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**DEPARTMENT OF
ADMINISTRATIVE SERVICES
PURCHASING**

Equal Opportunity Employer

Issue Date: 3.22.17

**COUNTY OF MERCED
REQUEST FOR PROPOSAL
NUMBER 7193
FOR**

ONE-STOP OPERATOR

Notice is hereby given that proposals will be received at the Merced County Department of Administrative Services-Purchasing Division for performing all work necessary in accordance with the "REQUIREMENTS" and other related documents provided herein. Please carefully read and follow the instructions.

Proposals shall be presented under sealed cover with the Proposal Number and the Proposal Submittal Close Date clearly marked on the outside and forwarded to:

County of Merced
Department of Administrative Services-Purchasing
2222 M Street, Room 1
Merced California 95340
Attn: Kim Nausin, Purchasing Manager
Email: knausin@co.merced.ca.us

Any Bidder who wishes their proposal to be considered is responsible for making certain that their proposal is received in the Merced County Department of Administrative Services-Purchasing Office by the closing date.

PROPOSALS RECEIVED AFTER THE DEADLINE WILL BE REJECTED AND WILL BE RETURNED TO THE BIDDER UNOPENED.

CLOSING DEADLINE DATE: May 3, 2017 at 4:00 P.M.,

PROPOSALS WILL BE CONSIDERED LATE WHEN THE OFFICIAL DEPARTMENT OF ADMINISTRATIVE SERVICES-PURCHASING DIVISION TIME CLOCK READS 4:01 P.M.

STRIVING FOR EXCELLENCE

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SECTION 1

INTRODUCTION

1.1 INTENT OF THE REQUEST FOR PROPOSAL

The San Joaquin Valley (SJV) Sub-Region views this solicitation as an opportunity to further implement the reforms of the WIOA by soliciting a One-Stop Operator to oversee and maintain compliance between service providers and one stop partners per 20 C.F.R. § 678 et seq.

WIOA Title I One-Stop Operator will be awarded through this RFP. Services shall be targeted to residents of the San Joaquin Valley Sub Region, made up of Kings, San Joaquin, Madera, Merced, and Stanislaus Counties.

The SJV Sub-Region reserves the right to make changes to the policies contained in this RFP based on changes and/or clarifications in the regulations, state legislation, local policy, or other guidance provided by the state or federal government.

The SJV Sub-Region makes no representation that any contract will be awarded to any offer responding to this RFP.

The SJV Sub-Region reserves the right to verify all information in the proposal. If the information cannot be verified, and if the errors are not willful, the SJV Sub-Region reserves the right to reduce the rating points awarded.

1.2 BACKGROUND INFORMATION

The Workforce Innovation & Opportunity Act (WIOA), signed into law on July 22, 2014, is the first legislative reform of the public workforce system in 15 years. WIOA presents an extraordinary opportunity to improve job and career options for our nation's workers and jobseekers through an integrated, job-driven public workforce system that links diverse talent to businesses. It supports the development of strong, vibrant regional economies where businesses thrive and people want to live and work. WIOA reaffirms the role of the American Job Center (one-stop) system as the primary service access point in each local area. The WIOA law outlines six (6) key purposes:

1. Increasing access to and opportunities for the employment, education, training and support services individuals need to succeed in the labor market, with particular emphasis on those with barriers to employment;
2. Aligning workforce investment, education, and economic development systems to support a comprehensive, accessible, and high-quality workforce development system;

3. Improving the quality and labor market relevance of workforce investment, education, and economic development efforts to provide individuals with the skills and credentials needed to secure and advance in employment with family-sustaining wages and to provide employers with the skilled workers needed for success in a global economy;
4. Promoting improvements in the structure and delivery of services through the workforce development system to better address the employment and skill needs of workers, jobseekers, and employers;
5. Increasing the prosperity of workers and employers and the economic growth of communities and regions; and
6. Increasing the employment, retention, and earnings of participants and increasing the attainment of recognized postsecondary credentials by participants to improve the quality of the workforce, reduce welfare dependency, increase economic self-sufficiency, and meet the skill requirements of employers to enhance productivity and competitiveness.

The U.S. Department of Labor envisions WIOA as the driver of workforce systems that support strong regional economies and play an active role in community and workforce development. America's Job Centers of California ("AJCCs") are expected to provide excellent customer service with a focus on continuous improvement, and the needs of businesses and workers will drive workforce solutions.

1.3 AGREEMENT TERM

The Agreement term shall be for a period of three (3) years with an option to renew for one additional period of one year. The start date will commence July 1, 2017 with a scheduled completion date of July 1, 2020 contingent on appropriate and sufficient funding, and subject to a one year extension.

A Sample Agreement is included as an attachment to this RFP. This Agreement will become part of the final Agreement with the successful Bidder being awarded the RFP. Any exceptions to the terms and conditions as stated herein and in the Sample Agreement must be identified separately within the submitted proposal. An Agreement with the successful Bidder is executed only upon final approval by the County's Board of Supervisors and the parties holding contracting power for the other entities listed in the Sample Agreement.

SECTION 2

TIMETABLE AND CHECKLIST

2.1 SUBMITTAL CHECKLIST

All items are required. This checklist is provided to assist you in ensuring you submit a complete proposal.

- a. ____ Signature Page (Attachment A)
- b. ____ Acknowledgement of Amendment(s) (If any)
- c. ____ Bond(s) (If any)
- d. ____ Cover Letter
- e. ____ Table of Contents
- f. ____ Executive Summary
- g. ____ Exceptions
- h. ____ Approach
- i. ____ Bidder's Qualifications
- j. ____ Cost Proposal
- k. ____ Financial Statement or Sufficient Financial Information
(Non-submittal is considered non-responsive and cause for rejection of proposal.)

2.2 SCHEDULED ACTIVITIES

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

<u>Activity</u>	<u>Estimated Schedule</u>	<u>Date</u>
2.2.1	Availability of the Request for Proposal	03.22.17
2.2.2	Pre-proposal conference	04.06.17
2.2.3	Deadline for submission of interpretation and/or written questions in relationship to the Request for Proposal. <i>Questions submitted after this date will not be answered. The closing date will not be extended for questions submitted after this date.</i>	04.18.17
2.2.4	Closing date for the Request for Proposal A list of respondents will be posted to the web at close of RFP	05.03.17
2.2.5	Commencement of review of the Request for Proposal submissions by the evaluation committee	05.13.17
2.2.6	Agreement performance to commence	07.01.17

2.3 PRE-PROPOSAL CONFERENCE

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

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

The Pre-Proposal conference may be recorded and answers will be posted to the County of Merced Official Website (www.co.merced.ca.us) following the

conference. Please contact the Merced County Department of Administrative Services-Purchasing at (209) 385-7331 for confirmation of your attendance. **Oral answers at the conference will not be binding on the County.**

The location, date and time will be as follows:

Date: April 6, 2017
Time: 1:00pm – 2:00pm
Location: Merced County Administration Building
2222 M Street, Room 301
Merced, CA 95340

2.4 NUMBER OF COPIES TO BE SUBMITTED

- 2.4.1 Please submit **one (1) original signature hard copy** to be **signed in blue ink** (original copies marked as such) and **six (6)** exact copies of the original and one soft copy via thumb drive.
- 2.4.2 **Bidder also to submit ONE (1) paper copy of Financial Statement as set forth herein.** See Section 4.2.11 for guidance on what is required.
- 2.4.3 Disclosure of any Self Insured Retention (SIR) associated with the insurance requirement in the Sample Agreement.

SECTION 3

REQUIREMENTS

3.1 SCOPE

3.1.1 Mandatory Duties

- a. The SJV Sub-RPU expects to generally limit the role of the One-Stop Operator to the minimum requirements of “coordinating the service delivery of required one-stop partners and service providers” (20 CFR § 678.620), and ensuring the implementation of partner responsibilities and contributions agreed upon in the Memorandums of Understanding Phase I and Phase II. (EDD Directive WSD16-14) In order to fulfill this requirement, the one-stop operator shall:
 - i. Provide quarterly reports to all parties in the SJV Sub-RPU concerning the assessment of compliance with the separate memorandums of understanding between service providers and one-stop partners;
 - ii. Provide an end of the year comprehensive report to all parties in the SJV Sub-RPU and present the one-stop operator’s findings to each workforce development board in person, and be available to respond to inquiries.
 - iii. Participate in the coordination of partner meetings at least once a quarter, and attend said meetings. Attendance and participation may be through any suitable modality, including: WebEx, telephonic conference calls, in person or through some other readily available/adequate conferencing medium.
 - iv. Implementing policies established by the Local Workforce Development Board.
 - v. Complete all other duties that may be necessary to fulfill the requirements of 20 CFR § 678.620 and maintain compliance as a one-stop operator.

- b. Additional Costs: The individual members of the SJV Sub-RPU may wish to request more services dependent upon the needs of their local workforce development board (“LWDB”). As such, individualized billing will be required for the LWDB requesting the services. Should additional services be requested all bids should include the following:
 - i. Hourly rates of the one-stop operator;
 - ii. Travel costs including:
 - Mileage; and,
 - Overnight costs.

3.1.2 Desired Experience

In addition to the duties as a one-stop operator, a Bidder with proven grant writing experience is desirable, but if a Bidder does not have the desired trait they will not be disqualified. Bidder may provide work on an hourly or by project basis to the individual members of the SJV Sub-RPU as requested. If a bidder has such experience, it should be included in the bid, as well as the cost of such services in addition to that identified in the preceding section.

3.2 SPECIFIC COMPLIANCE

The Bidder awarded the Agreement derived from this RFP will be required to abide by all applicable local, Federal and State laws and regulations, including, but not limited to:

- The provisions of the Workforce Innovation and Opportunity Act (WIOA) and all legislation, regulations, directives, policies, procedures and amendments issued pursuant thereto;
- All State legislation and regulations to the extent permitted by federal law and all policies, directives and/or procedures, which implement the WIOA;
- The Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to ADA (42 U.S.C. 120101 et seq.);
- Executive Order 12549 (Debarment and Suspension), 29 CFR Section 98.50, and 2 CFR Section 200.213 concerning disbarment and suspension;
- 2 CFR Section 200.450 and in 29 CFR Part 93 concerning lobbying restrictions;
- Title VI of the Civil Rights Act of 1964, and the Rules and Regulations promulgated there under and the provisions of WIOA, Section 188; and,
- All other applicable rules and regulations governing the one-stop operator.

3.3 ESTIMATED COST OF SERVICES

As explained above in section 3.1, this position is anticipated to have a limited presence in any one AJCC, as such it is estimated that the cost of services under this RFP will be approximately \$75,000 total for all five counties.

SECTION 4

RESPONSE FORMAT AND CONTENT

4.1 GENERAL INFORMATION

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

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

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

Proposals must be clearly marked as stated herein and must be received by the date and time specified.

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

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

4.2 PROPOSAL FORMAT

The proposal must be developed on the forms provided in this package, or must follow the proposal content requirements in the order in which they appear in the proposal. Proposals that do not conform to this format may not be considered for evaluation. Proposals must be typewritten and submitted on standard 8 1/2" by 11" paper. Each page must be clearly and consecutively numbered. All proposals must be submitted in the name of the legal entity or authorized agency. Proposals must be signed in ink by the officer or officers legally authorized to bind the

company, partnership or corporation.

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

- 4.2.1 Signature Page (Attachment A)
- 4.2.2 Signed Amendment(s) (If any)
- 4.2.3 Bond(s) (If any)
- 4.2.4 Cover Letter
- 4.2.5 Table of Contents
- 4.2.6 Executive Summary
- 4.2.7 Exceptions
- 4.2.8 Approach
- 4.2.9 Bidder's Qualifications
- 4.2.10 Cost Proposal
- 4.2.11 Financial Statement (**separate sealed envelope**)

4.2.1 Signature Page

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

4.2.2 Signed Amendment(s)

Bidder must sign, in blue ink, and include a copy of any amendments to the RFP.

4.2.3 Bond(s)

Bidder must enclose any bonds as required in the RFP.

4.2.4 Cover Letter

The Cover Letter must be a maximum of a one (1) page introducing the Bidder. The Cover Letter must include the Bidder's name and address.

4.2.5 Table of Contents

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

4.2.6 Executive Summary

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

4.2.7 Exceptions

This portion of the proposal will note any exceptions to the requirements and conditions taken by the Bidder. Exceptions should clearly explain why the Bidder is taking exception to the requirements. If exceptions are not noted, the County will assume that the Bidder's proposal meets those requirements as specified herein and that the Bidder accepts and intends to abide by all stated terms, conditions, and requirements. Exceptions will be considered by the County, and will form a part of any resulting Agreement, only if the County explicitly so states in writing.

Exceptions shall be noted as follows:

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

4.2.8 Approach

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

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

proposed effort.

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

4.2.9 Bidder's Qualifications

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

a) History

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

b) Background and Experience

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

c) References

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

d) Staff Assignment

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

4.2.10 Cost Proposal

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

4.2.11 Financial Statement

FINANCIAL STATEMENT SUBMITTED WILL BE FORWARDED TO COUNTY AUDITOR-CONTROLLER FOR REVIEW AND DESTROYED OR RETURNED WITHIN SEVEN (7) WORKING DAYS FOLLOWING CLOSE OF RFP. IF YOU WISH TO HAVE YOUR FINANCIAL STATEMENTS RETURNED, A SELF-ADDRESSED, STAMPED ENVELOPE MUST BE ENCLOSED.

Provide copies of the Bidders most current and prior two (2) fiscal years financial statements. Financial statements should include a balance sheet and income statement at minimum. Financials consisting of, but not limited to the Balance Sheet (Statement of Financial Positions), and Income Statement (Statement of Operations), and the Retained Earnings Statement (Changes in Fund Balance) are necessary for construction and service provider Agreements over \$10,000. For Agreements under \$100,000 (federal funding over \$100,000 single audit requirements will apply), if audited statements are available, these should be submitted to meet this requirement. Financial statements will be kept confidential if so stamped on each page.

If financial statements are not available, sufficient financial information should be submitted to demonstrate the ability to finance the Agreement and provide the services in accordance with the requirements of this RFP, understanding that cash advances are not available. Financial information will be kept confidential if so stamped on each page.

THIS INFORMATION IS TO BE PLACED IN A SEPARATE SEALED ENVELOPE AND MARKED "BIDDER'S FINANCIAL STATEMENT" ON THE OUTSIDE OF THE ENVELOPE. FAILURE TO SUBMIT FINANCIAL INFORMATION WILL BE CONSIDERED AS "NONRESPONSIVE", RESULTING IN REJECTION OF PROPOSAL.

SECTION 5

BASIS OF AWARD, SELECTION PROCESS AND EVALUATION CRITERIA

5.1 BASIS OF AWARD

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

THE COUNTY RESERVES THE RIGHT, AT ITS SOLE DISCRETION, TO REJECT ANY OR ALL PROPOSALS OR ANY PART THEREOF, OR TO WAIVE ANY INFORMALITIES IN THE PROPOSAL AND MINOR IRREGULARITIES, TECHNICAL DEFECTS OR CLERICAL ERRORS, TO MAKE AN AWARD ON THE BASIS OF SUITABILITY, QUALITY OF SERVICE(S) TO BE SUPPLIED, THEIR CONFORMITY WITH THE SPECIFICATIONS AND FOR THE PURPOSES FOR WHICH THEY ARE REQUIRED, AND NOT CONFINED TO COST ALONE. THE COUNTY SHALL NOT BE LIABLE FOR ANY COSTS INCURRED BY THE BIDDER IN CONNECTION WITH THE PREPARATION AND SUBMISSION OF THIS OR ANY OTHER PROPOSAL.

False, incomplete, or nonresponsive statements in connection with the proposal may be deemed sufficient cause for rejection. The County shall be the sole judge in making such determination. The County reserves the right to cancel or discontinue with the RFP process and reject any or all proposals in the event it determines that there is no longer a requirement for the furnishing of such items, materials, equipment and/or services, funding is no longer available for this RFP, or it is otherwise in the County's best interest to cancel the RFP process.

5.2 SELECTION OF EVALUATION COMMITTEE

An Evaluation Committee consisting of selected personnel will be established to evaluate the proposals. It is the intent of the Evaluation Committee to select an apparent successful Bidder with a recommendation to initiate Agreement negotiations. Selection will not be made on cost alone, but will be based upon the most responsive proposal.

5.3 EVALUATION CRITERIA

The Evaluation Committee will consider only those proposals which have been considered responsive to the proposal. Any proposal which fails to meet the requirements of the RFP will be considered non-responsive and may be rejected. Responsiveness includes attention to detail in following the proposal format. The Evaluation Committee may also contact and evaluate the Bidder's and the Sub-

Contractors references; contact any Bidder to clarify any response; contact any current users of a Bidder's services; solicit information from any available source concerning any aspect of a proposal; and seek and review any other information deemed pertinent to the evaluation process. The Evaluation Committee shall not be obligated to accept the lowest priced proposal, but shall recommend such proposal that is the most qualified, responsive and cost-effective proposal and in the best interest of the County ("most responsive proposal").

Proposals shall be ranked on a score of 1 to 10, with a score of 6 to 10 as exceeds requirements; a score of 5 as meets requirements; and a score between 1 and 4 does not meet requirements.

CRITERIA		POINTS
1.	Financial Viability (County Auditor's Office financial review)	PASS/FAIL
2.	Required Attachments/Documents/Bonds (Completeness of required documents)	PASS/FAIL
3.	Responsiveness to RFP which includes clarity, completeness and general quality of RFP, terms, and conditions.	20
4.	<p>Cost Reasonableness of Plan</p> <ul style="list-style-type: none"> • This category will evaluate the cost of the proposed program, to determine if it is fair and reasonable based on other program services and/or historical data, and the degree to which expenditure of funds relates to performance outcomes. • Budgets will be reviewed for accuracy and completeness. Additionally, all proposals will be reviewed for costs that are reasonable, allowable, necessary, fully justified, and competitive, as measured by the review of the line item budget, budget summary, the program design, and comparison to all other proposals. 	40
5.	<p>Prior Experience as a One-Stop Operator and/or Understanding of the Project.</p> <ul style="list-style-type: none"> • This category will evaluate the following: <ul style="list-style-type: none"> i. The counties/regions where one-stop operator services are performed; ii. The extent to which the bidder currently 	40

	<p>engages in one-stop operator related services; and/or,</p> <p>iii. Understanding of the project/technical capability and personal experience with WIOA.</p>	
6.	<p>Oral Presentation</p> <p>The top scoring bidders may be selected to conduct an oral presentation before the Evaluation Committee. This presentation may either be conducted in person or through a conference call.</p>	

5.4 NOTICE OF INTENT

A "Notice of Intent to Negotiate" will be sent to all participating Bidders upon Evaluation Committee recommendation to initiate Agreement negotiation. This "Notice of Intent to Negotiate" will be sent to all participating Bidders by U.S. postal mail and/or email.

A "Notice of Intent to Award" will be sent to all participating Bidders upon completion of the Agreement negotiation and the Agreement is on the Board of Supervisors agenda. This "Notice of Intent to Award" will be sent to all participating Bidders by U.S. postal mail and/or email.

5.5 NEWS RELEASES

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

5.6 DEBRIEFING

A debriefing shall be held before the award of the Agreement upon the timely request of an unsuccessful Bidder for the purpose of receiving information concerning the evaluation of the Bidder's proposal. The request must be in writing, dated, signed either by the Bidder or a legally authorized individual on behalf of the Bidder and be received by the County's Department of Administrative Services-Purchasing at 2222 "M" Street, Merced, California 95340 within three (3) working days following the County's transmission, by U.S. postal mail or facsimile, of the "Notice of Intent to Negotiate". Each requesting Bidder will be allotted a maximum of one hour for any debriefing conference. The information provided by the County will be based on the Evaluation Committee determinations of your company's submitted proposal as it relates to the evaluation criteria as stated herein above. The debriefing may be held, in the discretion of the County, by telephone

conference call. The debriefing is not the forum to challenge the RFP's specification, requirements, or the selection criteria. The debriefing procedure provided herein to all requesting and unsuccessful Bidders to the County's Request for Proposal is the exclusive and sole remedy and means of receiving information regarding the respective Bidder's evaluation and preliminarily challenging the award of the Agreement.

5.7 PROTEST

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

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

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

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

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

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

5.8 PROTEST PROCEDURES

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

Merced.

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

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

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

SECTION 6

TERMS AND CONDITIONS

6.1 REQUEST FOR PROPOSAL CLOSING DATE

Proposals must be received in the Merced County Department of Administrative Services-Purchasing on or before 4:00 p.m. on date specified on each separate proposal.

Proposals shall be presented under sealed cover and clearly identified on the outside to read:

- Name of the bidder
- Address of the bidder
- Subject of the Proposal
- Request for Proposal Number
- Proposal Submittal Deadline Date

The time specified will be as defined by the official time clock in the office of the Department of Administrative Services-Purchasing, 2222 "M" Street, Room 1, Merced, California 95340. It is the sole responsibility of the submitting Bidder to ensure that its proposal is received before the submission deadline.

Proposal must be labeled as:

Merced County Request For Proposal No. 7193

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

All proposals shall remain firm for at least one hundred twenty (120) days following the RFP closing date. The County reserves the right to withhold an award of the proposal for one hundred twenty (120) days from date of closing.

All proposals and accompanying documentation submitted by the Bidders, with the exception of Financials, will become the property of the County and will not be returned. Proposals shall be based on the material contained in the RFP. Bidders are instructed to disregard any prospective oral representations it may have received prior to the solicitation of the RFP.

Cost for developing and preparing the proposal is solely the responsibility of the Bidder whether or not any award results from this solicitation. Further, the cost of developing and preparing responses to the RFP will not be allowed as direct or indirect charges under any resulting Agreement.

No alteration in any of the terms, conditions, delivery, price, quality, quantities, or specifications will be effective without prior written consent of the County.

THE COUNTY RESERVES THE RIGHT, AT ITS SOLE DISCRETION, TO REJECT ANY OR ALL PROPOSALS OR ANY PART THEREOF, OR TO WAIVE ANY INFORMALITIES IN THE RFP AND MINOR IRREGULARITIES, TECHNICAL DEFECTS OR CLERICAL ERRORS, TO MAKE AN AWARD ON THE BASIS OF SUITABILITY, QUALITY OF SERVICE(S) TO BE SUPPLIED, THEIR CONFORMITY WITH THE SPECIFICATIONS AND FOR THE PURPOSES FOR WHICH THEY ARE REQUIRED, AND NOT CONFINED TO PRICE ALONE. THE COUNTY SHALL NOT BE LIABLE FOR ANY COSTS INCURRED BY THE BIDDER IN CONNECTION WITH THE PREPARATION AND SUBMISSION OF THIS OR ANY OTHER PROPOSAL.

6.2 ANNOUNCEMENT OF PROPOSALS

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

6.3 INTERPRETATION, CORRECTIONS AND AMENDMENTS

The Bidder must carefully examine the specifications, terms and conditions provided in the Request for Proposal and become fully informed as to the requirements set forth therein. If anyone planning to submit a proposal discovers any ambiguity, conflict, discrepancy, omission or error in the RFP, has any questions in relationship to the "REQUIREMENTS", or any other related matters, Bidder shall immediately notify the contact person as shown on the cover page of this RFP of such concern in writing and request clarification or modification of the document(s) no later than the Question and Answer deadline as set forth under Section 2.2, "SCHEDULED ACTIVITIES". No further requests for clarification or objections to the RFP will be accepted or considered after this date. Any change in the RFP will be made only by written amendment, issued by the Department of Administrative Services-Purchasing to each vendor on the Bidders list as well as posted on the County website, and shall be incorporated in the RFP. The Bidder

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

The Bidder may e-mail questions to the Buyer whose name is specified on the RFP, or mail to:

Merced County Department of
Administrative Services-Purchasing
2222 "M" Street, Room 1
Merced, California 95340
Attention: Request For Proposal Information

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

6.4 DISCUSSION WITH RESPONSIBLE BIDDERS AND CLARIFICATIONS TO PROPOSAL

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

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

All Bidders submitting a proposal for consideration agree that their company will be willing to enter into a final Agreement if awarded this RFP. The County may, in its sole discretion, negotiate certain terms and conditions of such final Agreement after identification of the apparent successful Bidder. However, Bidders should not assume that any terms of this RFP or other applicable terms and conditions are subject to later negotiation, and should instead assume that all such terms and conditions are mandatory conditions of participation in this RFP process. Negotiated changes, if any, will not change the "Requirements".

6.5 ANNOUNCEMENT OF APPARENT SUCCESSFUL BIDDER

Based upon the qualifying and respective evaluations, the Evaluation Committee will recommend commencement of Agreement finalization. The Board of Supervisors will officially decide to select or reject the negotiated Agreement.

6.6 FALSE OR MISLEADING STATEMENTS

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

6.7 RULES FOR WITHDRAWAL OR REVISION OF PROPOSALS

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

6.8 INDEPENDENT CONTRACTOR

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

It is mutually understood and agreed that no employee-employer relationship will be created between County and Bidder or County and Bidder's employees, and that the awarded Bidder shall hold County harmless and be solely responsible for withholding, reporting and payment of any federal, state or local taxes, contributions or premium imposed or required by workers' compensation, unemployment insurance, social security, income tax or other statutes or codes applying to Bidder, or its sub-Contractors and employees, if any. It is mutually agreed and understood that the Bidder, its Sub-Contractors and employees, if any, shall have no claim under any Agreement that may result from this RFP or

otherwise against County for vacation pay, sick leave, retirement or social security benefits, occupational or non-occupational injury, disability or illness, or loss of life or income, by whatever cause.

6.9 EXPLANATION OF USE OF SUB-CONTRACTORS

Any Bidder using a Sub-Contractor(s) must clearly explain the use of the Sub-Contractor(s) and list the name(s) of the Sub-Contractor(s) providing work under this RFP. The selected Bidder will be fully responsible for all work performed under this RFP and will be considered as the Prime Contractor. Any Sub-Contracting, or other legal arrangements made by the Bidder are the sole responsibility of the Bidder. Any Agreement that is entered into between the selected Bidder and the Sub-Contractor(s) shall contain provisions for federal and state access to the books, documents, records, and inspection of work. Bidder awarded any Agreement as a result of this RFP shall obtain County written approval of sub-contractors identified in Bidder submittal prior to execution of Agreement.

6.10 JOINT VENTURES

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

6.11 CONFIDENTIALITY

The contents of all proposals, correspondence, agenda, memoranda, or any other medium which discloses any aspect of a Bidder's proposal shall be held in the strictest confidence until after negotiations for the contract are negotiated. If you contend that any submission contains trade secrets or proprietary data, please be advised that the County cannot and does not give any assurances or guarantees that such information will not be released under the California Public Records Act. The Bidder should clearly mark any of the information within their proposal that is proprietary, however, the County will be guided by the California Public records Act and the definition of Trade Secrets under California Civil Code Section 3426.1, but in no case will the following be considered proprietary: a) the final cost of the bid or proposal; b) information that is not clearly marked as proprietary in nature; c) information that, though marked as proprietary, is not actually proprietary d) information that is otherwise generally available as information or technology within the subject trade, industry or profession.

BIDDER SHALL NOT DESIGNATE THE ENTIRE PROPOSAL AS PROPRIETARY. SUCH ATTEMPTED DESIGNATION WILL NOT BE HONORED.

Submission of a proposal by a Bidder shall constitute an agreement to the provision for public announcement. The County shall not be obligated to release

information contained in any Bidder's RFP submittal that has been marked as proprietary, without the written consent of the Bidder. Any agency requesting such information so marked as proprietary must obtain such written authorization directly from Bidder and forwarded to County.

County shall not be required to contact any Bidder for information on behalf of any requesting agency. Merced County shall have the sole discretion and exclusive authority to determine if any other party has properly obtained the right to have access to proprietary information.

6.12 PUBLIC AGENCY PARTICIPATION

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

6.13 PRICING CONDITIONS

All proposals shall remain firm for at least one hundred twenty (120) calendar days after RFP Submittal Deadline unless otherwise specified. Within one hundred twenty (120) calendar days after the RFP Submittal Deadline opening, a purchase order and/or an Agreement may be awarded by the County, as it may deem proper, in its absolute discretion. The time for awarding a purchase order and/or an Agreement may be extended at the sole discretion of the County, if required to evaluate proposals or for such other purposes as the County may determine.

6.14 DETERMINATION OF BIDDER'S RESPONSIBILITY

- **Responsible Bidder**

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

- **Non-responsible Bidder**

The County may declare a Bidder to be non-responsible for purposes of this RFP for a variety of reasons, some of which are listed below. This is not an exclusive list - reasons may include the following but are limited to the below:

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

6.15 PUBLIC DISCLOSURE

All public records of the County are available for disclosure except the contents of the proposals received in response to an RFP, which are not open for public review until the contract between the awarded Bidder and the County is agendized with the Board of Supervisors. In the event that an unsuccessful Bidder files an official request to view the awarded Bidder's proposal, the County must comply with appropriate public disclosure procedures. However, if information specifically designated in the proposal as proprietary is requested County may attempt to notify Bidder should Bidder wish to pursue protections against disclosure, at its own cost, so that the information will not be made available.

Pursuant to the California Public Records Act, Government Code Sections 6250 *et seq.*, any contract that eventually arises from this Request for Proposal is a public record, in its entirety. Also, all information submitted in response to this Request for Proposals is itself a public record **without exception**, and will be disclosed upon request, but only after negotiations are complete. Submission of any materials in response to this Request for Proposals constitutes your consent to release materials, and a waiver of any claim that the information is protected from disclosure. Furthermore, by submitting materials, you agree to indemnify and hold harmless Merced County for release of such information.

6.16 QUALIFICATIONS OF BIDDER

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

6.17 DISQUALIFICATION OF BIDDER

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

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

6.18 INTEGRITY OF EXPENDITURE

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

6.19 GRATUITIES

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

6.20 CONFLICT OF INTEREST

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

6.21 FEDERAL, STATE, AND LOCAL TAXES

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

6.22 OSHA REQUIREMENTS

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

6.23 ENVIRONMENTAL PROTECTION

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

6.24 DRUG FREE WORK PLACE

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

6.25 PREVAILING WAGE RATES

Should the RFP call for the Bidder to be responsible for any site preparation activities, the Bidder will be required to certify adherence to the requirements of all state and federal laws relating to the payment of prevailing wage rates for work performance under public works project laws, specifically, as covered by the federal Davis-Bacon Act and California Labor Code 1720 et seq. A copy of this wage scale may also be obtained from the office of the Director of Industrial relations, State of California, or <http://www.dir.ca.gov/DLSR/PWD/mer.xls>

It shall be mandatory upon the Bidder to whom the Agreement is awarded, and upon all sub-Contractor under him, to ascertain and pay not less than the latest general prevailing hourly rates for Saturday, Sunday, holidays, and overtime work

for each workman or mechanic employed in the execution of the work of this project as per determination made by the Director of Industrial Relations, California Labor Code, Part 7, Chapter 1, Article 2, Sections 1770, 1773, and 1773.1.

6.26 COMPLIANCE WITH APPLICABLE LAWS

The successful Bidder shall otherwise perform all obligations under the resulting Agreement in compliance with all applicable federal, state, and local laws, rules, regulations, and policies.

No Contractor or sub-Contractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].

No Contractor or sub-Contractor may be awarded an Agreement for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

6.27 LEGAL CONSIDERATIONS

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

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

6.28 OUT-OF-STATE BIDDER

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

6.29 BUSINESS LICENSE

Prior to the issuance of any purchase order and/or the performance of any

Agreement derived from this bid, the successful bidder and its sub-Contractors shall be required to maintain a Merced County Business License in accordance with the County of Merced Ordinance No. 1705, "An Ordinance Establishing a requirement for a Business License and Temporary Business License and/or persons operating in the unincorporated areas of Merced County" (<http://www.qcode.us/codes/mercedcounty/>).

It is the intent of the Board of Supervisors of the County of Merced to authorize that no person shall maintain, conduct, or carry-on a business, whether or not for profit, located in whole or in part at a fixed place of business within the County and outside the limits of any incorporated city, without first obtaining a license to operate as provided under the County of Merced Ordinance No. 1705.

DEFINITIONS

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

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

Bonds –

Fidelity Bond - Also referred to as a Dishonesty Bond. A fidelity bond is a form of protection that covers the County for losses as a result of fraudulent acts by the Contractor.

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

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

Payment Bond – This bond is to protect sub-Contractors and suppliers. It ensures that the surety backing the bond will pay the sub-Contractors and suppliers if the general Contractor does not.

Closing Date/Time - The day and time the Request for Proposal must be received in the office of the Department of Administrative Services-Purchasing for acceptance.

Consultant - The Bidder awarded the Agreement derived from this RFP.

Contractor - The Bidder or Vendor awarded the Agreement derived from this Bid or RFP.

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

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

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

Evaluation Committee - A committee established to review and evaluate proposals

to determine the Agreement award. The committee includes representatives of the department seeking the goods or services.

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

Goals/Tasks - A discrete unit of work to be performed.

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

May – Indicates something that is not mandatory but permissible.

Must/Shall – Indicates a mandatory requirement. A proposal that fails to meet a mandatory requirement will be deemed non-responsive and not be considered for award.

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

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

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

Proposal Deadline - The closing date associated with this proposal.

Proprietary – The information provided that is considered exempt from public disclosure defined as Trade Secrets under Civil Code Section 3426.1, pursuant to Public Records Act.

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

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

Tasks – A discrete unit of work to be done.

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

Work Plan - The mutually agreed to document, which describes task, dependencies, the sequence and timing of events, deliverables, and responsible parties, associated with the various phases of the proposal.

ATTACHMENT A

SIGNATURE PAGE

(BIDDER TO COMPLETE AND PLACE IN FRONT OF PROPOSAL)

INDIVIDUAL/COMPANY _____

ADDRESS _____
(P.O. Box/Street) (City) (State) (Zip)

CONTACT PERSON: _____

TITLE: _____

TELEPHONE NO. _____ FAX NO. _____

E-MAIL ADDRESS _____

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

“I certify that I have read the Sample Agreement (Exhibit 1) pursuant to the submittal of a Request For Proposal (RFP) and will comply with said Sample Agreement, unless otherwise noted by exception herein, as of the date and time of close of this RFP”.

Authorized Representative - Name Title

Signature (in blue ink) Date

Business License No.: (Merced City) _____

(Merced County) _____

Professional License No.: _____

Taxpayer Identification No.: _____

EXHIBIT 1
Sample Agreement

**AGREEMENT FOR SPECIAL SERVICES
(CONTRACTOR)**

**SAN JOAQUIN VALLEY SUB REGIONAL PLANNING UNIT
AGREEMENT NO. _____**

THIS AGREEMENT, is made and entered into by and between the County of Kings (a political subdivision of the State of California), the Madera County Workforce Investment Corporation, the County of Merced (a political subdivision of the State of California), the County of San Joaquin (a political subdivision of the State of California), and the County of Stanislaus (a political subdivision of the State of California) (hereinafter referred to collectively as the "Sub-RPU Entities"); and, (name of Agreeing company or individual; specify the type of organization such as - government agency, individual, corporation, partnership, i.e. "California Skilled Nursing and Care Company", a California Corporation), located at (Street Address, Suite No., City, State) (hereinafter referred to as "Contractor").

WHEREAS, the Sub-RPU Entities desires to contract with Contractor for special services which consist of (list the type of services you desire to Agreement for); and

WHEREAS, Contractor is specially trained, experienced, and competent to perform such services in connection with (list type of services to be rendered) pursuant to (include any government code sections that may be applicable to this Agreement); and

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

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

1. SCOPE OF SERVICES

Contractor shall provide (list type of services to be rendered) services in accordance with the terms and conditions stated herein, and any specifically referenced attachments hereto. Contractor's services include, but are not limited to, the following:

- A. (describe in detail the service to be performed by Contractor)
- B. _____

The following exhibits are specifically incorporated by reference, attached hereto, and made a part hereof, except when in conflict with this Agreement or modified herein:

- Exhibit A - *(i.e., Request for Proposal, Statement of Work, etc.)*
- Exhibit B - *(i.e., Contractors Responding Proposal, Proposed Budget, etc.)*
- Exhibit C - *(i.e., Related Documentation)*

2. TERM

The term of this Agreement shall commence on the ____ day of ____, 20__, and continue until the ____ day of _____, 20____, unless sooner terminated in accordance with the sections entitled “TERMINATION FOR CONVENIENCE” or “TERMINATION FOR CAUSE”, as set forth elsewhere in this Agreement.

3. COMPENSATION

The Sub-RPU Entities agree to a Total Agreement Price of *(type out contract price, i.e., Five Thousand Dollars and No/100 Cents)* Dollars and No/100 Cents (\$) *(type numerical amount, i.e., \$5000.00)* for all of CONSULTANT’s services to be provided herein, as are more specifically set forth under Section, "SCOPE OF SERVICES." Contractor will be paid separately by each Sub-RPU Entity in a percentage of the total and shall bill accordingly as follows:

Sub-RPU Entities	Share of Total Contract Price
Kings County	
Madera County Workforce Investment Corporation	
Merced County	
San Joaquin County	
Stanislaus County	

The Total Agreement Price shall include all of the Sub-RPU Entities’ compensation to Contractor, including reimbursement for all expenses incurred by Contractor in the performance of this Agreement. As stated in the Scope of Services, the separate Sub-RPU Entities may wish to have the Contractor provide additional services at the rate specified within the Scope. This will comprise a separate agreement, and the entity requesting the additional services is solely liable for the cost of the services rendered and will be billed accordingly. Other than that exception, no other fees or expenses of any kind shall be paid to Contractor in addition to the Total Agreement Price. In no event shall the total services to be provided hereunder exceed the Total Agreement Price. This fee may be subject to withholding for State of California income tax.

Any and/or all payments made under this Agreement shall be paid by check, payable to the order of the Contractor and be mailed or delivered to Contractor at:

Name:
Address:

City/State/Zip:

Contractor may request that the Sub-RPU Entities mail the check to Contractor, to such other address as Contractor may from time to time designate to the Sub-RPU Entities. Such request must be made in writing in accordance with the procedures as outlined under Section "NOTICES".

4. PRICING CONDITIONS:

The Sub-RPU Entities agree to pay Contractor for all services required herein as prescribed, fixed at the submitted pricing, which shall include reimbursement for all expenses incurred. No other expenses shall be paid to Contractor without formal approval by the entity in each of the separate Sub-RPU Entities of the Sub-RPU Entities having the power to enter into contracts or their authorized agent. In no event shall the total services to be performed hereunder exceed \$ _____.

The Sub-RPU Entities shall not be responsible for any charges or expenses incurred by Contractor, his/her agents, employees or independent Contractors, other than those listed herein, in connection with the performance of services hereunder unless authorized in advance in writing by the Sub-RPU Entities.

5. TERMS OF PAYMENT

Payment shall be only for full, complete satisfactory performance of the services required to be provided herein and as set forth under Section "SCOPE OF SERVICES." Payment shall be made in the following manner:

Upon completion of the required services as set forth under Section "SCOPE OF SERVICES," Contractor shall submit an invoice **within 30 calendar days of each invoice period**, detailing the services it has provided and the amount owed under this Agreement. In addition to the invoice submitted by the Contractor for payment, Contractor must complete and submit to the Sub-RPU Entities, Form W-9, "A Request for Taxpayer Identification Number and Certification", located at (www.irs.gov/pub/irs-pdf/fw9.pdf). Both the invoice and W-9 form shall be forwarded to the points of contact at the address shown under Section "NOTICES" of this Agreement, **not later than thirty (30) calendar days after completion and acceptance by the separate Sub-RPU Entities of all tasks identified on the invoice**. Upon approval by separate Sub-RPU Entities of the Sub-RPU Entities, the fee due hereunder shall be paid to Contractor within thirty (30) days following receipt of a complete and correct invoice.

Each invoice or approved alternate documentation must:

- A. Detail by task the service performed by Contractor.
- B. Detail the labor cost (number of hours) attributed to each task.

- C. Show the cumulative cost for all tasks performed to date.
- D. Provide any additional information and data requested by Sub-RPU Entities as deemed necessary by the Sub-RPU Entities to properly evaluate or process Contractors claim.

In no event shall the Sub-RPU Entities be liable for the payment of any invoice not submitted within thirty (30) calendar days following termination of the Agreement.

6. NO PAYMENT FOR SERVICE PROVIDED FOLLOWING EXPIRATION / TERMINATION OF AGREEMENT

Contractor shall have no claim against the Sub-RPU Entities for payment of any kind whatsoever for any services provided by Contractor which were provided after the expiration or termination of this Agreement. Should one or more Sub-RPU Entities elect to terminate this Agreement for any reason, then Agreement shall continue as to the other Sub-RPU Entities. The terminating Sub-RPU Entity(s) shall provide thirty (30) calendar days written notice to the Contractor and non-terminating Sub-RPU Entities of the termination date. Upon the effective date of such notice, all of the terms of this Agreement shall apply with regard to the terminating Sub-RPU Entity(s). Furthermore, the Total Agreement Price, or the remainder thereof, shall be reduced in proportion to the amount remaining of the Total Agreement Price attributable to the terminating Sub-RPU Entity(s).

7. NOTICES

All notices, requests, demands or other communications under this Agreement shall be in writing. Notice shall be sufficiently given for all purposes as follows:

- A. Personal Delivery. When personally delivered to the recipient, notice is effective upon delivery.
- B. First Class Mail. When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three mail delivery days after deposit in a United States Postal Service office or mailbox.
- C. Certified Mail. When mailed by certified mail, return receipt requested, notice is effective upon receipt, if delivery is confirmed by a return receipt.
- D. Overnight Delivery. When delivered by an overnight delivery service, charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service.
- E. Facsimile Transmission. When sent by fax to the last fax number of the recipient known to the party giving notice, notice is effective upon receipt, provided that: a) a duplicate copy of the notice is promptly given by first class mail or certified mail or by overnight delivery, or b) the receiving party delivers a written confirmation

of receipt. Any notice given by fax shall be deemed received on the next business day if received after 5:00 P.M. (recipient's time) or on a non-business day.

Any correctly addressed notice that is refused, unclaimed or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that the notice was refused, unclaimed or deemed undeliverable by the postal authorities, messengers or overnight delivery service.

Information for notice to the parties to this Agreement at the time of endorsement of this Agreement is as follows:

Contractor	County of Kings c/o
_____	_____
_____	_____
_____	_____
Madera County Workforce Investment Corporation c/o	County of Merced c/o
_____	_____
_____	_____
_____	_____
County of San Joaquin c/o	County of Stanislaus c/o
_____	_____
_____	_____
_____	_____

Any party may change its address or fax number by giving the other party notice of the change in any manner permitted by this Agreement.

8. CONDITION SUBSEQUENT/NON-APPROPRIATION OF FUNDING

The compensation paid to CONTRACTOR pursuant to this Agreement is based on the Sub-RPU Entities' continued appropriation of funding for the purpose of this Agreement, as well as the receipt of local, county, state and/or federal funding for this purpose. The parties acknowledge that the nature of government finance is unpredictable, and that the rights and obligations set forth in this Agreement are therefore contingent upon the receipt and/or appropriation of the necessary funds. In the event that funding is terminated, in whole or in part, for any reason, at any time, this Agreement and all obligations of the Sub-RPU Entities arising from this Agreement shall be immediately discharged. The Sub-RPU Entities agree to inform CONTRACTOR no later than ten (10) calendar days after the Sub-RPU Entities determine, in their judgment, that funding will be terminated and the final date for which funding will be available. Under these circumstances, all billing or other claims for compensation or reimbursement by CONTRACTOR arising out of performance of this Agreement must be submitted to the Sub-RPU Entities prior to the final date for

which funding is available. In the alternative, the Sub-RPU Entities and CONTRACTOR may agree, in such circumstance, to a suspension or modification of either party's rights and obligations under this Agreement. Such a modification, if the parties agree thereto, may permit a restoration of previous Agreement terms in the event funding is reinstated. Also in the alternative, the Sub-RPU Entities may, if funding is provided to the Sub-RPU Entities in the form of promises to pay at a later date, whether referred to as "government warrants," "IOUs," or by any other name, the Sub-RPU Entities may, in its sole discretion, provide similar promises to pay to the CONTRACTOR, which the CONTRACTOR hereby agrees to accept as sufficient payment until cash funding becomes available.

9. TERMINATION FOR CONVENIENCE

This Agreement, notwithstanding anything to the contrary herein above or hereinafter set forth, may be terminated by the Sub-RPU Entities at any time without cause or legal excuse by providing the other party with thirty (30) calendar days written notice of such termination.

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

Should one or more Sub-RPU Entities wish to terminate this Agreement, the Agreement shall continue as to the other Sub-RPU Entities. The terminating Sub-RPU Entity(s) shall provide thirty (30) calendar days written notice to the Contractor and non-terminating Sub-RPU Entities of the termination date. Upon the effective date of such notice, all of the terms of this Section 9 shall apply with regard to the terminating Sub-RPU Entity(s). Furthermore, the Total Agreement Price, or the remainder thereof, shall be reduced in proportion to the amount remaining of the Total Agreement Price attributable to the terminating Sub-RPU Entity(s).

10. TERMINATION FOR CAUSE

The Sub-RPU Entities may terminate this Agreement and be relieved of making any payments to Contractor, and all duties to Contractor should the Contractor fail to perform any material duty or obligation of the Agreement. Notice shall be given as otherwise provided herein. In the event of such termination the Sub-RPU Entities may proceed with the work in any manner deemed proper by the Sub-RPU Entities. All costs to the Sub-RPU Entities shall be deducted from any sum otherwise due the Contractor and the balance, if any, shall be paid to the Contractor upon demand. Such remedy is in addition to such other remedies as may be available to the Sub-RPU Entities provided by law.

11. MODIFICATION OF THE AGREEMENT

Notwithstanding any of the provisions of this Agreement, the parties may agree to amend this Agreement. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto. No oral understanding or Agreement not incorporated herein shall be binding on any of the parties hereto.

12. INSURANCE

A. Prior to the commencement of work, and as a precondition to this Agreement, Contractor shall purchase and maintain the following types of insurance for the stated minimum limits indicated during the term of this Agreement. Contractor shall provide a certificate of insurance and endorsements naming each entity comprising the Sub-RPU Entities as an additional insured on each policy. The insurance carrier shall be required to give Sub-RPU Entities notice of termination at least 10 days prior to the intended termination of any specified policy. Notice shall be given as specified above. Each certificate of insurance shall specify if Contractor has a SIR, and if so, Contractor shall be required to provide the entire policy of insurance with which it has a SIR.

1. Commercial General Liability: \$1,000,000 per occurrence and \$2,000,000 annual aggregate covering bodily injury, personal injury and property damage. The Sub-RPU Entities and their officers, employees and agents shall be endorsed to above policies as additional insured, using ISO form CG2026 or an alternate form that is at least as broad as form CG2026, as to any liability arising from the performance of this Agreement.
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage, or alternatively split limits of \$500,000 per person and \$1,000,000 per accident for bodily injury with \$250,000 per accident for property damage.
3. Workers Compensation: Statutory coverage, if and as required according to the California Labor Code, including Employers' Liability limits of \$1,000,000 per accident. The policy shall be endorsed to waive the insurer's subrogation rights against the Sub-RPU Entities.
4. Professional Liability: \$1,000,000 limit per occurrence and \$5,000,000 annual aggregate limit covering CONSULTANT'S wrongful acts, errors and omissions. Any aggregate limit for professional liability must be separate and in addition to any CGL aggregate limit. (If Applicable)

B. Insurance Conditions

1. Insurance is to be placed with admitted insurers rated by A.M. Best Co. as A: VII or higher. Lower rated, or approved but not admitted insurers, may be accepted.

2. Each of the above required policies shall be endorsed to provide the Sub-RPU Entities with 30 days prior written notice of cancellation. The Sub-RPU Entities are not liable for the payment of premiums or assessments on the policy. No cancellation provisions in the insurance policy shall be construed in derogation of the continuing duty of Contractor to furnish insurance during the term of this Agreement.

13. INDEMNIFICATION

Contractor has the contracted duty (hereinafter "the duty") to indemnify, defend and hold harmless, the Sub-RPU Entities, their Board of Supervisors, officers, employees, agents and assigns from and against any and all claims, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the performance of this Agreement, whether in tort, Agreement or otherwise. This duty shall include, but not be limited to, claims for bodily injury, property damage, personal injury, and Contractual damages or otherwise alleged to be caused to any person or entity including, but not limited to employees, agents and officers of Contractor.

Contractor's liability for indemnity under this Agreement shall apply, regardless of fault, to any acts or omissions, willful misconduct or negligent conduct of any kind, on the part of the Contractor, its agents, sub-Contractors and employees. The duty shall extend to any allegation or claim of liability except in circumstances found by a jury or judge to be the sole and legal result of the willful misconduct of the Sub-RPU Entities. This duty shall arise at the first claim or allegation of liability against the Sub-RPU Entities. Contractor will on request and at its expense defend any action suit or proceeding arising hereunder. This clause for indemnification shall be interpreted to the broadest extent permitted by law.

Each Sub-RPU entity agrees to indemnify, defend and hold harmless each of the other Sub-RPU Entities, their Board of Supervisors, officers, employees, agents and assigns from and against any and all claims, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with services rendered to that specific entity under this Agreement by Contractor.

14. PATENT INDEMNITY

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

15. INDEPENDENT CONTRACTOR

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

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

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

Contractor shall insure that all its personnel and employees, sub-Contractors and their employees, and any other individuals used to perform the Contracted services are aware and expressly agree that the Sub-RPU Entities is not responsible for any benefits, coverage or payment for their efforts.

16. RECORDS, INFORMATION AND REPORTS

Contractor shall maintain full and accurate records with respect to all matters covered under this Agreement. To the extent permitted by law, the Sub-RPU Entities shall have free access at all proper times or until the expiration of four (4) years after the furnishing of services to such records, and the right to examine and audit the same and to make transcripts there from, and to inspect all data, documents, proceedings, and activities pertaining to this Agreement.

To the extent permitted by law, Contractor shall furnish the Sub-RPU Entities such periodic reports as the Sub-RPU Entities may request pertaining to the work or services undertaken pursuant to this Agreement. The costs and obligations incurred or to be incurred in connection therewith shall be borne by the Contractor.

17. OWNERSHIP OF DOCUMENTS

To the extent permitted by law, all technical data, evaluations, plans, specifications, reports, documents, or other work products developed by Contractor hereunder are the exclusive property of the Sub-RPU Entities and upon request of a Sub-RPU Entity or

Entities shall be delivered upon completion of the services authorized hereunder. In the event of termination, all finished or unfinished documents and other materials, if any, at the option of the Sub-RPU Entities, and to the extent permitted by law, shall become the property of the Sub-RPU Entities. Contractor may retain copies thereof for its files and internal use.

Any publication of information directly derived from work performed or data obtained in connection with services rendered under this Agreement must be first approved by the Sub-RPU Entities.

18. QUALITY OF SERVICE

Contractor shall perform its services with care, skill, and diligence, in accordance with the applicable professional standards currently recognized by such profession, and shall be responsible for the professional quality, technical accuracy, completeness, and coordination of all reports, designs, drawings, plans, information, specifications, and/or other items and services furnished under this Agreement.

Contractor shall, without additional compensation, correct or revise any errors or deficiencies immediately upon discovery in its reports, drawings, specifications, designs, and/or other related items or services.

19. PERSONAL SATISFACTION AS A CONDITION PRECEDENT

The obligations of the Sub-RPU Entities as provided in this Agreement are expressly conditioned upon Contractor's compliance with the provisions of this Agreement to the personal satisfaction of the Sub-RPU Entities. The Sub-RPU Entities shall determine compliance in good faith as a reasonable person would under the circumstances.

20. PUBLIC AGENCY PARTICIPATION

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

21. ENTIRE AGREEMENT

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

22. THE SUB-RPU ENTITIES NOT OBLIGATED TO THIRD PARTIES

The Sub-RPU Entities shall not be obligated or liable hereunder to any party other than Contractor.

23. LAWS, LICENSES, PERMITS AND REGULATIONS

Contractor and the Sub-RPU Entities agree to comply with all State laws and regulations that pertain to construction, health and safety, labor, minimum wage, fair employment practice, equal opportunity, and all other matters applicable to Contractor and the Sub-RPU Entities, their sub-grantees, Contractors, or sub-Contractor, and their work.

Contractor shall possess and maintain all necessary licenses, permits, certificates and credentials required by the laws of the United States, the State of California, County of Kings, County of Madera, County of Merced, County of San Joaquin; and all other appropriate governmental agencies, including any certification and credentials required by the Sub-RPU Entities. Failure to maintain the licenses, permits, certificates, and credentials shall be deemed a breach of this Agreement and constitutes grounds for the termination of this Agreement by the Sub-RPU Entities.

24. LIMITED AFFECT OF WAIVER OR PAYMENT

In no event shall the making, by the Sub-RPU Entities, of any payment to Contractor constitute, or be construed as, a waiver by the Sub-RPU Entities of any breach of covenant, or any default which may then exist, on the part of Contractor. The making of any such payment by the Sub-RPU Entities while any such breach or default shall exist, shall not be construed as acceptance of substandard or careless work or as relieving Contractor from its full responsibility under this Agreement.

No waiver by either party of any default, breach or condition precedent shall be valid unless made in writing and signed by the parties hereto. No oral waiver of any default, breach or condition precedent shall be binding on any of the parties hereto. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent, or any other right hereunder.

25. PERSONNEL

Contractor represents that it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. All of the services required hereunder will be performed by Contractor or under its supervision, and all personnel engaged in the work shall be qualified to perform such services.

26. SUB-CONTRACTS - ASSIGNMENT

Contractor shall not sub-contract or assign this Agreement, or any part thereof, or interest

therein, directly or indirectly, voluntarily or involuntarily, to any person without obtaining the prior written consent by the Sub-RPU Entities. Contractor remains legally responsible for the performance of all Agreement terms including work performed by third parties under sub-contracts. Any sub-contracting will be subject to all applicable provisions of this Agreement. Contractor shall be held responsible by the Sub-RPU Entities for the performance of any sub-contractor whether approved by the Sub-RPU Entities or not.

27. APPLICABLE LAW; VENUE

All parties agree that this Agreement and all documents issued or executed pursuant to this Agreement as well as the rights and obligations of the parties hereunder are subject to and governed by the laws of the State of California in all respects as to interpretation, construction, operation, effect and performance. No interpretation of any provision of this Agreement shall be binding upon the Sub-RPU Entities unless agreed in writing by the Sub-RPU Entities and their counsel.

Notwithstanding any other provision of this Agreement, any disputes concerning any question of fact or law arising under this Agreement or any litigation or arbitration arising out of this Agreement, shall be tried in the county where services are being provided, unless the parties agree otherwise or are otherwise required by law.

28. BREACH OF AGREEMENT

Upon breach of this Agreement by Contractor, the Sub-RPU Entities shall have all remedies available to it both in equity and/or at law.

29. LIMITATION ON LIABILITY

In the event there is a claim of breach against one or more of the Sub-RPU Entities that is a signatory to this Agreement, Contractor shall be limited to recovery against the breaching entity only. Contractor shall have no cause of action against the non-breaching Sub-RPU Entities, their Board of Supervisors, officers, employees, agents and assigns. Contractor expressly waives any right to recovery in any amount for any cause of action or legal theory against the non-breaching Sub-RPU Entities.

30. REMEDY FOR BREACH AND RIGHT TO CURE

Notwithstanding anything else in this Agreement to the contrary, if Contractor fails to perform any obligation of this Agreement, the Sub-RPU Entities may themselves perform, or cause the performance of, such agreement or obligation. In that event, Contractor will, on demand, fully reimburse the Sub-RPU Entities for all such expenditures. Alternatively, the Sub-RPU Entities, at their option, may deduct from any funds owed to Contractor the amount necessary to cover any expenditures under this provision. This is in addition to any other remedies available to the Sub-RPU Entities by law or as otherwise stated in this Agreement.

31. SUCCESSORS IN INTEREST

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

32. CONFLICT OF INTEREST

Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of this Agreement. Contractor shall ensure that no conflict of interest exists between its officers, employees, or sub-Contractors, and the Sub-RPU Entities. Contractor shall ensure that no officer or employee of the Sub-RPU Entities in a position that enables them to influence this Agreement will have any direct or indirect financial interest resulting from this Agreement. Contractor shall ensure that no employee of the Sub-RPU Entities shall have any relationship to the Contractor or officer or employee of the Contractor, nor that any such person will be employed by Contractor in the performance of this Agreement without immediate divulgence of such fact to the Sub-RPU Entities.

33. NONDISCRIMINATION IN EMPLOYMENT, SERVICES, BENEFITS AND FACILITIES

Contractor and any sub-Contractors shall comply with all applicable federal, state, and local Anti-discrimination laws, regulations, and ordinances and shall not unlawfully discriminate, deny family care leave, harass, or allow harassment against any employee, applicant for employment, employee or agent of the Sub-RPU Entities, or recipient of services contemplated to be provided or provided under this Agreement, because of race, ancestry, marital status, color, religious creed, political belief, national origin, ethnic group identification, sex, sexual orientation, age (over 40), medical condition (including HIV and AIDS), or physical or mental disability. Contractor shall ensure that the evaluation and treatment of its employees and applicants for employment, the treatment of the Sub-RPU Entities' employees and agents, and recipients of services are free from such discrimination and harassment.

Contractor represents that it is in compliance with and agrees that it will continue to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), the Fair Employment and Housing Act (Government Code §§ 12900 et seq.), and ensure a workplace free of sexual harassment pursuant to Government Code 12950; and regulations and guidelines issued pursuant thereto.

Contractor agrees to compile data, maintain records and submit reports to permit effective enforcement of all applicable antidiscrimination laws and this provision.

Contractor shall include this nondiscrimination provision in all sub-agreements related to this Agreement and when applicable give notice of these obligations to labor organizations with which they have Agreements.

34. CAPTIONS

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

35. SEVERABILITY

If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable or invalid, in whole or in part, for any reason, the validity and enforceability of the remaining provisions, or portion of them, will not be affected. Compensation due to Contractor from the Sub-RPU Entities may, however, be adjusted in proportion to the benefit received despite the removal of the effected provision.

36. DUPLICATE COUNTERPARTS

This Agreement may be executed in duplicate counterparts, each of which shall be deemed a duplicate original. The Agreement shall be deemed executed when it has been signed by all parties.

37. DEATH AND DISABILITY *when applicable***

It is understood and agreed that if this Agreement is entered into for the unique personal services of Contractor, in the event of his/her death, this Agreement is forthwith terminated. In the event Contractor is disabled permanently or for an extended period, the Sub-RPU Entities may, at its option, terminate this Agreement forthwith. Permanent or extended disability means that Contractor is unable to perform the services of this Agreement for such a period of time that it would cause a detriment to the Sub-RPU Entities as determined by the reasonable judgment of the Sub-RPU Entities.

///
(Name of Individual/Company)

By _____
(Name)

(Title of Individual)

Dated

County of Kings

APPROVED AS TO LEGAL FORM
KINGS COUNTY COUNSEL

By _____
(Name)

By _____

(Title of Individual)

Dated

Madera County Workforce Investment Corporation

By _____
(Name)

(Title of Individual)

Dated

County of Merced

APPROVED AS TO LEGAL FORM
MERCED COUNTY COUNSEL

By _____
(Name)

By _____

(Title of Individual)

Dated

County of San Joaquin

APPROVED AS TO LEGAL FORM
SAN JOAQUIN COUNTY COUNSEL

By _____
(Name)

By _____

(Title of Individual)

Dated

County of Stanislaus

APPROVED AS TO LEGAL FORM
STANISLAUS COUNTY COUNSEL

By _____
(Name)

By _____

(Title of Individual)

Dated