

REQUEST FOR PROPOSAL

FOR

PROFESSIONAL SERVICES
NORTH ACADEMY CORRIDOR
ECONOMIC FEASIBILITY
& TARGET RETAILERS

October 2017



City of Sanger
Community Development Department
1700 7th Street
Sanger, CA 93657

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SUMMARY

- Proposal Due Date:** **4:00 p.m., Friday, November 3, 2017**
Proposal packages received after the time and date stated above will be returned unopened to the consultant.
- Submittals:** Six (6) paper copies of the proposal along with either a compact disc or flash drive containing an electronic copy of the proposal in Adobe *.pdf format, the project schedule in Microsoft Project *.mpp format, and the Scope of Work in Microsoft Word *.doc format. (See Submittal Requirement Section for details).
- Addressed to:** Rebeca Hernandez, City Clerk
City of Sanger
1700 7th Street
Sanger, CA 93657
- Notification List:** The full content of the RFP is available through the City’s website (www.ci.sanger.ca.us). If addenda are necessary, they will be posted onto the City’s website as well. Prospective proposers are asked to send an e-mail to David Brletic, Senior Planner, at dbrletic@ci.sanger.ca.us by Friday, October 13, 2017 so that the firm can be added to a notification list to directly receive any addendums, changes or responses to written inquiries.
- Pre-proposal Meeting:** A pre-proposal meeting is not required.
- Inquiries:** Requests for clarification regarding this RFP must be submitted in writing via email to David Brletic at dbrletic@ci.sanger.ca.us and received no later than 5:00 p.m., Friday, October 23, 2017. Written responses to timely inquiries will be emailed to the proposer notification list up to 72 hours prior to the proposal submittal deadline.
- Funding:** Funding for this project is from the City of Sanger General Fund.
- Anticipated Consultant Selection Schedule:**
- | | |
|---------------------------------|------------------------|
| Proposal review and evaluation: | November 6 – 9, 2017 |
| Oral Interviews: | November 13 – 17, 2017 |
| Selection/Negotiation: | November 20 – 22, 2017 |
| Contract Award: | December 7, 2017 |

INTRODUCTION

The City of Sanger Community Development Department is seeking proposals from qualified consulting firms to conduct economic feasibility analysis and identification of target retailers for the North Academy Corridor.

Requests for information:

All requests for information (RFI) and questions regarding this project shall be in writing via email to David Brletic, Senior Planner, at dbrletic@ci.sanger.ca.us. There are NO phone calls to the City for additional information or clarification. The City shall reply to questions or RFI's that the City deem necessary for the preparation of the consultant's proposal. Response to RFI's and questions shall be done via email. The email list that shall be utilized for distribution of the response shall be the Master List of consultants who requested the RFP. Prospective proposers are asked to send an e-mail to David Brletic, Senior Planner, at dbrletic@ci.sanger.ca.us 5:00 p.m., Friday, October 13, 2017, so that the firm can be added to a notification list to directly receive any addendums, changes or responses to written inquires. The City does not guarantee the email list is complete and accurate. It is the responsibility of the consultant to ensure a proper email address is on record. Failure to abide by this provision shall deem that consultant non-responsive and the proposal will not be considered.

PROJECT DESCRIPTIONS

The City of Sanger is working towards annexation of the North Academy Corridor (see Attachment 1). The project area includes the east and west side of Academy Avenue (ranging from approximately 1,275 feet to 1,500 feet) from California Avenue to approximately 1,100 feet north of California Highway 180. The project area is approximately 367± acres. The proposed annexation is intended to add needed commercially zoned property to provide goods and services to the City of Sanger and the surrounding population and to promote economic growth within the City of Sanger.

REQUESTED SCOPE OF WORK

1. Retail Market and Economic Analysis – Evaluation of Existing Conditions
 - a. Retail Market Supply and Demand Analysis: Retail supply, vacancy rates & lease rates, retail sales performance, retail sales surplus/leakage by retail subcategory.
2. Retail Strategy and Implementation Plan
 - a. Evaluation of suitability of proposed project area.
 - b. Target Retailers and Retail Subcategories
3. Initial Plan Implementation.
 - a. Data to present at ICSC to Retailers
 - b. To be in appropriate report form.

In general, services will include preparation of necessary plans, specifications, estimates, and conducting necessary utility coordination for the project.

At a minimum the consultant proposal shall include:

Project Management

- The selected consultant shall be responsible for project management activities throughout the life of the contract. The scope of comprehensive project management includes, but is not limited to, efficiently managing the project schedule, setting up and facilitating client meetings, interagency meetings, other project related meetings (consultant shall prepare meeting agendas, meeting minutes, identify action items and how they are accounted for, and meeting sign in sheets for all meetings), and managing the consultant team involved in the project (“project team”). Managing the project team includes, but is not limited to, preparing contract paperwork, memos, letters and e-mail, making phone calls and maintaining project files.
- Prepare on a monthly basis a brief written summary of work (typically 1 page long) that has been accomplished in the previous month, anticipated work for the next month and key decisions that need to be made to keep the project on schedule.
- Invoices shall show the original budget, reallocated budget, amount spent to-date, amount spent this period, and percentage spent to- date for each task.
- Participate in coordination meetings with City staff (assume 4 meetings).
- Prepare and maintain project schedule.

Services Previously Completed, or that will be Provided, by the City

The intent for this project is that the consultant will be responsible for the scope of work outlined in this RFP and will minimize the work required from City staff. The City has completed, and/or will provide, the following services and/or information to the consultant:

General

- The City will furnish access to existing information, reports, data, and mapping necessary for carrying out the requested services. The City’s responsibility to provide access to information is limited to data of record in City’s files and in the format as recorded. The consultant shall check and investigate existing information and conditions and notify the City of any deficiencies that are discovered.
- The City will provide meeting space for project team meetings as deemed necessary.

Environmental Document

- The City of Sanger is in the process of preparing and adopted a Comprehensive General Plan Update and corresponding EIR. No environmental document preparation is requested of the consultant.
- The selected consultant shall be responsible for incorporating recommended mitigation measures into the project.

SUBMITTAL REQUIREMENTS

If your firm is interested in this project, please submit within one envelope or package the following items addressed to:

Rebeca Hernandez, City Clerk
1700 7th Street
Sanger, CA 93657

1. In a sealed envelope, six (6) copies of your Request for Proposals clearly marked “PROPOSAL for Professional Services: North Academy Corridor Economic Feasibility & Target Retailers, *Consultant’s Name*”.
2. Compact disc or flash drive containing an electronic copy of the proposal in Adobe *.pdf format, the project schedule in Microsoft Project *.mpp format, and the Scope of Work in Microsoft Word *.doc format.
3. In another sealed envelope, six copies of your Cost Proposal clearly marked “COST PROPOSAL for Professional Services: North Academy Corridor Economic Feasibility & Target Retailers, *Consultant’s Name*”.

The proposal package must be received by the City of Sanger no later than 4:00 pm on Friday, November 3, 2017. No late submittals will be accepted.

PROPOSAL FORMAT AND CONTENT REQUIREMENTS

These guidelines were developed to standardize the preparation of proposals by consultants and to help assure consistency in format and content.

General Guidelines

Each page of the proposal must be numbered. Pages must have a minimum of 1” margins. All references to the maximum number of pages are to a single side, not including tabs or section dividers. The minimum font size for the body text shall be 10 point although 11 point is preferred. The use of 11”x17” sheets of paper is acceptable and will only be considered a single page. Divider tabs that follow the order specified below are encouraged.

I. Transmittal Letter

The Transmittal letter should be on the consultant’s letterhead and addressed to the City Clerk, as indicated on the Summary page of this RFP. The letter should indicate the consultant's basic understanding of the City’s needs and the consultant’s understanding of the work required. If Addenda have been issued by the City, the consultant must acknowledge receipt of the Addenda in the Transmittal letter. The letter shall be wet-signed, in blue ink, by an official or representative authorized to negotiate and contractually bind the consultant firm with the City. Please also provide the telephone number, email, and office location of the consultant’s proposed Project Manager.

Required Statements

The following information is required as part of the Transmittal Letter:

Duration: The consultant shall provide a brief statement affirming that the proposal terms shall remain in effect for ninety (90) days following the date proposal submittals are due.

Non-discrimination: The consultant shall attest to the firm's non-discrimination plan or other policies aimed at eliminating unlawful discrimination and provide a brief statement about the firm's adoption and compliance with its plan or policy.

Conflict of Interest: The consultant shall disclose to the City any interest, direct or indirect, which could conflict in any manner or degree with the performance of services required. At the City's discretion, a potential conflict of interest may be waived or factored into the final award decisions and/or a modified scope of work.

Standard Agreement: The consultant shall indicate his/her/its acceptability of the terms and conditions of the sample consultant agreement included as Attachment 2. The term of the agreement shall be a maximum of 1 year, but shall be defined in the agreement. Any requested deviations from the standard agreement should be noted with blue, underlined text for additions and red, strike-out text for deletions.

The Transmittal Letter shall be limited to three pages.

II. Executive Summary

The Executive Summary shall present an understanding of the purpose of the project and the required professional services, a summary of the approach, and capabilities of the consultant, subconsultants, and professional personnel.

The Executive Summary section of the proposal shall be a maximum of two pages.

III. Qualifications

This section is intended for the consultant to illustrate to the City the consultant's or consultant team's ability to deliver projects of a similar size and technical challenge.

Firm profile: Provide a summary of the consultant team's overall capabilities, history, recent and related experience, and expertise. Emphasize the experience and abilities relevant to the specific professional services described in this RFP. Emphasize the project team dynamics such as having a working knowledge of the City of Sanger and the local and regional retail market.

Identify the locations of the offices where Key Personnel will accomplish the work. Provide assurance of how the majority of the work can be conducted in close association with the City Staff.

Organizational Chart: Provide an organization chart that shows how the project manager will manage lines of communication between the team, City, sub consultants and key stakeholders. Identify the Key Staff that will interact with the City. Provide brief resumes of the Key Staff and an explanation of the function each key person will perform. Include the following statement on the organization chart: *“Key Staff will be available for the full duration of the project. Key Staff will not be removed or replaced without the written consent of the City.”*

Reference Projects: Provide descriptions of similar projects that the proposed Key Staff have completed. The descriptions of similar projects should include:

- Project description and location;
- Description of services provided;
- Current status (i.e. active, completed, etc);
- Relevant aspects of the project related to this RFP;
- Key personnel involved; and,
- Client name contact person, and his/her current telephone number and email address

The Qualifications section of the proposal shall be a maximum of ten pages.

IV. Project Understanding and Approach

Provide a detailed discussion of the project which illustrates the consultant’s understanding of the project:

- requirements, goals, and constraints.
- description of the process and steps needed to complete the project.

The Project Understanding and Approach section shall be limited to ten pages.

V. Quality Control

Provide a summary of the consultant’s or consultant team’s overall approach to quality control. Describe the methods or practices the team will use to deliver a quality product to the City. Specifically, outline the internal protocol for ensuring clear communication between City staff, the prime consultant, and all sub-consultants. Articulate protocols for ensuring the submittals are complete and timely.

The Quality Control section of the proposal shall be a maximum of one page.

VI. Availability

Provide a description and percentage of the availability for Key Staff identified on the organizational chart. Describe the current projects, duties, and workload. Provide contact information (telephone number at a minimum) of **at least three** clients of projects that each individual is **currently working on**. If an individual Key Staff is not currently working on three projects, provide as much description and contact information as possible.

Each client reference will be contacted by City staff. The City will make a good-faith effort to contact the provided references, however, the proposal will not receive the benefit of the

reference check if the contact person does not respond to inquiries or if the submitted telephone number is incorrect.

The Availability section of the proposal shall be a maximum of two pages.

VII. Schedule

Consultants shall prepare and submit a comprehensive schedule to reflect the time frames required for completing each task of the Scope of Work. The schedule shall be prepared in Microsoft Project and show: the critical path of the work items, start, finish and predecessors. Tasks or Milestones, which are interdependent, must be identified, along with the completion date of each milestone.

Assume a December 11, 2017 Notice to Proceed.

The consultant is encouraged to develop additional detail regarding the work schedule, suggest changes within the constraints of the duration and end dates, and suggest changes to expedite delivery of the requested services.

NOTE: The consultant's schedule should allow for a City review period of at least three weeks for each key project deliverable.

The Schedule section of the proposal shall be a maximum of four pages.

VIII. Appendix (Supplemental Information)

The Appendix must contain the following information:

1. Provide resumes of Key Staff only -- Resumes of Key Staff to be assigned to the project should include a brief biography of the individual's experience, their registration information, their education, professional affiliations and information on specific projects the individual has been involved with, clearly showing and highlighting relevant experience.
Resumes can be two pages each, maximum. Up to 6 key staff may be submitted.
2. Provide as a sample the Agenda and Meeting Minutes from a meeting led by the proposed Project Manager within the past two years.
The length of the Agenda and Meeting Minutes is limited to the sample chosen by the consultant.
3. Provide a detailed Scope of Work -- The Scope of Work will be the basis for the consultant agreement and should contain a detailed outline for the required services. The Scope of Work should include all required tasks, as either proposed or optional services. The Scope of Work should indicate key assumptions made to develop the scope, describe the methodology to be used, specific work to be performed, outcomes and deliverables. The Scope of Work section shall be limited to ten pages.

IX. Separate Sealed Cost Proposal

The proposal should not include cost or rate information.

A separate, sealed Cost Proposal shall be submitted which details the consultant team's proposed fees, broken down by each various work phase. The method of proposal shall be fixed fee. The prime consultant may not apply a mark-up to their fee (profit) on sub-consultant fees. Neither the prime consultant nor any sub-consultant may apply a mark-up to their fee (profit) on other direct costs. The fee proposal should break down project costs by phase and task.

The cost proposal must identify the Key Staff identified in the org chart and other classifications that will be billed. New classifications will be required to be approved before they can incur work on the contract.

Evaluation

The City will review the proposals for completeness, clarity, and content quality. Each proposal will be reviewed to determine if it meets the requirements contained in "PROPOSAL FORMAT AND CONTENT REQUIREMENTS." The City may reject any proposal if it is conditional, incomplete or contains irregularities.

The City may waive an immaterial deviation in a proposal. A waiver of an immaterial deviation shall not modify the proposal documents, and it shall not exempt the consultant from any terms of an executed consultant services agreement, should one be awarded.

The City will assemble a selection committee, comprised of City staff members and other qualified individuals, which will evaluate submitted proposals. A short list of consultants for oral interviews may be selected.

The City reserves the right to select a consultant based on the proposals submitted, without interviews, at its discretion.

Aside from the selection process described herein, consultants or their representatives are prohibited from attempting to influence this consultant selection by contacting Selection Committee members, elected officials, City staff, or other individuals and entities involved in selecting the consultant or awarding the consultant agreement. Any such attempt to influence selection outside of the proscribed process will be grounds for disqualification.

SELECTION PROCEDURE

The City will select the consultant based on the following procedure:

1. After the period has closed for receipt of proposals, each proposal will be examined to determine compliance with the format requirements specified by the City. Any proposal that does not meet the format requirements may be rejected. The City may reject any proposal if it is conditional or incomplete.
2. Evaluate the proposals. Evaluations will be based on qualifications and the quality of the proposal. The total score possible on any proposal would be 100 points. The scoring breakdown (with maximum points possible) will be as follows:

CRITERIA	MAXIMUM POINTS POSSIBLE
a. Completeness of Proposal	10
b. Firm Qualifications	20
c. Experience with Similar Contracts & Clients	20
d. Understanding of the Scope of Work	15
e. Quality Control Approach	5
f. Experience & Availability of Project Staff	15
g. Project Schedule Approach	5
h. Demonstrated Communication Skills	10
TOTAL POINTS POSSIBLE	100

3. Develop a ranking of consultants. Develop a short list of qualified firms that may be asked to participate in oral interviews.
4. Conduct oral interviews, if elected by City.
5. Evaluate oral interviews and develop final ranking of consultants.
6. Notify consultants of the results.
7. Open the cost-proposal from the top ranked consultant and conduct project-scoping meeting with top ranked consultant.
8. Seek City Council approval to negotiate and execute contract based on a fixed fee contract amount for design services with engineering support during construction on Time and Materials basis with a budget.
9. If an agreement on the scope of services and compensation cannot be reached, negotiations with the top ranked consultant will be closed, and negotiations with the next-highest ranked consultant will be opened. The process is repeated until a contract is successfully negotiated.

Schedule

- Proposal Due Date: 4:00 pm, Friday, October 6, 2017
- Proposal review and evaluation: October 9 – 13, 2017
- Oral interviews (if elected): October 16 – 20, 2017
- Selection/Negotiation: October 23 – 27, 2017
- Contract Award: November 16, 2017

Oral Interviews

The selection process may include oral interviews of the top ranked consultants or consultant teams. The consultants will be notified in advance of the time and place of the oral interview. Consultants will also be notified of additional information, if any, to be submitted at the oral

interview. The City reserves the right to select a consultant based on the RFP's submitted, without interviews, at its discretion.

Award

Award of the selected consultant's contract will be subject to City Council approval. Aside from announcing the top ranked proposals, the scored evaluations will be kept confidential.

GENERAL CONDITIONS

Limitations

This RFP does not commit the City to award a contract or to procure or contract for services or supplies. The City is not responsible for any costs incurred in the preparation of proposals in response to this request, as further explained below. The City expressly reserves the right to reject any and all proposals or to waive any irregularity or informality in any proposal or in the RFP procedure and to be the sole judge of the responsibility of any proposer and of the suitability of the materials and/or services to be rendered. The City reserves the right to withdraw this RFP at any time without prior notice. Furthermore, the City reserves the right to modify the RFP schedule described above.

Until award of a contract, the proposals shall be held in confidence and shall not be available for public review. No proposal shall be returned after the date and time set for the opening thereof. All proposals shall become the property of the City.

RFP Addendum

Any changes to the RFP requirements will be made by written addenda issued by the City and shall be considered part of the RFP. Upon issuance, such addenda shall be incorporated in the agreement documents, and shall prevail over inconsistent provisions of earlier issued documentation.

Pre-contractual Expenses

Pre-contractual expenses include any expenses incurred by proposers in:

1. Preparing proposals in response to this RFP.
2. Submitting proposals to the City.
3. Negotiations with the City on any matter related to proposals.
4. Other expenses incurred by a proposer prior to the date of award of any agreement.

In any event, the City shall not be liable for any pre-contractual expenses incurred by any proposer. Proposers shall not include any such expenses as part of the price proposed in response to this RFP. The City shall be held harmless and free from any and all liability, claims, or expenses whatsoever incurred by, or on behalf of, any person or organization responding to this RFP.

Signature

The proposal shall also provide the following information: name, title, address, email address, and telephone number of individual with authority to bind the consultant or consultant team and also who may be contacted during the period of proposal evaluation. The proposal shall be wet-signed by an official authorized to bind the consultant or consulting team and shall contain a statement to the effect that the proposal is a firm offer and remains in effect for at least a ninety (90) day period.

Contract Arrangements

The successful consultant is expected to execute a contract the City's Consultant Agreement. A copy of the City's Consultant Agreement is attached as Attachment 2.

Conflict of Interest

Consultants and consultant firms submitting proposals in response to this RFP must disclose to the City any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided under Agreement for consultant services to be awarded pursuant to this RFP.

If the consultant has no conflict of interest, a statement to that effect shall be included in the transmittal letter.

Insurance Requirements

The successful consultant shall provide a summary of the firm's insurance coverage for Comprehensive General Liability, Automotive Liability, Professional Liability, and Worker's Compensation. The limits of insurance coverage shall be as specified in the City's Consultant Agreement in Attachment 2.

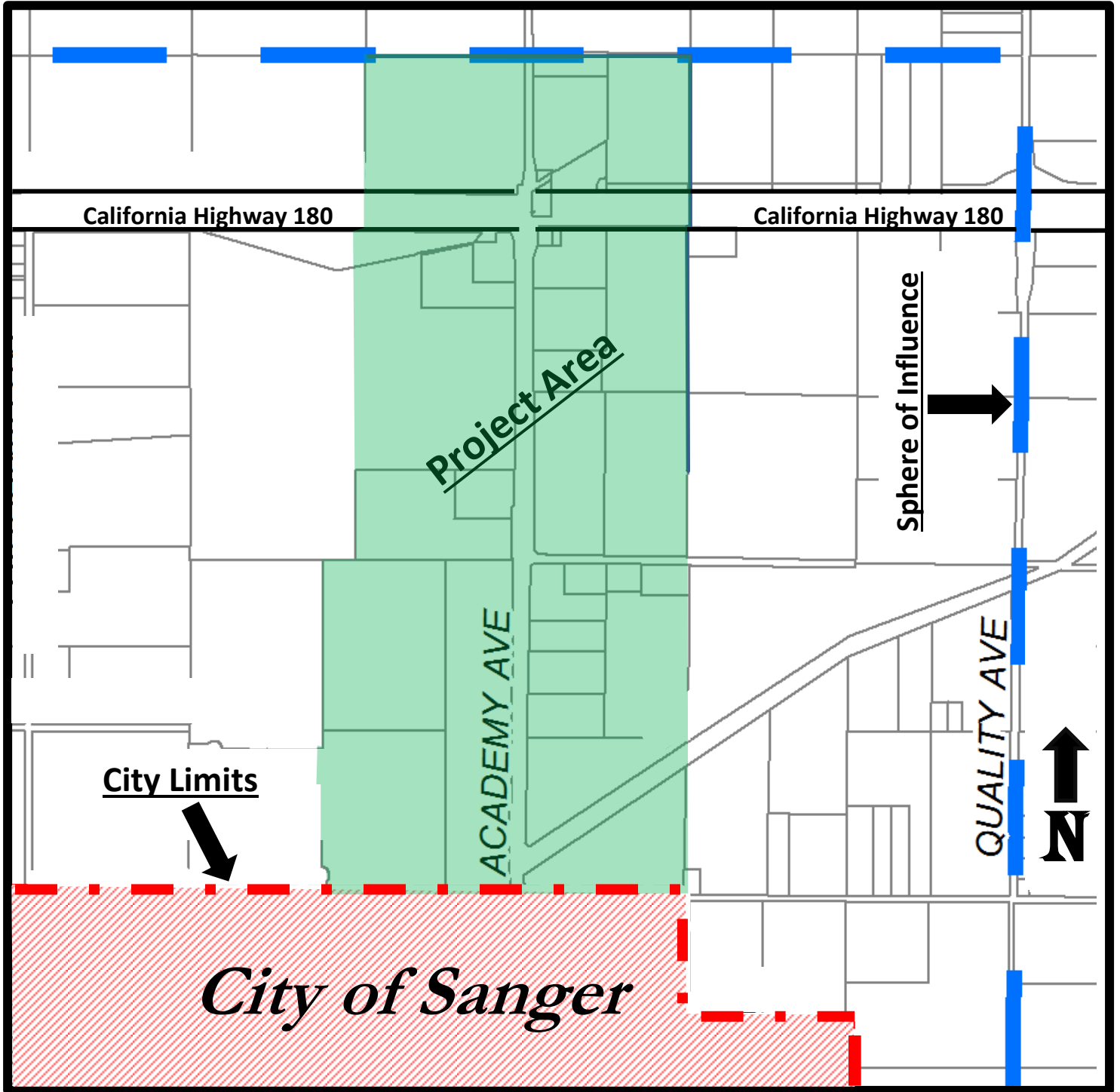
ATTACHMENTS

Attachment 1 – Project Location Map

Attachment 2 – Sample Consultant Agreement

ATTACHMENT 1

Project Location



ATTACHMENT 2

AGREEMENT BETWEEN THE CITY OF SANGER AND

FOR CONSULTANT SERVICES

This agreement is made and entered into effective on _____, by and between the City of Sanger, a California municipal corporation (hereinafter referred to as "CITY") and _____, (hereinafter referred to as "CONSULTANT").

RECITALS

WHEREAS, CITY desires to obtain consultant services in connection with _____, hereinafter referred to as [the "Project" or "other" description]; and

WHEREAS, CONSULTANT is engaged in the business of furnishing technical and expert services as described in CONSULTANT'S Proposal for services to CITY which is attached hereto and incorporated by reference as "Exhibit A" and hereby represents that it desires to and is professionally and legally capable of performing the services called for by this Agreement; and

WHEREAS, this Agreement will be administered for CITY by _____.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals which are part of this Agreement and the terms and conditions hereinafter contained, it is mutually agreed as follows:

1. Scope of Services.

CONSULTANT shall perform to the satisfaction of CITY, services as requested by CITY as follows: [describe services] [or as set forth in Exhibit ____].

2. Term of Agreement.

This Agreement shall be effective from _____ to _____ [or This Agreement shall be effective from _____ to the date of completion as set forth in the Schedule attached hereto as Exhibit ____] subject to any earlier termination in accordance with this Agreement.

3. Compensation.

CONSULTANT'S sole compensation for satisfactory performance of all services required or rendered pursuant to this Agreement shall be as follows: [add] [or as set forth in Exhibit ____]

4. Termination.

A. CITY reserves the right to terminate this contract upon thirty (30) calendar days written notice to CONSULTANT with the reasons for termination stated in the notice.

B. CITY may terminate this contract with CONSULTANT should CONSULTANT fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, CITY may proceed with the work in any manner deemed proper by CITY. If CITY terminates this contract with CONSULTANT, CITY shall pay CONSULTANT the sum due to CONSULTANT under this contract prior to termination, unless the cost of completion to CITY exceeds the funds remaining in the contract. In which case the overage shall be deducted from any sum due CONSULTANT under this contract and the balance, if any, shall be paid to CONSULTANT upon demand.

C. The maximum amount for which the CITY shall be liable if this contract is terminated is _____ dollars.

5. Indemnification.

To the furthest extent allowed by law, CONSULTANT agrees to defend, indemnify, and hold harmless the CITY and each of its officers, officials, employees, agents, and volunteers from and against all claims, demands, costs, or liability, and expenses including attorneys' fees arising out of the performance of the work described in this Agreement, caused in whole or in part by the sole negligence, recklessness, or willful misconduct of CONSULTANT, its principals, officers, employees, agents, or volunteers in the performance of this Agreement or anyone for whose acts any of them may be liable excluding, however, such claims, demands, loss, damages, or arising from CITY's sole negligence or willful acts.

6. Insurance.

A. Throughout the life of this Agreement, CONSULTANT shall pay for and maintain in full force and effect all insurance as required in Exhibit "A" or as may be authorized, and any additional insurance as may be required, in writing by City Manager or her designee at any time and in her sole discretion.

B. If at any time during the life of the Agreement or any extension, CONSULTANT or any of its subcontractors fail to maintain any required insurance in full force and effect, all services and work under this Agreement shall be discontinued immediately, and all payments due or that become due to CONSULTANT shall be withheld until notice is received by CITY that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to CITY. Any failure to maintain the required insurance shall be sufficient cause for CITY to terminate this Agreement. No action taken by CITY pursuant to this section shall in any way relieve CONSULTANT of its responsibilities under this Agreement. This phrase "fail to maintain any required insurance" shall include, without limitation, notification received by CITY that an insurer has commenced proceedings, or has had proceedings commenced against it, indicating that the insurer is insolvent.

7. Nondiscrimination.

To the extent required by controlling federal, state, and local law, CONSULTANT shall not employ discriminatory practices in the provision of services, employment of personnel, or in any other respect on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, ethnicity, status as a disabled veteran, or veteran of the Vietnam era.

8. Independent Contractor.

In the furnishing of the services provided for herein, CONSULTANT is acting solely as an independent contractor. Neither CONSULTANT, nor any of its officers, agents, or employees shall be deemed an officer, agent, employee, joint venture, partner, or associate of CITY for any purpose. CITY shall have no right to control or supervise or direct the manner or method by which CONSULTANT shall perform its work and functions. However, CITY shall retain the right to administer this Agreement so as to verify that CONSULTANT is performing its obligations in accordance with the terms and conditions thereof.

9. Notices.

Any notice required or intended to be given to either party under the terms of this Agreement shall be in writing and shall be deemed to be duly given if delivered personally, transmitted by facsimile followed by telephone confirmation of receipt, or sent by United States registered or certified mail, with postage prepaid, return receipt requested, addressed to the party which notice is to be given at the party's address set forth on the signature page of this Agreement or at such other address as the parties may from time to time designate by written notice. Notices served by United States mail in the manner above described shall be deemed sufficiently served or given at the time of mailing thereof.

10. Assignment.

This agreement is personal to CONSULTANT and there shall be no assignment by CONSULTANT of its rights or obligations under this Agreement without the prior written approval of the City Manager or her designee.

11. Retention of Records/Audit.

CONSULTANT and CITY shall maintain and make available for inspection all books, documents, papers, accounting, records, and other evidence pertaining to the performance of the contract, including but not limited to, the costs of administering the contract. All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the contract.

12. Sub-Contracting.

Nothing contained in this AGREEMENT or otherwise shall create any contractual relation between CITY and any sub-consultant(s), and no sub-contract shall relieve

CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to CITY for the acts and omissions of its sub-consultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to pay its sub-consultant(s) is an independent obligation from CITY obligation to make payments to the CONSULTANT.

13. Compliance with Law.

In providing the services required under this Agreement, CONSULTANT shall at all times comply with all applicable laws of the United States, the State of California, and CITY, and with all applicable regulations promulgated by federal, state, regional, or local administrative and regulatory agencies, now in force and as they may be enacted, issued, or amended during the term of this Agreement.

14. Conflict of Interest.

A. CONSULTANT shall disclose any financial, business, or other relationship with CITY that may have an impact upon the outcome of this contract, or any ensuing CITY construction project.

B. CONSULTANT hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this contract.

15. Waiver.

The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement. No provisions of this Agreement may be waived unless in writing and signed by all parties to this Agreement. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein.

16. Governing Law and Venue. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction. Venue for purposes of the filing of any action regarding enforcement or interpretation of this Agreement and any rights and duties hereunder shall be Fresno County, California.

17. Headings. The section headings in this Agreement are for convenience and reference only and shall not be construed or held in any way to explain, modify, or add to the interpretation or meaning of the provisions of this Agreement.

18. Severability. The provisions of this Agreement are severable. The invalidity or unenforceability of any one provision in this Agreement shall not affect the other provisions.

19. Interpretation. The parties acknowledge that this Agreement in its final form is the result of the combined efforts of the parties and that, should any provision of this

Agreement be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in favor of or against either party, but rather by construing the terms in accordance with their generally accepted meaning.

20. Attorneys' Fees. If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant, or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorneys' fees and legal expenses.

21. Exhibits. Each exhibit and attachment referenced in this Agreement is, by the reference, incorporated into and made a part of this Agreement.

22. Precedence of Documents. In the event of any conflict between the body of this Agreement and any Exhibit or Attachment hereto, the terms and conditions of the body of this Agreement shall control and take precedence over the terms and conditions expressed within the Exhibit or Attachment. Furthermore, any terms or conditions contained within any Exhibit or Attachment hereto which purport to modify the allocation of risk between the parties, provided for within the body of this Agreement, shall be null and void.

23. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

24. No Third Party Beneficiaries. The rights, interests, duties and obligations defined within this Agreement are intended for the specific parties hereto as identified in the preamble of this Agreement. Notwithstanding anything stated to the contrary in this Agreement, it is not intended that any rights or interests in this Agreement benefit or flow to the interest of any third parties.

CITY OF SANGER

[Consultant Name]

By: _____
Tim Chapa, City Manager

By: _____

Date: _____

Date: _____

ATTEST:

By: _____
Rebeca Hernandez
City Clerk

EXHIBIT A

INSURANCE REQUIREMENTS

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

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis for bodily injury and property damage, including products-completed operations, personal injury and advertising injury, with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if CONSULTANT has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers’ Compensation** insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.
- 4 **Professional Liability** (Errors and Omissions) Insurance appropriate to the CONSULTANT’s profession, with limit no less than **\$1,000,000** per occurrence or claim, \$2,000,000 aggregate.

If the CONSULTANT maintains higher limits than the minimums shown above, the Entity requires and shall be entitled to coverage for the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds on the auto policy with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the CONSULTANT; and on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONSULTANT including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONSULTANT’s insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

Primary Coverage

For any claims related to this contract, the **CONSULTANT's insurance coverage shall be primary** insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the CONSULTANT's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall state that **coverage shall not be canceled, except with notice to the Entity.**

Waiver of Subrogation

CONSULTANT hereby grants to Entity a waiver of any right to subrogation which any insurer of said CONSULTANT may acquire against the Entity by virtue of the payment of any loss under such insurance. CONSULTANT agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the Entity. The Entity may require the CONSULTANT to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Entity.

Claims Made Policies

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided ***for at least five (5) years after completion of the contract of work.***
3. If coverage is canceled or non-renewed, and not ***replaced with another claims-made policy form with a Retroactive Date*** prior to the contract effective date, the CONSULTANT must purchase "extended reporting" coverage for a minimum of ***five (5)*** years after completion of contract work.

Verification of Coverage

CONSULTANT shall furnish the Entity with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Entity before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONSULTANT's obligation to provide them. The Entity reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Subcontractors

CONSULTANT shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that Entity is an additional insured on insurance required from subcontractors.

Special Risks or Circumstances

Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.