OF SERVICE \_\_\_\_\_

**SUBCONTRACTOR NO. 4 - COMPANY NAME:**

\_\_\_\_\_

\_\_\_\_\_

ADDRESS:

\_\_\_\_\_

Request for Proposal No. XXXX  
(Services Being Requested)

---

CONTACT PERSON: \_\_\_\_\_ TITLE:

TELEPHONE NUMBER: \_\_\_\_\_ FAX \_\_\_\_\_ NUMBER:

AMT. OF CONTRACT: \_\_\_\_\_ DATE AND TYPE OF SERVICE \_\_\_\_\_

**SUBCONTRACTOR NO. 5 - COMPANY NAME:**

ADDRESS:

---

CONTACT PERSON: \_\_\_\_\_ TITLE:

TELEPHONE NUMBER: \_\_\_\_\_ FAX \_\_\_\_\_ NUMBER:

AMT. OF CONTRACT: \_\_\_\_\_ DATE AND TYPE OF SERVICE \_\_\_\_\_

**REQUEST FOR PROPOSAL NO. XXXX  
ATTACHMENT B  
- S A M P L E C O N T R A C T -**

**MERCED COUNTY  
CONTRACT NO. \_\_\_\_\_**

**AGREEMENT FOR SPECIAL SERVICES  
BETWEEN  
MERCED COUNTY  
AND  
\_\_\_\_\_**

**THIS AGREEMENT**, is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the County of Merced, a political subdivision of the State of California, (hereinafter referred to as "County"), and **(\*NAME OF CONTRACTING COMPANY OR INDIVIDUAL)**, (hereinafter referred to as "Contractor").

**WHEREAS**, the County desires to Contract for special services, pursuant to Government Code Section 31000, which may consist of services, advice, education or training for public entities or the employees thereof; and

**WHEREAS**, the Contractor is specially trained, experienced, expert and competent to perform such services in connection with ( \_\_\_\_\_ ); and

**WHEREAS**, the parties desire to set forth herein the terms and conditions under which said services shall be furnished.

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

**1. GENERAL**

Contractor shall provide such services in a good and professional manner in accordance with the terms and conditions stated herein, and any specifically referenced attachments hereto. The following exhibits are specifically incorporated by reference, attached hereto, and made a part hereof, except when in conflict with this Agreement or modified herein:

- Exhibit A - County's Request for Proposal
- Exhibit B - Contractor's Responding Proposal
- Exhibit C - Other Related Documentation

**2. SCOPE OF WORK**

Services shall include all activities of Contractor necessary to perform such services as set forth herein and shall perform all services as an independent Contractor; not as an agent or employee of the County.

In the performance of Contractor's duties to perform such services, Contractor's services include, but are not limited to, the following:

(  SUBJECT TO PROPOSAL REQUIREMENTS  )

### 3. TERM

The term of this Agreement shall commence on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and continue until the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, unless sooner terminated in accordance with Sections, "TERMINATION FOR CAUSE" and/or "TERMINATION FOR CONVENIENCE" as specified elsewhere in this Agreement. Notwithstanding the foregoing, the obligations of Contractor to County under Section, "INDEMNIFICATION", shall continue for a period of four years in full force and effect after said expiration or earlier termination as to the liability for acts and omissions occurring during the term of this Agreement.

### 4. COMPENSATION

*(SUBJECT TO PROPOSAL REQUIREMENTS)*

### 5. TERMS OF PAYMENT

*(SUBJECT TO PROPOSAL REQUIREMENTS).*

### 6. TERMINATION FOR CAUSE

If Contractor shall fail to comply with any of the Contractor's obligations under this Agreement or otherwise breach this Agreement, County may, in addition to any other remedies it may have, terminate for cause, this Agreement by giving ten (10) calendar days written notice to Contractor in the manner set forth under Section, "NOTICES". In the event of any proceedings by or against the Contractor, i.e, bankruptcy, insolvency, appointment of a receiver or trustee, or an assignment for the benefit of creditors, the County shall exercise its right of cancellation under this section.

### 7. TERMINATION FOR CONVENIENCE

This Agreement, notwithstanding anything to the contrary herein above or hereinafter set forth, may be terminated by either party at any time without cause or legal excuse by providing the other party with thirty (30) calendar days written notice of such termination. The obligation of the Contractor or the County arising under Section, "INDEMNIFICATION", shall continue in full force and effect upon termination of the Agreement for convenience hereunder for a period of four years after said termination as to the limited issue of liability for indemnification for acts or omissions of either party arising during the term of this Agreement.

Upon effective date of termination, County shall have no further liability to Contractor except for payment for actual services incurred during the performance hereunder to the time specified in said notice, not previously reimbursed by County to the extent such costs are actual, necessary, reasonable, and verifiable costs and have been incurred by Contractor prior to, and in connection with, discontinuing the work hereunder.

### 8. DISPOSITION OF WORK UPON TERMINATION

In the event of termination, all finished or unfinished documents and other materials, if any, at the option of County, shall become its property and Contractor shall be entitled to receive compensation for any work completed prior to receipt of the notice of termination. Neither party, however, shall be relieved of liability to the other for damages sustained by either party by virtue of any breach of the Agreement, regardless of whether the Agreement was terminated for convenience or cause.

County may withhold any payments not yet made to Contractor for purpose of set off until such time as the exact amount of damages due to County from Contractor is determined.

## 9. MODIFICATION OF AGREEMENT

Notwithstanding any of the provisions of the Agreement, the parties hereafter, by mutual consent, may agree to modifications hereof or additions hereto, in writing, which are not forbidden by law.

## 10. INSURANCE

A. Contractor shall purchase and maintain the following type of insurance for minimum limits indicated during the term of this Agreement and provide Certificates of Insurance evidencing such coverage to the County, Attn: Risk Management, 2222 "M" Street, Merced, California 95340.

1. Comprehensive General Broad Form or Commercial General Liability: \$1,000,000 combined single limits per occurrence and \$1,000,000 annual aggregate covering bodily injury, personal injury and property damage.
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage, or split limits of \$500,000 per person/\$1,000,000 per accident for bodily injury and \$250,000 per accident for property damage.

The County and its officers, employees and agents shall be endorsed to above policies as Additional Insured for such liability as may be incurred in the performance of this Agreement.

3. Workers Compensation: Statutory coverage, if and as required according to the California Labor Code, including Employers' Liability limits of \$1,000,000 per accident. The policy shall be endorsed to waive the insurer's subrogation rights against the County.

### B. Insurance Conditions

1. Insurance is to be placed with admitted insurers rated by A.M. Best Co. as A:VII or higher. Lower rated, or approved but not admitted insurers, may be accepted if prior approval is given by the County Risk Manager.
2. Each of the above required policies shall be endorsed to provide the County with 30 days prior written notice of cancellation. The County is not liable for the payment of premiums or assessments on the policy. No cancellation provisions in the insurance policy shall be construed in derogation of the continuing duty of Contractor to furnish insurance during the term of this Agreement.

## 11. INDEMNIFICATION

CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its officers, employees, agents and assigns from and against any and all claims, demands liability, judgments, awards, interest, attorney's fees, costs and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the performance of this Agreement. CONTRACTOR's liability for indemnity under this Agreement shall apply to any acts or omissions, willful misconduct or negligent conduct, whether active or passive, on the part of the CONTRACTOR,

its officers, employees, agents or assigns, or by any Act of God, unless the claim, demand liability, judgment, award, interest, attorney's fee, cost or expense is caused solely by the negligent or willful misconduct of COUNTY, its officers, employees, agents or assigns. CONTRACTOR will on request and at its expense defend any action suit or proceeding arising hereunder and shall reimburse and pay COUNTY for any loss, cost, damage or expense (including the cost of its' attorneys) suffered by it hereunder.

## **12. INDEPENDENT CONTRACTOR**

It is mutually understood and agreed that Contractor is an independent Contractor in the performance of the work duties and obligations devolving upon him under this Agreement. County shall neither have, nor exercise any control or direction over the methods by which Contractor shall perform his professional work and functions. The sole interest and responsibility of the County is to assure that the services covered by this Agreement shall be performed and rendered in a competent, efficient and satisfactory manner.

It is mutually understood and agreed that no employer-employee relationship is created and Contractor shall hold County harmless and be solely responsible for withholding, reporting and payment of any federal, state or local taxes, contributions or premiums imposed or required by workers' compensation, unemployment insurance, social security, income tax, other statutes or codes applying to Contractor, or its sub-Contractors and employees, if any.

It is mutually agreed and understood that Contractor, its sub-Contractors and employees, if any, shall have no claim under this Agreement or otherwise against the County for vacation pay, sick leave, retirement or social security benefits, occupational or non-occupational injury, disability or illness, or loss of life or income, by whatever cause.

## **13. RECORDS AND INSPECTIONS**

Contractor shall maintain full and accurate records with respect to all matters covered under this Agreement. The County shall have free access at all proper times or until the expiration of four (4) years after the furnishing of services to such records, and the right to examine and audit the same and to make transcripts therefrom, and to inspect all data, documents, proceedings, and activities pertaining to this Agreement.

## **14. REPORTS AND INFORMATION**

Contractor shall furnish County such periodic reports as County may request pertaining to the work or services undertaken pursuant to the Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement.

## **15. OWNERSHIP OF DOCUMENTS**

All drawings, plans, specifications, calculations, reports, and other documents prepared by Contractor under this Agreement shall become the property of the County. At the County's request, such documents shall be delivered to the County upon completion of services under the Agreement

## **16. STANDARD OF PRACTICE**

Contractor shall perform its services with care, skill, and diligence, in accordance with the applicable professional standards currently recognized by such profession, and shall be responsible for the professional quality, technical accuracy, completeness, and coordination of all reports, designs,

drawings, plans, information, specifications, and other items and services furnished under the Agreement. Contractor shall comply with all applicable Federal, State, and Local laws, ordinances, codes, and regulations in performing its services.

Contractor shall, without additional compensation, correct or revise any errors or deficiencies in its reports, drawing, specifications, designs, and other related items or services.

#### **17. PROVISIONS CONCERNING CERTAIN WAIVERS**

Subject to applicable law, any right or remedy which the County may have under this Agreement may be waived in writing by the County by a formal waiver, if, in the judgment of the County, this Agreement, as so modified, will still conform to the terms and requirements or pertinent California laws.

#### **18. COMPLETENESS OF AGREEMENT**

This Agreement and any additional or supplementary document or documents incorporated herein by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of the Agreement or any part thereof shall have any validity or bind any of the parties hereto.

#### **19. COUNTY NOT OBLIGATED TO THIRD PARTIES**

The County shall not be obligated or liable hereunder to any party other than Contractor.

#### **20. COMPLIANCE WITH STATE LAWS AND REGULATIONS**

The Contractor and the County agree to comply with all State laws and regulations that pertain to construction, health and safety, labor, fair employment practice, equal opportunity, and all other matters applicable to the Contractor and County, their subgrantees, Contractors, or Subcontractor, and their work.

#### **21. DEATH AND DISABILITY**

It is understood and agreed that because this Agreement is entered into for the unique personal services of Contractor, in the event of his/her death, this Agreement is forthwith terminated. In the event Contractor is disabled permanently or for an extended period, County may, at its option, terminate this Agreement forthwith.

Permanent or extended disability means that Contractor is unable to perform the services of the Agreement for such a period of time that it would cause a detriment to the County as determined by the reasonable judgment of the County.

#### **22. COUNTY'S RIGHTS NOT WAIVED BY PAYMENTS**

In no event shall the making, by the County, of any payment to Contractor constitute, or be construed as, a waiver by the County of any breach of covenant, or any default which may then exist, on the part of Contractor, and the making of any such payment by the County while any such breach or default shall exist be construed as acceptance of substandard or careless work or as relieving Contractor from its full responsibility under the Agreement.

#### **23. PERSONNEL**

Contractor represents that it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. All of the services required hereunder will be performed by Contractor or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. Contractor's personnel expressly agreed to be the employees of the Contractor and not the employees of the County.

**24. NOTICES**

Any notices herein provided to be given by either party to the other shall be deemed to have been fully given when made in writing and deposited in the United States mail, postage prepaid or by giving such notice by personal service addressed as follows:

County of Merced c/o	Contractor
_____	_____
_____	_____
_____	_____

**25. APPLICABLE LAW**

All parties agree that this Agreement and all documents issued or executed pursuant hereto and the rights and obligations of the parties thereunder and hereunder is subject to and governed by the laws of the State of California in all respects as to interpretation, construction, operation, effect and performance.

Notwithstanding any other provisions of this Agreement, any dispute concerning any question of fact or law arising under this Agreement, which is not disposed of by agreement between the parties shall be decided by a Court of competent jurisdiction of the State of California.

**26. WAIVER OF TERMS**

No waiver of any term, condition, or covenant of this Agreement, by either party shall be deemed as a waiver of any other term, condition, or covenant herein contained, nor of the strict and prompt performance thereof.

**27. BREACH OF CONTRACT**

Upon breach of the Agreement by Contractor, the County shall have all remedies, both in equity and/or at law, necessary to recover and satisfy Contractor's obligations which it failed to provide as prescribed under the Agreement.

**28. SUCCESSORS IN INTEREST**

All the terms, covenant, and conditions of the Agreement shall be binding and in full force and effect and inure to the benefit of the successors in interest and assigns of the parties hereto. This paragraph shall not be deemed as a waiver of any of the conditions against assignment set forth herein.

**29. CONFLICT OF INTEREST**

Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of this Agreement. Contractor shall make all reasonable efforts to ensure that no conflict of interest exists between its

officers, employees, or subcontractors, and the County. Contractor shall make all reasonable efforts to ensure that no County officer or employee, whose position in the County enables them to influence this Agreement, shall have any direct or indirect financial interest resulting from this Agreement or shall have any relationship to the Contractor or officer or employee of the Contractor, nor that any such person will be employed by Contractor in the performance of this Agreement without immediate divulgence or such fact to the County.

**30. EQUAL EMPLOYMENT OPPORTUNITY**

Contractor shall comply with U.S. Executive Order 11246 entitled, "Equal Employment Opportunity", as amended by U.S. Executive Order 11375, and as supplemented in U.S. Department of Labor Regulations (41 CAR Part 60).

**31. CAPTIONS**

The captions of each paragraph in the Agreement are inserted as a matter of convenience and reference only, and in no way define, limit, or describe the scope or intent of the Agreement or in any way affect it.

**32. ASSIGNMENT**

Contractor shall not SubContract or consign this Agreement, or any part thereof, or interest therein, directly or indirectly, voluntarily or involuntarily, to any person without obtaining the prior written consent by County.

**33. COPIES OF AGREEMENT**

This Agreement is executed in counterparts, each of which shall be deemed a duplicate original.

**COUNTY OF MERCED**

**CONTRACTOR**

By \_\_\_\_\_  
Signature

By \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

**APPROVED AS TO FORM  
COUNTY COUNSEL**

By \_\_\_\_\_

MERCED COUNTY  
DEPARTMENT OF GENERAL SERVICES

**BIDDERS MAILING LIST**

**RFP/BID NO.**

REVIEWED BY: \_\_\_\_\_ DATE \_\_\_\_\_  
APPROVED BY: \_\_\_\_\_ DATE \_\_\_\_\_

<u>VENDOR</u>	<u>DATE AILED</u>	<u>COMMENTS</u>
<b>Co Merced County Office of Education/ROP</b> Attn: <b>Holly Newlon</b> <b>632 West 13<sup>th</sup> Street</b> <b>Merced, CA 95340</b> Phone: <b>209-381-6740</b> Fax: <b>209-381-6766</b> E-mail: <a href="mailto:hnewlon@mcoe.org">hnewlon@mcoe.org</a>		
<b>Co: Merced College</b> Attn: <b>Dr. Anne Newins, Dean, Off-Campus Centers</b> <b>16570 S. Mercey Springs Road</b> <b>Los Banos, CA 93635</b> Phone: <b>209-826-3431</b> Fax: <b>209-381-6430</b> E-mail: <a href="mailto:newins.a@mccd.edu">newins.a@mccd.edu</a>		
<b>Co: Merced Adult School</b> Attn: <b>Carole Roberds, Principal</b> <b>50 East 20<sup>th</sup> Street</b> <b>P.O. Box 3707</b> <b>Merced, CA 95344-3707</b> Phone: <b>209-385-6524</b> Fax: <b>209-385-6430</b> E-mail: <a href="mailto:croberds@muhsd.k12.ca.us">croberds@muhsd.k12.ca.us</a>		
<b>Co: Los Banos Adult School</b> Attn: <b>John Lupini, Principal</b> <b>127 7<sup>th</sup> Street</b> <b>Los Banos, CA 93635</b> Phone: <b>209-826-2911</b> Fax: <b>209-826-2252</b> E-mail:		
<b>Co: Community Business College</b> Attn: <b>Dan Guerra, Director of Education</b> <b>3800 McHenry Ave, Suite M</b> <b>Modesto, CA 95356</b> Phone: <b>209-529-3648</b> Fax: <b>209-529-0456</b> E-mail: <a href="mailto:dguerra@communitybusinesscollege.edu">dguerra@communitybusinesscollege.edu</a>		