



CITY OF
MENDOTA

REQUEST FOR PROPOSALS (“RFP”)

For

Records Management Consulting Services

RFP Issue Date:

Wednesday, August 28, 2024

Proposal Submittal Due Date:

Friday, September 27, 2024, by 5:00 p.m.

RFP No. 24-02

**CITY OF MENDOTA
PUBLIC NOTICE
REQUEST FOR PROPOSALS FOR RECORDS MANAGEMENT CONSULTING SERVICES**

NOTICE IS HEREBY GIVEN that the City of Mendota (“City”) is seeking proposals from qualified firms (“Respondents”) to provide records management consulting services to update the City’s records management policy and records retention schedule.

All Respondents must comply with the requirements as set forth in the Request for Proposals (“RFP”). A copy of said RFP, which specifies the requirements for the proposals and their submittal, can be obtained from Mendota City Hall, 643 Quince Street, Mendota, CA 93640, Monday through Friday, during regular business hours, via the City’s website at www.cityofmendota.com, contacting City Hall at (559) 655-3291 during regular business hours, or by emailing ccabrera@cityofmendota.com.

The City will accept proposals until 5:00 p.m. on Friday, September 27, 2024. All proposals will be reviewed and evaluated by the City at Mendota City Hall (643 Quince Street, Mendota, CA 93640) following the proposal submittal deadline.

For all comments and inquiries regarding the RFP, please contact Celeste Cabrera-Garcia, City Clerk at ccabrera@cityofmendota.com.

REQUEST FOR PROPOSALS FOR RECORDS MANAGEMENT CONSULTING SERVICES

REQUEST FOR PROPOSALS ISSUE DATE:

Wednesday, August 28, 2024

CONTACT PERSON:

Celeste Cabrera-Garcia, City Clerk
Email: ccabrera@cityofmendota.com
Phone Number: (559) 577-7692

PROPOSAL SUBMITTAL DUE DATE:

Friday, September 27, 2024, by 5:00 p.m. at Mendota City Hall, 643 Quince Street,
Mendota, CA 93640

NOTE: **The postmark date of your submission will not constitute a timely delivery. Proposals received after the above time will not be considered. Respondents are solely responsible for ensuring timely receipt of their submitted proposals.**

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SECTION 1

PURPOSE OF REQUEST FOR PROPOSALS AND GENERAL TERMS AND CONDITIONS

1.0 PURPOSE OF THIS REQUEST FOR PROPOSALS (“RFP”)

The City of Mendota (“City”) is requesting proposals from qualified parties (“Respondent(s)” or “Consultant(s)”) to provide records management consulting services to update the City’s records management policy and records retention schedule (the “Project”).

1.1 QUESTIONS REGARDING THE RFP

Any questions, interpretations, or clarifications, whether administrative or technical, regarding this RFP and its accompanying materials must be submitted to the Contact Person in writing prior to the date indicated in Section 2. Such inquiries may be submitted via email or via delivery of a hard copy to the Contact Person at:

Celeste Cabrera-Garcia
City Clerk
643 Quince Street
Mendota, CA 93640
ccabrera@cityofmendota.com

All pertinent questions will be answered in writing and conveyed to all known Respondents.

NOTE: Respondents and their agents are specifically directed not to contact any City personnel, other than the Contact Person indicated above, for any purpose related to this RFP before the submittal deadline. Unauthorized contact with City personnel may be cause for rejection of a Respondent’s submission.

Oral statements concerning the meaning or intent of this RFP and its accompanying materials issued by any person are unauthorized, invalid, and cannot bind the City.

1.2 ERRORS AND OMISSIONS

This RFP cannot identify each specific, individual task required to implement this Project. The City relies on the professionalism and competence of Respondents to be knowledgeable of the general areas identified in the scope of work and to include in their proposals all materials, equipment, required tasks and subtasks, personnel commitments, man-hours, labor, direct and indirect costs, etc. Respondents shall not take advantage of any errors and/or omissions in this RFP document and its accompanying materials to the City’s detriment. Where such errors or omissions are discovered, the City will issue revised instructions in the form of an addendum. The City reserves the right to remedy any technical errors in the RFP and its accompanying materials.

1.3 ADDENDA

The City may modify this RFP, any of its key action dates, and/or any of its exhibits prior to the submission deadline. Addenda will be numbered consecutively as a suffix to the RFP Reference Number. It is the Respondents' responsibility to ensure they have incorporated all addenda into their submissions. Failure to acknowledge and incorporate addenda requirements into a submission will not relieve the Respondents of the responsibility to meet all terms and conditions of the RFP for their submission to be considered.

1.4 SUBMISSION OF PROPOSAL

Proposals will only be accepted on or before the date and time indicated in the Schedule of Events (Section 2) in accordance with the Proposal Specifications and Requirements (Section 4), as may be amended by addenda issued by the City.

1.5 RESPONDENTS' COSTS

Costs for the preparation and submission of proposals are the sole responsibility of each Respondent. The City will not be responsible for costs Respondents incur during the preparation and submission of proposals under any circumstance.

1.6 EXCEPTIONS

If a Respondent takes exception to any part of these specifications, as written or as amended by any addenda, or the Draft Form of Agreement attached hereto as Exhibit "A," they must do so in writing prior to the submission deadline. Said exceptions must be submitted prior to or alongside the Respondent's proposal to be effective. Failure to do so will be construed as an acceptance of all items within the specifications listed in the RFP and the Draft Form of Agreement.

1.7 NOTICE REGARDING CALIFORNIA PUBLIC RECORDS ACT

Once received by the City, all submissions will become the exclusive property of the City. The City reserves the right to make use of any information or ideas contained in any submission.

Any information contained within a submission in response to this RFP shall become a public record subject to all applicable disclosure and inspection laws, except to the extent the Respondent specifically and justifiably designates trade secrets or other confidential or proprietary information therein and plainly marks such information as "Trade Secret," "Confidential," or "Proprietary." Materials within a submission that Respondents designate as proprietary or confidential information shall be clearly marked and readily separable from the remainder of the submission in order to facilitate public inspection of the non-confidential portions thereof.

Prices, makes, models, or catalog numbers of items offered; deliverables; and/or terms of payment shall be publicly available information regardless of any designation to the contrary by a Respondent. **A blanket confidentiality statement or the marking of each page of a submission as confidential shall not be deemed sufficient notice of the Respondent's exception. Each Respondent must specifically label only those provisions of their submissions which are actually "Trade Secrets," "Confidential," or "Proprietary" in nature.**

The City will endeavor to restrict the distribution of materials properly designated as confidential or proprietary to only those individuals involved in the City's review and analysis of the submissions; however, the City shall not, in any way, be liable or responsible for the disclosure of any such record or any parts thereof if disclosure is required or otherwise permitted under the California Public Records Act (Gov. Code, § 7920.000, et seq.) or other applicable laws.

If any information or materials in any submission are labeled confidential by a Respondent, the submission shall include the following clause:

To the greatest extent allowed by law, [Respondent's Name] shall indemnify, defend, and hold harmless the City of Mendota, and each of its officers, agents, and employees from and against any request, action, or proceeding of any nature and any damages or liability of any nature, including, but not limited to, attorneys' fees, arising out of, concerning, or in any way involving the City of Mendota's maintenance of any materials or information in this submission that [Respondent's Name] has labeled as confidential, proprietary, or otherwise not subject to disclosure as a public record pursuant to the California Public Records Act (Government Code section 7920.000, et seq.).

1.8 MODIFICATIONS

The City reserves the right to modify any of the dates contained in the Schedule of Events (Section 2). The City reserves the right to request additional information from any Respondent and to waive any of the specifications and requirements contained herein.

The City reserves the right to issue subsequent RFPs, to modify any requirements contained within the RFP, and to request revised submittals from Respondents. Addenda issued by the City interpreting or changing any of the items herein shall be incorporated in Respondents' revised submissions.

If a Respondent discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFP or its accompanying materials, said Respondent shall immediately notify the designated Contact Person of such error in writing and request clarification or modification of the RFP document. Modifications will be made by written addenda issued to all parties in receipt of this RFP.

If a Respondent fails to notify the designated Contact Person prior to the date fixed for the submission of proposals of a known error in the RFP, or an error that reasonably should have been known, said submission shall be at the party's own risk. If such a Respondent's submission is selected, they shall not be entitled to additional compensation or time by reason of the error or its subsequent correction.

Any oral communications by the City's designated Contact Person or any other City staff member concerning this RFP are not binding on the City and shall in no way modify this RFP or the obligations of the City or any Respondents.

1.9 REJECTION OF PROPOSALS

In its sole discretion, the City reserves the right to reject any or all submissions, in whole or in part, and may waive any irregularities or informalities in any submission when such action is considered to be in the best interest of the City.

All submissions received after the designated submission deadline shall be considered nonresponsive and shall be rejected.

The City may make investigations as deemed necessary to determine the ability of Respondents to perform the work, and Respondents shall furnish all such information and data for this purpose as may be requested by the City. The City reserves the right to reject any submission if the evidence submitted by, or investigation of, such Respondents fail to demonstrate they are properly qualified to carry out the obligations of the Project.

1.10 CANCELLATION

This solicitation does not obligate the City to enter into an agreement at the conclusion of this process. The City retains the right to cancel this RFP at any time and for any reason, including, but not limited to, the Project being canceled, loss of funding, or a cancellation deemed in the best interest of the City. No obligation, either expressed or implied, exists on the part of the City to make an award or to pay any cost Respondents incurred in the preparation of a submission in response to this RFP.

1.11 INSURANCE REQUIREMENTS

The City requires certificates of insurance from the selected Respondent, prior to commencement of any work, that meets the following requirements:

A. Commercial General Liability

1. Consultant shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than one million dollars (\$1,000,000) per occurrence for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability. If a general aggregate limit applies, either the general aggregate limit shall apply

separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. Consultant's general liability policies shall be primary and shall not seek contribution from the City's coverage, and be endorsed using Insurance Services Office form CG 20 10 (or equivalent) to provide that City and its officers, officials, employees, and agents shall be additional insureds under such policies. For construction projects, an endorsement providing completed operations coverage for the additional insured, ISO form CG 20 37 (or equivalent), is also required.

2. Any failure to comply with reporting provisions of the policies by Consultant shall not affect coverage provided to the City.
3. Coverage shall state that Consultant insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
4. Coverage shall contain a waiver of subrogation in favor of the City.

B. Business Automobile Liability

1. Consultant shall provide auto liability coverage for owned, non-owned, and hired autos using ISO Business Auto Coverage form CA 00 01 (or equivalent) with a limit of no less than one million dollars (\$1,000,000) per accident.

C. Workers' Compensation and Employers' Liability

1. Consultant shall maintain Workers' Compensation Insurance and Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000). Consultant shall submit to the City, along with the certificate of insurance, a waiver of subrogation endorsement in favor of the City, its officers, agents, employees, and volunteers.

D. All Coverages

1. Each insurance policy required by the agreement shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice has been given to the City, except that ten (10) days' prior written notice shall apply in the event of cancellation for nonpayment of premium.
2. All self-insurance, self-insured retentions, and deductibles must be declared and approved by the City.
3. Evidence of Insurance - Prior to commencement of work, the Consultant shall furnish the City with certificates, additional insured

endorsements, and waivers of subrogation evidencing compliance with the insurance requirements above. The Consultant must agree to provide complete, certified copies of all required insurance policies if requested by the City.

4. Acceptability of Insurers - Insurance shall be placed with insurers admitted in the State of California and with an A.M. Best rating of A- VII or higher.

1.12 DISPUTES/PROTESTS

The City encourages Respondents to resolve issues regarding the RFP's requirements or the procurement process through written correspondence and discussions with the Contact Person during the period in which clarifying addenda may be issued to all Respondents.

Respondents may request a review of the RFP's requirements, or their disqualification as outlined herein. Respondents may make such a request by submitting a written request to the Contact Person completely detailing the specific facts supporting their request. This request may be submitted to the Contact Person via email or registered mail and must be received by the Contact Person within five (5) calendar days of the RFP's response deadline.

Unless State or federal statutes or regulations provide otherwise, the grounds for review of any determination or action by City staff shall be limited to the following: (1) review of the RFP's requirements; or (2) review of a Respondent's disqualification. The resulting decision of this review process is a final determination which will be issued to the Respondent in writing.

Throughout any review process of this kind, the City has no obligation to delay or otherwise postpone a final award. In all cases, the City reserves the right to make an award when it has determined it is in the best interest of the City to do so.

1.13 EVALUATION OF PROPOSAL SUBMISSIONS & CONTRACT NEGOTIATION

Following the deadline for the proposal submissions, the City will review all timely submitted proposals to ensure their compliance with all of the requirements of the RFP, any addenda thereto, and based on the applicable provisions contained in Chapter 2.48 of the Mendota Municipal Code ("MMC").

The City will conduct a comprehensive, fair and impartial evaluation of proposals received in response to this RFP. All responsible and responsive proposals will be evaluated using the evaluation criteria listed below. Additionally, all responsive proposal submissions will be evaluated based on the information and criteria described in Section 4 of this RFP.

Following the City's review and evaluation of all proposal submissions, the City will invite the most qualified and responsive proposals (a minimum of three (3)) to participate in contract negotiations. Negotiations will be conducted individually with each such

Respondent. All elements of the negotiation process shall be documented by the City. Responsible Respondents shall be accorded fair and equal treatment with respect to opportunities for discussion and revision of their proposals, if any. Written revisions may be permitted prior to a final award of the contract for the purpose of obtaining the best final offer.

1.14 AWARD OF CONTRACT

An award, if any, will be to the Respondent whose proposal is determined to be the most advantageous to the City, taking into consideration price and the criteria established for evaluation, as set forth in this RFP.

A formal award of the contract, if any, will be considered and made by the City Council during a noticed meeting. If asked to present their proposal(s) to the City Council, Respondent(s) should be prepared to discuss the proposal in detail and to answer questions from the City Council and staff.

1.15 CONTRACT DOCUMENTS

In the event of a conflict between documents the following order of precedence shall apply:

1. Agreement
2. RFP with any of its accompanying addenda
3. Respondent's Proposal

1.16 EXECUTION OF THE AGREEMENT

The selected Consultant will be required to execute an agreement similar to the documents attached hereto as Exhibit "A." If a Consultant wishes to modify any of the terms of the agreement, please include the suggested modifications and reason(s) for the changes in the proposal. No agreement may become effective or bind the City until a written contract is approved by the City and signed by both the City and the selected Respondent. Respondents' submissions must identify and provide the contact information of the individual within their organization who is authorized to negotiate the terms and conditions of any agreement with the City.

Where applicable, compensation shall be subject to negotiation. If an agreement cannot be reached with the selected Respondent, negotiations shall be terminated and negotiations may be initiated with the next best qualified and capable Respondent. The renewal, extension, or amendment of an existing contract with professional services providers shall not require a new competitive process except upon order of the City Council.

The agreement shall be signed by the selected Respondent and returned, along with the required attachments to the City's Contact Person within five (5) business days from the City's award of the contract and approval of the agreement. This period for execution may be extended by mutual, written agreement of the parties. Any work performed prior to receipt of a fully executed agreement shall be at the Respondent's own risk.

1.17 FAILURE TO EXECUTE THE AGREEMENT OR SATISFY REQUIREMENTS

Failure to execute an agreement within the timeframe above shall be sufficient cause for the City to void the award to the selected Respondent. A Respondent's failure to comply with any other requirements within the applicable time(s) shall constitute a failure to execute an agreement. If the selected Respondent refuses or fails to execute an agreement or satisfy all of its requirements, the City may award the agreement to the next best qualified and capable Respondent. Nothing in this provision shall limit the authority of the City to select multiple Respondents for an award.

1.18 NON-ENDORSEMENT

If a submission is accepted, the selected Respondent shall not issue any news releases or other statements pertaining to the award or servicing of the agreement which state or imply the City's endorsement of the Respondent's services unless permission to do so is granted by City officials in writing.

1.19 CONFLICT OF INTEREST

Respondents shall immediately notify the City, in writing, of any potential or actual conflicts of interest that arise or exist between or among the City and any other persons and/or entities for whom Respondents provide services.

The City may require a Statement of Economic Interests (Form 700) from any Respondent who is involved in the making, or participates in the making, of decisions which may foreseeably have a material effect on any City-designated party's financial interest. (See Gov. Code, §§ 82019, 82048; Gov. Code, § 1090, et seq.) The City reserves the right to prohibit participation by the Respondent in submitting a proposal for or providing services, goods, or supplies, or any other related action, which is required, suggested, or otherwise deemed appropriate in the end product of the contract.

1.20 SEVERABILITY

If any part of this RFP is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this RFP. The City may proceed with any related award process as if such invalid portion hereof had been deleted.

SECTION 2 SCHEDULE OF EVENTS

Release of RFP	Wednesday, August 28, 2024
Last Day for Submission of Questions	<p>Wednesday, September 11, 2024 by 5:00 p.m.</p> <p><i>Questions may be submitted to Celeste Cabrera-Garcia, City Clerk at ccabrera@cityofmendota.com</i></p>
City Response to Submitted Questions via Addendum	Friday, September 13, 2024 by 5:00 p.m.
Deadline for Proposal Submissions	<p>Friday, September 27, 2024 by 5:00 p.m. at Mendota City Hall 643 Quince Street Mendota, CA 93640</p>
Proposal Review Expected to be Complete	Friday, October 4, 2024
Tentative Contract Award	Tuesday, October 15, 2024
Tentative Start Date	To Be Determined

NOTE: All dates listed above are subject to change and may be adjusted at the City's discretion.

SECTION 3 SCOPE OF WORK

3.0 INTRODUCTION

A. About Mendota

The City of Mendota (“City”), incorporated in 1942, is a general law city. The City is governed by a five-member City Council, whose members are elected at large and operate under a Council-City Manager form of government. Mendota is a full-service city located on the west side of Fresno County. It is approximately 45 miles west of Fresno, the 5th largest city in California, and 20 miles east of Interstate 5, the main north-south link between Los Angeles and San Francisco. Mendota is a growing rural community with quality parks, an excellent school district, affordable housing, and a community rich in volunteerism and civic engagement. The City of Mendota has a residential population of approximately 11,500.

3.1 PROJECT INFORMATION

A. Project Description/Background

The City of Mendota (“City”) is requesting proposals from qualified parties (“Respondent(s)” or “Consultant(s)”) to provide records management consulting services to update the City’s records management policy and records retention schedule (the “Project”).

The City currently operates with a records management system that has several challenges and areas for improvement. Below is a summary of our existing environment:

- **Outdated Records Management Policy:** The existing records management policy was created in October 2006 and is outdated and needs revision to comply with current legal requirements and best practices.
- **Outdated Records Retention Schedule:** The current records retention schedule was implemented in October 2006 and is based on the State of California Local Government Retention Guidelines. The current records retention schedule is outdated and needs revision to comply with current legal requirements and best practices. Additionally, the current records retention schedule does not address all types of “records” including, but not limited to, hard-copy and electronic documents across all workflows and enterprise systems.
- **Hard Copy Records:** Physical hard copies are still considered the official record, leading to inefficiencies in retrieval and storage.
- **Underutilized Digital System:** Laserfiche is used for permanent records, but this digital resource is significantly underutilized, resulting in missed opportunities for streamlined records management.
- **Off-site Storage:** An off-site storage facility is in use, which adds complexity and delays to records retrieval processes.

- **Decentralized Records Management:** Each department is responsible for maintaining their own records, but there is inconsistency in records management practices across departments.
- **Varied Storage Locations and Mediums:** Records are stored in various locations and formats, including hard copies, electronic files, and different devices, which complicates management and access.
- **Inconsistent Naming Conventions:** Different record naming conventions are used.

These conditions highlight the need for a comprehensive overhaul of the City's records management system to ensure improved accessibility, security, compliance, and efficiency. The implementation of the Project is intended to:

- Improve access to information
- Safeguard vital information
- Minimize litigation risks
- Improve public records request responses
- Control proliferation of materials taking up office space
- Reduce duplication of information
- Maintain original, unmodified versions of retained documents
- Addresses files retained in hardcopy to be integrated in the City's electronic document management system
- Reduce operating costs

3.2 SCOPE OF SERVICES

The City is requesting proposals from qualified Consultants to provide records management consulting services to complete the following tasks. The City requests that Consultants should include their recommended approach in their proposal for addressing and implementing the aforementioned required services.

- **Evaluate City's Records Management System** – Review and evaluate the City's current retention schedules, records management related policies and procedures, and records storage and management systems across departments.
- **Update Records Management Policy** – Revise and update a comprehensive policy and procedure guide that addresses the entire lifecycle of records, from creation to disposal, ensuring consistency, security, and compliance with current legal requirements.
- **Update Records Retention Schedule** - Revise and update the City's Records Retention Schedule to reflect current best practices and legal mandates, ensuring all records are retained for appropriate periods and disposed of securely, including electronic records.
- **Training** – Create a presentation that addresses the records retention schedules, policy, and procedures, and provide training sessions to staff.
- **Ongoing Annual Maintenance and Review of Policy and Schedule** – Provide ongoing annual maintenance and review of the records management policy and records retention schedule.

SECTION 4 PROPOSAL SPECIFICATIONS AND REQUIREMENTS

4.1 PROPOSAL SPECIFICATIONS AND REQUIREMENTS

In order to be considered, all Respondents must ensure that their proposals meet, at a minimum, all proposal specifications and content requirements listed in Section 4 and in this RFP. Failure to meet any proposal specifications or content requirements may result in the rejection of a proposal.

4.2. PROPOSAL CONTENTS

Proposals shall be organized and submitted with the following elements:

- A. Title Page. Title page showing the request for proposals' subject; the firm's name; the name, address and telephone number of a contact person; and the date of the proposal.
- B. Table of Contents. Each proposal shall include an index or table of contents referring to the major topics contained in the proposal and all pages shall be numbered.
- C. Letter of Transmittal. Describe your interest in and commitment to providing firm services for the City of Mendota.
 - 1. This Letter of Transmittal must state that the proposal is valid for a minimum of sixty (60) calendar days from the date of the submission deadline.
 - 2. If Respondent is not an individual, an officer of Respondent firm who is authorized to contractually bind the firm and to negotiate a contract with the City shall sign the Letter of Transmittal. Provide the name, title, address, email, and telephone number for this person.
 - 3. Provide the name, title, address, email, and telephone number of the key contact for the Respondent during the RFP and award process.
- D. Company Information. Provide the following information related to the company:
 - 1. Key Personnel. Describe the staffing model your firm will use to fulfill the Scope of Work. Describe the qualifications or provide the resume(s) of the key personnel proposed for the Project, their position(s) in the firm, and their types and amounts of equivalent experience.
 - 2. Qualifications and Experience. Describe your firm's qualifications to complete the requested Scope of Work. Explain why your firm is the best to deliver this Scope of Work and provide examples of your firm's work.

3. References. List the name, address, and telephone number of references from at least three (3) recent similar projects. Include a brief description of the work provided for each reference. California municipal or county projects are preferred. You may offer more than three (3) recent similar projects if desired.

E. Proposal/Response to Scope of Services

1. Project Approach, Methodology, and Timeline. Describe the approach/methods and provide an implementation plan/timeline by which the firm will fulfill all of the services requested in Section 3.2 of this RFP. The description should have sufficient detail to understand how the Scope of Services will be accomplished.
2. Cost Proposal. Provide a complete outline of the costs associated with each of the Project tasks listed in Section 3.2.

The cost proposal should include firm costs and any ancillary costs including, but not limited to, travel costs. The total project cost submitted by the firm shall include all possible costs, including, but not limited to, overhead, contingencies, travel, in-house reproduction, local communications, and any costs related to satisfying insurance requirements and the City's business license.

Include billable rate for optional additional services that may be requested during the project or after final acceptance.

3. Acceptance of the Terms of the RFP. Affirm acceptance of the terms of the RFP and the requirements therein, including those listed in Section 4.3.

4.3 REQUIRED FORMS

The Respondent who is awarded a contract will be required to provide Certificates of Insurance evidencing required coverage types and the minimum limits as described in Section 1.11 of this RFP. Respondents must acknowledge and accept this requirement in their proposals.

The Respondent who is awarded a contract will be required to obtain and maintain an active City of Mendota business license throughout the contracted period. The cost of this item shall be included in the total proposal price. The Respondent who is awarded a contract must also provide a completed IRS Form W-9. Respondents must acknowledge and accept these requirements in their proposals.

4.4 PROPOSAL SUBMISSION REQUIREMENTS

The City will accept sealed proposal submissions until 5:00 p.m. on Friday, September 27, 2024.

Respondents must provide an electronic copy of the proposal on a thumb drive or via email to ccabrera@cityofmendota.com with the subject line "Records Management Consulting Services – RFP No. 24-02".

Respondents must also submit three (3) bound hard copies of their proposals to the address provided below. Each proposal must be submitted in a sealed envelope, addressed to the Contact Person below. Proposals may be mailed, or hand delivered to Mendota City Hall, 643 Quince Street, Mendota, California 93640.

Each sealed envelope must be clearly marked on the outside with the following information:

Records Management Consulting Services – RFP No. 24-02

***City of Mendota
Attn: Celeste Cabrera-Garcia, City Clerk
643 Quince Street
Mendota, CA 93640***

Proposal Deadline: September 27, 2024 at 5:00 p.m.

DO NOT OPEN UNTIL DEADLINE

Late submissions will not be accepted. Faxed submissions will not be accepted. Submissions submitted only electronically will not be accepted.

Exhibit "A"

DRAFT AGREEMENT

AGREEMENT BETWEEN THE CITY OF MENDOTA AND [INSERT NAME] FOR RECORDS MANAGEMENT CONSULTING SERVICES

This Agreement (“**Agreement**”) is made and entered into on October 15, 2024 (the “**Effective Date**”) by and between the City of Mendota, a municipal corporation organized under the laws of the State of California with its principal place of business at 643 Quince Street, Mendota, California 93640 (the “**City**”), and [NAME], a(n) [CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP, OTHER LEGAL ENTITY, OR INDIVIDUAL] with its principal place of business at [REDACTED] (the “**Contractor**”). The City and Contractor are sometimes individually referred to as a “**Party**” and collectively as the “**Parties**” herein.

RECITALS

A. The City desires to engage Contractor to render services to the City in connection with the Records Management Consulting Services (the “**Project**”) as set forth in this Agreement and RFP No. 24-02 materials issued on August 26, 2024.

B. Contractor desires to perform and assume responsibility for providing certain services required by the City on the terms and conditions set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. Incorporation of Recitals. The Recitals above are an integral part of this Agreement and are incorporated by this reference as though fully set forth herein.

2. City’s Representative. The City designates the City Manager, or his or her designee, to act as its representative for the performance of this Agreement (“**City’s Representative**”). The City’s Representative shall have the power to act on behalf of the City for all purposes under this Agreement. Contractor shall not accept direction or orders from any person other than the City’s Representative or his or her designee.

3. Contractor’s Representative. Contractor designates [REDACTED], or his or her designee, to act as its representative for the performance of this Agreement (“**Contractor’s Representative**”). Contractor’s Representative shall have full authority to represent and act on behalf of Contractor for all purposes under this Agreement. Contractor’s Representative shall supervise and direct the Services, using their best skill and attention, and shall be responsible for all means, methods, techniques, sequences, and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

4. Services. Contractor shall furnish all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional records management consulting services necessary for the Project (the “**Services**”) as more particularly described in Exhibit “A” attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto, and all applicable local, state, and federal laws, rules, and regulations. Contractor represents that: (i) it is qualified to undertake the Services; (ii) it possesses the means and resources required in order to perform the Services in compliance with the terms and conditions of this Agreement; (iii) the Services will be performed in a manner consistent with that level of skill and care ordinarily exercised by other qualified providers of services, work, or products of the type contemplated herein; (iv) it is experienced in providing services to public clients; (v) it and its employees or subcontractors have all necessary licenses and permits to perform all required services in California; (vi) it is familiar with the City’s plans; and (vii) in the performance of the work and preparation of any report, findings, recommendations, or other work product developed by Contractor pursuant to this Agreement, Contractor will not violate the intellectual property rights of others.

5. Term; Time for Performance. The term of this Agreement shall be from October 15, 2024 to [REDACTED], unless terminated earlier as provided in Section 8.

6. Compensation.

6.1. Payment to Contractor. In exchange for Contractor performing the Services in accordance with the terms and conditions of this Agreement, as more particularly described in Exhibit “A,” the City shall pay Contractor an amount not to exceed [REDACTED] Dollars (\$ [REDACTED]). Contractor shall invoice the City no more frequently than monthly for those Services actually performed. The above-referenced not-to-exceed amount of [REDACTED] Dollars (\$ [REDACTED]) is inclusive of all costs and expenses, including, but not limited to, travel and transportation costs and expenses, materials, equipment, overhead, taxes, and profit. Accordingly, Contractor shall not be entitled to reimbursement for travel and transportation time, costs, and/or expenses in addition to this not-to-exceed amount.

6.2. No Additional Work and Compensation. The Parties agree that Services performed during the term of this Agreement shall be performed under the terms of this Agreement and shall not entitle Contractor to any additional compensation. Contractor shall not perform, nor be compensated for, new work or services without written authorization from the City’s Representative. If, during the term of this Agreement, the City desires to retain Contractor to perform work or services determined by the City to be new work or services not covered by this Agreement, then a separate written agreement for new work or services must be executed by the Parties prior to performance of the new work or services.

6.3. Contractor's Final Invoice. Contractor's final invoice must be delivered to the City within thirty (30) days after the completion of the Services but in no case later than [REDACTED]. Contractor's failure to comply with this deadline shall result in Contractor permanently waiving the right to any amounts included on such final invoice.

6.4. Effect of Payment of Final Invoice. Acceptance by Contractor of final payment under this Agreement shall constitute a release of the City from all claims and liability to Contractor for payment hereunder, and for any additional compensation or payment relating to any and all things done or furnished in connection with this Agreement. However, final payment shall in no way relieve Contractor of liability for its obligations, or for faulty or defective work, discovered after final payment.

7. Responsibilities of Contractor.

7.1. Independent Contractor. Contractor and any and all agents and/or employees of Contractor shall perform the Services as an independent contractor using its own tools and equipment, and not as an officer, employee, or agent of the City. Contractor shall control the manner and means of performing the Services, though the City retains the right to oversee Contractor's performance of the Services complies with the requirements of this Agreement. Contractor maintains its own business offices, complies with all applicable business license laws, customarily engages in an independently established business of the same nature as that involved in the work performed hereunder, can contract with other businesses to provide the same or similar services, maintains a clientele without restrictions from the City, and advertises and holds itself out to the public as available to provide the same or similar services as those required hereunder. Contractor warrants and represents that neither it nor any of its agents or employees is an employee of the City or any of its auxiliary organizations. Contractor will be reported to state and federal tax authorities as required by law and the City will not pay or withhold federal, state, or local income tax (except as may be required by applicable law) or other taxes of any kind in connection with the payments to Contractor hereunder, including, but not limited to: payroll taxes, social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance. Contractor is independently responsible for payment of all applicable taxes.

7.2. Disclaimer of Rights. As an independent contractor, Contractor expressly disclaims all of the following and promises not to claim or sue the City for any such matters at any future date. The matters so disclaimed and waived are:

7.2.1. Any claim that Contractor (or any of its employees or agents) is or may become a probationary employee or an employee of any nature whatsoever of the City, except when affirmatively so employed under a subsequent written contract;

7.2.2. Any claim or assertion of a right to participate in the City's employee health and welfare benefit programs under the terms of this Agreement;

7.2.3. Any claim or assertion of a right to paid sick leave, vacation leave, or an entitlement to a leave of absence under the terms of this Agreement; and

7.2.4. Any claim or assertion that Contractor is or may be entitled to a statement of or a hearing on the issue of the reason for termination of this Agreement.

7.3. Schedule of Services. Contractor shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services as more particularly described in Exhibit "A". Contractor represents that it has the professional and technical knowledge, experience, and personnel required to perform the Services in conformance with such conditions. In order to facilitate Contractor's conformance with the Schedule, City shall respond to Contractor's submittals in a timely manner. Upon request of City, Contractor shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

7.4. Conformance to Applicable Requirements. All work prepared by Contractor shall be subject to the approval of City.

7.5. Compliance with Laws. Contractor shall, at its own cost and at all times during the term of this Agreement, comply with all applicable federal, state, and local laws, whether or not explicitly stated or incorporated within the text of this Agreement.

7.6. Standard of Care. Contractor shall perform all Services and work under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in California. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the Services. Contractor warrants that all of its employees, agents, and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Contractor represents that it, and all of its employees, agents, and subcontractors have all licenses, permits, qualifications, and approvals of whatever nature are legally required to perform the Services, including a City Business License, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Contractor shall perform, at its own cost and expense, and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by Contractor's failure to comply with the standard of care provided for herein.

7.7. Period of Performance. Contractor shall perform and complete all Services under this Agreement within the term set forth in Section 5 ("**Performance Time**"). Contractor shall perform the Services in strict accordance with any completion schedule or Project milestones described in Exhibits "A" and "B" attached hereto, or which may be provided separately in writing to Contractor by the City's Representative.

7.8. Disputes. Should any dispute arise regarding the true value of any work done, work omitted, or of any extra work which Contractor may be required to do, or respecting the size of any payment to Contractor during the performance of this Agreement, Contractor shall continue to perform the Services while said dispute is reviewed and decided by the City. If Contractor disputes the City's decision, Contractor shall have such remedies as may be provided by law.

7.9. Insurance. Contractor shall not commence work for the City until it has provided evidence satisfactory to the City that it has secured all insurance required under Exhibit "B" (Insurance Requirements), attached hereto and incorporated herein by this reference. Contractor shall not allow any subcontractor to commence work until it provided evidence satisfactory to the City that it has secured all insurance required therein.

7.10. Safety. Contractor shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, Contractor shall at all times be in compliance with all applicable local, state, and federal laws, rules, and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed.

7.11. Records; Right to Audit. Contractor shall retain complete and accurate financial records, including, but not limited to, documents reports, books, and accounting reports that pertain to any work or transaction performed pursuant to this Agreement for a period of three (3) years after final payment under this Agreement or three (3) years after the resolution of all issues and disputes that may arise as a result of any litigation, claim, negotiation, or audit related to this Agreement, whichever is later. The City shall, with reasonable notice to Contractor, have access to and the right to examine, audit, and copy such records. The provisions of this Section shall survive any termination or expiration of this Agreement.

7.12. Bonds. *[intentionally omitted]*

7.13. Labor Certifications. Contractor shall keep itself fully informed of and in compliance with all local, state and federal laws, rules, and regulations affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Contractor shall be liable for all violations of such laws and regulations in connection with the Services. If Contractor performs any work knowing it to be contrary to such laws, rules, and regulations and without giving advance written notice to the City, Contractor shall be solely responsible for all costs arising therefrom. The City is a public entity of the State of California subject to certain provisions of the California Health and Safety Code ("**Health & Safety Code**"), California Government Code ("**Government Code**"), California Public Contract Code ("**Public Contract Code**"), and California Labor Code ("**Labor Code**"). It is stipulated and agreed that all provisions of the law applicable to the public contracts of a municipality are made a part of this Agreement as though fully restated herein and Contractor shall comply with each such requirement. These include, but are not limited to: (i) payment of prevailing wages, if required; (ii) the stipulation that eight (8) hours' labor shall constitute a legal day's work and that no worker shall be permitted to work in excess of eight (8) hours during any one (1) calendar day except as permitted by law, if required; and (iii) retention of accurate payroll records showing the name, address, social security number, work classification, straight time and overtime worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee of Contractor, if required. Contractor shall defend, indemnify, and hold the City, its officials, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules, or regulations.

7.13.1. Employment Eligibility; Contractor. By executing this Agreement, Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time. Such requirements and restrictions include, but are not limited to, examination and retention of documentation confirming the identity and immigration status of each employee of Contractor. Contractor also verifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Agreement and shall not violate any such law at any time during the term of the Agreement. Contractor shall avoid any violation of any such law during the term of this Agreement by participating in an electronic verification of work authorization program operated by the United States Department of Homeland Security, by participating in an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, or by some other legally acceptable method. Contractor shall maintain records of each such verification and shall make them available to the City or its representatives for inspection and copy at any time during normal business hours. The City shall not be responsible for any costs or expenses related to Contractor's compliance with these requirements.

7.13.2. Employment Eligibility; Subcontractors, Sub-subcontractors, and Consultants. To the same extent and under the same conditions as Contractor, Contractor shall require all of its subcontractors, sub-subcontractors and consultants performing any work relating to the Project or this Agreement to make the same verifications and comply with all requirements and restrictions provided for in Section 7.13.

7.13.3. Employment Eligibility; Failure to Comply. Each person executing this Agreement on behalf of Contractor verifies that they are a duly authorized officer of Contractor, and understands that any of the following shall be grounds for the City to terminate the Agreement for cause: (i) failure of Contractor or its subcontractors, sub-subcontractors, or consultants to meet any of the requirements provided for in Section 7.13 and its subparts; (ii) any misrepresentation or material omission concerning compliance with such requirements; or (iii) failure to immediately remove any person found not to be in compliance with such requirements from the Project.

7.14. Labor Code Requirements. *[intentionally omitted]*

7.15. Wage Theft Prevention.

7.15.1. Contractor, and any subcontractor it employs to complete work under this Agreement, shall comply with all applicable federal, state, and local wage and hour laws, including, but not limited to, the Federal Fair Labor Standards Act and the Labor Code.

7.15.2. BY SIGNING THIS AGREEMENT, CONTRACTOR AFFIRMS THAT IT HAS DISCLOSED ANY FINAL JUDGMENTS, DECISIONS, OR ORDERS FROM A COURT OR INVESTIGATORY GOVERNMENT AGENCY, FINDING IN THE FIVE (5) YEARS PRIOR TO EXECUTING THIS AGREEMENT THAT CONTRACTOR OR ITS SUBCONTRACTORS HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. CONTRACTOR FURTHER AFFIRMS THAT IT OR ITS SUBCONTRACTOR(S) HAS EITHER FULLY SATISFIED EACH JUDGMENT, DECISION, OR ORDER, OR, IF ANY JUDGMENT, DECISION, OR ORDER HAS NOT BEEN FULLY SATISFIED, CONTRACTOR AFFIRMS THAT IT OR ITS SUBCONTRACTOR(S) IS CURRENTLY SATISFYING SAID JUDGMENT, DECISION, OR ORDER THROUGH A PAYMENT OR ALTERNATIVE PLAN APPROVED BY THE APPLICABLE COURT/GOVERNMENT AGENCY AND THAT CONTRACTOR OR ITS SUBCONTRACTOR(S) ARE IN COMPLIANCE WITH SAID PLAN AS OF THE DATE OF EXECUTING THIS AGREEMENT.

7.15.3. If at any time during the term of this Agreement, a court or investigatory government agency issues a final judgment, decision, or order finding that Contractor or a subcontractor it employs to perform work under this Agreement has violated any applicable wage and hour law, or Contractor learns of such a judgment, decision, or order that was not previously disclosed in its bid/proposal, Contractor shall inform the City no more than fifteen (15) calendar days after the judgment, decision, or

order becomes final or from the date of learning of the final judgment, decision, or order. Contractor or its subcontractor(s) shall, within thirty (30) calendar days after notifying the City, either: (i) fully satisfy any such judgment, decision, or order and provide the City with documentary evidence of the satisfaction; or (ii) provide the City documentary evidence of a payment or other alternative plan approved by the court/government agency to satisfy the judgment, decision, or order. If Contractor or its subcontractor is subject to a payment or other alternative plan, Contractor or its subcontractor shall continue to submit documentary evidence every thirty (30) calendar days during the term of the Agreement demonstrating continued compliance with the plan until the judgment, decision, or order has been fully satisfied.

7.15.4. For purposes of this Section, a "final judgment, decision, or order" refers to one for which all appeals have been exhausted or the time period to appeal has expired. Relevant investigatory government agencies include: the United States Department of Labor, the California Division of Labor Standards Enforcement, the City, or any other governmental entity or division tasked with the investigation and enforcement of wage and hour laws.

7.15.5. Failure to comply with any part of this Section constitutes a material breach of this Agreement. Such breach may serve as a basis for immediate termination of this Agreement and/or any other remedies available under this Agreement and/or law.

7.15.6. Notice provided to the City under this Section shall be addressed to:

Attention: City Manager
643 Quince Street
Mendota, CA 93640
cristian@cityofmendota.com

The Notice provisions of this Section are separate from any other notice provisions in this Agreement and only notice provided to the above address satisfies the notice requirements in this Section.

7.16. Equal Opportunity Employment. Contractor represents that it is an equal opportunity employer, and it shall not discriminate against any subcontractor, employee, or applicant for employment in compliance with the Fair Employment and Housing Act (Gov. Code, §§ 12940, et seq.), which protects persons from discrimination on the basis of the following characteristics which include, but are not limited to: race (including hairstyle and hair texture), creed (including dress and grooming practices), religion, color, national origin (including language restrictions), ancestry, sex (including gender identity and expression, sexual harassment, and pregnancy, childbirth, breastfeeding, or related medical conditions), reproductive health decision making, Pregnancy Disability Leave, sexual orientation, genetic information, physical or mental disability, age, reproductive loss leave, military or veteran status, participation in an Equal Employment Opportunity protected activity, Family Care and Medical Leave (related to

the serious health condition of an employee or family member, child bonding, or military exigencies), association with a member of a protected class, bereavement leave, and/or marital status. Such nondiscrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, or termination.

7.17. Workers' Compensation Certification. By its signature hereunder, Contractor certifies that it is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the Labor Code, and agrees to comply with such provisions before commencing performance of the Services.

7.18. Air Quality. [*intentionally omitted*]

7.19. Water Quality. [*intentionally omitted*]

8. Termination.

8.1. Grounds for Termination. The City may terminate all or any part of this Agreement at any time and without cause by giving written notice to Contractor of such termination, and specifying the effective date thereof, at least thirty (30) calendar days before the effective date of such termination. Upon termination, Contractor shall be compensated only for those Services which have been adequately rendered to the City, and Contractor shall be entitled to no further compensation. Contractor may not terminate this Agreement without cause.

8.2. Effect of Termination. If this Agreement is terminated, City may require Contractor to provide all finished or unfinished documents, data, and other information of any kind prepared by Contractor in connection with the performance of Services under this Agreement. Contractor shall be required to provide such documents and information within fifteen (15) days of a written request from the City.

8.3. Additional Services. In the event this Agreement is terminated, the City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

8.4. Agreement Subject to Appropriation of Funds. Contractor understands and accepts that at all times, this Agreement is subject to appropriation of funds by the City Council. The Agreement may terminate without penalty, liability, or expense of any kind to the City at the end of any fiscal year if funds are not appropriated for the Project in the next fiscal year. If funds are appropriated for a portion of the fiscal year, the Agreement will terminate, without penalty, liability, or expense of any kind at the end of the term for which funds are appropriated. The City has no obligation to make appropriations for the Agreement in lieu of appropriations for new or other agreements. The City's budget decisions are subject to the discretion of the City Council. Contractor's assumption of risk of possible non-appropriation is a part of the consideration for the Agreement. This Section controls against all other provisions of this Agreement.

9. General Provisions

9.1. Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses, or at such other addresses as the Parties may provide in writing for this purpose:

Contractor:

[Contractor]
Attn: [Contact Person Name]
[Address Line 1]
[Address Line 2]
[Email Address]

City:

City of Mendota
City Clerk's Department
Attn: Celeste Cabrera-Garcia
643 Quince Street
Mendota, CA 93640
ccabrera@cityofmendota.com

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first-class postage prepaid and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

9.2. Indemnification. To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold the City, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage, or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors, or omissions of Contractor, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of Contractor's Services, the Project, and/or this Agreement, including, without limitation, the payment of all consequential damages, expert witness fees, and attorneys' fees and other related costs and expenses. This Section shall survive the expiration or termination of this Agreement.

9.3. Governing Law, Jurisdiction, and Venue. This Agreement shall be construed and governed by the laws of the State of California. The Parties agree that any dispute which may arise between them in connection with this Agreement shall be adjudicated before a federal or state court located in Fresno County, California, and they hereby irrevocably submit to the exclusive jurisdiction of such federal and state courts located in Fresno County, California with respect to any action or legal proceeding commenced by any Party. The Parties irrevocably waive any objection they now or hereafter may have respecting the venue of any such action or proceeding brought in such a court or respecting the fact that such court is an inconvenient forum.

9.4. Government Claim Requirements. In addition this Agreement's requirements pertaining to notices and requests for compensation or payment for work, extra work, disputed work, claims, and/or changed conditions, Contractor shall also comply with the claim procedures set forth in Government Code section 900 et seq., prior to filing any lawsuit against the City. Such claims, and any subsequent lawsuit based upon those claims, shall be limited to those matters that remain unresolved after all procedures pertaining to work, extra work, disputed work, claims, and/or changed conditions have been followed by Contractor. If no claim is submitted as required by Government Code section 900 et seq., or if any prerequisite requirements are not otherwise satisfied as specified herein, Contractor shall be barred from bringing and maintaining a lawsuit against the City.

9.5. Time of the Essence. Time is of the essence for each and every provision of this Agreement.

9.6. City's Right to Employ Other Contractors. The City reserves right to employ other contractors in connection with this Project.

9.7. Successors and Assigns. This Agreement shall be binding on the successors and assigns of the Parties.

9.8. Subcontracting; Assignment. Except as otherwise stated in this Agreement, Contractor shall perform all Services and work required on its part under this Agreement using only resources available within its own organization. Contractor shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written approval of the City, which may be granted or denied in the City's sole discretion. Assignment of this Agreement or an attempted assignment of this Agreement by Contractor without the advance written consent of the City shall constitute a material breach of this Agreement and entitle the City to exercise any and all rights provided by this Agreement and/or law for such material breach.

9.9. Construction; References; Captions. The language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days, or a period for performance shall be deemed calendar days, not business days, unless otherwise stated herein. All references to Contractor include Contractor's personnel, employees, agents, and subcontractors, except as otherwise specified herein. All references to the City include its officials, officers, employees, agents, and volunteers except as otherwise specified herein. The captions of this Agreement's various Sections are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

9.10. Amendment; Modification. This Agreement may be amended or modified only by a written instrument executed by the Parties.

9.11. Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other condition of this Agreement. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

9.12. No Third-Party Beneficiaries. There are no intended third-party beneficiaries of any right or obligation assumed by the Parties under this Agreement. Nothing in this Agreement shall create any third-party beneficiary rights in any person or entity not a Party hereto.

9.13. Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

9.14. Conflict of Interest. Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Contractor warrants that it has neither paid nor agreed to pay any entity or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the Project award or making of this Agreement. Contractor further agrees to file, or shall cause its employees or subcontractors to file, a Statement of Economic Interest with the City's Filing Officer as required under state law in connection with the performance of the Services. For breach or violation of this warranty, the City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer, or employee of City, during the term of his or her service with the City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

9.15. Cooperation; Further Acts. To the extent allowed by law, the Parties shall fully cooperate with one another and shall take any additional acts or sign such additional documents as may be necessary, appropriate, and convenient to facilitate the purposes of this Agreement.

9.16. Attorneys' Fees and Costs. If any action in law or equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing Party shall be entitled to recover its attorney's fees and costs in an amount determined to be reasonable by a court of competent jurisdiction from the losing Party.

9.17. Authorization. Contractor has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

9.18. Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

9.19. Entire Agreement. This Agreement contains the entire Agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings, or agreements. There are no other understandings, agreements, representations, or warranties, express or implied, not specified in this Agreement. Contractor, by execution of this Agreement, acknowledges that Contractor has read this Agreement, understands the Agreement, and agrees to be bound by its terms and conditions.

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of October 15, 2024.

[SIGNATURES ON FOLLOWING PAGE]

CITY OF MENDOTA

[CONTRACTOR]

Approved By:

Cristian Gonzalez
City Manager

Signature

Attest:

Name

Celeste Cabrera-Garcia
City Clerk

Title

Approved As To Form:

John Kinsey
City Attorney

EXHIBIT A

*****INSERT CONSULTANT PROPOSAL*****

EXHIBIT B

INSURANCE REQUIREMENTS

Please refer to the insurance requirements listed below. **Each category of insurance that has an “X” indicated in the space applies to Contractor’s Agreement.**

Contractor shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by Contractor, its agents, representatives, employees, or subcontractors.

Contractor shall provide its insurance broker(s)/agent(s) with a copy of these requirements and request that they provide the City Certificates of Insurance complete with copies of all required endorsements.

Contractor shall furnish the City with copies of original endorsements affecting coverage required by this Exhibit “B.” The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements and certificates are to be received and approved by the City before work commences. City has the right to require Contractor’s insurer to provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

INSURANCE REQUIREMENTS

For purposes of this Section, “Vendor” shall be interchangeable with “Contractor.”

X CATEGORY 1

1) Commercial General Liability

- a) Vendor shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than one million dollars (\$1,000,000) per occurrence for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. Vendor’s general liability policies shall be primary and shall not seek contribution from the City’s coverage, and be endorsed using Insurance Services Office form CG 20 10 (or equivalent) to provide that City and its officers, officials, employees, and agents shall be additional insureds under such policies. For construction projects, an endorsement providing completed operations coverage for the additional insured, ISO form CG 20 37 (or equivalent), is also required.
- b) Any failure to comply with reporting provisions of the policies by Vendor shall not affect coverage provided the City.

- c) Coverage shall state that Vendor insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- d) Coverage shall contain a waiver of subrogation in favor of the City.

2) Business Automobile Liability

- a) Vendor shall provide auto liability coverage for owned, non-owned, and hired autos using ISO Business Auto Coverage form CA 00 01 (or equivalent) with a limit of no less than one million dollars (\$1,000,000) per accident.

3) Workers' Compensation and Employers' Liability

- a) Vendor shall maintain Workers' Compensation Insurance and Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000). Vendor shall submit to City, along with the certificate of insurance, a waiver of subrogation endorsement in favor of City, its officers, agents, employees, and volunteers.

4) All Coverages

- a) Each insurance policy required by the agreement shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice to the City, except that ten (10) days' prior written notice shall apply in the event of cancellation for nonpayment of premium.
- b) All self-insurance, self-insured retentions, and deductibles must be declared and approved by the City.
- c) Evidence of Insurance - Prior to commencement of work, the Vendor shall furnish the City with certificates, additional insured endorsements, and waivers of subrogation evidencing compliance with the insurance requirements above. The Vendor must agree to provide complete, certified copies of all required insurance policies if requested by the City.
- d) Acceptability of Insurers - Insurance shall be placed with insurers admitted in the State of California and with an AM Best rating of A- VII or higher.

_____ CATEGORY 2

1) Commercial General Liability

- a) Vendor shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than two million dollars (\$2,000,000) per occurrence for bodily

injury, personal injury, and property damage, including without limitation, blanket contractual liability. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. Vendor's general liability policies shall be primary and shall not seek contribution from the City's coverage, and be endorsed using Insurance Services Office form CG 20 10 (or equivalent) to provide that City and its officers, officials, employees, and agents shall be additional insureds under such policies. For construction projects, an endorsement providing completed operations coverage for the additional insured, ISO form CG 20 37 (or equivalent), is also required.

- b) Any failure to comply with reporting provisions of the policies by Vendor shall not affect coverage provided the City.
- c) Coverage shall state that Vendor insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- d) Coverage shall contain a waiver of subrogation in favor of the City.

2) Business Automobile Liability

- a) Vendor shall provide auto liability coverage for owned, non-owned, and hired autos using ISO Business Auto Coverage form CA 00 01 (or equivalent) with a limit of no less than two million dollars (\$2,000,000) per accident.

3) Workers' Compensation and Employers' Liability

- a) Vendor shall maintain Workers' Compensation Insurance and Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000). Vendor shall submit to City, along with the certificate of insurance, a waiver of subrogation endorsement in favor of City, its officers, agents, employees, and volunteers.

4) All Coverages

- a) Each insurance policy required by the agreement shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice to the City, except that ten (10) days' prior written notice shall apply in the event of cancellation for nonpayment of premium.
- b) All self-insurance, self-insured retentions, and deductibles must be declared and approved by the City.
- c) Evidence of Insurance - Prior to commencement of work, the Vendor shall

furnish the City with certificates, additional insured endorsements, and waivers of subrogation evidencing compliance with the insurance requirements above. The Vendor must agree to provide complete, certified copies of all required insurance policies if requested by the City.

- d) Acceptability of Insurers - Insurance shall be placed with insurers admitted in the State of California and with an AM Best rating of A- VII or higher.
- e) Subcontractors and Consultants - A category of risk and the applicable insurance requirements will be determined on a “per subcontractor” or “per consultant” basis, considering the particular work to be done by the subcontractor or consultant and the interrelationship of that work to other work being conducted by the Vendor.

CATEGORY 3

1) Commercial General Liability

- a) Vendor shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than five million dollars (\$5,000,000) per occurrence for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. Vendor’s general liability policies shall be primary and shall not seek contribution from the City’s coverage, and be endorsed using Insurance Services Office form CG 20 10 (or equivalent) to provide that City and its officers, officials, employees, and agents shall be additional insureds under such policies. For construction projects, an endorsement providing completed operations coverage for the additional insured, ISO form CG 20 37 (or equivalent), is also required.
- b) Any failure to comply with reporting provisions of the policies by Vendor shall not affect coverage provided the City.
- c) Coverage shall state that Vendor insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability.
- d) Coverage shall contain a waiver of subrogation in favor of the City.

2) Business Automobile Liability

- a) Vendor shall provide auto liability coverage for owned, non-owned, and hired autos using ISO Business Auto Coverage form CA 00 01 (or equivalent) with a limit of no less than five million dollars (\$5,000,000) per accident.

3) Workers' Compensation and Employers' Liability

- a) Vendor shall maintain Workers' Compensation Insurance and Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000). Vendor shall submit to City, along with the certificate of insurance, a waiver of subrogation endorsement in favor of City, its officers, agents, employees, and volunteers.

4) All Coverages

- a) Each insurance policy required by the agreement shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice to the City, except that ten (10) days' prior written notice shall apply in the event of cancellation for nonpayment of premium.
- b) All self-insurance, self-insured retentions, and deductibles must be declared and approved by the City.
- c) Evidence of Insurance - Prior to commencement of work, the Vendor shall furnish the City with certificates, additional insured endorsements, and waivers of subrogation evidencing compliance with the insurance requirements above. The Vendor must agree to provide complete, certified copies of all required insurance policies if requested by the City.
- d) Acceptability of Insurers - Insurance shall be placed with insurers admitted in the State of California and with an A.M. Best rating of A- VII or higher.
- e) Subcontractors and Consultants - A category of risk and the applicable insurance requirements will be determined on a "per subcontractor" or "per consultant" basis, considering the particular work to be done by the subcontractor or consultant and the interrelationship of that work to other work being conducted by the Vendor.

ANCILLARY COVERAGE REQUIREMENTS

1) _____ Aircraft Liability Insurance

- a) Aircraft liability insurance coverage shall provide limits of \$5,000,000 - \$10,000,000 per accident.
- b) The policy shall be endorsed to include the City, its officers, employees, and agents as additional insureds.

2) _____ Builders Risk Insurance

- a) Contractor shall obtain and maintain Builders Risk/Course of Construction insurance. Policy shall be provided for replacement value on an "all-risk"

basis, including earthquake and flood. The City shall be named as Loss Payee on the policy and there shall be no coinsurance penalty provision in any such policy. Policy must include: (1) coverage for removal of debris, and insuring the buildings, structures, machinery, equipment, materials, facilities, fixtures, and all other properties constituting a part of the project; (2) "Installation Floater" coverage with limits sufficient to insure the full replacement value of any property or equipment stored either on or off the project site. Such insurance shall be on a form acceptable to City to ensure adequacy of terms and limits. Contractor shall not be required to maintain property insurance for any portion of the Project following transfer of control thereof to City.

3) _____ Cyber Liability Insurance

- a) Cyber Liability Insurance with limits not less than \$1,000,000 per claim.
- b) Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Vendor in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion, and network security.
- c) The policy shall provide coverage for breach response costs as well as regulatory fines and penalties, and credit monitoring expenses with limits sufficient to respond to these obligations.

4) _____ Pollution Liability Insurance

- a) Pollution Coverage shall be provided for liability arising out of sudden, accidental and gradual pollution and remediation. The policy limit shall be no less than two million dollars (\$2,000,000) per claim. All activities contemplated in this agreement shall be specifically scheduled on the policy as "covered operations." The policy shall provide coverage for the hauling of waste from the project site to the final disposal location, including non-owned disposal sites.
- b) The policy shall be endorsed to include the City, its officers, employees, and agents as insureds.

5) _____ Professional Liability Insurance

- a) Contractor shall maintain professional liability insurance that insures against professional errors and omissions that may be made in performing the Services to be rendered in connection with this Agreement, in the minimum amount of two million dollars (\$2,000,000) per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date

must be before the effective date of this agreement, and Contractor agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this agreement.

SURETY BONDS

Contractor shall provide the following Surety Bonds:

_____ Bid Bond

_____ Performance Bond

_____ Payment Bond

The Payment Bond and Performance Bond shall be in a sum equal to the Agreement price. Bonds shall be duly executed by a responsible corporate surety, authorized to issue such bonds in the State of California and secured through an authorized agent with an office in California.