

CITY OF RIVERBANK
DEVELOPMENT SERVICES DEPARTMENT



REQUEST FOR PROPOSAL

FOR

BICYCLE AND PEDESTRIAN ACTIVE TRANSPORTATION PLAN

Submit Proposals to:

CITY OF RIVERBANK
DEVELOPMENT SERVICES DEPARTMENT
ATTN: KATHLEEN CLEEK
6707 THIRD STREET
RIVERBANK, CA 95367

Request for Proposals Due Date:

Friday, September 13, 2019 at 5:00 p.m. PDT

Questions with regard to submissions, process or proposals can be directed to:
Kathleen Cleek, Development Services Administration Manager
(209) 863-7170
kcleek@riverbnak.org

REQUEST FOR PROPOSALS: BICYCLE AND PEDESTRIAN ACTIVE TRANSPORTATION PLAN

CITY OF RIVERBANK, CALIFORNIA

NOTICE TO CONSULTANTS

Proposals will be received by the Development Services Department, **6707 Third Street, Riverbank, CA 95367, until 5:00 PM on Friday, September 13, 2019**, for:

**City of Riverbank Bicycle & Pedestrian Active Transportation Plan
Request for Proposals (RFP)**

Copies of the RFP may be downloaded from the City of Riverbank website at:

<http://www.riverbank.org>

In accordance with and described and provided in the Request for Proposals (RFP), no verbal, telegraphic, electronic mail, facsimile, or telephone proposals shall be considered. Proposals are required to be complete and for the entire work indicated in the RFP. Consultants' attention is directed to the insurance requirement in the contract.

Date Issued:

August 7, 2019

RFP Due Date:

September 13, 2019 (by 5:00 PM)

Submit proposals and direct all inquiries to:

City of Riverbank
Development Services Department
Attention: Kathleen Cleek, Development Services Admin. Manager
6707 Third Street
Riverbank, CA 95367
(209) 863-7170
kcleek@riverbank.org

By: City of Riverbank Development Services Department

Posted: 08/07/2019, <http://www.riverbank.org>
Issued: 08/07/2019, Area Builder's Exchanges
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REQUEST FOR PROPOSALS: BICYCLE AND PEDESTRIAN ACTIVE TRANSPORTATION PLAN

INTRODUCTION

The City of Riverbank, California, is soliciting proposals for consulting services to prepare a Bicycle and Pedestrian Active Transportation Plan to improve safety, access, and mobility for non-motorized transportation for people of all ages and abilities throughout the city.

This master plan document shall focus on non-motorized forms of travel, promote the use of pedestrian and bicycle facilities, identify challenges to the current non-motorized network, propose solutions for improvement, identify potential funding sources, and provide substantial conformance with the Stanislaus Council of Government's (StanCOG) Non-Motorized Plan and the City's General Plan. The City currently does not have an adopted ATP, Bicycle Master Plan, or Pedestrian Master Plan.

A majority of the City's residents have traditionally used personal vehicles as their primary form of transportation. In recent years there has been a growing interest from various stakeholders in alternative forms of transportation. The City has undertaken significant capital improvement projects with dedicated pedestrian and bicycle facilities. In addition, the City's located in a non-attainment area and the poor air quality is made worse through increased vehicle emissions, which results in negative environmental and health consequences. The City has been taking steps to address deficiencies within these non-motorized networks, but efforts have typically been segmented and solutions have been location-based without significant consideration of the network as a whole.

Connectivity of bicycle and pedestrian facilities remains a significant challenge. It is the City's goal that this project would actively solicit and encourage involvement of stakeholders in the development of the Bicycle and Pedestrian Active Transportation Plan, as well as ensure that the final document serves as a pragmatic tool for improvements, which accurately reflects the needs of the community.

PROJECT OBJECTIVES

1. Complete all work specified under the primary scope of work;
2. Actively seek participation and input from the general public throughout the entire Plan development process with special emphasis on key stakeholders;
3. Identify barriers and challenges relative to the City's bicycle and pedestrian facilities;
4. Ensure compliance with State guidelines and congruence with other relevant, related planning documents;
5. Identify grant funding opportunities and provide the information necessary to take advantage of the funding opportunities identified;
6. Develop a Bicycle and Pedestrian Active Transportation Plan to serve as a master plan document for non-motorized travel;
7. Review the City's existing Standard Specifications and make recommendations for any changes that would be needed to better support implementation of the Plan;
8. Prepare and present findings to the City Council for adoption.

The Americans with Disabilities Act (ADA) mandates local government to provide equal opportunity for individuals with disabilities. Title II of the Act specifically addresses that subject of making public services, public transportation accessible to those with disabilities. It is the intent of the City for the finalized Bicycle and Pedestrian Active Transportation Plan to be incorporated into the City's ADA Transition Plan to ensure consistency and bring the City into compliance with the ADA.

With this RFP, the City seeks to secure a consultant with expertise in transportation planning, traffic engineering and designing for pedestrians of all ages and abilities, cyclists, and users of transit to prepare the plan. Special attention will be given to pedestrian routes that are used to access schools, goods and services, and other important community destinations for children, the elderly, and people with disabilities. The outcome will be a plan with prioritized locations and specific improvements for streets, sidewalks, and

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intersections that support all users. The plan will be developed through a community outreach and engagement process. Consultant will organize, facilitate, and document meetings and workshops, produce and coordinate distribution of outreach and publicity materials with the City, provide Spanish translation, and assist with development of plan recommendations.

The selected consultant (or team of consultants) will analyze and document typical baseline conditions for city streets, sidewalks and intersections, and key routes for walking, bicycling, and transit, will actively engage in the public process, develop design concepts and recommendations that respond to input from the community and implementing and overseeing agencies, and prepare the plan document. Core components of the plan will include:

- An overall framework plan depicting the City's pedestrian route network connecting neighborhoods, schools, parks, downtown, and other important community destinations, with proposed improvements to priority segments for pedestrian access, mobility and safety.
- Design tools for improvements for streets, sidewalks, trails, and other public spaces such as curb ramps, crosswalks, curb extensions, and traffic calming and traffic control devices for universal access.
- Conceptual designs for short and long-term site, street, sidewalk and other infrastructure improvements suitable for future funding programming and grant applications.
- A phasing plan and funding strategy for prioritized projects, programs and action steps.

CONSISTENCY WITH OTHER PLANS

In the development of the Bicycle and Pedestrian Active Transportation Plan, the consultant shall review and incorporate applicable documents to ensure consistency. The plans include the Riverbank General Plan, Crossroads Specific Plan, Crossroads West Specific Plan, Downtown Specific Plan, Local Redevelopment Authority Specific Plan and the City's ADA Transition Plan. These plans can be obtained via the City of Riverbank website at the following link: <http://www.riverbank.org>.

PRIMARY SCOPE OF WORK

The following is the proposed scope of services for the development of the Bicycle and Pedestrian Active Transportation Plan. Additional steps and supplemental tasks may be suggested as the Consultant determines appropriate based upon experience. At a minimum, the consultant selected will be responsible for providing the services described below:

1. Project Planning and Coordination

Bicycle & Pedestrian Active Transportation Plan Citizen Advisory Team

The Consultant shall develop, through active promotion and advertising, an ATP Citizen Advisory Team comprised of various stakeholders and interested citizens willing to volunteer their time to provide input and oversight throughout the duration of the project. This team would serve in a volunteer capacity and meet regularly to review project updates, provide feedback, and along with City staff assist the Consultant in meeting project goals. The details of this team's involvement, such as their titles, duties, roles and frequency or method of meeting, are to be established and managed by the Consultant.

The Consultant shall, immediately upon award of contract, start directly contacting stakeholders with an interest in pedestrian and bicycle facilities within the region. These stakeholders shall include, but are not limited to City staff, police services, school district's staff, representatives from service organizations, disabled residents, senior citizens, businesses, neighborhood leaders, residents, local bicycle and running clubs, Stanislaus County Transit (Start) and other interested groups.

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In addition to contacting specific stakeholders the Consultant shall, immediately upon award of contract, begin specifically promoting opportunities for citizen involvement using general promotion efforts. These efforts shall include, but are not limited to, public notices as follows:

- A total of ten (10), full-color flyers (8.5" x 11") provided to the City for posting on the interior of the Start buses and local bicycle establishments.
- A public notice provided to the Riverbank City Clerk for posting at City Hall;
- A public notice advertised in the Riverbank News, with an additional public notice posted two weeks later;
- A public notice posted to a Consultant-created project website which can be used throughout the duration of the project.

2. **Public Outreach and Promotion**

The Consultant shall promote and advertise the project, as well as solicit input from members of the general public and key stakeholders throughout the duration of the project. These efforts shall include, but are not limited to:

- Providing **contact information** for a person, employed by the Consultant, that can serve as a contact for project-related questions and comments from the general public; this information will be made readily available on advertising and promotional materials. This person may or may not be the same person identified as the project manager, nor does it need to be the same person City staff coordinates with on project details.
- Promotion of at least one **community workshop**, to be held in the evening on a weekday, to review the draft document, identify project priorities, and solicit feedback from the community. The Consultant shall engage in a concerted public outreach effort beginning thirty (30) days prior to the workshop date that shall also use, at a minimum, the general promotion requirements specified in the previous section;
- Regular project updates posted to a Consultant-created **project website** which can be used throughout the duration of the project. Content of this website should include a brief summary of the project, a description of steps taken thus far, a list of key dates, copies of documents cleared for public access that are available for download, contact information for the Consultant, and any other materials or resources that may be beneficial to the public;
- Provide brief updates (1-2 sentences) to the City on a regular basis for the City to post to City **social media** (Facebook and Twitter) accounts;
- Comply with **standard public noticing** requirements as provided by the Riverbank City Clerk's office.

3. **Documentation of Conditions and Preparation of Base Maps**

The selected consultant will work with the City to compile and organize available information on existing conditions for the project area such as, traffic volumes, crash data, state route planning and construction plans, aerial and base maps, City development standards and regulations, and relevant policy documents, reports and studies. The consultant may choose to conduct additional field assessments and site reconnaissance as needed. The consultant will then prepare a base map series for design and analysis work that can be easily understood by the public for use at meetings and the public events. The map should be in AutoCAD and GIS format to include all shape files.

4. **Identify Grant Funding Opportunities**

The Consultant shall collect sufficient data to meet the grant application requirements of various federal and state grant programs regularly used to fund non-motorized improvement projects, or those programs identified by the Consultant in the funding portion of the ATP, to include, but not limited to, the Highway Safety Improvement Program (HSIP) and the recently enacted Active

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Transportation Program by the State of California. It is the Consultant's responsibility to identify the grant programs and provide the data necessary in order to complete the application for funds under these programs.

5. **Draft and Final Plan**

Refinement and Review of Plan Concepts

Approximately one month after the final outreach workshop, the Consultant will prepare an outline of the report, refine proposed plan concepts, and identify any additional questions, concerns or critical issues that might have emerged during or after the workshops. The consultant team will travel to Riverbank to meet with the Citizen Advisory Committee, City staff, and other key stakeholders to present and review these materials for comment and direction.

Prepare Administrative Draft Plan

Within three to four months after the final outreach workshop, based on the existing conditions analysis and input from the community engagement process, the consultant will prepare and circulate an administrative draft plan for review by City staff and members of the advisory group. The plan will include recommendations and design details to make streets in Riverbank more complete; that is roadways that better accommodate all users. The plan will include conceptual designs, recommendations and standards for improved road safety and operations, pedestrian, bicycle and transit facilities, and enhanced streetscapes. It will identify a network of routes that can be retrofitted in stages over time as part of the City capital improvement program and as grants and other funding sources are attained. The document will also contain a record of the outreach process, proposed timing and prioritization for implementation of the recommendations, and potential funding sources and strategies. City staff will compile and organize comments for response and provide direction for the first round of revisions by the consultant.

Prepare Public Review Draft Plan

The City will make the revised document available for public review and comment. City staff will compile and organize comments for response and second round of revisions by the Consultant.

City Council Presentation

Following revisions, the Consultant will present the final document to the City Council for acceptance.

Plan Submission

The Consultant will finalize the document and deliver four (4) hard copies and four (4) electronic copies to the City.

6. **General Conditions**

- The Consultant shall ensure that any provided staff assigned to the contract will be used for the term of the contract in the proposed capacity.
- The Consultant shall work with City staff to identify a realistic and efficient timeline for completion of all project goals. The City expects all work to be completed as soon as possible, but no later than April 30, 2020.
- The Consultant shall provide a cost estimate for completing the project, inclusive of all costs, except for the costs associated with the secondary scopes of work, which should be listed separately as otherwise described.
- The Consultant is encouraged to include suggestions or supplemental tasks which may enhance the project, streamline the scope of work, improve cost effectiveness, or lead to a better-quality finished product or process. State all assumptions clearly. Include the decisions, products, data and any other information that the Consultant expects from City staff.

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- If the applicant desires to suggest changes, this may be done through the RFI submission process prior to the deadline for proposals, which could lead to an addendum to the RFP that clarifies expectations for all applicants. In that case, no additional notations are required on the fee schedule.
- If the applicant does not use the RFI process, then the applicant shall specify the recommended changes, along with an explanation, in his or her proposal. In that case the fee schedule shall reflect the costs of completing the project without their recommended changes, as well as the difference in costs if the City chooses to accept the recommended changes. The City reserves the right to accept or deny the recommended changes and their associated increase or decrease to the project costs.
- If the Consultant finds that the existing bicycle safety and education programs are lacking or insufficient, or otherwise do not meet industry-standard or recommended practices, the Consultant shall provide the City with bicycle safety and education program options for their review and selection. These program options shall include the elements included in the program and their associated costs, to the extent possible.

SUBMITTAL REQUIREMENTS

The City of Riverbank requires the proposer to submit a concise proposal clearly addressing all of the requirements outlined in this RFP. Proposal must include, at a minimum, the following sections:

- ✓ Firm Description: Provide a brief description of the firm including firm size and area of specialization, location of corporate headquarters, and location of office proposed to handle this project.
- ✓ Project Team: Provide names, resumes, and office locations of key staff who will be assigned to the project. Each team member's education and qualifications shall be listed. The project manager shall be clearly identified.
- ✓ Project Understanding: Provide a statement summarizing how the consultant and/or project team is particularly qualified for this project.
- ✓ Scope of Services: Describe the consultant's approach and technical plan for accomplishing the work listed herein.
- ✓ Project Schedule: The Consultant shall submit a proposed project budget itemized by task and total project cost. Labor and direct costs should be identified by task. Hourly rates for project staff shall also be provided.
- ✓ Comparable Projects: Description of related project experience and role of key staff in each project.
- ✓ References: Three (3) references, including current contact name and phone number for similar projects.

Three (3) hard copies and a digital copy of the proposal in a PDF format shall be submitted.

EVALUATION CRITERIA

Proposals will be evaluated according to the following:

1. Responsiveness to submission requirements. 10 points
2. Qualifications of firms and project team members. 20 points
3. Previous related work and references. 30 points
4. Strength of proposed scope of services. 30 points
5. Project budget. 10 points

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The City, at its discretion, may select a firm outright or select one or more finalist(s) for in-person and /or telephone interviews.

SAMPLE AGREEMENT / INSURANCE REQUIREMENTS

Carefully review the Sample Professional Services Agreement (Attachment A). The terms of the agreement, pay special attention to the City's insurance requirements. Your response to the Request for Proposal must indicate if you are unwilling or unable to execute the agreement as drafted as well as providing the insurance requirements. The City will consider this in determining responsiveness to the Request for Proposal.

The successful Consultant will be required to maintain a \$1,000,000 liability policy for three (3) years beyond the completion date of the contract through an insurance company rated at Best's A:VII or better.

GENERAL CONDITIONS

General Information

Proposals shall be written in ink, computer generated, or by typewriter. Mistakes may be crossed out and corrections inserted adjacent thereto and must be initialed in ink by the person signing the bid. Proposals are to be verified before submission as they cannot be corrected or altered or signed after proposals are opened.

Interpretation of Proposals

Should a consultant find discrepancies in, or omissions from the specifications, or should consultant be in doubt as to their true meaning, consultant may submit to the Development Services Department a written request for an interpretation thereof prior to the proposal. The person submitting the request shall be responsible for its prompt delivery. Any interpretation of, or change in the proposed documents will be made only by an addendum issued to each person to whom specifications have been issued, and shall become part of any contract awarded. The City will not be responsible for any other explanation or interpretations.

Addenda

The City reserves the right to amend this RFP prior to the proposal due date. Any substantive interpretation, correction or change of the proposal documents shall be made by written addendum. Unless otherwise specified, the addendum will be posted to the City of Riverbank web-site www.riverbank.org. *It is the proposer's responsibility to visit this web-site to insure that they have received all important addenda or revisions to the Request for Proposal prior to the deadline.*

Interpretation, corrections or changes of the proposal documents made in any other manner shall not be binding. Such interpretations, corrections or changes shall not be relied upon by proposer. Any addenda shall be issued by the City within a reasonable time prior to the proposal date. Any addenda issued by the City during the time of proposal shall be covered in the proposal and shall be made a part of the contract.

Submission of Proposal

Proposals must be received by the date and time shown on the cover of this RFP. The City will accept proposals that are mailed or hand delivered during normal business hours. The City does not recognize the U.S. Postal Service, its postmarks, or any other organization as its agent for the purpose of receiving proposals. No late submittals or postmarks will be accepted.

Payment Terms

Partial payments will be made as the work progresses at the end of each calendar month, or as soon thereafter as practicable on estimates made by the Contractor and as approved by the City, provided that the Contractor is performing the overall job in a diligent manner. In making partial payments, there shall

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be retained ten (10%) percent on the amount of each estimate until final completion and acceptance of all the Work.

Upon completion and acceptance of the Work the City shall certify that the Work has been substantially completed and accepted under the conditions of this Contract. The entire balance found to be due the Consultant, including the retained percentage, but accepting such sums as may be lawfully retained by the City, shall be paid to the Consultant within 30 days after formal acceptance of Work by the City Council.

Assignment

No assignment by the contractor or any contract to be entered into hereunder or of any part thereof, except of funds to be received there under by the contractor, will be recognized by the City unless such assignment has had the prior written approval of the City.

ADDITIONAL INFORMATION

The City will not reimburse the RFP respondents for any costs involved in the preparation and submission of proposals nor to prepare for and attend interviews. This RFP does not obligate the City to award a contract or accept or contract for any expressed or implied services. City reserves the right to reject or accept any and all proposals, and to waive informalities and minor irregularities in any proposal reviewed. Any firm who would like to submit a proposal for such services shall submit a proposal following the instructions and format outlined with this Request for Proposals (RFP). The City shall competitively solicit proposals and award contracts to the most qualified and responsible Consultant with the most responsive proposal. A City selection panel will review the proposals and select a Consultant to perform the work.

City reserves the right to request any firm submitting a proposal to clarify its proposal or to supply additional material deemed necessary to assist in the selection of a consultant, and to modify or alter any of the requirements herein.

In an attempt to reach an agreed upon contract by both parties, City reserves the right to negotiate with the proposer selected by the committee. If the parties cannot negotiate a contract, City reserves the right to negotiate with other proposers, or make no award of this RFP.

In the event that the proposal guidelines change materially, all respondents who submit a proposal will be given an opportunity to modify their proposal in the specific areas that are impacted. Further, City may reject any proposal which does not conform to the instructions contained within this RFP.

AWARD SCHEDULE AND PROJECT TIMELINE

A tentative schedule of activities related to this Request for Proposals and project timeline is as follows:

August 7, 2019	RFP Distribution
September 13, 2019	Proposal submission deadline
September 16-19, 2019	Review of proposals
September 23-26, 2019	Interviews (if deemed necessary)
October 8, 2019	Contractor selection and contract award
October 14, 2019	Project starting date
June 29, 2020	Project end date

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PROPOSAL DEADLINE

Date: September 13, 2019

Time: 5:00 p.m.

Location: City of Riverbank Development Services

Attn: Kathleen Cleek, Development Services Administration Manager

6707 Third Street

Riverbank, CA 95367

Label: City of Riverbank Bicycle and Pedestrian Active Transportation Plan

No fax or e-mail delivery of RFP's will be accepted.

The City is not responsible for proposals that are delinquent, lost, mismarked, and sent to an address other than that given above, or sent by mail or courier service. The City reserves the right, after opening the proposals, to reject any or all proposals, or to accept the proposal(s) that in its sole judgment is (are) in the best interest of the City.

INQUIRIES/QUESTIONS

All questions regarding this Request for Proposals must be received in writing prior to close of business on September 4, 2019 (5:00 p.m.) and shall be submitted to: Kathleen Cleek, Development Services Administration Manager, at kcleek@riverbank.org. Answers will not be sent directly to interested parties. Written answers to questions will be posted on the City of Riverbank RFP/Bids website under the project heading.

LIST OF ATTACHMENTS

Attachment A – Sample Professional Services Agreement

Attachment A – Sample Professional Services Agreement

REQUEST FOR PROPOSALS: BICYCLE AND PEDESTRIAN ACTIVE TRANSPORTATION PLAN

PROFESSIONAL SERVICES AGREEMENT
between
CITY OF RIVERBANK
and
CONSULTANT
for the
BICYCLE AND PEDESTRIAN ACTIVE TRANSPORTATION PLAN

THIS AGREEMENT is made this 8th day of October, 2019, by and between the **CITY OF RIVERBANK**, a municipal corporation of the State of California hereinafter referred to as "CITY" and _____, a _____, hereinafter referred to as "CONSULTANT."

WITNESSETH:

WHEREAS, in accordance with California Government Code §37103, CITY has a need for professional urban planning and transportation planning services to develop an Active Transportation Plan; and

WHEREAS, CONSULTANT has represented itself as duly trained, qualified, and experienced to provide such special service, hereinafter referred to as "Services."

NOW, THEREFORE, the parties hereto mutually agree as follows:

SCOPE OF WORK: CONSULTANT shall furnish all labor, equipment, materials and process, implements, tools, and machinery, except as otherwise specified, which are necessary and required to provide the Services and shall perform such special services in accordance with the standards of its profession and the specifications attached hereto as Exhibit __. CONSULTANT shall provide Services that are acceptable to CITY.

PERSONNEL AND EQUIPMENT: CONSULTANT shall provide all personnel needed to accomplish the Services hereunder. CONSULTANT shall additionally acquire, provide, maintain, and repair, at its sole cost and expense, such equipment, materials, and supplies as CONSULTANT shall reasonably require to accomplish said Services.

SAFETY REQUIREMENT: All Services and merchandise must comply with California State Division of Industrial Safety orders and O.S.H.A.

COMPENSATION: CITY agrees to pay CONSULTANT in accordance with Exhibit __ as full remuneration for performing all Services and furnishing all staffing and materials called for in Exhibit __ and for performance by CONSULTANT of all of its duties and obligations under this Agreement. In no event shall the sum of this Agreement exceed _____

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and ___/100^{ths} Dollars (\$_____). CONSULTANT agrees that compensation shall be paid in the manner and at the times set forth below:

- (a) Invoices: CONSULTANT shall submit dated invoices to CITY specifying the date, location and service rendered, and the charge therefor.
- (b) Payment:
 - (1) All payments by CITY shall be made in arrears, after satisfactory service, as determined and approved by CITY, has been provided. Payment shall be made by CITY no more than thirty (30) days from CITY's receipt of invoice.
 - (2) CITY shall normally pay by voucher or check within ten (10) working days after each meeting at which payments can be authorized, provided that CITY receives the invoice at least five (5) working days prior to CITY's meeting date.
 - (3) If CITY disputes any items on an invoice for a reasonable cause, which includes but is not limited to unsatisfactory service, CITY may deduct that disputed item from the payment, but shall not delay payment for the undisputed portions. The amounts and reasons for such deletions shall be documented to CONSULTANT within fifteen (15) working days after receipt of invoice by CITY. CITY shall assign a sequential reference number to each deletion.
 - (4) If dispute is settled, payment shall be by voucher or check payable to and mailed to CONSULTANT within five (5) working days of dispute settlement.
 - (5) CITY reserves the right to only pay for such services rendered to the satisfaction of CITY.

TERM OF AGREEMENT: This Agreement shall become effective upon execution and shall continue in full force and effect beginning August 8, 2019 and ending May 31, 2020, subject to CITY's availability of funds.

INSURANCE: CONSULTANT shall not commence work under this Agreement until CONSULTANT has obtained CITY's approval regarding all insurance requirements, forms, endorsements, amounts, and carrier ratings, nor shall CONSULTANT allow any subcontractor to commence work on a subcontract until all similar insurance required of the subcontractor shall have been so obtained and approved. CONSULTANT shall procure and maintain for the duration of this 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 by CONSULTANT, its agents, representatives, employees or subcontractors. Failure to maintain or renew coverage or to provide evidence of renewal may constitute a material breach of contract.

- (a) Minimum Scope of Insurance: Coverage shall be at least as broad as:
 - (1) Insurance Services Office Commercial General Liability coverage (occurrence Form CG 00 01) with an additional insured endorsement (form CG 20 10 and 20 37), to be approved by the City of Riverbank.

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- (2) Insurance Services Office Form CA 00 01 covering Automobile Liability, Code 1 (any auto).
 - (3) Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
 - (4) Errors and Omissions/Professional Liability Insurance.
- (b) Minimum Limits of Insurance: CONSULTANT shall maintain limits no less than:
- (1) General Liability (including operations, products and completed operations): \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
 - (2) Automobile Liability: \$1,000,000 per occurrence for bodily injury and property damage.
 - (3) Workers' Compensation: as statutorily required by the State of California. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.
 - (4) Errors and Omissions/Professional Liability: \$1,000,000 per claim.
- (c) Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by CITY. At the option of CITY, either:
- (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CITY, its elective and appointive boards, officers, agents, employees, and volunteers; or
 - (2) CONSULTANT shall provide a financial guarantee satisfactory to CITY guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- (d) Other Insurance Provisions: The commercial general liability policy shall contain or be endorsed to contain the following provisions:
- (1) CITY, its elective and appointive boards, officers, agents, employees, and volunteers are to be covered as additional insureds with respect to liability arising out of work or operations performed by or on behalf of CONSULTANT, including materials, parts or equipment furnished in connection with such work or operations, which coverage shall be maintained in effect for at least three (3) years following the completion of the work specified in the contract. General liability coverage can be provided in the form of an endorsement to CONSULTANT's insurance (at least as broad as CG 20 10 for ongoing operations and CG 20 37 for products/completed operations), or as a separate Owners Protective Liability policy providing both ongoing operations and completed operations.

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- (2) For any claims related to this project, CONSULTANT's insurance coverage shall be primary insurance as respects CITY and any insurance or self-insurance maintained by CITY shall be excess of CONSULTANT's insurance and shall not contribute with it.
- (3) In the event of cancellation, non-renewal, or material change that reduces or restricts the insurance coverage afforded to CITY under any of the required insurance coverages, the insurer, broker/producer, or CONSULTANT shall provide CITY with thirty (30) days' prior written notice of such action.
- (4) Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.
- (e) **Acceptability of Insurers:** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII.
- (f) **Verification of Coverage:** CONSULTANT shall furnish CITY with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by CITY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive CONSULTANT'S obligation to provide them. CITY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
- (g) **Waiver of Subrogation:** With the exception of professional liability, CONSULTANT hereby agrees to waive subrogation which any insurer of CONSULTANT may acquire from CONSULTANT by virtue of the payment of any loss. The commercial general liability policy and workers' compensation policy shall be endorsed to contain a waiver of subrogation in favor of CITY for all work performed by CONSULTANT, its agents, employees, independent contractors and subcontractors. CONSULTANT agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation.
- (h) **Subcontractors:** CONSULTANT shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

INDEMNIFICATION: CONSULTANT shall indemnify, defend, and hold harmless CITY and its elective and appointive boards, officers, agents, employees, and volunteers from and against all claims, damages, losses and expenses including attorney fees arising out of the performance of the work described herein, caused in whole or in part by any negligent act or omission of CONSULTANT, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of CITY.

INDEPENDENT CONTRACTOR RELATIONSHIP: All acts of CONSULTANT, its agents, officers, and employees and all others acting on behalf of CONSULTANT relating to the

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performance of this Agreement, shall be performed as independent contractors and not as agents, officers, or employees of CITY. CONSULTANT, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of CITY. CONSULTANT has no authority or responsibility to exercise any rights or power vested in the CITY. No agent, officer, or employee of the CITY is to be considered an employee of CONSULTANT. It is understood by both CONSULTANT and CITY that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture.

CONSULTANT, its agents, officers and employees are and, at all times during the terms of this Agreement, shall represent and conduct themselves as independent contractors and not as employees of CITY.

CONSULTANT shall determine the method, details and means of performing the work and services to be provided by CONSULTANT under this Agreement. CONSULTANT shall be responsible to CITY only for the requirements and results specified in this Agreement, and, except as expressly provided in this Agreement, shall not be subjected to CITY's control with respect to the physical action or activities of the CONSULTANT in fulfillment of this Agreement. CONSULTANT has control over the manner and means of performing the services under this Agreement. CONSULTANT is permitted to provide services to others during the same period service is provided to CITY under this Agreement. If necessary, CONSULTANT has the responsibility for employing other persons or firms to assist CONSULTANT in fulfilling the terms and obligations under this Agreement.

If in the performance of this Agreement any third persons are employed by CONSULTANT, such persons shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. All terms of employment including hours, wages, working conditions, discipline, hiring, and discharging or any other term of employment or requirement of law shall be determined by the CONSULTANT.

It is understood and agreed that as an independent contractor and not an employee of CITY neither the CONSULTANT or CONSULTANT'S assigned personnel shall have any entitlement as a CITY employee, right to act on behalf of the CITY in any capacity whatsoever as an agent, or to bind the CITY to any obligation whatsoever.

It is further understood and agreed that CONSULTANT must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of CONSULTANT'S personnel.

As an independent contractor, CONSULTANT hereby indemnifies and holds CITY harmless from any and all claims that may be made against CITY based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

VOLUNTARY TERMINATION: CITY may terminate this Agreement without cause or legal excuse by providing thirty (30) days' written notice to CONSULTANT.

TERMINATION OF STATED EVENT:

(a) Termination on Occurrence of Stated Events. This Agreement shall terminate automatically on the date on which any of the following events occur: (1) bankruptcy or

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insolvency of CONSULTANT, (2) legal dissolution of CONSULTANT, or (3) death of key principal(s) of CONSULTANT.

(b) Termination by CITY for Default of CONSULTANT. Should CONSULTANT default in the performance of this Agreement or materially breach any of its provisions, at its option CITY may terminate this Agreement by giving written notification to CONSULTANT. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to perform required services or duties, willful destruction of CITY's property by CONSULTANT, dishonesty or theft.

(c) Termination by CONSULTANT for Default of CITY. Should CITY default in the performance of this Agreement or materially breach any of its provisions, at its option CONSULTANT may terminate this Agreement by giving written notice to CITY. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to cooperate reasonably with CONSULTANT, willful destruction of CONSULTANT's property by CITY, dishonesty or theft.

(d) Termination for Failure to Make Agreed-Upon Payments. Should CITY fail to pay CONSULTANT all or any part of the payments set forth in this Agreement on the date due, at its option CONSULTANT may terminate this Agreement if the failure is not remedied within thirty (30) days after CONSULTANT notifies CITY in writing of such failure to pay. The termination date shall be the effective date of the notice.

(e) Termination by CITY for Change of CONSULTANT'S Tax Status. If CITY determines that CONSULTANT does not meet the requirements of federal and state tax laws for independent contractor status, CITY may terminate this Agreement by giving written notice to CONSULTANT. The termination date shall be the effective date of the notice.

(f) In the Event of Termination. If this Agreement is terminated pursuant to this Paragraph, CONSULTANT shall cease all its work on the project as of the termination date and shall see to it that its employees, subcontractors and agents are notified of such termination and cease their work. If CITY so requests, and at CITY's cost, CONSULTANT shall provide sufficient oral or written status reports to make CITY reasonably aware of the status of CONSULTANT'S work on the project. Further, if CITY so requests, and at CITY's cost, CONSULTANT shall deliver to CITY any work products whether in draft or final form which have been produced to date.

If the Agreement is terminated pursuant to any of the subsections contained in this paragraph, CITY will pay CONSULTANT an amount based on the percentage of work completed on the termination date, this percentage shall be determined by CITY in its sole discretion. If the Agreement is terminated pursuant to the subparagraph entitled Termination by CITY for Default of CONSULTANT, CONSULTANT understands and agrees that CITY may, in CITY's sole discretion, refuse to pay CONSULTANT for that portion of CONSULTANT'S services which were performed by CONSULTANT on the project prior to the termination date and which remain unacceptable and/or not useful to CITY as of the termination date.

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CONFORMANCE WITH FEDERAL AND STATE LAW: All equipment, supplies and services used by CONSULTANT in the performance of this Agreement shall conform to the laws of the government of the United States and the State of California.

NONDISCRIMINATION: In connection with the execution of this Agreement, CONSULTANT shall not discriminate against any employee or applicant for employment because of age, race religion, color, sex, or national origin. CONSULTANT shall take affirmative action to insure that applicants are employed, and the employees are treated during their employment, without regard to their age, race, religion, color, sex or national origin. Such actions shall include, but not be limited to, the following: employment, promotions, demotions or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. CONSULTANT shall also comply with the requirement of Title VII of the Civil Rights Act of 1964 (P.L. 88-352) and with all applicable regulations, statutes, laws, etc., promulgated pursuant to the civil rights acts of the government of the United States and the State of California now in existence or hereafter enacted. Further, CONSULTANT shall comply with the provisions of Section 1735 of the California Labor Code.

TIME: Time is of the essence in this Agreement.

ENTIRE AGREEMENT AND MODIFICATION: This Agreement supersedes all previous Agreements and constitutes the entire understanding of the parties hereto. CONSULTANT shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties. CONSULTANT specifically acknowledges that in entering into and executing this Agreement, CONSULTANT relies solely upon the provisions contained in this Agreement and no others.

OBLIGATIONS OF CONSULTANT: Throughout the term of this Agreement, CONSULTANT shall possess, or secure all licenses, permits, qualifications and approvals legally required to conduct business. CONSULTANT warrants that it has all of the necessary professional capabilities and experience, as well as all tools, instrumentalities, facilities and other resources necessary to provide the CITY with the services contemplated by this Agreement. CONSULTANT further represents that it will follow the best current, generally accepted and professional practices to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding this project.

OWNERSHIP OF DOCUMENTS: All reports, data, drawings, plans, designs, specifications, graphics, calculations, working papers, models, flow diagrams, visual aids, and other incidental work or materials furnished hereunder shall become and remain the property of the CITY, and may be used by CITY as it may require without any additional cost to CITY. No reports shall be used by the CONSULTANT for purposes other than this contract without the express prior written consent of CITY.

NEWS AND INFORMATION RELEASE: CONSULTANT agrees that it will not issue any news releases in connection with either the award of this Agreement, or any subsequent amendment of or efforts under this Agreement, without first obtaining review and approval of said news releases from CITY through the City Manager.

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INTEREST OF CONSULTANT: CONSULTANT warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONSULTANT warrants that, in performance of this Agreement, CONSULTANT shall not employ any person having any such interest. CONSULTANT agrees to file a Statement of Economic Interests with the City Clerk at the start and end of this contract if so required at the option of CITY.

AMENDMENTS: Both parties to this Agreement understand that it may become desirable or necessary during the execution of this Agreement, for CITY or CONSULTANT to modify the scope of services provided for under this Agreement. Any material extension or change in the scope of work shall be discussed with CITY and the change and cost shall be memorialized in a written amendment to the original contract prior to the performance of the additional work.

Until a change order is so executed, CITY will not be responsible to pay any charges CONSULTANT may incur in performing such additional services, and CONSULTANT shall not be required to perform any such additional services.

PATENT/COPYRIGHT MATERIALS: Unless otherwise expressly provided in the contract, CONSULTANT shall be solely responsible for obtaining the right to use any patented or copyrighted materials in the performance of this Agreement. CONSULTANT shall furnish a warranty of such right to use to CITY at the request of CITY.

CERTIFIED PAYROLL REQUIREMENT: For CONSULTANTS performing field work on public works contracts on which prevailing wages are required, CONSULTANT shall comply with the provisions of Section 1776 of the California Labor Code, regarding payroll records, and shall require its subconsultants and subcontractors to comply with that section as may be required by law.

PARTIAL INVALIDITY: If any provision in 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.

WAIVER: The waiver by any party to this Agreement 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.

AUDIT: CITY's duly authorized representative 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.

CONSULTANT agrees to retain reports, records, documents, and files related to charges under this Agreement for a period of four (4) years following the date of final payment for CONSULTANT services. CITY's representative shall have the right to reproduce any of the aforesaid documents.

GOVERNING LAW: This Agreement shall be governed according to the laws of the State of California.

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HEADINGS NOT CONTROLLING: Headings used in the Agreement are for reference purposes only and shall not be considered in construing this Agreement.

COMPLIANCE WITH LAWS: CONSULTANT shall insure compliance with all safety and hourly requirements for employees, in accordance with federal, state, and county safety and health regulations and laws. CONSULTANT shall fully comply with all applicable federal, state, and local laws, ordinances, regulations and permits.

CITY BUSINESS LICENSE: CONSULTANT will have a City of Riverbank business license.

ASSIGNMENT: This Agreement is binding upon CITY and CONSULTANT and their successors. Except as otherwise provided herein, neither CITY nor CONSULTANT shall assign, sublet, or transfer interest in this Agreement or any part thereof without the prior written consent of the other.

RECORD INSPECTION AND AUDIT: CONSULTANT shall maintain adequate records to permit inspection and audit of CONSULTANT's time and material charges under this Agreement. CONSULTANT shall make such records available to CITY during normal business hours upon reasonable notice. Such records shall be turned over to CITY upon request.

EXCLUSIVE USE: Services provided within the scope of this Agreement are for the exclusive use of CITY and CONSULTANT agrees that, until final approval by CITY, all data, plans, specifications, reports, and other documents will not be released to third parties by CONSULTANT without the prior written consent of CITY.

EMPLOYMENT OF CITY OFFICIAL OR EMPLOYEE: CONSULTANT shall employ no CITY official or employee in the work performed pursuant to this Agreement. No officer or employee of CITY shall have any financial interest in this Agreement in violation of California Government Code Sections 1090 *et seq.*; nor shall CITY violate any provision of its Conflict of Interest Code adopted pursuant to the provisions of California Government Code Sections 87300 *et seq.*

NOTICE: Any and all notices permitted or required to be given hereunder shall be deemed duly given and effective (1) upon actual delivery, if delivery is by hand; or (2) five (5) days after delivery into the United States mail, if delivery is by postage paid, registered, or certified (return receipt requested) mail. Each such notice shall be sent to the parties at the address respectively indicated below or to any other address as the respective parties may designate from time to time:

for CONSULTANT: _____

PHONE: _____ **FAX:** _____

for CITY: **CITY OF RIVERBANK**
ATTN: KATHLEEN CLEEK, DEVELOPMENT SERVICES
6707 THIRD STREET, RIVERBANK, CALIFORNIA 95367
PHONE: (209) 863-7170
FAX: (209) 869-1849

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EXTENSION OF AGREEMENT: CITY may elect to extend this Agreement for three (3) additional one-year terms, on the same terms and conditions, upon providing written notice to CONSULTANT thirty (30) days prior to the expiration of this Agreement. On each anniversary date, CONSULTANT will be allowed to increase prices. Increases may not exceed increases in the San Francisco-Oakland Consumer Price Index for all urban consumers or percentage increases in CONSULTANT's published prices, whichever is lower. In all cases, CITY may cancel the contract if a requested price increase is not acceptable.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by and through their respective officers thereunto duly authorized.

CITY OF RIVERBANK, a municipal corporation _____

By: _____
Sean Scully, City Manager

By: _____

Title: _____

APPROVED AS TO SUFFICIENCY:

Print name: _____

By: _____
Kathleen Cleek
Development Services/Administration Manager

Date: _____

APPROVED AS TO FORM:

ATTEST:

By: _____
Tom Hallinan, City Attorney

By: _____
Annabelle Aguilar, City Clerk