

**CITY OF PORTERVILLE
NOTICE REQUEST FOR QUALIFICATIONS/PROPOSALS
RFQ/P No. 19/20-SR0000**

SEALED PROPOSALS will be received by the City of Porterville, Purchasing Division located at 291 N. Main St., Porterville, CA 93257, until 4:00 P.M., July 22, 2019, for:

OFF HIGHWAY VEHICLE PARK MANAGEMENT AND OPERATION SERVICES

Proposal documents may be obtained in the office of the Purchasing Agent, 291 N. Main St., Porterville, California 93257, by phone (559) 782-7451, or email, fin-dept@ci.porterville.ca.us.

The City hereby affirmatively ensures that Minority Business Enterprises will be afforded full opportunity to submit proposals in response to this notice and will not be discriminated against on the basis of race, color, national origin, ancestry, handicap, gender, or religion in any consideration leading to the award of contract.

The right is reserved by the City of Porterville to reject any or all proposals, to waive any irregularities or informalities not affected by law, to evaluate the proposals submitted and to award the contract according to the proposal which best serves the interests of said City.

Dated this 25th day of June, 2019, at Porterville, California.

Anita Gustuson, Purchasing Agent
City of Porterville, California

Publication Date: June 21, 2019

OFF HIGHWAY VEHICLE (OHV) PARK MANAGEMENT AND OPERATION SERVICES

RFP #19/20-SR0000 SCOPE OF WORK

Purpose

The purpose of this Request For Qualifications/Proposal (RFQ/P) is to recruit the services of an OHV Park management firm or individual for the operations of the City of Porterville OHV Park to begin as soon after September 1, 2019 as possible. All qualified firms or individuals who have demonstrated success in the provision of similar services at comparable facilities are invited to submit proposals.

Background

The Porterville OHV Park is located on West Avenue just south of the Porterville Sports Complex. The fenced property is approximately 30 acres of land. The park currently includes a flat track, quad track/SxS and main motocross track. Amenities include restrooms, ample parking, picnic area, drinking fountain and spectator viewing. Additional track and park amenities may be proposed and constructed with proper approval.

Currently, the facility is open weekends for open practice riding and scheduled racing events throughout the year. Additional days of operation and scheduled racing events are permissible and encouraged. The OHV Park is to be operated in such a manner as to provide the public a safe, fun and organized riding facility for all ages and skill levels to enjoy.

Term of Agreement

The term of the agreement will be for one (1) year, and provide for extension subject to negotiation of mutually acceptable terms. The Proposer in the response submitted to this RFP should specify any additional minimum period requested.

Provision of Services/Days of Operation

The City expects the facility to be operated in at least three modes: weekend recreational riding, weekday recreational riding, and weekend races. Typically, the park has operated recreational riding weekends 8:00 A.M. to 1:00 P.M. during daylight savings and 9:00 A.M. to 2:00 P.M. the other months. Applicant is required to submit a proposed hours of operation schedule.

The applicant may request discussion that would allow it the flexibility to operate. Outdoor facilities can only operate during relatively dry weather. Although the facility could operate 12 months a year, the operator may close down the facility during periods of time in which riding would not be possible. The operator shall comply with current City watering schedules to fulfill

State mandated requirements. The City shall have usage to the Park one day annually for the Freedom Fest as long as the OHV Park serves as the discharge site.

Facility Rules

Facility Rules must be proposed and included in the submission. Facility rules will be clearly posted and shall include but not be limited to, the following:

- Riders must register and only registered riders may ride.
- All riders must wear proper safety gear (including helmet, boots and eye protection) at all times.
- No riding will be permitted outside the posted hours of track operations.
- No riding will be allowed outside the tracks. In particular, riding is prohibited in the pit areas, parking areas, and spectator areas.
- No double-riding or giving anyone a ride to or from the tracks.
- Alcohol, drugs and weapons are strictly prohibited.
- No dogs are allowed on the tracks. Dogs must be kept on a leash at all times.
- Riders and guests that break any rules will be asked to leave and will not be entitled to a refund of any fees.

Facility Rules are subject to final approval by the City

Safety

At all times during riding, operation staff will be monitoring action on the tracks. In the event of a rider injury on a track, riding on the track will be stopped and emergency personnel will be notified. Riding will not resume until the injured rider and emergency personnel are completely off the track.

Spectator Management

Operation staff will monitor spectator behavior and ensure compliance with facility rules. Additional security staff will be hired, if necessary, for crowd control during race events. If spectator behavior during race events and at other times should get beyond the ability of security staff to control, a 911 call will be placed immediately to summon assistance.

Concessions

Applicant may enter into contracts with concessionaires for various products and services to be sold or provided at the OHV Park with written approval from the City. The concessionaires must obtain and maintain all required city business licenses and approvals, and meet all required City policies related to such activity.

Site Improvements

Applicant may propose improvements to the OHV Park. All improvements will be subject to written approval by the City and in compliance with all local, state, and federal laws and regulations. All improvements become the property of the City of Porterville.

Facility Maintenance

The applicant will be responsible for all maintenance and repairs including, but not limited to, the park, park tracks, buildings, fences and structures. Additional buildings, recreational areas, parking, landscaping or any site improvements made by the applicant will be solely the responsibility of the applicant to maintain and repair.

Facility Equipment

The City will provide limited equipment (Attachment A) to assist in track preparation and maintenance. The applicant will be responsible for the proper care and maintenance of the equipment. All operation of the equipment shall be by properly trained and authorized personnel. Applicant will be responsible for all fuel, oil and any consumables cost in the use of the City provided equipment. Other than for maintenance or repair, the equipment shall remain on premises. Any additional equipment needed for operations or use at the OHV Park must be provided by, maintained and repaired by the applicant.

Utilities

Applicant will be responsible for all utilities including, but not limited to, water, electric, gas, sewer, refuse. Pipelines, conduit or any other improvements that may be needed to connect to or bring additional utilities or services to the leased premises are the responsibility of the applicant and must be done with prior written approval by the City and in accordance with all applicable laws. City shall have access to easements/sewer lines that may require repair etc.

Best Management Practices

Operation, construction and maintenance of the OHV Park will comply with best management practices and all applicable local, state and federal regulations and requirements. Tracks will be groomed prior to the opening of the facility to riders. Tracks will be monitored and inspected frequently. If unsafe conditions are detected on any track, the track will be closed and repairs shall be initiated immediately. Tracks will be watered as needed to control dust. All associated facilities shall be maintained in a safe and clean condition including parking areas and entry roads.

Noise

The track shall operate in accordance with applicable noise laws.

Preparation of Reports

The operator will be responsible for keeping the City apprised of all activities at the OHV Park. The City shall require the operator to prepare monthly status reports in conjunction with State grant reporting, and all reports shall accompany the operator's invoices. The operator will be responsible for providing copies of various consent and waiver forms completed by participants during the reporting period.

Taxes

Applicant shall be responsible for all taxes, assessments, or fees levied by any government entity.

Omissions

Should the City of Porterville omit anything from this Request for Proposal which is necessary for a clear understanding of the services requested or that any instructions are in conflict, then the applicant can submit a written request to the City for clarification at least seventy-two (72) hours prior to the proposals due date noted above.

General Proposal Requirements

Provide two (2) copies of a narrative, not to exceed five (5) pages in length, in a sealed envelope, describing all services, programs, and activities to be provided, including:

- Proposed days and hours of operation.
- Number of staffing, including job titles and descriptions including the names and resumes of all key personnel who are employed by the applicant and who will be assigned to perform services pursuant to the contract.
- Methods of promotion including a description of how the operator intends to conduct public outreach to attract riders and events to the facility.
- Method(s) of determining management/operations compensation for the specified services, as well as the revenue to be provided to the City of Porterville.
- Transparency of financial accounting and provisions for audit.
- Manner in which complete records will be kept and made available to the City.
- A minimum of three (3) references.
- A sample status report of open days with attendance reports that will be submitted to the City on a quarterly basis.

Minimum Qualifications

In order to be deemed a qualified candidate for further consideration, a Proposer must provide two (2) copies of a separate Statement of Qualifications, not to exceed five (5) pages in length, illustrating relevant experience and qualifications, including:

- Experience in management/operations of an OHV Park or similar type facility.
- Possession of, or ability to obtain, the necessary line of credit to equip, staff and operate the OHV Park facilities.
- The ability to obtain necessary insurance coverages, licenses, and permits.
- Sufficient business acumen to assist the City in making the OHV Park a financially sound enterprise.

Selection Process and Evaluation Process

A selection committee will review and evaluate all Statements of Qualifications after formal receipt. The evaluation of Proposals will be conducted upon only those candidates who have demonstrated the minimum qualifications.

The evaluation process for the Proposals will provide credit only for those capabilities and advantages clearly stated in each written Proposal, or as clarified during any invited presentation or interview.

Proposals that significantly fail to comply with these specifications will be dropped from the evaluation process.

The selection committee will evaluate the Proposals based upon the following criteria:

1. Proposer's Experience and Capability
 - a. Proposer's demonstrated operational capabilities, stressing the ability to provide and manage OHV Park operations and marketing.
 - b. Proposer's demonstrated financial status and ability to finance the service operations.
2. Business Acumen
 - a. Creativity in providing recommendations and concepts to improve the financial condition of the OHV Park, particularly with respect to revenue generation.
3. OHV Park Program
 - a. The nature and extent of the OHV Park program and related services to be offered to the public.

The selection committee reserves the right to request additional information from Proposers, to negotiate terms and conditions of the Agreement, to visit sites, interview references and previous employers or supervisors, and to invite one or more Proposers to make oral presentations and to clarify points contained within their Proposals.

Time to Award Proposal

The City of Porterville considers this RFP to be time sensitive, and desires to complete the selection process within the time period mentioned herein. Proposers are hereby informed, and must anticipate, that in spite of this desire and its best efforts, the City of Porterville may take up to sixty (60) days to accept or reject proposals.

GENERAL TERMS AND CONDITIONS

PROPOSAL REQUIREMENTS

1. **Requirement to Meet All Provisions.** Each individual or firm submitting a proposal shall meet all of the terms and conditions of the Request for Proposals (RFP) specifications package. By virtue of its proposal submittal, the bidder acknowledges agreement with and acceptance of all provisions of the RFP specifications.
2. **Proposal Submittal.** Proposal documents shall be enclosed in an envelope which shall be sealed and addressed to the Purchasing Agent, City of Porterville, 291 N. Main Street, Porterville, CA 93257. In order to guard against premature opening, the proposal should be clearly labeled with the proposal title, specification number, name of bidder, and July 12, 2019 and time of proposal opening. No FAX submittals will be accepted.
3. **Proposal Withdrawal and Opening.** A Proposer may withdraw its proposal, without prejudice, prior to the time specified for the proposal submittal, by submitting a written request to the Purchasing Agent for its withdrawal, in which event the proposal will be returned to the

Proposer unopened. No proposal received after the time specified or at any place other than that stated in the “Notice Requesting Qualifications/Proposals” will be considered. Only names of Proposers will be made public prior to contract award.

4. **Submittal of One Proposal Only.** No individual or business entity of any kind shall be allowed to make or file, or to be interested in, more than one proposal, except an alternative proposal when specifically requested.
5. **Communications.** All timely requests for information submitted in writing will receive a written response from the City. Telephone communications with City staff will be permitted; however, any such oral communication shall not be binding on the City.

CONTRACT AWARD AND EXECUTION

6. **Proposal Retention and Award.** The City reserves the right to retain all proposals for a period of 60 days for examination and comparison. The City also reserves the right to waive non-substantial irregularities in any proposal, to reject any or all proposals, to reject or delete one part of a proposal and accept the other, except to the extent that proposals are qualified by specific limitations. See the “special terms and conditions” in the specifications for proposal evaluation and contract award criteria.
7. **Competency and Responsibility of Proposer.** The City reserves full discretion to determine the competence and responsibility, professionally and/or financially, of proposers. Proposers will provide, in a timely manner, any and all information which the City deems necessary to make such a decision.
8. **Contract Requirement.** Contract shall be in the form of a City of Porterville Service Agreement and attachments of Notice Requesting Qualifications/Proposals, Description of Work, General Terms and Conditions and Proposal shall be a part thereof as though set forth therein. A sample generic Service Agreement is attached for reference. The Agreement’s terms will be adjusted following contract award to successful contractor.
9. **Insurance Requirements.** The successful contractor shall provide proof of insurance in the form, coverages, and amounts specified in these specifications within 10 (ten) calendar days after notice of contract award as a precondition to contract execution.
10. **Business Tax.** The successful contractor must have a valid City of Porterville business tax certificate prior to execution of the contract. Additional information regarding the City’s business tax program may be obtained by calling (559) 782-7457.

CONTRACT PERFORMANCE

11. **Laws to be Observed.** The successful contractor shall keep itself fully informed of and shall observe and comply with all applicable state and federal laws and county and City of Porterville ordinances, regulations and adopted codes during its performance of the work.
12. **Payment of Taxes.** The contract remuneration shall include full compensation for all taxes which the successful contractor is required to pay.
13. **Permits and Licenses.** The successful contractor shall procure all permits and licenses, pay all charges and fees, and give all notices necessary.
14. **Safety Provisions.** The successful contractor shall conform to the rules and regulations pertaining to safety established by OSHA and the California Division of Industrial Safety.
15. **Immigration Act of 1986.** The successful contractor warrants on behalf of itself and all subcontractors and/or employees engaged for the performance of this work that only persons authorized to work in the United States pursuant to the Immigration Reform and Control Act of 1986 and other applicable laws shall be employed in the performance of the work hereunder.
16. **Contractor Non-Discrimination.** In the performance of this work, the successful contractor agrees that it will not engage in, nor permit such subcontractors as it may employ, to engage in discrimination in employment of persons because of age, race, color, sex, national origin or ancestry, sexual orientation, or religion of such persons.
17. **Payment Terms.** Payment for services rendered shall be as negotiated between the City and the successful contractor. The City processes invoices for payment on the 10th and the last working day of each month. Invoices and supporting detail should be submitted to the City no later than the 15th day of each month, unless instructed otherwise.
18. **Audit.** The City shall have the option of inspecting and/or auditing all records and other written materials used by the successful contractor in preparing its invoices to City as a condition precedent to any payment to the successful contractor.
19. **Interests of Contractor.** The successful contractor covenants that it presently has no interest, and shall not acquire any interest, direct or indirect or otherwise, which would conflict in any manner or degree with the performance of the work hereunder. The successful contractor further covenants that, in the performance of this work, no subcontractor or person having such an interest shall be employed, and further certifies that no one who has or will have any financial interest in performing this work is an officer or employee of the City. It is hereby expressly agreed that, in the performance of the work hereunder, the successful contractor shall at all times be deemed an independent contractor and not an agent or employee of the City.
20. **Hold Harmless and Indemnification.** The successful contractor agrees to defend, indemnify, protect and hold the City and its agents, officers and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to the Contractor's employees, agents or officers which arise from or are connected with or are caused or claimed to be caused by the act or omissions of the Contractor, and its agents, officers or employees, in performing the work or services herein, and all

expenses of investigating and defending against same; provided, however, that the Contractor's duty to indemnify and hold harmless shall not include any claims or liability arising from the established sole negligence or willful misconduct of the City, its agents, officers or employees.

21. **Contract Assignment.** The successful contractor shall not assign, transfer, convey or otherwise dispose of the contract, or its right, title or interest, or its power to execute such a contract to any individual or business entity of any kind without the previous written consent of the City.
22. **Termination.** If, during the term of the contract, the City determines that the Contractor is not faithfully abiding by any term or condition contained herein, the City may notify the Contractor in writing of such defect or failure to perform, which notice must give the Contractor a ten (10) calendar day notice of time thereafter in which to perform said work or cure the deficiency. If the Contractor has not performed the work or cured the deficiency within the ten days specified in the notice, such shall constitute a breach of the contract and the City may terminate the contract immediately by written notice to the Contractor to said effect. Thereafter, neither party shall have any further duties, obligations, responsibilities, or rights under the contract except any and all obligations of the Contractor's surety shall remain in full force and effect, and shall not be extinguished, reduced, or in any manner waived by the termination thereof. In said event, the Contractor shall be entitled to the reasonable value of its services performed from the beginning September 1, 2019, in which the breach occurs up to the day it received the City's Notice of Termination, minus any offset from such payment representing the City's damages from such breach. "Reasonable value" includes fees or charges for goods or services as of the last milestone or task satisfactorily delivered or completed by the Contractor as may be set forth in the Agreement payment schedule. Compensation for any other work, services or goods performed or provided by the Contractor shall be based solely on the City's assessment of the value of the work-in-progress in completing the overall work scope. The City reserves the right to delay any such payment until completion or confirmed abandonment of the project, as may be determined in the City's sole discretion, so as to permit a full and complete accounting of costs. In no event, however, shall the Contractor be entitled to receive in excess of the compensation quoted in its proposal.

SPECIAL TERMS AND CONDITIONS

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1. **References.** Provide references to establish qualification to perform the work required as indicated in the Scope of Work.
 2. **Proposal Content.** Formatting of all information and documentation is left to the discretion of the proposer. However, Proposals and Statements of Qualification should fully address all issues outlined in the Scope of Work.
 3. **Proposal Copies.** Two (2) copies of the proposal must be submitted.
 4. **Proposal Evaluation and Selection.** Proposals, which must be sealed and submitted prior to 4:00 P.M. on July 22, 2019, will be evaluated by a review committee based on the criteria set forth in the Scope of Work. Contract award will not be based solely on compensation, but on a

combination of factors as determined to be in the best interest of the City. After evaluating the proposals and discussing them further with the finalists or the tentatively selected contractor, the City reserves the right to further negotiate the proposed work and/or method and amount of compensation.

5. **Contract Term.** The term of the contract shall be for a period of one (1) year, at which time the performance of the Contractor will be evaluated prior to extending the contract for subsequent periods.
6. **Release of Reports and Information.** Any reports, information, data, or other material given to, prepared by or assembled by the Contractor as part of the work or services under these specifications shall be the property of the City and shall not be made available to any individual or organization by the Contractor without the prior written approval of the City.
7. **Copies of Reports and Information.** If the City requests additional copies of reports, or any other material in addition to what the agency is required to furnish in limited quantities as part of the work or services under these specifications, the Contractor shall provide such additional copies as are requested, and City shall compensate the Contractor for the costs of duplicating of such copies at the Contractor's direct expense.

INSURANCE REQUIREMENTS

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

Minimum Scope of Insurance. Coverage shall be at least as broad as:

- A. Insurance Services Office Commercial General Liability and Liquor Liability coverage (occurrence form CG0001)
- B. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
- C. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
- D. Errors and Omissions Liability insurance as appropriate to the contractor's profession.

Minimum Limits of Insurance. Contractor shall maintain limits no less than:

1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury, and property damage. If Commercial General Liability or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Personal & Adv Injury: \$1,000,000 per accident for bodily injury and property damage.
3. General Aggregate: \$5,000,000.

4. Participant Legal: \$1,000,000 per occurrence, if required.

Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the 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 officers, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City, its officers, officials, employees, agents and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, official, employees, agents or volunteers.
2. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees, agents or volunteers.
4. The Contractor's insurance 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.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

Verification of Coverage. Contractor shall furnish the City with a certificate of insurance showing maintenance of the required insurance coverage. Original endorsements effecting general liability and automobile liability coverage required by this clause must also be provided. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the City before work commences.

SERVICE AGREEMENT

DATE: August 15, 2019

PARTIES: City of Porterville, a California municipal corporation, hereinafter referred to as "CITY"; and , hereinafter referred to as "OPERATOR".

RECITALS: CITY has undertaken a project on which it is seeking assistance from OPERATOR. Said project which will hereinafter be referred to as "project" is described as follows:

Project Name: Porterville OHV Park

Description of Project: OHV Park Management Services

AGREEMENTS:

IN CONSIDERATION OF MUTUAL COVENANTS AND AGREEMENTS
HEREINAFTER set forth the parties hereto do contract and agree as follows:

SECTION 1. CONTRACT SERVICES: OPERATOR hereby agrees to provide the OHV Park management services and materials, in a timely manner in connection with the above described project.

SECTION 2. PAYMENT: In consideration for said services and materials, CITY shall pay OPERATOR on a time and materials basis, not to exceed Dollars, (\$).

TIME OF PAYMENT: Progress payment requests shall be submitted by the 25th of each month. OPERATOR should receive payment within 30 days of the date the bill is received.

SECTION 3. COMPLETION DATE: The services to be performed by OPERATOR will be commenced upon execution of this agreement and all “work directives” shall be completed by August 31, 2020.

The parties agree that time is of the essence under this contract. Inasmuch as it would be difficult to ascertain the actual amount of damages sustained by delay in performance of said contract, the amount of \$ per calendar day shall be deducted from the contract price for liquidated damages for each calendar day beyond the completion date listed above. Said deduction will not be made if OPERATOR submits proof in writing that delay in completion was due to a cause beyond its control.

SECTION 4. FAMILIARITY WITH PROJECT: OPERATOR certifies and agrees that it is fully familiar with all of the details of the project required to perform its services. OPERATOR agrees it will not rely upon any opinions and representations of CITY unless CITY is the only available source of said information.

SECTION 5. INDEPENDENT CONTRACTOR: It is expressly understood that OPERATOR is entering into this contract and will provide all services and materials required hereunder as an independent contractor and not as an employee of CITY. OPERATOR specifically warrants that it will have in full force and effect, valid insurance covering:

- (i) Full liability under worker's compensation laws of the State of California; and
- (ii) Bodily injury and property damage insurance in the amount not

- less than One Million Dollars (\$1,000,000) per occurrence; and
- (iii) Personal & Adv Injury One Million Dollars (\$1,000,000) minimum per occurrence; and
 - (iv) General Aggregate Five Million Dollars (\$5,000,000); fully protecting CITY, its elected and appointed officers, employees, agents and assigns, against all claims arising from the negligence of OPERATOR and any injuries to third parties, including employees of CITY and OPERATOR. OPERATOR agrees to indemnify, defend (at CITY'S election), and hold harmless the CITY against any claims, actions or demands against CITY, and against any damages, liabilities for personal injury or death or for loss or damage to property, or any of them arising out of negligence of OPERATOR or any of its employees or agents.

SECTION 6. WORKMANSHIP AND MATERIALS: Every part of the work herein described shall be executed in a professional manner with competent, experienced personnel. Finished or unfinished material prepared under the agreement, prepared by OPERATOR, shall become property of CITY. OPERATOR hereby warrants that any materials prepared under this agreement shall be fit for the intended use contemplated by the parties.

SECTION 7. ASSIGNMENT OF CONTRACT: It is acknowledged by the parties that CITY has entered into this contract with the express understanding that OPERATOR will perform all work. OPERATOR shall not, without the written consent of CITY, assign, transfer or sublet any portion or part of this

work, nor assign any payments to others.

SECTION 8. AFFIRMATIVE ACTION. OPERATOR will not discriminate against any employee, or applicant for employment because of race, color, religion, gender, marital status, or national origin.

SECTION 9. CONFLICT OF INTEREST CODE: OPERATOR agrees to comply with the regulations of CITY'S "Conflict of Interest Code". Said code is in accordance with the requirements of the Political Reform Act of 1974.

OPERATOR covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of service required hereunder. The term "conflict" shall include, as a minimum, the definition of a "conflict of interest" under the California Fair Political Practices Act and the City of Porterville Conflict of Interest Code, as that term is applied to consultants.

SECTION 10. TERMINATION: Either party for just cause may terminate this contract by giving sixty (60) days written notice to the other party. Upon termination by CITY, CITY shall be relieved of any obligation to pay for work not completed including profit and overhead. OPERATOR may be entitled to just and equitable compensation for satisfactory work completed, except CITY can withhold damages incurred as a result of the termination.

SECTION 11. ENTIRE CONTRACT: It is understood and agreed that this Service Agreement represents the entire Agreement between the parties. Should it be necessary to institute legal proceedings to enforce any and all of the covenants and conditions of this Agreement, the prevailing party shall be

entitled to recover attorneys' fees and costs.

SECTION 12. DISPUTES; VENUE: If either party initiates an action to enforce the terms hereof or declare rights hereunder, the parties agree that the venue thereof shall be the County of Tulare, State of California. OPERATOR hereby waives any rights it might have to remove any such action pursuant to California Code of Civil Procedure Section 394.

IN WITNESS WHEREOF, the parties have executed this Service Agreement on the Date and year first above written.

CITY OF PORTERVILLE

OPERATOR

By _____
Martha A. Flores, Mayor

By _____

Date _____

Date _____