REQUEST FOR PROPOSAL

TO PROVIDE INFORMATION TECHNOLOGY SUPPORT SERVICES

City of Riverbank
Request for Proposal
Issued October 4, 2018
Proposals are due 5:30 p.m., November 1, 2018

Submit Completed Application To:
City of Riverbank
Administration Department
Attn: Norma Torres-Manriquez
6707 3rd Street Suite A
Riverbank, CA 95367

RFP Contact: Norma Torres-Manriquez
Phone: 209-863-7153
nmanriquez@riverbank.org
www.riverbank.org

INSTRUCTIONS AND ADMINISTRATIVE REQUIREMENTS

I. Issuing Agency

This Request for Proposal (RFP) is issued by the City of Riverbank, California, subsequently referred to as the "City."

II. IT Services Request for Proposal (RFP) Specifications

To contract with the City of Riverbank, applicants must be an established legal entity, which includes compliance with all the Federal, State, and City business regulations.

III. Tentative Procurement Schedule (subject to change)

The following Time Table will be utilized for the awarding of a contract for the City's IT services and support:

- Proposal Application Available October 4, 2018
- Onsite Visits at 10am or 2pm on October 12, 2018
- RFP Applicant's Inquiries Due October 12, 2018 by 5:00 p.m.
- Answers to Applicants' Inquiries Released October 24, 2018
- Deadline for Submission November 1, 2018 at 5:30 p.m.
- Evaluation Proposals, reference checks, and selection November 2018
- Contract Award Recommended to Council December 11, 2018
- Contract Services Begin January 2019

IV. General Instructions

a. Applicants' Inquiries

All applicants' inquiries are due on Friday, October 12, 2018 by 5:00p.m. Questions must be sent via email to: nmanriquez@riverbank.org. No inquiries, written or oral, will be accepted after this date.

In order for all potential Contractors to be treated equally, all questions raised regarding the Request for Proposal process and the responses made by the City of Riverbank will be made available to all applicants.

Written responses to questions received through Friday, October 12, 2018 will be posted online at www.riverbank.org no later than 5:30pm Wednesday, October 24, 2018. No further questions will be taken after that time.

b. Onsite Visits

Onsite visit is optional for applicants; if an applicant would like to have an onsite visit these will take place on Friday, October 12, 2018. Applicants are asked to RSVP what time they would like to attend the onsite visit, the two time options are 10am or 2pm. Email Norma Torres-Manriquez at nmanriquez@riverbank.org.

c. Deadline for Submittal

All proposal documents must be completed and received no later than 5:30pm Thursday, November 1, 2018 at the following address:

City of Riverbank
Attention: Norma Torres-Manriquez
6707 3rd Street Suite A
Riverbank, CA 95367

c. Format

Proposal documents may be submitted in any reasonable format, as long as all information requested in included.

Proposers shall submit one complete original and five (5) copies of the original proposal.

d. Period of Performance

The period of performance for contracts issued as a result of this RFP process will be for a three- year period with an option of a two one year extensions at the City's discretion.

GUIDELINES FOR APPLICANTS

I. Introduction

The City of Riverbank, California, is soliciting proposals from qualified professional vendors for Information Technology support services. The qualified vendor will maintain and improve information technology (IT) effectiveness, enhance its quality of services, minimize down time and support costs, ensure security of data, and maximize return on investment in IT. The City does not have a professional IT staff. The vendor will work in conjunction with City of Riverbank Administrative Analyst II, as the main point of contact for the general city infrastructure, equipment, security, monitoring and employee needs and all related equipment, backup and other needed IT requirements.

II. Background Information

The City of Riverbank has approximately 65 full-time employees, and 48 part-time staff working at 6 location within the city that require support. We also have five councilmembers and six planning commissioners that require remote assistance with their mobile devices. Below is an approximate break down of system information.

System Count	Qty	Make		Operating System
Desktop systems		56	Various makes	MS Windows 7, 10
Laptops		10	HP, Dell	
Tablets	14	Various makes		
Servers	4	HP		Server 2008, Server 2012
Network Firewalls		1	Cisco	PIX OS
Network Switches		5	Cisco	

The City also has a VOIP phone system and we use a VPN for remote server contact.

IV. Scope of Work

The City of Riverbank desires a fully outsourced IT management provider to provide proactive maintenance, support, and other IT related functions. The following details are the minimum services to be provided to the City of Riverbank in the area of information services:

a. Initial Assessment

With the assistance of city staff, compile an inventory of all information technology related assets, assess system assets, and make recommendations for improved city-wide IT system performance.

b. Desktop Applications Support

Perform basic support functions including installation of PC's, laptops, tablet and telephone setup, printers and software installation, installation, and upgrades. Diagnose and correct desktop application problems; configure laptops, tablets, cell

phones and desktops for standard applications. Identify and correct hardware problems, performing advanced troubleshooting. Assist designated City personnel with hardware and software purchases as needed. Assist with warranty and other technical support.

c. <u>Server Administration Services</u>

Manage computer network and associated hardware, software, communications, and operating system necessary for the quality, security, performance, availability, recoverability, and reliability of the system. Monitor server performance back up schedule and capacity management services. Ensure scheduled preventive maintenance and back up for equipment is promptly performed; develop back-up and disaster recovery plans and procedural documentation for archive backup. Confidentiality of the information is vital. The selected vendor and their employees will be required to sign and adhere to a confidentiality clause that information in the system must remain confidential under penalty of law. All vendor employees with access to the City network will be required to undergo fingerprint background checks at the vendor's expense, training, and be expected to maintain CJIS security standards at all times.

d. <u>Network Administration Services</u>

Scope of activity includes all City network equipment including switches, firewalls, routers, collaboration with VoIP phone system vendor, and other security devices. Manage backup and disaster recovery systems. The scope also includes primary installation and maintenance of printers, network copiers/ scanners, group policy, software updates, etc. as deem necessary. Monitor network performance and capacity management services. Maintain city- wide network diagram.

e. <u>Security</u>

Maintenance of virus/ malware detection and spam reduction programs on City servers, email and all other City computers, laptops, and tablets. Perform security audits as requested and notify City personnel immediately of suspected breaches of security.

f. <u>Strategic Planning</u>

Provide technical leadership for all technology issues. Make recommendations for future purchasing and technology needs. Keep City up to date on new technology changes and uses that will enable the City to increase efficiency and reduce costs. Install equipment including new servers, software, and hardware and transfer data when required. Assist with policy formulation and application.

g. <u>Help Desk Support</u>

End user support must be timely, friendly, and professional. Urgent and emergent support must be available 24/7/365. Routine support must be available Monday – Friday from 7:00 a.m. to 6:00 p.m.

h. <u>End User Training</u>

Provide training for various technology as needed. This would normally be for common software or hardware used in a business setting or new equipment installed. This can be at the request of the City or when a need is identified by the vendor.

i. **<u>Onsite Support</u>**

Provide regular scheduled and dedicated onsite support sixteen (16) hours each month or provide a recommendation of needed onsite support hours; to address city-wide and/or departmental hardware and software issues. Additional onsite support may be needed for special or major projects.

j. <u>Public Records</u>

Provide assistance in public records key word searches through active and archived e-mail and network files of current and former employees. Preserve original metadata of e-mails and network files while saving contents to electronic files. Vendor must be knowledgeable in California State Public Record Laws.

k. <u>Computer Inventory and Disposal</u>

Vendor must provide biannual hardware inventory reporting and proper and legal electronic disposal of surplus electronic equipment.

IV. <u>Submittal Requirements</u>

The following information shall be required in the RFP submittal:

- Letter of Transmittal, to include:
  - Company name, address and telephone number of the firm submitting the proposal.
  - Copy of current W-9.
  - Briefly state your understanding of the services to be performed and make a positive commitment to provide the services as specified.
  - Provide a statement which includes the language "proposal and cost schedule shall be valid and binding for ninety (180) days following proposal due date and will become part of the contract that is negotiated with the City."

- General Vendor Information, to include:
  - Length of time in business.
  - Total number of clients and total number of public sector clients.
  - Number of full-time personnel and number specifically assigned for customer support. Identify names and major certifications of key personnel who will actually provide the information technology services. Summarize the experience and technical expertise of these staff. The

local availability of the staff providing these services will be an important consideration.

- Location of the office that would service our account.

- Describe your approach to providing these services and your methodology for providing ongoing support.

- Provide the name, title, address, and contact information of three (3) references of clients for whom you have provided similar services. Please provide information referencing the actual services provided, customer size (number of users), and the length of time you have provided services to this client.

- Support Services – Please answer the following:
  - Is help desk support available?
  - When is support available? (Indicate xx a.m. to xx p.m. and the days of the week.)
  - How are charges for support structures documented and tracked?
  - Describe your problem escalation process, including:
    - Initial problem identification.
    - Determination of priority and severity of problem.
    - Steps for resolving problem escalation when a solution is not forthcoming or an implemented solution is unsatisfactory.
    - Indicate your response time goals and your statistics regarding meeting that goal.

- As a municipal government, City departments include those of Finance, Development Services, Planning and Building, Administration, Parks and Recreation, Public Works, and Wastewater. Explain your familiarity and experience in the support of the specialized technology requirements of these departments. With the understanding that some of our departments operate on a 24/7, 365 days per year schedule, what would your availability be in the event of any technology issues requiring immediate attention during any non-routine business hours?

- Beyond the scope of the RFP, what services (related or otherwise) does your organization provide that could benefit and/or may be of interest to the City?

- Cost of Services:
  - The proposal must include a fee schedule that indicates either hourly rates or a flat monthly rate for the proposed services.
  - Describe how your services are priced, and any specific pricing you are able to provide.
  - Define any additional charges (e.g. travel expenses).
  - Define any tiers of service and costs associated with those tiers.

V. Evaluation and Criteria Process

Staff will make a recommendation to the City Council for their review and award of the contract. Staff will evaluate and rate each submittal based upon the following criteria:

Evaluation Table	% of Points
Experience and personnel experience	20%
Understanding of the City's needs and services to be provided	20%
Compatibility with end users and City staff needs	10%
Satisfaction of clients/ end users	10%
Availability	10%
Cost	30%

VI. Contract

The City anticipates a three-year contract that will be renewable for an additional (2) two one-year periods. Renewal of the contract will require City Manager authorization. All fees should be set for an annual term and clearly state that in the proposal. The City expects all submitting firms to consent to the City Scope of Work and Specifications. Exceptions desired must be noted in the proposal submittal. The City reserves the right to revise the stated contract terms and conditions prior to contract signature.

VII. Termination of Contract

The contract may be terminated by mutual agreement in writing or it may be terminated at any time by either party by delivery of a sixty (60) day written notice to the other party.

VIII. Inquiries

Inquiries regarding this RFP should be directed to:
City of Riverbank
Administration Department
Attention: Norma Torres-Manriquez
6707 3rd Street Suite A
Riverbank, CA 95367
Phone: (209) 863-7153
Email: nmanriquez@riverbank.org

IX. Submission Instructions

The City reserves the right to request additional written or oral information to supplement all written statements of qualifications or proposals.

Submit all material no later than November 1, 2018 at 5:30 p.m. to:

City of Riverbank
Administration Department
Attention: Norma Torres-Manriquez
6707 3rd Street Suite A
Riverbank, CA 95367

X. RFP Amendments

The City reserves the right to change the schedule or issue amendments to the RFP at any time. The City also reserves the right to cancel or reissue the RFP.

XI. Vendor's Cost to Develop Proposal

Costs for developing proposals in response to the RFP are entirely the obligation of the vendor and shall not be chargeable in any manner to the City.

XII. Withdrawal of Proposals

Proposals may be withdrawn at any time prior to the submission time specified in this RFP, provided notification is received in writing. Proposals cannot be changed or withdrawn after the time designated for receipt.

XIII. Rejection of Proposals

The City reserves the right to reject any or all proposals. The City reserves the right to award a contract to the firm that the City feels best meets the requirements of the RFP process. The City reserves the right to reject any and all proposals prior to execution of the Agreement, with no penalty to the City.

The City of Riverbank reserves the right to cancel, postpone, extend or revise the RFP or the RFP process at any time. If it becomes necessary to revise any part of this RFP, an addendum will be provided on the City's website at www.riverbank.org .

XIV. City Taxation

The contractor awarded contract will be required to obtain a City of Riverbank Business License.

XV. Public Records

All Proposals submitted in response to this RFP become the property of the City of Riverbank, and under the California Public Records Act (PRA), the records of local agencies are generally available to the public upon request. The Proposal you submit will become a public document after it is officially awarded, and any related contract will be a public document.

The PRA allows the City to withhold documents, or parts of documents that reveal trade secrets or information that is confidential or proprietary, or information that would invade personal privacy.

If you believe that portions of your proposal includes such information, you must specify by, at a minimum, stamping in bold red letters the term "CONFIDENTIAL" on that part of the proposal which you believe to be protected from disclosure, and include specific detailed reasons, including any relevant legal authority, stating why it is not to be made public. The City of Riverbank reserves the right to make the final determination of whether to withhold or produce a document or portion of a document in response to a PRA request. If the City of Riverbank withholds information at your request, you may be required to litigate any claim of trade secret that you assert.

XVI. Contract Award and Execution

The City reserves the right to make an award without further discussion of the proposal submitted. Therefore, the proposal should be initially submitted on the most favorable terms the vendors can offer. It is understood that the proposal will become a part of the official file on this matter without obligation to the City.

The City reserves the right to request clarification of information submitted and to request additional information from any proposer.

The general conditions and specifications of the RFP and as proposed by the City and the successful vendor's response, as amended by agreements between the City and the vendor, will become part of the contract documents. Additionally, the City will verify vendor representations that appear in the proposal. Failure of

the vendor's products to meet the mandatory specifications may result in elimination of the vendor from competition or in contract cancellation or termination.

The selected vendor will be expected to enter into a contract with the City. The City reserves the right to reject any proposed agreement or contract that does not conform to the specifications contained in this RFP, and which is not approved by the City Attorney.

XVII. Comments on Standard Agreement

City's Consultant Services Agreement is attached to this RFP as Attachment A.
A copy of the City's Consultant Services Agreement that the selected consultant will be required to sign is provided as Attachment A. Please note that any consultant selected will be required to comply with the standard provisions set forth in this agreement; if there are any exceptions to these provisions that the consultant must address, please do so in the RFP.

Evidence of ability to comply with insurance requirements
The selected consultant must provide insurance certificate(s) for Commercial General Liability, Automobile Liability, Workers' Compensation and Employer's Liability, and Professional Liability Insurance for this project. Endorsement(s) signed by an authorized representative of the insurance carrier will also be needed for Commercial General Liability and Automobile Liability insurance, with language included in the endorsement(s) that the City, its officials, employees and volunteers shall be covered as additional insured.

XVIII. Equal Opportunity Compliance

The City is an equal opportunity employer and requires all Proposers to comply with policies and regulations concerning equal opportunity.

The Proposer, in the performance of this Agreement, agrees not to discriminate in its employment because of the employee's or applicant's race, religion, national origin, ancestry, sex, sexual preference, age, or physical handicap.

XIX. Other Compliance Requirements

In addition to nondiscrimination and affirmative action compliance requirements previously listed, the Proposer awarded a contract shall comply with federal, state and local laws, statutes, and ordinances relative to the execution of the work. This requirement includes, but is not limited to, protection of public and employee safety and health, environmental protection, waste reduction and recycling, the protection of natural resources, permits, fees, taxes, and similar subjects.

XX. Ownership of Documents

Any reports, studies, conclusions, and summaries prepared by the Proposer shall become the property of the City.

XXI. Confidentiality of Information

All information and data furnished to the Proposer by the City, and all other documents to which the Proposer's employees have access during the term of the contract, shall be treated as confidential to the City. Any oral or written disclosure to unauthorized individuals is prohibited.

ATTACHMENTS

The attachments below are included with this RFP for your review:

A. City Standard Professional Services Agreement

CONSULTANT SERVICES AGREEMENT

THIS CONSULTANT SERVICES AGREEMENT ("Agreement") is made and entered into this ____ day of _____ 201__, (the "Effective Date") by and between the City of Riverbank, a California municipal corporation ("City"), and _____, a [California limited liability company] ("Consultant"). City and Consultant may herein be referred to individually as a "Party" and collectively as the "Parties". There are no other parties to this Agreement.

RECITALS

A. City has [issued a request for proposals ("RFP") for consultant services / determined that consultant services are required] for the preparation of _____ in connection with the _____ application (the "Project").

B. Consultant has submitted a proposal to City that includes a scope of proposed consultant services, attached hereto and described more fully in **Exhibit A** ("Services").

C. Consultant represents that it is qualified, willing and able to provide the Services to City, and that it will perform Services related to the Project according to the rate schedule attached hereto and described more fully in **Exhibit B** (the "Rates").

NOW, THEREFORE, in consideration of the promises and covenants set forth below, the Parties agree as follows:

AGREEMENT

1. Consulting Services. Consultant agrees, during the term of this Agreement, to perform the Services for City in connection with the Project. Any request for services in addition to the Services described in **Exhibit A** will be considered a request for additional consulting services and not compensated unless the Parties otherwise agree in writing. No subcontract shall be awarded or an outside consultant engaged by Consultant unless prior written approval is obtained from City.

2. Compensation. City shall pay Consultant according to the fee schedule set forth in the Rates, as full remuneration for the performance of the Services. Consultant agrees to maintain a log of time spent in connection with performing the Services. On a monthly basis, Consultant shall provide City, in reasonable and understandable detail, a description of the services rendered pursuant to the Services and in accordance with the Rates. If the work is satisfactorily completed, City shall pay such invoice within thirty (30) days of its receipt. If City disputes any portion of any invoice, City shall pay the undisputed portion within the time stated above, and at the same time advise Consultant in writing of the disputed portion.

3. Reimbursement. City shall pay Consultant for reimbursable expenses related to travel, lodging, conference calls, reproduction and other costs incurred related to Consultant's

performance of the Services. Such reimbursable costs shall be invoiced and billed to the City on a monthly basis, provided that in no event shall reimbursable expenses exceed $_____.

4. **Confidential Information.** Consultant understands and agrees that, in the performance of Services under this Agreement or in the contemplation thereof, Consultant may have access to private or confidential information that may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City ("Confidential Information").

Consultant shall not, either during or after the Term, disclose to any third party any Confidential Information without the prior written consent of City. If City gives Consultant written authorization to make any such disclosure, Consultant shall do so only within the limits and to the extent of that authorization. Such authorization does not guarantee that the City will grant any further disclosure of Confidential Information. Consultant may be directed or advised by the City Attorney on various matters relating to the performance of the Services on the Project or on other matters pertaining to the Project, and in such event, Consultant agrees that it will treat all communications between itself, its employees and its subcontractors as being communications which are within the attorney-client privilege.

5. **Term.** This Agreement shall become effective on the Effective Date and will continue in effect until the Services provided herein have been completed, unless terminated earlier as provided in Section 6 or 7 below (the "Term").

6. **Termination.** City may terminate this Agreement prior to the expiration of the Term ("Termination"), without cause or reason, by notifying Consultant in writing of City's desire to terminate this Agreement (the "Termination Notice"). Upon receipt of a Termination Notice, Consultant shall immediately cease performing the Services. Consultant will be entitled to compensation, as of the date Consultant receives the Termination Notice, only for Services actually performed.

7. **Termination for Cause.** Notwithstanding Section 6 above, this Agreement may be terminated by City for cause based on the loss or suspension of any licenses, permits or registrations required for the continued provision of the Services, or Consultant's malfeasance. Termination of the Agreement for cause as set forth in this Section shall relieve City from compensating Consultant.

8. **Performance by Key Employee.** Consultant has represented to City that _____ will be the person primarily responsible for the performance of the Services and all communications related to the Services. City has entered into this Agreement in reliance on that representation by Consultant.

9. **Property of City.** The following will be considered and will remain the property of City:

A. **Documents.** All reports, drawings, graphics, working papers and Confidential Information furnished by City in connection with the Services ("Documents").

Nothing herein shall be interpreted as prohibiting or limiting City's right to assign all or some of City's interests in the Documents.

B. Data. All data collected by Consultant and produced in connection with the Services including, but not limited to, drawings, plans, specifications, models, flow diagrams, visual aids, calculations, and other materials ("Data"). Nothing herein shall be interpreted as prohibiting or limiting City's right to assign all or some of City's interests in the Data.

C. Delivery of Documents and Data. Consultant agrees, at its expense and in a timely manner, to return to City all Documents and Data upon the conclusion of the Term or in the event of Termination.

10. Duties of City. In order to permit Consultant to render the services required hereunder, City shall, at its expense and in a timely manner:

A. Provide such information as Consultant may reasonably require to undertake or perform the Services;

B. Promptly review any and all documents and materials submitted to City by Consultant in order to avoid unreasonable delays in Consultant's performance of the Services; and

C. Promptly notify Consultant of any fault or defect in the performance of Consultant's services hereunder.

11. Representations of Consultant. City relies upon the following representations by Consultant in entering into this Agreement:

A. Qualifications. Consultant represents that it is qualified to perform the Services and that it possesses the necessary licenses, permits and registrations required to perform the Services or will obtain such licenses or permits prior to the time such licenses or permits are required. Consultant represents and warrants to City that Consultant shall, at Consultant's sole cost and expense, keep in effect or obtain at all times during the Term of this Agreement, any licenses, permits, and registrations that are legally required for Consultant to practice Consultant's profession at the time the Services are rendered.

B. Consultant Performance. Consultant represents and warrants that all Services under this Agreement shall be performed in a professional manner and shall conform to the customs and standards of practice observed on similar, successfully completed projects by specialists in the Services to be provided. Consultant shall adhere to accepted professional standards as set forth by relevant professional associations and shall perform all Services required under this Agreement in a manner consistent with generally accepted professional customs, procedures and standards for such Services. All work or products completed by Consultant shall be completed using the best practices available for the profession and shall be free from any defects. Consultant agrees that, if a Service is not so performed, in addition to all of its obligations under this Agreement and at law, Consultant shall re-perform or replace unsatisfactory Service at no additional expense to City.

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12. Compliance with Laws and Standards. Consultant shall insure compliance with all applicable federal, state, and local laws, ordinances, regulations and permits, including but not limited to federal, state, and county safety and health regulations. Consultant shall perform all work according to generally accepted standards within the industry. Consultant shall comply with all ordinances, laws, orders, rules, and regulations, including the administrative policies and guidelines of Client pertaining to the work.

13. Independent Contractor; Subcontracting. Consultant will employ, at its own expense, all personnel reasonably necessary to perform the Services. All acts of Consultant, its agents, officers, employees and all others acting on behalf of Consultant relating to this Agreement will be performed as independent contractors. Consultant, its agents and employees will represent and conduct themselves as independent contractors and not as employees of City. Consultant has no authority to bind or incur any obligation on behalf of City. Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever. Consultant is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is expressly approved by City in writing.

14. Insurance. Consultant and all of Consultant's contractors and subcontractors shall obtain and maintain insurance of the types and in the amounts described in this paragraph and its subparagraphs with carriers reasonably satisfactory to City.

A. General Liability Insurance. Consultant shall maintain occurrence version commercial general liability insurance or an equivalent form with a limit of not less than Two Million Dollars ($2,000,000) per claim and Two Million Dollars ($2,000,000) for each occurrence.

B. Workers' Compensation Insurance. Consultant shall carry workers' compensation insurance as required by the State of California under the Labor Code. Consultant shall also carry employer's liability insurance in the amount of One Million Dollars ($1,000,000.00) per accident, with a One Million Dollar ($1,000,000.00) policy limit for bodily injury by disease, and a One Million Dollar ($1,000,000.00) limit for each employee's bodily injury by disease.

C. Errors and Omissions Liability. Consultant shall carry errors and omissions liability insurance in the amount of no less than One Million Dollars ($1,000,000.00) per occurrence or greater if appropriate for the Consultant's profession. Architects and engineers coverage is to be endorsed to include contractual liability. Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, elected and appointed councils, commissions, directors, officers, employees, agents, and representatives ("City's Agents"); or the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claims administration and defense expenses.

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D. Other Insurance Requirements. Within five (5) days of the Effective Date, Consultant shall provide City with certificates of insurance for all of the policies required under this Agreement ("Certificates"), excluding the required worker's compensation insurance. Such Certificates shall be kept current for the Term of the Agreement and Consultant shall be responsible for providing updated copies and notifying City if a policy is cancelled, suspended, reduced, or voided. With the exception of the worker's compensation insurance, all of the insurance policies required in this Agreement shall: (a) provide that the policy will not be cancelled, allowed to expire, or materially reduced in coverage without at least thirty (30) days' prior written notice to City of such cancellation, expiration, or reduction and each policy shall be endorsed to state such; (b) name City, and City's Agents as additional insureds with respect to liability arising out of Services, work or operations performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied, or used by the Consultant, or automobiles owned, leased, or hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City; (c) be primary with respect to any insurance or self-insurance programs covering City or City's Agents and any insurance or self-insurance maintained by City or City's Agents shall be in excess of Consultant's insurance and shall not contribute to it; (d) contain standard separation of insured provisions; and (e) state that any failure to comply with reporting or other provisions of the policy including breaches of warranties shall not affect the coverage provided to the City.

15. Indemnification. Consultant hereby agrees to indemnify and hold harmless City, its agents, officers, employees and volunteers, against all liability, obligations, claims, loss, and expense (a) caused or created by Consultant, its subcontractors, or the agents or employees of either, whether negligent or not, pertaining to or related to acts or omissions of Consultant in connection with the Services, or (b) arising out of injuries suffered or allegedly suffered by employees of Consultant or its subcontractors (i) in the course of their employment, (ii) in the performance of work hereunder, or (iii) upon premises owned or controlled by City. Consultant's obligation to defend, indemnify and hold City and its agents, officers, employees and volunteers harmless is not terminated by any requirement in this Agreement for Consultant to procure and maintain a policy of insurance.

16. Consequential Damages. Notwithstanding any other provision of this Agreement, in no event shall City be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement or the Services performed in connection with this Agreement.

17. Litigation. In the event that either Party brings an action under this Agreement for the breach or enforcement hereof, or must incur any collection expenses for any amounts due hereunder the prevailing Party in such action shall be entitled to its costs including reasonable attorney's fees, whether or not such action is prosecuted to judgment.

18. Notices. Any notice or communication required hereunder between City or Consultant must be in writing, and may be given either personally, by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight

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delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. Notices given by registered or certified mail shall be deemed to have been given and received on the first to occur of (a) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, (b) on the date delivered as shown on a receipt issued by the courier, or (c) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any Party hereto may at any time, by giving ten (10) days written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at the addresses in this paragraph set forth below:

If to City:	City of Riverbank 6707 Third Street Riverbank, CA 95367 Attn: City Clerk
With courtesy copies to:	City of Riverbank 6707 Third Street Riverbank, CA 95367 Attn: City Manager
And to:	Churchwell White LLP 1414 K Street, 3rd Floor Sacramento, California 95814 Attention: Douglas L. White, Esq.
If to Consultant:	_____ _____ _____ Attention: _____

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19. General Provisions.

A. Modification. No alteration, modification, or termination of this Agreement shall be valid unless made in writing and executed by all Parties.

B. Waiver. The waiver by any Party of a breach of any provision hereof shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof unless specifically stated in writing.

C. Assignment. No Party shall assign, transfer, or otherwise dispose of this Agreement in whole or in part to any individual, firm, or corporation without the prior written consent of the other Party. Subject to the forgoing provisions, this Agreement shall be binding upon, and inure to the benefit of, the respective successors and assigns of the Parties.

D. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state of California.

E. Venue. Venue for all legal proceedings shall be in the Superior Court of California for the County of Stanislaus.

F. Partial Invalidity. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

G. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original and all of which shall be deemed a single agreement.

H. Severability. If any term, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, the remainder of this Agreement shall remain in effect.

I. Audit. City shall have access at all reasonable times to all reports, contract records, contract documents, contract files, and personnel necessary to audit and verify Consultant's charges to City under this Agreement.

J. Entire Agreement. This Agreement sets forth the entire understanding between the Parties as to the subject matter of this Agreement and merges all prior discussions, negotiations, proposal letters or other promises, whether oral or in writing.

K. Headings Not Controlling. Headings used in this Agreement are for reference purposes only and shall not be considered in construing this Agreement.

L. Time is of the Essence. Time is of the essence in this Agreement for each covenant and term of a condition herein.

SAMPLE

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the last day and date below written.

CITY:	**CONSULTANT:**
CITY OF RIVERBANK, a California municipal corporation	_____, a [California limited liability company]
By: _____	By: _____
	Name: _____
Date: _____	Date: _____

Approved as to Form:

_____
Tom Hallinan, City Attorney

SAMPLE