



CITY OF ATWATER
SPECIFICATIONS
FOR
CALL FOR SEALED BIDS
FOR
PROPANE
FUEL DELIVERY SERVICES FOR THE
CORPORATION YARD, FIRE STATION 41,
AND
FIRE STATION 42
BID CALL NO. 690-20

Submit Responses to:

City Clerk
City of Atwater
750 Bellevue Road
Atwater, CA 95301
Attn: Lucy Armstrong

Bids must be received by 2:00 PM on Tuesday, October 27, 2020.

BIDS WILL NOT BE ACCEPTED AFTER THIS DATE AND TIME

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SECTION I - GENERAL INFORMATION

1.1 BACKGROUND

Atwater is a city on State Route 99 in Merced County, California. Atwater is 8 miles (13 km) west-northwest of Merced. The city has a total area of 6.1 square miles.

1.2 STATEMENT OF INTENT

The City of Atwater (the "City") is calling for sealed bids for an experienced and qualified contractor to provide Fuel (Propane) Delivery Services for The Corporation Yard (470 Aviator Drive), Fire Station 41 (699 Broadway Avenue), and for Fire Station 42 (2006 Avenue Two). Any bidder wishing to submit a bid must comply with the requirements contained in the specifications.

It is a proposer's responsibility to review the entire specifications in order to submit a complete and responsive bid.

To be considered, bids **must be submitted by 2:00 PM on Tuesday, October 27, 2020** (the "Solicitation Period").

SECTION II - BID PROCEDURE

This section describes the general bid procedure used by the City of Atwater. This bid seeks the submission of bids from interested and qualified proposers. The City of Atwater seeks to obtain the listed services in a manner that maximizes the quality of services while also maximizing value to the City of Atwater and, by extension, its residents. Proposers must be able to show that they can perform the services requested. Such evidence includes, but is not limited to, the respondent's demonstrated competency and experience in delivering services of a similar scope and type and local availability of the proposer's personnel and equipment.

2.1 TENTATIVE SCHEDULE OF EVENTS

EVENT	TARGET DATE
1. Bid Release Date	September 29, 2020 @ 10:00 AM
2. Pre-Bid Conference and Site Visits	October 13, 2020 @ 10:00 AM
3. Deadline to Submit Written Questions	October 15, 2020 @ 2:00 PM
4. Release of Responses to Written Questions	October 19, 2020
5. Bid Deadline – Bids Must be RECEIVED	October 27, 2020 @ 2:00 PM

2.2. PRE-BID CONFERENCE

There will be a pre-bid conference on Tuesday, October 13, 2020 @ 10:00 AM at the City Corporation Yard, 470 Aviator Drive. (Contact 209-357-6370 for directions). The purpose of this meeting will be to review the project requirements, conduct a project site visit and answer any questions from prospective proposers. Attendance by at least one representative from each proposer's company is recommended, though not mandatory.

All bids shall be in writing. Any exceptions to the requirements stated herein shall be clearly stated in the submittal and may be grounds for being declared non-responsive.

2.3 INSTRUCTIONS FOR SUBMITTING BIDS

Each sealed envelope containing a Bid must be plainly marked on the outside as “**Sealed Bid Propane Fuel Delivery Services for the Corporation Yard, Fire Station 41, and Fire Station 42 Bid Call No. 690-20**; Attention City Clerk”, and the envelope shall also bear on the outside, the name of the Bidder, and their address. If forwarded by mail, the sealed envelope containing the Bid forms must be enclosed in another envelope addressed to the City of Atwater at 750 Bellevue Road, Atwater, CA, 95301, and both envelopes clearly state “**Sealed Bid for Bid Call No. 690-20; “Propane Fuel Delivery Services for the Corporation Yard, Fire Station 41, and Fire Station 42”**”; Attention City Clerk.”

Total Bid Price must be filled in, in ink or typewritten, and the Bid Form must be fully completed and executed. During the Solicitation Period, the City reserves the right to request additional information or clarifications from bidders or to allow corrections of errors or omissions. At the discretion of the City, contractors submitting bids may be requested to make oral presentations as part of the evaluation process.

The City reserves the right to retain all bids submitted and to use any ideas in a bid regardless of whether that bid is selected. Submission of a bid indicates acceptance by the contractor of the conditions contained in the specifications, unless clearly and expressly noted in the bid submitted and confirmed in the contract between the City and the contractor selected.

A contract may be awarded to the responsible Service Provider who best meets the City’s needs by demonstrating the competence, and qualifications necessary for the satisfactory performance of the required services, shall not necessarily be based on the lowest-priced bid, but shall be based on a determination of which services offered serve the best interest of the City, except as otherwise provided by law, taking into consideration adherence to the included specifications. A contract may be awarded to the next responsible Service Provider if the successful Service Provider refuses or fails to execute the contract. All Service Providers that were not selected by the City shall be notified in writing. Nothing herein shall obligate the City to award a contract to any responding Service Provider. Any contract awarded will be nonexclusive, and the City reserves the right to seek services from other sources, in the City’s sole discretion

Any Bidder wishing to submit a bid must comply with the requirements contained in these specifications.

- a. The bid cost sheet, **(Attachment B)** to be completed and returned with bid submittal.
- b. Bid must be submitted on the form(s) provided by and made available to The City of Atwater, City Clerk’s Office 750 Bellevue Rd Atwater, CA 95301. All items shall be filled in and the signatures of all persons signing shall be written and printed in longhand. All bids submitted must have signature sheet, **(Attachment C)** completed, dated, with firm’s name and signed by a duly authorized officer of the firm.

Bids not submitted on the form(s) provided may not be considered by the City.

- c. **All bids shall be presented under sealed cover, clearly identified on the outside to read:**

- **Name of the bidder**
- **Address of the bidder**
- **Subject of the Bid**
- **Bid Submittal Deadline Date**

- d. Please submit one (1) original signature hard copy to be signed in blue ink (original copies marked as such) and one (1) copy.
- e. **Late Bids:** Bids received late will not be opened or given any consideration for the proposed services unless doing so is deemed to be in the best interest of the City of Atwater, as determined in the sole discretion of the City. All bids will be date/time stamped upon receipt. All bids received prior to the deadline for bids will be kept in a secure place.

All bids shall remain firm for at least sixty (60) calendar days after Bid Submittal Deadline unless otherwise specified. Within sixty (60) calendar days after the Bid Submittal Deadline opening, a purchase order and/or a contract may be awarded by the City to the lowest responsible bidder, as it may deem proper in its absolute discretion. The time for awarding a purchase order and/or a contract may be extended at the sole discretion of the City, if required to evaluate bids or for such other purposes as the City may determine, unless the bidder objects to such extension in writing with their bid.

PLEASE NOTE: The City does not pay for services in advance. Therefore, do not propose contract terms that call for upfront payments or deposits.

All inquiries or questions concerning the bid must be submitted in writing no later than 72 hours before the bid.

Written questions or inquiries must be mailed or emailed to:

Madison Holsinger
Deputy Director of Public Works/Community Development
Department
City of Atwater
750 Bellevue Road
Atwater, CA 95301
mholsinger@atwater.org

SECTION III – GENERAL TERMS AND CONDITIONS

3.1. CONFLICT OF INTEREST

The Consultant must be aware of and comply with conflict of interest rules included in the California Political Reform Act, and Section 1090 et. Seq. of the Government Code. The Political Reform Act requires City/Agency officers and committee members to file statements of interest and abide by a Conflict of Interest Code. Section 1090 limits or prohibits a public official from contracting with a body of which an official is a member. Section 1090 applies even where the officer only reviews the contract for the approving body.

3.2. METHOD OF COMPENSATION

Increases in compensation for the three-year extension period will be determined by the U.S. Department of Labor, Bureau of Labor Statistics Consumer Price Index (CPI)-All Urban Consumers West report. At no time will the compensation amount fall below the previous year's contract amount. The base month and year for calculating potential CPI increases will begin on January 1, 2021, and each succeeding year after that during the extension period. At no time will the CPI increase exceed 3% annual. Any necessary services outside the scope of the work must be identified and approved in advance by the City of Atwater Public Works Director or his designee. Also, no change orders or contract amendments will be considered without prior authorization from the City Public Works Director or his designee.

3.3. PUBLIC RECORD

Government Code Sections 6550 et seq., the California Public Record Act, defines a public record as any writing containing information relating to the conduct of the public business. The Public Record Act provides that public records shall be disclosed upon written request and that any citizen has a right to inspect any public record unless the document is exempted from disclosure.

Responses to this bid become the exclusive property of the City of Atwater. At such time as the Public Works Department recommends a firm to the City Council, all bids received in response to this bid becomes a matter of public record and shall be regarded as public records, except for those elements in each bid which are defined by the Bidder as business or trade secrets and marked as "Confidential," "Trade Secret," or "Proprietary."

The City shall not in any way be liable or responsible for the disclosure of any such bid or portions thereof, if they are not marked as "Confidential," "Trade Secret," or "Proprietary" or if disclosure is required under the Public Records Act. Any bid which contains language purporting to render all or significant portions of the bid "Confidential," "Trade Secret," or "Proprietary" shall be regarded as non-responsive.

Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the City of Atwater may not accept or approve that the information that a Bidder submits is a trade secret. If a request is made for information marked "Confidential," "Trade Secret," or "Proprietary," the City shall provide the Bidder who submitted the information with reasonable notice to allow the Bidder to seek protection from disclosure by a court of competent jurisdiction.

3.4. WITHDRAWAL OF BID BIDS

A Bidder may withdraw its bid at any time before the expiration of the time for submission of bids as provided in the specifications by delivering a written request for withdrawal signed by, or on behalf of, the bidder.

3.5. ALTERATION OF TERMS AND CLARIFICATIONS.

No alteration or variation of the terms of these specifications is valid unless made or confirmed in writing by the City. Likewise, oral understandings or agreements not incorporated into the final contract are not binding on the City.

If a bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in the specifications, the proposer must immediately notify the City of such error in writing and request modification or clarification of the document. If a proposer fails to notify the Department of an error in the specifications prior to the date fixed for submission, the proposer shall submit a response at his/her own risk, and if the proposer enters into a contract, the proposer shall not be entitled to additional compensation or time by reason of the error or its later correction.

Modifications or clarifications to the specifications will be posted to the City website at <https://www.atwater.org/> without divulging the source of the request for same. The Public Works Department may, at its discretion, also give electronic notice by email to all parties who have notified the Department of their electronic contact information in response to this specifications, but no party that fails to receive email notice has any basis for protest given that all clarifications will be available online. It is the obligation of all proposing parties to check the City of Atwater website for updates regarding the specifications if they wish to be kept advised of clarifications prior to submitting a bid. Failure to do so will not provide a ground for protest.

3.6. SELECTION OF VENDOR(S).

The selection of a contractor/vendor will be memorialized in the form of a “City of Atwater General Services Agreement” (see the sample template in **Exhibit D**), authorized by the City of Atwater and signed by both parties. Submission of a bid constitutes the bidder’s approval and agreement to execute an Agreement in the form of **Exhibit D**.

The City reserves the right to reject any or all bid and/or terminate the bid process if deemed in the best interest of the City without penalty. The City’s waiver of an immaterial deviation in the bid shall in no way modify the specifications document or excuse the proposer from full compliance with the specifications if the proposer enters into a contract.

Further, while every effort has been made to ensure the information presented in these specifications are accurate and thorough, the City assumes no liability for any unintentional errors or omissions in this document. The City reserves the right to waive or modify any requirements of these specifications when it determines that doing so is in the best interest of the City. The selected contractor will be required to have or obtain an Atwater Business License issued by the City’s Finance Department.

Selection of a bid and eventual submission to the City’s authorized representative by way of an Agreement does not constitute an offer, and proposers acknowledge by submission of a bid that no agreement is final unless and until an agreement with the City is fully executed.

3.7. SPECIAL ISSUES AND REQUIREMENTS

Form and Execution of Contract. The form of contract is **Exhibit D**. It shall be executed and returned with the Contractor's bid. If the Contractor is unable to execute the contract, then the Contractor’s bid will be deemed incomplete and not considered.

Labor Code

The Contractor shall comply with Sections 3700 et seq. of Labor Code of the State of California, requiring every employer to be insured against liability for worker’s compensation.

Prevailing Wage

If the bid exceeds \$15,000, the contractor shall abide by the following:

The contractor is required to comply with all applicable provisions of the Labor Code, including payment of the minimum prevailing wage rate as determined by the State Department of Industrial Relations (DIR). No contractor or subcontractor may be listed on a bid or be awarded a contract for public work unless registered with the DIR pursuant to the Labor Code. This project is subject to compliance monitoring and enforcement by the DIR.

Claims and Violations against Your Organization (1 page maximum):

Please list any current violations or claims against you/your organization and those having occurred in the past five years, especially those resulting in claims or legal action against you. A sample of the City's General Services Agreement is attached to these specifications as **Exhibit D**. Bids must advise the City of any objections to any terms in the City's contract template and provide an explanation for the inability to comply with the required term(s). If no objections are stated, the City will assume the proposer is prepared to sign the City's contract as-is.

SECTION IV – TECHNICAL SPECIFICATIONS

4.1 BACKGROUND

The project area is in the City of Atwater which is a residential community (the city has a total area of 6.1 square miles). Atwater is a city on State Route 99 in Merced County. Atwater is 8 miles (13 km) west-northwest of Merced.

These specifications describe the minimum requirements for Propane Requirements. The product specified is to be placed into service at 2 locations within the City of Atwater. The product provided by the vendor shall meet all EPA and Cal OSHA standards. All products provided will have proper identifying labels affixed to them. The vendor shall provide the appropriate Material Safety Data Sheet (MSDS) for all products supplied. The specifications for propane represent features best suited to the intended use of the product and are not intended to exclude material that may vary slightly from these specifications. Judgments of the exceptions are to rest with City of Atwater Purchasing. As part of this bid, bidder must provide an exception page for each item bid listing any exception(s) taken to the specifications. If exception(s) are not noted, the City will assume the bidder will meet all of those requirements and assume full responsibility to meet the specifications.

4.2 PRICING REQUIREMENTS:

1.1. Fuel price differential per gallon based on OPIS price. Differential to include all labor, freight, overhead and fees as applicable. Differential price to remain fixed through period of contract.

Pricing will be based on the following:

OPIS price (base) + dealer differential + sales tax = City Price

OPIS price = OPIS Sacramento Rack Price Average for date of sale. OPIS data sheets from date of sale must accompany all invoices.

All deliveries shall be supported by a delivery receipt. Due to space limitations, deliveries can only be completed with a suitable, size fuel truck. Deliveries shall occur as requested by the Public Works Department and by Fire Station staff.

4.3. DELIVERY AND SERVICE LOCATIONS:

Proposed Cost: (two-pages maximum)

Use the Bid, Price Quotation sheet **Attachment B**, to provide detailed unit costs associated with providing the requested services if you are selected, including hourly rates or other unit costs. Cost provided should be fully loaded costs and include travel, equipment and labor and all other fixed and variable costs associated with the completion of the work described in these specifications.

Service Locations:

LOCATION	TANK SIZE	ESTIMATED ANNUAL CONSUMPTION
City of Atwater Corporation Yard 470 Aviator Drive, Atwater 95301	1150 gallon	750 gallons
Fire Station 41 699 Broadway, Atwater 95301	172 gallons	50 gallons
Fire Station 42 2006 Ave 2, Atwater 95301	250 gallons	50 gallons

Fuel provided under this bid shall conform to the current Commercial LP Gas Specifications for our location: (If these listed below are not correct use the current specifications).

Propane	
LBS/GAL	4.24
BTU/GAL	91.800
BTU/LB	21.600
BTU/CF	2.530
SPEC GRAY GAS	1.53
SPEC GRAY LIQUID	0.511

4.4. SUPPLY REQUIREMENTS:

A. All bidders shall have propane supply contracts which shall assure the continuous supply of product during the contract period. In the event the successful Bidder offers to supply their service to the City for the same price as awarded for this bid for any succeeding period, or in the event the successful Bidder is willing to negotiate any justifiable price increase at the time of the succeeding Contract renewal period, and it would be economical and in the best interest of the City, and provided the services have been to the satisfaction of the City, the City reserves the right to extend any Contract resulting from this bid on a term-by-term basis to the successful Bidder awarded the Contract. **The maximum contract length, with renewals, will be five (5) years.** Bidders may be required to furnish information supporting their ability to supply, without major interruption, the products covered in this bid.

B. The successful Bidder(s) shall have a reliable source of supply such as a major refiner to assure a continuous supply. However, it shall be the successful bidder’s responsibility to manage

purchases from all sources so as not to jeopardize his ability to purchase fuel for the City in periods of tight supply; or, when, and if Federal, State or Local regulations are re-instituted.

C. All bidders shall have sufficient product storage capacity to supply a quantity equal to one months' usage of product should the bidder(s) be unable to obtain product from his supplier(s) during any one month of the contract period.

BID CHECKLIST

All items on the Checklist must be initialed and dated for the Bid to be considered complete. The City reserves the right to award a Contract in a manner and on the basis, which will best serve the City, taking into consideration the information in the statement of Contractors

Experience/Qualifications and past work history with the City. The contractor's attention is especially called to the following forms which must be executed in full as required.

1. This Bid Checklist and Signature Sheet (this page)

Initial: _____ Date: _____

2. Bid, Price Quotation Form (Attachment B)

The unit price bid must be shown in the space provided. The total pricing must be shown in the spaces provided.

Initial: _____ Date: _____

3. Signature Sheet (Attachment C)

To be filled in and signed by the Contractor.

Initial: _____ Date: _____

4. Registration with the Department of Industrial Relations (If applicable)

The Contractor acknowledges they are currently registered with the Department of Industrial Relations. If the Contractor is unregistered, it shall be registered prior to Contract award.

Initial: _____ Date: _____

5. Possession of Required Professional Licenses

The Contractor has submitted required professional licenses with a bid as required in the Contract Agreement.

Initial: _____ Date: _____

6. Addenda

The Contractor acknowledges that he must sign and attach any applicable addenda to the bid.

Initial: _____ Date: _____

7. Exhibit C - Certificate of Compliance with Labor Code § 3700

Initial: _____ Date: _____

I, _____, a representative of _____ (Company) (Also referred to as Contractor) hereby propose to furnish and deliver all necessary maintenance, labor, tools, materials, tax, services and other means to perform the work required for Fuel Delivery Services for the Corporation Yard - Unleaded and Diesel Fuel specifications in accordance with the Contract documents released for this project, together with all Addenda (if

any issued) issued by the City of Atwater. The amount set forth in the attached Pricing Page covers all Work to be completed under the Contract, including, without limitation, all labor, materials, transportation and services necessary to complete the Work, including the State of California and local sales or use taxes, license or permit fees, if any. Contractor declares that it has carefully examined the location(s) of the proposed work, and has examined all Contract documents and addenda if issued by the City and that it will contract with the City to complete the services in satisfactory condition, has completed the Contractor's checklist and all other bid documents, as applicable, outlined in the Contract Documents. If awarded the contract, the Contractor expressly agrees to execute the Contract and to begin work not later than the date listed on the notice to proceed. The contractor further agrees to submit invoices and accept payment in the indicated amount listed on the Pricing Page.

2. - All Contractors shall complete the following:

Contractor's Name (Printed): _____

Contractors Signature: _____

Contractor's Name (Printed): _____

Contractors Title: _____

Address: _____

Phone Number: _____

Email: _____

Date: _____

Contractor's License Number: _____

Contractor's License Classification: _____

Contractor's License Exp. Date: _____

(NOTE TO CONTRACTORS: No bid shall be valid unless signed by the person making the bid. If the party is an individual, the same shall be signed by the individual; if the party is a partnership, the name of the partnership shall be given and signed by one of the partners; if the same is a corporation, the bid should be signed by the corporation by its properly authorized officer or officers.)

SECTION VI –ATTACHMENTS & EXHIBITS

Attachment A: Price Calculations

Attachment B: Bid, Price Quotation

Attachment C: Signature Sheet

Exhibit A: Insurance Requirements

Exhibit B: Schedule of Performance

Exhibit C: Certificate of Compliance with Labor Code § 3700, Release & Indemnification

Exhibit D: City of Atwater's General Service Agreement

ATTACHMENT A - PRICE CALCULATIONS

Pricing will be based on the following:

OPIS price (base) @ date of sale + **dealer differential** + sales tax = City Price

I/We agree that the prices stated herein will be firm for ninety (90) calendar days from the Bid Submittal

ATTACHMENT B – BID PRICE QUOTATION

Product	Base Price	Mark-Up (or Mark-Down) per Gallon
Propane	OPIS price (base) + dealer differential + sales tax = City Price	= Delivered Price per Gallon before taxes (Indicate a negative amount if mark-down)

• **OPIS price = OPIS Sacramento Rack Price Average for date of sale. OPIS data sheets from date of sale must accompany all invoices.**

ATTACHMENT C - SIGNATURE SHEET

I/We the undersigned hereby certify that I/We am/are a duly authorized official of the company and have the authority to sign on behalf of the company and assure that all statements made in the bid are true. I/We agree to furnish and deliver the specified items/services at the prices stated herein, and have read, understand, and agree to the terms and conditions contained herein and on all the attachments.

Name of Individual/Company: _____

Business Address: _____

Telephone No.: _____ Fax: _____

County Business License No. Expiration Date: _____

State Business License No. Expiration Date: _____

Signature of Authorized Official: _____

Name/Title of Authorized Official: _____

E-Mail: _____

EXHIBIT A - INSURANCE REQUIREMENTS

Before beginning any work under this Agreement, Contractor, at its own cost and expense, shall procure "occurrence coverage" insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Professional and its agents, representatives, employees, and subcontractors. Contractor shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects to the City. Professional shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Contractor's bid. Contractor shall not allow any subcontractor to commence work on any subcontract until Contractor has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. Contractor shall maintain all required insurance listed herein for the duration of this Agreement.

1. Workers' Compensation

Contractor shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with bodily injury limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) on a per accident and by disease basis. In the alternative, Contractor may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Contractor shall execute a certificate in compliance with Labor Code § 3700, Release and Indemnification form provided in **Exhibit C**. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the Contract Administrator. The insurer, if insurance is provided, or the Contractor, if a program of self-insurance is provided, shall waive all rights of subrogation against the City and its officers, officials, employees, and volunteers for loss arising from work performed under this Agreement, and such waiver of subrogation shall be so stated on Insurance Services Office ("ISO") endorsement form CG 24 04.

An endorsement shall state that coverage shall not be canceled except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City. Contractor shall notify City within fourteen (14) days of notification from Contractor's insurer if such coverage is suspended, voided or reduced in coverage or in limits.

The requirement to maintain Statutory Worker's Compensation and Employer's Liability Insurance may be waived by the City upon written verification that Contractor does not have any employees.

2. Commercial General and Automobile Liability Insurance

2.1 General requirements

Contractor, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement in an amount not less than TWO MILLION DOLLARS (\$2,000,000.00) and automobile liability insurance for the term of this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00). The commercial general liability and automobile liability insurance shall be per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a commercial general liability insurance or an automobile liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

2.2 Minimum scope of coverage

Commercial general liability coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (most recent edition), Code 1 (any auto). No endorsement shall be attached limiting the coverage.

2.3 Additional requirements

Each of the following shall be included in the insurance coverage or added as an endorsement to the policy:

- a. City and its officers, employees, agents, and volunteers shall be covered as additional insured's with respect to each of the following: liability arising out of activities performed by or on behalf of Contractor, including the insured's general supervision of Contractor; products and completed operations of Contractor; premises owned, occupied, or used by Contractor; and automobiles owned, leased, or used by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City or its officers, employees, agents, or volunteers.
- b. The City shall be listed and named as an additional insured on Insurance Service Office ("ISO") endorsement form CG 20 10 11 85 if commercially available, or CG 20 10 (all other editions other than 11 85), as follows: "The City of Atwater, its elected officials, officers, agents, and employees".
- c. The Certificate of Insurance must list the "City of Atwater listed as ADDITIONAL INSURED" in the field entitled "Description of Operations":

- d. The Certificate of Insurance must list the “City of Atwater” in the field entitled “Certificate Holder”:
- e. The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- f. An endorsement must state that coverage is primary insurance with respect to the City and its officers, officials, employees and volunteers, and that no insurance or self-insurance maintained by the City shall be called upon to contribute to a loss under the coverage.
- g. Any failure of Contractor to comply with reporting provisions of the policy shall not affect coverage provided to City and its officers, employees, agents, and volunteers.
- h. An endorsement shall state that coverage shall not be canceled except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City. Contractor shall notify City within fourteen (14) days of notification from Contractor's insurer if such coverage is suspended, voided or reduced in coverage or in limits.

3. All Policies Requirements

3.1 Acceptability of insurers

All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

3.2 Verification of coverage

Prior to beginning any work under this Agreement, Contractor shall furnish City with certificates of insurance and with original endorsements effecting coverage required herein. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.3 Subcontractors

Contractor shall include all subcontractors as insured's under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage's for subcontractors shall be subject to all the requirements stated herein.

3.4 Deductibles and Self-Insured Retentions

Contractor shall disclose to and obtain the approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement.

During the period covered by this Agreement, only upon the prior express written authorization of Contract Administrator, Contractor may increase such deductibles or self-insured retentions with respect to City, its officers, employees, agents, and volunteers. The Contract Administrator may condition approval of an increase in

deductible or self-insured retention levels with a requirement that Contractor procure a bond, guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.

3.5 Waiver of Subrogation

Contractor hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Consultant agrees to obtain any endorsements that may be necessary to affect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the entity for all work performed by the Contractor, its employees, agents, and subcontractors.

3.6 Notice of Reduction in Coverage

In the event that any coverage required by this section is reduced, limited, or materially affected in any other manner, Contractor shall provide written notice to City at Contractor's earliest possible opportunity and in no case later than five (5) days after Contractor is notified of the change in coverage.

4. Remedies

In addition to any other remedies City may have if Contractor fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Contractor's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Contractor to stop work under this Agreement or withhold any payment that becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

EXHIBIT B - SCHEDULE OF PERFORMANCE

SCHEDULE DAY OF SERVICE: Contractor acknowledges that delivery will occur at the City Corporation Yard, Fire Station 41, and Fire Station 42 and will limit working hours to Monday through Friday from 6:30 AM to 2:30 PM at the Corporation yard, and from 8:00 AM to 5:00 PM at the Fire Stations, excluding holidays recognized by the City. At the beginning of the Contract term and each calendar year after that, City shall provide Contractor a yearly calendar outlining City holidays.

EXHIBIT C - CERTIFICATE OF COMPLIANCE WITH LABOR CODE § 3700

Release and Indemnification

The undersigned, on behalf of and as the duly certified representative of Contractor, certifies as follows:

1. Contractor is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and Contractor has complied or will comply with such provisions before commencing the performance of the work of this contract. (Cal. Labor Code §§1860, 1861.)
2. Should Contractor fail to secure Workers' Compensation coverage as required by the State of California, Contractor shall release, hold harmless, defend and indemnify the City of Atwater from and against any damage, liability, claim, cause of action and any other loss, including without limitation, court costs, reasonable attorney's fees and costs resulting from any failure to take and/or maintain Workers' Compensation insurance as required by law. The provisions of this Exhibit shall survive termination, suspension and/or completion of this Contract. It is further understood and agreed that this release and assumption of risk is to be binding on Contractor's successors, heirs, and assigns.

Contractor

By: _____

Date: _____

Signature: _____

EXHIBIT D – CITY OF ATWATER GENERAL SERVICES AGREEMENT

THE CITY OF ATWATER AND _____ (Contractor)

THIS AGREEMENT (hereinafter referred to as “Agreement”) is made by and between the City of Atwater, a California municipal corporation, (herein “City”) and _____, (herein “Contractor”), as of _____, 20XX.

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to City the services described in the Scope of Work attached as Exhibit A (“Scope of Work and Compensation”) at the time and place and in the manner as specified therein. In the event of a conflict or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

Section 2. TERM. The term of this Agreement shall begin on the date first noted above and shall end on _____, unless the term of the Agreement is otherwise extended as provided in Section 10 or terminated as provided for in Section 12. The time provided to Contractor to complete the services required by this Agreement shall not affect the City’s right to terminate the Agreement, as provided for in Section 12.

Section 3. CONTRACT ADMINISTRATOR. This Agreement shall be administered by _____ (“Contract Administrator”). All correspondence shall be directed to or through the Contract Administrator or his or her designee.

Section 4. COMPENSATION OF CONTRACTOR. The Contractor shall be paid a sum not to exceed _____ for performance of the Services pursuant to this Agreement. The Contractor shall submit invoices to the City Finance Director on a monthly basis detailing the Services performed. In the event of a conflict between this Agreement and Contractor’s Exhibit A regarding the amount of compensation, the Agreement shall prevail. Upon receipt and approval of the Contractor’s invoices, the City shall remit payment to the Contractor for Services provided within thirty (30) days. Payment to Contractor shall be considered as full compensation for performing the Services.

City’s failure to discover or object to any unsatisfactory work or billing prior to payment will not constitute a waiver of City’s right to request Contractor to correct such work or billings or seek any other legal remedy.

Section 5. PERFORMANCE STANDARDS.

- A. Contractor shall comply with all applicable laws now in force or which may hereafter be in force with regard to the provision of Services and this Agreement.

B. For any project performed by Contractor subject to prevailing wage, Contractor must comply with all prevailing wage laws and must be registered with the Department of Industrial Relations and must include their DIR registration number. Pursuant to Labor Code Section 1770, the Contractor shall pay not less than the prevailing rate of per diem wages, including, but not limited to, overtime, Saturday, Sunday, and holiday work, travel and subsistence, as determined by the Director of the California Department of Industrial Relations pursuant to Labor Code Section 1773. Contractor shall comply with Labor Code Section 1776. Regulations implementing Section 1776 are located in Section 16000 and Sections 16401 through 16403 of Title 8, California Code of Regulations. The Contractor shall be responsible for compliance by the Contractor's Subcontractors. Pursuant to Labor Code section 1771.4, Contractor is required to post all job site notices prescribed by law or regulation that include payment of prevailing wages.

C. Contractor represents that it has the skills, expertise, licenses and permits necessary to perform the Services. Contractor shall perform all such Services in the manner and according to the standards observed by a competent practitioner of the same profession in which Contractor is engaged and in accordance with applicable industry standards. Permits and/or licenses shall be obtained and maintained by Contractor without additional compensation throughout the term of this Agreement.

Section 6. INDEPENDENT CONTRACTOR. Contractor shall perform the Services as an independent contractor, and nothing herein contained shall be construed to make Contractor an agent or employee of the City while providing the Services. Contractor shall be entitled to no other benefits or compensation except as provided in this Agreement.

Section 7. INSURANCE REQUIREMENTS. Prior to beginning any Service under this Agreement, Contractor, at its own cost and expense, shall procure insurance coverage at such levels of coverage, scope, limits, and/or forms as set forth in Exhibit B ("Insurance Requirements") hereto. Contractor shall provide proof satisfactory to City of such insurance and maintain the insurance throughout the term of this Agreement.

Section 8. INDEMNIFICATION. Contractor shall indemnify, defend with counsel selected by the City, and hold harmless City, its officers, agents, employees and representatives from and against any and all claims, losses, liabilities or damages, demands and actions, including payment of reasonable attorney's fees, arising out of or resulting from Services performed pursuant to this Agreement. The foregoing obligation of Contractor shall not apply when (1) the injury, loss of life, damage to property, or violation of law arises solely from the gross negligence or willful misconduct of the City or its officers, employees, agents, or volunteers and (2) the actions of Contractor or its employees, subcontractor, or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under

this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

Section 9. NONDISCRIMINATION AND EQUAL OPPORTUNITY. Contractor shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Contractor under this Agreement. Contractor shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Contractor thereby. Contractor shall include the provisions of this section in any subcontract approved by the City.

Section 10. AMENDMENTS. No modification or amendment of this Agreement is effective unless made in writing and signed by both the City and Contractor.

Section 11. ASSIGNMENT AND SUBCONTRACTING. Contractor shall not assign or transfer any interest in this Agreement without the prior written consent of the City.

Section 12. TERMINATION. The City may terminate this Agreement without cause immediately, upon written notice to the Contractor. In the event of termination, Contractor shall be entitled to payment for Services then satisfactorily completed. Contractor shall not be entitled to any claim against City for any additional compensation or damages in the event of such termination.

Section 13. NOTICES. All notices that are regarding this Agreement shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited in a United States Post Office for delivery by registered or certified mail addressed to the parties at the following addresses:

City: City of Atwater

Contractor: Contractor

[insert (include email address for updates to insurance requests)]

Section 14. GOVERNING LAW AND VENUE. The laws of the State of California shall govern this Agreement. Venue for any action regarding this Agreement shall be in the Superior Court of the County of Merced.

Section 15. ATTORNEYS' FEES. If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

Section 16. SEVERABILITY. If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

Section 17. WAIVER. The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

Section 18. SURVIVAL. The obligations of this Agreement, which by their nature would continue beyond the term or expiration of the Agreement, including without limitation obligations regarding indemnification shall survive the term or expiration of this Agreement.

Section 19. ENTIRE AGREEMENT. This Agreement represents the entire and integrated Agreement between City and Contractor and supersedes all prior negotiations, representations, and Agreements regarding the subject matter of this Agreement, either written or oral.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year set forth above, which date shall be considered the effective date of this Agreement.

CITY OF ATWATER

CONTRACTOR

By: _____
Lori Waterman, City Manager

By: _____
Name, Title

Date: _____

Date: _____

APPROVED AS TO FORM:

By: _____
Frank Splendorio, City Attorney

ATTEST:

By: _____
Lucy Armstrong, City Clerk

DRAFT

**EXHIBIT A TO GENERAL SERVICES AGREEMENT
SCOPE OF WORK AND COMPENSATION**

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**EXHIBIT B TO GENERAL SERVICES AGREEMENT
INSURANCE REQUIREMENTS**

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