



CITY OF REDDING

SUPPORT SERVICES DEPARTMENT

PURCHASING DIVISION

777 Cypress Avenue, Redding, CA 96001-2718

P.O. Box 496071, Redding, CA 96049-6071

530.225.4138 FAX 530.225.4434

THE CITY OF REDDING, CALIFORNIA REQUEST FOR PROPOSALS FOR A COMPUTERIZED LOCKOUT-TAGOUT SYSTEM BID SCHEDULE NO. 4226

In accordance with the provisions of the Municipal Code of the City of Redding, sealed proposals will be received by the City Clerk of the City of Redding, at the 3rd Floor City Clerk's Office at City Hall, 777 Cypress Avenue, Redding, California 96001-2718, until 3:00 p.m. PST, Thursday, April 16, 2009, for furnishing a Computerized Lockout-Tagout System, per the specifications and terms and conditions contained herein.

THE CITY RESERVES THE RIGHT TO REJECT AT ITS SOLE DISCRETION PROPOSALS RECEIVED AFTER THIS TIME AND DATE.

The said proposals will be opened at **3:00 P.M. on Thursday, April 16, 2009**, in the designated City Hall Conference Room as posted in the main lobby of the City Hall, located at 777 Cypress Avenue, Redding, California.

The original proposal (unbound) and three (3) copies are to be submitted. Facsimile or electronic submission will not be accepted. One (1) set of the Fee Schedule is to be submitted in a separate, sealed envelope.

The cut-off date and time for receiving **questions regarding this RFP is 5:00 p.m. PST, on April 8, 2009**. All inquiries must be made in writing and may be submitted to the email address shown below.

The City of Redding reserves the right to reject any or all proposals, in part or in their entirety. In addition, the City will award any resulting contract in a manner consistent with the City Purchasing Ordinance.

THE CITY OF REDDING
Purchasing Division

Giannine O'Connor
Senior Buyer
(530)225-4135
goconnor@ci.redding.ca.us

NOTE

If a potential proposer received this Request for Proposal document through some means other than from the City of Redding (including from the City of Redding Internet web site), it is the responsibility of the potential proposer to check the City of Redding's website at www.ci.redding.ca.us/supserv/purch/currentbidqte.htm for any addenda issued to this solicitation. Proposer understands failure to acknowledge any addenda issued may cause the proposal to be considered non-responsive. Proposer may contact the Purchasing Division to confirm the number of addendums (if any), that have been issued.

Please submit proposal (original and specified number of copies) to:

City of Redding
City Clerk

777 Cypress Avenue
Redding, CA 96001-2718

OR

City of Redding
City Clerk

P.O. Box 496071
Redding, CA 96049-6071

Mailing envelope is to be clearly marked on the outside with the following notation:

“Schedule No. _____; opening at

_____, on _____”.
(Time) (Date)

Proposals will NOT be considered unless:

Proposal contains a cover letter signed by a member of the organization having the authority to enter into formal contracts on behalf of the organization. The cover letter must also acknowledge receipt of any and all addenda that may have been issued.

The City of Redding

**REQUEST FOR PROPOSALS
FOR A COMPUTERIZED LOCKOUT-TAGOUT SYSTEM
BID SCHEDULE NO. 4226**

PROPOSAL REQUIREMENTS

General Format

The proposal shall include, as a minimum, the following information:

Cover/Transmittal Letter - Letter must be signed by a member of the organization who has the authority to enter into contracts on behalf of the organization. The letter must also acknowledge receipt of any and all addenda (by number), if any have been issued.

Scope of Work - Describe the work plan that you intend to use to complete the tasks listed in the Scope of Work. Note any changes or additions to the work descriptions that may have been overlooked or that help clarify the work tasks.

Responsible Personnel - List the Principal-in-Charge, Project Manager, and key project staff who will be directly involved in this project. A concise statement of qualifications and experience of each person, together with the hours that each is committed to the project. Include all anticipated sub-consultants, listing names, addresses, telephone numbers, key staff personnel, and the expected hours expected to be committed to the project. A project organizational chart of key personnel should be included.

Consultant Fee - In a separate, sealed envelope present a cost break down of the software, training, and installation, and the cost of any required annual maintenance agreement. ***See Proposal Submittals, for information on submitting the consultant fee with the proposal.***

Schedule - Include a schedule, and a proposed date for the installation on the COR server and network.

Include Printer Specifications and Recommended platforms and/or hardware requirements for the system.

Related Experience - Include all projects in progress or completed over the last five (5) years that are comparable to this project. Direct experience in similar computerized lockout-tagout projects will be weighted the highest in evaluation. Include references with names, addresses and phone numbers. Highlight experience of project team with computerized lockout-tagout systems.

PROPOSAL SUBMITTALS

Pages in the proposal shall be typed and single sided with the maximum number of pages of proposal information (excepting cover sheet, index sheet, blank pages, and table of contents) to be limited to forty (40) pages. Only the specifically requested information shall be submitted. Promotional or other unsolicited material may not be submitted. If a consultant recognizes a more efficient method of accomplishing a specific task or item, the consultant's fee shall reflect the City's requested work and the cost increase/savings for the more efficient method shall be noted separately.

The consultant shall submit **the original (unbound) and three (3) copies** of the proposal in a sealed box or envelope clearly marked with the consultant's name and the description "Computerized Lockout-Tagout System, Schedule Number 4226." The proposals shall be delivered to the City at the time and location noted on the cover sheet of this RFP. **One copy of consultant's fee for the services required in this proposal shall be submitted, in a separate sealed envelope with the same notation as the proposals.** The sealed envelope shall not be opened until after the initial evaluation has been completed.

EVALUATION CRITERIA

Proposals submitted will be subject to the City's selection procedures for technical and/or professional consultants. Accordingly, final selection will be based upon overall capability to perform services and not exclusively upon cost of services.

Proposals will be evaluated based on:

Cost - 30%

Adherence to the specifications - 30%

A demonstrated ability and a history of successful projects substantially similar to this one. - 20%

Clarity of the proposal - 10%

STANDARD CONSULTANT AGREEMENT

The Consultant selected to provide the scope of services shall use the City of Redding's standard consulting and professional services agreement (copy attached). By submitting a proposal for the work, the consultant agrees to utilize the City's standard agreement form for the contract. **Please see the required levels of insurance coverage set forth in the professional services agreement.**

GENERAL CONDITIONS

1. Public Information

All submitted proposals and information included therein or attached thereto shall become public record upon their delivery to the City. Proposals may be reviewed by outside interested parties after all proposals received for a particular project have been reviewed and the intended awardee has been selected.

2. RFP Addenda

The City of Redding reserves the right to amend, alter, or revoke this RFP in any manner at any time. At the City's sole discretion, modifications, clarifications, or additions will be distributed as an addendum to all known proposers.

3. Proposal Preparation Costs

All costs incurred in the preparation and presentation of this proposal shall be wholly absorbed by the vendor.

4. Withdrawal of Proposal

Any proposer may withdraw their proposal, either personally or by written request at any time prior to the scheduled closing time for the receipt of proposals. Such requests are to be directed to the City Clerk.

5. Selection Procedures

Proposals submitted will be subject to the City's selection procedures for technical and/or professional consultants. Accordingly, final selection will be based upon overall capability to perform services and not exclusively upon cost of services.

The City may make any investigation it deems necessary to determine the ability of a Proposer to carry out the obligations indicated in the Request for Proposal and the submitted Proposal. At the City's sole discretion, the Proposer shall furnish to the City all information and data for this purpose if materials submitted by, or investigation of, any Proposer fails to satisfy the City that the

Proposer is properly qualified to carry out the stated obligations.

6. Right to Reject Proposals

The City reserves the right to reject any and all proposals, to waive any non-material irregularities or information in any proposal, and to accept or reject any combination of items.

The selected firm shall execute an agreement with the City within fourteen (14) days after notification of selection, unless the time for execution has been extended for good cause at the sole discretion of the City. Failure of the selected firm to meet contract submission requirements (e.g. insurance) or failure to timely execute an agreement with the City may result, in the sole discretion of the City, a decision to select from the remaining proposers or to call for new proposals.

7. Assignment of Contract

No assignment by the firm of any contract to be entered into hereunder or any part thereof, or of funds to be received thereunder by the firm, will be recognized by the City.

8. Hold Harmless

The successful firm shall defend, indemnify, save and hold harmless, the City of Redding, its officers, agents and employees, from any loss demands, claims, suits damages or actions that may be brought by third persons on account of bodily injury or death; personal injury; damage to property or personal interest; or violation of any law, regulation or ordinance; where the third person's loss, demand, claim, suit, damages or action arises in whole or part out of any negligent or other act or omission of the contracting agency or its officers, employees, and agents, while performing the services agreed to save and except those actions arising out of the sole negligence of the City.

9. Non Discrimination Provision

Except as provided in section 12940 et seq. of the Government Code, successful contractor shall not discriminate against any person because of his/her race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex nor refuse to hire or employ the person or to refuse to select the person for a training program leading to employment, or to bar or to discharge the person from employment, or from a training program leading to employment, or to discriminate against the person in compensation or in terms, conditions or privileges of employment. The contractor shall insert in all subcontracts for any work covered by this contract this non discrimination provision.

TECHNICAL SPECIFICATIONS
Computerized Lockout-Tagout System
For the City of Redding Power Plant
(Schedule Number 4226)

BACKGROUND

The City of Redding (COR) operates a plant located at 17120 Clear Creek Road, in Redding California. When maintenance is performed at the plant, safety is paramount, and COR employs multiple programs to ensure the safety of its employees. One of the safety programs utilized at the Redding Power Plant is a Lockout/Tagout (LOTO) program as required under Cal OSHA Title 8.

The Redding Power Plant LOTO program is used to initiate, track, control, initiate, and maintain records of Clearance Orders, Hotwork Permits, and Confined Space Permits at the Redding Power Plant to ensure the safety of personnel in the course of their work. Currently, COR utilizes a paper-based program for administration of these safety procedures. The clearance forms and tags are filled out by hand, detailing the work to be performed and the people involved, identifying the isolation points required to ensure personnel safety. The tags are hung at the isolation points as they are locked out to ensure that isolated equipment cannot be reenergized.

COR is considering the acquisition of a computer-based Lockout/Tagout (LOTO) system capable of creating all clearances required for LOTO, confined space, and hot-work permits in accordance with OSHA guidelines. The intent is to speed the process of creating clearance orders and tags while improving the accuracy with which they are written.

1. GENERAL SYSTEM REQUIREMENTS

- 1.1. The LOTO system is to be a complete LOTO platform possessing the ability to create all Clearance Orders, Confined Space Permits and Burn Permits along with the required tags for the isolation points.
- 1.2. The LOTO system is to have the ability to attach files to the individual clearance for reference. The attachment formats are to include various file formats, including PDF, Word, Excel, and JPG.
- 1.3. The LOTO system is to have multiple levels of security (Administrative, Operator, Maintenance, and guest). Additional levels should be possible to create as needed.
- 1.4. The LOTO system is to be provided and installed on an existing server and configured to operate on the Redding Power Plant LAN on Microsoft Windows workstations.
- 1.5. The LOTO system is to maintain an automated systems log of all activities within the system.
- 1.6. Date and time of Tagout issue are to be automatically inserted upon isolation approval.
- 1.7. The LOTO system is to be provided with a backup / restore feature to ensure 100% integrity/availability of stored data.
- 1.8. The LOTO system is to be supplied with a standard laser printer capable of printing on sheets of tags.

2. SOFTWARE REQUIREMENTS

- 2.1. The power plant currently uses a Computerized Maintenance Management Software (CMMS) program called Mainsaver, which has an SQL database to keep a record of all equipment maintenance. The LOTO system is to be linked to and integrated with the Mainsaver program at installation in order to extract data from the Mainsaver database. Under no circumstances will the Mainsaver database be

changed or modified by the LOTO software. In order to associate new clearances with work order, the data extracted from the Mainsaver database is to include, but not be limited to:

- 2.1.1. Asset names or numbers
 - 2.1.2. Work order number
 - 2.1.3. Work requested
 - 2.1.4. Activity or work requested
- 2.2. The LOTO software is to create an association between the work orders created in the Mainsaver system and the Lockout/ Tagout Clearance Orders, Confined Space Permits and Burn Permits, including data from the work order created in Mainsaver, coordinating the information between the two systems. The LOTO system is to eliminate duplication of effort by extracting work order data from the CMMS and using it to create Clearance Orders, Confined Space Permits and Burn Permits without having to retype or write information.
 - 2.3. The LOTO software is to be capable of assigning multiple work orders can be assigned to a Clearance Order, Confined Space Permit or Burn Permit.
 - 2.4. The LOTO system is to be installed to run on a Local Area Network (LAN), and accessed from a minimum of three workstations at the Redding Power Plant.
 - 2.5. The LOTO system is to be capable of providing reports and audits on current or archived clearances, and be capable of providing for customized reporting.
 - 2.6. The LOTO system is to have an archive function to allow the LOTO system Administrator to be able to archive clearance orders that were closed prior to the date selected.
 - 2.7. **SYSTEM SECURITY**
 - 1.1.1. The LOTO system is to require a login and password to allow users access to The LOTO system with the permissions sets per that user's profile. Access to configuration tables, profile indexes, etc. is to be restricted to authorized users. Access is to be managed through The LOTO system's security controls.
 - 1.1.2. The LOTO system is to utilize electronic signatures verified by passwords. View only access may be allowed for users that do not log in.

3. TRAINING AND TECHNICAL SUPPORT

- 3.1. Training is to be provided to instruct the users to create Clearance Orders, Confined Space Permits and Burn Permits. Two classes will be necessary in order to provide training to each of the four Power Plant Operator shifts. The LOTO system training is to include two classroom presentations followed by hands on operation of the system.
- 3.2. An Operator Training Manual is to be provided that includes step by step screen shots of the operations required to Clearance Orders, Confined Space Permits, Burn Permits, Audit Reports and other related operations.

4. CONTRACTOR REQUIREMENTS

- 4.1. Supply and install a computer-based system for the creation of safety clearances, confined space permits and burn permits according to the Redding Power Plant site safety regulations.
- 4.2. The LOTO system provider must agree to provide technical support, which is to be available to COR via telephone, email and website.

4.3. The LOTO software system provider is to include technical support.

4.4. The LOTO software system is to include system support for technical issues and maintenance releases.

5. COR REQUIREMENTS

5.1. COR will provide access to the workstations and networks for the installation.

5.2. COR will provide the necessary printers for the installation.

5.3. COR will provide access and assistance for installation of the software on a network server.

6. EXCEPTIONS

6.1 If there are any deviations from the specifications set forth herein, the bidder shall note the deviations in his bid. Failure to note a deviation from the specifications may be grounds for rejection by the City of that particular bid. Where deviations are noted, the City reserves the right to accept a bid containing such deviations provided that, in the sole opinion of the City, the deviation or deviations so noted do not affect the overall capability of the item bid to perform the function for which it is to be acquired and such deviations result in lesser total cost to the City for the subject item.

CITY OF REDDING CONSULTING AND PROFESSIONAL SERVICES CONTRACT

THIS CONTRACT is made at Redding, California, by and between the City of Redding (“City”), a municipal corporation, and _____ (“Consultant”) for the purpose of _____.

WHEREAS, City does not have sufficient personnel to perform the services required herein thereby necessitating this Contract for personal services.

WHEREAS, pursuant to RMC §4.20.120, bidding is unnecessary because the services acquired herein require peculiar or specialized skill.

NOW, THEREFORE, the Parties covenant and agree, for good consideration hereby acknowledged, as follows:

SECTION 1. CONSULTANT SERVICES

Subject to the terms and conditions set forth in this Contract, Consultant shall provide to City the services described in Exhibit A, attached and incorporated herein. Consultant shall provide the services at the time, place and in the manner specified in Exhibit A.

SECTION 2. COMPENSATION AND REIMBURSEMENT OF COSTS

- A. City shall pay Consultant for services rendered pursuant to this Contract, at the times and in the manner set forth in Exhibit B, attached and incorporated herein, in a total amount not to exceed _____ (\$_____). This sum includes all out-of-pocket travel, lodging and incidental expenses incurred by Consultant that are reasonably associated with the provision of services under this Contract. The payments specified herein shall be the only payments to be made to Consultant for services rendered pursuant to this Contract.
- B. Consultant shall submit monthly invoices to City for work completed to the date of the invoice. All invoices shall be itemized to reflect the employees performing the requested tasks, the billing rate for each employee and the hours worked.
- C. All correct, complete and undisputed invoices sent by Consultant to City shall be paid within thirty (30) calendar days of receipt.

SECTION 3. TERM AND TERMINATION

- A. Consultant shall commence work on or about _____ and complete said work no later than _____. Time is of the essence.
- B. If Consultant fails to perform its duties to the satisfaction of City, or if consultant fails to fulfill in a timely and professional manner its obligations under this Contract, then City shall have the right to terminate this Contract effective immediately upon City giving written notice thereof to Consultant.
- C. Either Party may terminate this Contract without cause on thirty (30) calendar days' written notice. Notwithstanding the preceding, if the term set forth in Section 3.A. of this Contract exceeds ninety (90) calendar days in duration, Consultant's sole right to terminate shall be limited to termination for cause.
- D. Consultant hereby acknowledges and agrees that the obligation of City to pay under this Contract is contingent upon the availability of City's funds which are appropriated or allocated by the City Council. Should the funding for the project and/or work set forth herein not be appropriated or allocated by the City Council, City may terminate this Agreement by furnishing at least thirty (30) calendar days' written notice of its intention to terminate. In the event of a termination pursuant to this subdivision, Consultant shall not be entitled to a remedy of acceleration of payments due over the term of this Agreement. The Parties acknowledge and agree that the power to terminate described herein is required by Article 16, Section 18, of the California Constitution, and that constitutional provision supersedes any law, rule, regulation or statute which conflicts with the provisions of this Section.
- E. In the event that City gives notice of termination, Consultant shall promptly provide to City any and all finished and unfinished reports, data, studies, photographs, charts or other work product prepared by Consultant pursuant to this Contract. City shall have full ownership, including, but not limited to, intellectual property rights, and control of all such finished and unfinished reports, data, studies, photographs, charts or other work product.
- F. In the event that City terminates the Contract, City shall pay Consultant the reasonable value of services rendered by Consultant pursuant to this Contract; provided, however, that City shall not in any manner be liable for lost profits which might have been made by Consultant had Consultant completed the services required by this Contract. Consultant shall, not later than ten (10) calendar days after termination of this Contract by City, furnish to City such financial information as in the judgment of the City's representative is necessary to determine the reasonable value of the services rendered by Consultant.

- G. In no event shall the termination or expiration of this Contract be construed as a waiver of any right to seek remedies in law, equity or otherwise for a Party's failure to perform each obligation required by this Contract.

SECTION 4. MISCELLANEOUS TERMS AND CONDITIONS OF CONTRACT

- A. City shall make its facilities accessible to Consultant as required for Consultant's performance of its services under this Contract, and, upon request of Consultant, provide labor and safety equipment as required by Consultant for such access.
- B. Pursuant to the City's business license ordinance, Consultant shall obtain a City business license prior to commencing work.
- C. Consultant represents and warrants to City that it has all licenses, permits, qualifications and approvals of any nature whatsoever that are legally required for Consultant to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Contract any licenses, permits and approvals that are legally required for Consultant to practice its profession.
- D. Consultant shall, during the entire term of this Contract, be construed to be an independent contractor and nothing in this Contract is intended, nor shall it be construed, to create an employer/employee relationship, association, joint venture relationship, trust or partnership or to allow City to exercise discretion or control over the professional manner in which Consultant performs under this Contract; provided, however, that the services to be provided by Consultant shall be provided in a manner consistent with the professional standards applicable to such services. The sole interest of City is to insure that services are rendered and performed in a competent, efficient and satisfactory manner. Consultant shall be fully responsible for payment of all taxes due to state and federal governments which would be withheld from compensation if Consultant were a City employee. City shall not be liable for deductions for any amount for any purpose relating to Consultant's compensation. Consultant shall not be eligible for coverage under City's workers' compensation insurance plan, benefits under the Public Employee Retirement System or be eligible for any other City benefit. No party shall be the agent of, or have a right or power to bind, the other Party without its express written consent.
- E. No provision of this Contract is intended to, or shall be for the benefit of, or construed to create rights in, or grant remedies to, any person or entity not a party hereto.
- F. No portion of the work or services to be performed under this Contract shall be assigned, transferred, conveyed or subcontracted without the prior written approval of City. Consultant may use the services of independent contractors and subcontractors to perform a portion of its obligations under this Contract with the prior written approval of City. Independent contractors and subcontractors shall be provided with

a copy of this Contract and Consultant shall have an affirmative duty to assure that said independent contractors and subcontractors comply with the same and agree to be bound by its terms. Consultant shall be the responsible party with respect to all actions of its independent contractors and subcontractors, and shall obtain such insurance and indemnity provisions from its contractors and subcontractors as City's Risk Manager shall determine to be necessary.

- G. Consultant, at such times and in such form as City may require, shall furnish City with such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Contract, the costs or obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.
- H. Consultant shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to this Contract and such other records as may be deemed necessary by City to assure proper accounting for all project funds. These records shall be made available for audit purposes to state and federal authorities, or any authorized representative of City. Consultant shall retain such records for three (3) years after the expiration of this Contract, unless prior permission to destroy them is granted by City.
- I. Consultant shall perform all services required pursuant to this Contract in the manner and according to the standards observed by a competent practitioner of Consultant's profession. All products of whatsoever nature which Consultant delivers to City pursuant to this Contract shall be prepared in a professional manner and conform to the standards of quality normally observed by a person practicing the profession of Consultant and its agents, employees and subcontractors assigned to perform the services contemplated by this Contract.
- J. All completed reports and other data or documents, or computer media including diskettes, and other materials provided or prepared by Consultant in accordance with this Contract are the property of City, and may be used by City. City shall have all intellectual property rights including, but not limited to, copyright and patent rights, in said documents, computer media, and other materials provided by Consultant. City shall release, defend, indemnify and hold harmless Consultant from all claims, costs, expenses, damage or liability arising out of or resulting from City's use or modification of any reports, data, documents, drawings, specifications or other work product prepared by Consultant, except for use by City on those portions of the City's project for which such items were prepared.
- K. Consultant, including its employees, agents, and subconsultants, shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Contract. Consultant shall comply with all requirements of the Political Reform Act (Government Code § 8100 et seq.) and other laws relating to conflicts of interest, including the following: 1) Consultant shall not make or participate in a decision made by City if it is reasonably foreseeable that the decision may have a material effect on

Consultant's economic interest, and 2) if required by the City Attorney, Consultant shall file financial disclosure forms with the City Clerk.

SECTION 5. INSURANCE

- A. Unless modified in writing by City's Risk Manager, Consultant shall maintain the following noted insurance during the duration of the Contract:

<u>Coverage</u>	<u>Required</u>	<u>Not Required</u>
Commercial General Liability	X	
Comprehensive Vehicle Liability		X
Workers' Compensation and Employers' Liability	X	
Professional Liability (Errors and Omissions)	X*	

(Place an "x" in the appropriate box)

*The City reserves the right to request after proposals are received.

- B. Coverage shall be at least as broad as:

1. Insurance Services Office form number CG-0001, Commercial General Liability Insurance, in an amount not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate for bodily injury, personal injury and property damage;
2. Insurance Services Office form number CA-0001 (Ed. 1/87), Comprehensive Automobile Liability Insurance, which provides for total limits of not less than \$1,000,000 combined single limits per accident applicable to all owned, non-owned and hired vehicles;
3. Statutory Workers' Compensation required by the Labor Code of the State of California and Employers' Liability Insurance in an amount not less than \$1,000,000 per occurrence. Both the Workers' Compensation and Employers' Liability policies shall contain the insurer's waiver of subrogation in favor of City, its elected officials, officers, employees, agents and volunteers;
4. Professional Liability (Errors and Omissions) Insurance, appropriate to Consultant's profession, against loss due to error or omission or malpractice in an amount not less than \$1,000,000.

- C. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its elected officials, officers, employees,

agents and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

- D. The General Liability shall contain or be endorsed to contain the following provisions:
1. City, its elected officials, officers, employees, and agents are to be covered as additional insured as respects liability arising out of work or operations performed by or on behalf of Consultant; premises owned, leased or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, its elected officials, officers, employees, agents and volunteers.
 2. The insurance coverage of Consultant shall be primary insurance as respects City, its elected officials, officers, employees, agents and volunteers. Any insurance or self-insurance maintained by City, its elected officials, officers, employees, agents and volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.
 3. Coverage shall state that the insurance of Consultant shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 4. Each insurance policy required by this Contract shall be endorsed to state that coverage shall not be canceled except after thirty (30) calendar days' prior written notice has been given to City. In addition, Consultant agrees that it shall not reduce its coverage or limits on any such policy except after thirty (30) calendar days' prior written notice has been given to City.
- E. Insurance is to be placed with insurers with a current A.M.Best's rating of no less than A-VII.
- F. Consultant shall designate the City of Redding as a Certificate Holder of the insurance. Consultant shall furnish City with certificates of insurance and original endorsements effecting the coverages required by this clause. Certificates and endorsements shall be furnished to: Risk Management Department, City of Redding, 777 Cypress Avenue, Redding, CA 96001. The certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf. All endorsements are to be received and approved by the City's Risk Manager prior to the commencement of contracted services. City may withhold payments to Consultant if adequate certificates of insurance and endorsements required have not been provided, or not been provided in a timely manner.
- G. The requirements as to the types and limits of insurance coverage to be maintained by Consultant as required by Section 5 of this Contract, and any approval of said

insurance by City, are not intended to and will not in any manner limit or qualify the liabilities and obligations otherwise assumed by Consultant pursuant to this Contract, including, without limitation, provisions concerning indemnification.

- H. If any policy of insurance required by this Section is a “claims made” policy, pursuant to Code of Civil Procedure § 342 and Government Code § 945.6, Consultant shall keep said insurance in effect for a period of eighteen (18) months after the termination of this Contract.
- I. If any damage, including death, personal injury or property damage, occurs in connection with the performance of this Contract, Consultant shall immediately notify City’s Risk Manager by telephone at (530) 225-4068. No later than three (3) calendar days after the event, Consultant shall submit a written report to City’s Risk Manager containing the following information, as applicable: 1) name and address of injured or deceased person(s); 2) name and address of witnesses; 3) name and address of Consultant’s insurance company; and 4) a detailed description of the damage and whether any City property was involved.

SECTION 6. INDEMNIFICATION AND HOLD HARMLESS

- A. Consistent with California Civil Code § 2782.8, when the services to be provided under this Contract are design professional services to be performed by a design professional, as that term is defined under Section 2782.8, Consultant shall, to the fullest extent permitted by law, indemnify protect, defend and hold harmless, City, its elected officials, officers, employees, and agents, and each and every one of them, from and against all actions, damages, costs, liability, claims, losses, penalties and expenses (including, but not limited to, reasonable attorney’s fees of the City Attorney or legal counsel retained by City, expert fees, litigation costs, and investigation costs) of every type and description to which any or all of them may be subjected by reason of, or resulting from, directly or indirectly, the negligence, recklessness, or willful misconduct of Consultant, its officers, employees or agents in the performance of professional services under this Contract, except when liability arises due to the sole negligence, active negligence or misconduct of the City.
- B. Other than in the performance of professional services by a design professional, which is addressed solely by subdivision (A) of this Section, and to the fullest extent permitted by law, Consultant shall indemnify protect, defend and hold harmless, City, its elected officials, officers, employees, and agents, and each and every one of them, from and against all actions, damages, costs, liability, claims, losses, penalties and expenses (including, but not limited to, reasonable attorney’s fees of the City Attorney or legal counsel retained by City, expert fees, litigation costs, and investigation costs) of every type and description to which any or all of them may be subjected by reason of the performance of the services required under this Contract by Consultant its officers, employees or agents in the performance of professional services under this

Contract, except when liability arises due to the sole negligence, active negligence or misconduct of the City.

- C. The Consultant's obligation to defend, indemnify and hold harmless shall not be excused because of the Consultant's inability to evaluate liability. The Consultant shall respond within thirty (30) calendar days to the tender of any claim for defense and indemnity by the City, unless this time has been extended in writing by the City. If the Consultant fails to accept or reject a tender of defense and indemnity in writing delivered to City within thirty (30) calendar days, in addition to any other remedy authorized by law, the City may withhold such funds the City reasonably considers necessary for its defense and indemnity until disposition has been made of the claim or until the Consultant accepts or rejects the tender of defense in writing delivered to the City, whichever occurs first. This subdivision shall not be construed to excuse the prompt and continued performance of the duties required of Consultant herein.
- D. The obligation to indemnify, protect, defend, and hold harmless set forth in this Section applies to all claims and liability regardless of whether any insurance policies are applicable. The policy limits of said insurance policies do not act as a limitation upon the amount of indemnification to be provided by Contractor.
- E. City shall have the right to approve or disapprove the legal counsel retained by Consultant pursuant to this Section to represent City's interests. City shall be reimbursed for all costs and attorney's fees incurred by City in enforcing the obligations set forth in this Section.

SECTION 7. CONTRACT INTERPRETATION, VENUE AND ATTORNEY FEES

- A. This Contract shall be deemed to have been entered into in Redding, California. All questions regarding the validity, interpretation or performance of any of its terms or of any rights or obligations of the parties to this Contract shall be governed by California law, and any action brought by either party to enforce any of the terms of this Contract shall be filed in the Shasta County Superior Court. If any claim, at law or otherwise, is made by either party to this Contract, the prevailing party shall be entitled to its costs and reasonable attorneys' fees.
- B. This document, including all exhibits, contains the entire agreement between the parties and supersedes whatever oral or written understanding each may have had prior to the execution of this Contract. This Contract shall not be altered, amended or modified except by a writing signed by City and Consultant. No verbal agreement or conversation with any official, officer, agent or employee of City, either before, during or after the execution of this Contract, shall affect or modify any of the terms or conditions contained in this Contract, nor shall any such verbal agreement or conversation entitle Consultant to any additional payment whatsoever under the terms of this Contract.

- C. No covenant or condition to be performed by Consultant under this Contract can be waived except by the written consent of City. Forbearance or indulgence by City in any regard whatsoever shall not constitute a waiver of the covenant or condition in question. Until performance by Consultant of said covenant or condition is complete, City shall be entitled to invoke any remedy available to City under this Contract or by law or in equity despite said forbearance or indulgence.
- D. If any portion of this Contract or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Contract shall not be affected thereby and shall be enforced to the greatest extent permitted by law.
- E. The headings in this Contract are inserted for convenience only and shall not constitute a part hereof. A waiver of any party of any provision or a breach of this Contract must be provided in writing, and shall not be construed as a waiver of any other provision or any succeeding breach of the same or any other provisions herein.
- F. Each Party hereto declares and represents that in entering into this Contract, it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each Party further declares and represents that this Contract is made without reliance upon any statement or representation not contained herein of any other Party or any representative, agent or attorney of the other Party. The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms, and conditions of this Contract and that the decision of whether or not to seek the advice of counsel with respect to this Contract is a decision which is the sole responsibility of each of the Parties. Accordingly, no party shall be deemed to have been the drafter hereof, and the principle of law set forth in Civil Code § 1654 that contracts are construed against the drafter shall not apply.
- G. In the event of a conflict between the term and conditions of the body of this Contract and those of any exhibit or attachment hereto, the terms and conditions set forth in the body of this Contract proper shall prevail. In the event of a conflict between the terms and conditions of any two or more exhibits or attachments hereto, those prepared by City shall prevail over those prepared by Consultant.

SECTION 8. SURVIVAL

The provisions set forth in Sections 3.E., 3.F., 4.E., 4.H., 4.J., 5, 6, 7.A., 7.B., 7.D., and 7.G. of this Contract shall survive termination of the Contract.

SECTION 9. COMPLIANCE WITH LAWS - NONDISCRIMINATION

- A. Consultant shall comply with all applicable laws, ordinances and codes of federal, state and local governments.

- B. In the performance of this Contract, Consultant shall not discriminate against any employee or applicant for employment because of race, color, ancestry, national origin, religious creed, sex, sexual orientation, disability, age, marital status, political affiliation, or membership or nonmembership in any organization. Consultant shall take affirmative action to ensure applicants are employed and that employees are treated during their employment without regard to their race, color, ancestry, national origin, religious creed, sex, sexual orientation, disability, age, marital status, political affiliation, or membership or nonmembership in any organization. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training.

SECTION 10. REPRESENTATIVES

- A. City's representative for this Contract is _____, telephone number (530) _____, fax number (530) _____. All of Consultant's questions pertaining to this Contract shall be referred to the above-named person, or to the representative's designee.
- B. Consultant's representative for this Contract is _____, telephone number (____) _____, fax number (____) _____. All of City's questions pertaining to this Contract shall be referred to the above-named person.
- C. The representatives set forth herein shall have authority to give all notices required herein.

SECTION 11. NOTICES

- A. All notices, requests, demands and other communications hereunder shall be deemed given only if in writing signed by an authorized representative of the sender (may be other than the representatives referred to in Section 10) and delivered by facsimile, with a hard copy mailed first class, postage prepaid; or when sent by a courier or an express service guaranteeing overnight delivery to the receiving party, addressed to the respective parties as follows:

To City:	To Consultant:

- B. Either party may change its address for the purposes of this paragraph by giving written notice of such change to the other party in the manner provided in this Section.

- C. Notice shall be deemed effective upon: 1) personal service; 2) two calendar days after mailing or transmission by facsimile, whichever is earlier.

SECTION 12. AUTHORITY TO CONTRACT

- A. Each of the undersigned signatories hereby represents and warrants that they are authorized to execute this Contract on behalf of the respective parties to this Contract; that they have full right, power and lawful authority to undertake all obligations as provided in this Contract; and that the execution, performance and delivery of this Contract by said signatories has been fully authorized by all requisite actions on the part of the respective parties to this Contract.
- B. When the Mayor is signatory to this Contract, the City Manager and/or the Department Director having direct responsibility for managing the services provided herein shall have authority to execute any amendment to this Contract which does not increase the amount of compensation allowable to Consultant or otherwise substantially change the nature or scope of the services provided herein.

SECTION 13. DATE OF CONTRACT

The date of this Contract shall be the date it is signed by City.

IN WITNESS WHEREOF, City and Consultant have executed this Contract on the days and year set forth below:

**CITY OF REDDING,
A Municipal Corporation**

Dated: _____, 2009

By:

ATTEST:

APPROVED AS TO FORM:

**RICHARD A. DUVERNAY
City Attorney**

CONNIE STROHMAYER, City Clerk

By:

CONSULTANT

Dated: _____, 2009

By:

Tax ID No.:_____

Attachments:

**Exhibit A (Scope of Work)
Exhibit B (Payment Terms)**