**REQUEST FOR PROPOSALS (RFP)**

**BIOASSAY LABORATORY SERVICES**

The City of Merced Public Works Department invites your proposal to provide bioassay analytical testing and services. You are hereby invited to submit a proposal based upon the requirements and conditions set forth in this RFP.

**Proposal Submission**:

Three (3) copies of the completed proposal must be submitted in a sealed envelope marked “RFP for Bioassay Laboratory Services” no later than 4:30 p.m. on Friday, March 8, 2024.

**Fee Proposal**:

One (1) copy of the fee proposal must be submitted in a separate, sealed envelope marked “Fee Proposal.”

**Mailing Instructions**:

### Jeremy Geiger

### Supervisor – Water Quality Control Division

City of Merced Public Works

1776 Grogan Avenue

Merced, CA 95341

**Inquiries**:

Questions pertaining to this RFP shall be directed in writing only, no later than 72 hours prior to proposal submission deadline to:

Jeremy Geiger, Supervisor, geigerj@cityofmerced.org

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1. Whole Effluent Toxicity Testing Requirements per NPDES permit
2. Agreement for Professional Services

**OBJECTIVE**

The City of Merced Public Works Department Works Water Quality Control Division (WQCD) is seeking a qualified laboratory to provide bioassay analytical testing and services as required by the State of California, Regional Water Quality Control Board (RWQCB) National Pollutant Discharge Elimination System (NPDES) Permit. Laboratories appropriately certified by the Environmental Laboratory Accreditation Program (ELAP) and other such accrediting entities will perform all testing. Laboratories must take part in the United States Environmental Protection Agency’s (USEPA) Discharge Monitoring Report-Quality Assurance (DMR-QA) Studies annually by analyzing wastewater proficiency testing analytes that are both in the City’s NPDES permit and included in DMR-QA Studies.

Results of analyses conducted will be used for compliance determinations, contamination investigations, and reporting to a variety of regulatory agencies including, but not limited to, the Regional Water Quality Control Board (RWQCB) and the USEPA.

The WQCD and Wastewater Treatment Plant (WWTP) staff will sample the wastewater treatment plant effluent. All analyses must be performed in accordance with legal requirements for admissibility in court proceedings.

Any use of sub-contracting services must be identified in the proposal and included in the fee schedule. Laboratories are requested to provide, in the proposal, a laboratory profile including accreditation and the laboratory quality control performance.

Any quantity listed within this RFP or attachments is an estimate of anticipated needs and is given *for informational purposes only*. The estimated quantity should not be construed as an obligation; the actual quantities may vary depending on available funding. No unit price adjustments will be allowed as a result of an increase or a decrease in the quantities listed.

The contract start and end dates will be for the term of July 1, 2024 through June 30, 2027. The City will review performance annually and will have the option to terminate the contract if not satisfied with performance.

**SCOPE OF SERVICES**

The Laboratory shall be California state certified with qualified personnel. All analytical reports must be reliable and acceptable to appropriate regulatory agencies. Sample results must be received within twenty (20) days. The City has implemented a Laboratory Information Management System (LIMS) with Labworks, LLC. It is desirable for laboratories to have the ability to export data to LIMS.

The laboratory is responsible for picking up the samples from the City’s WWTP and delivering them to the laboratory. Third party couriers are acceptable and would need to carry vehicle insurance and worker’s compensation insurance. Please include courier costs in the proposal. The laboratory shall exercise diligent sample handling and proper chain of custody protocols to ensure a representative sample arrives and is maintained at the laboratory. The laboratory shall provide appropriate sample containers and chain-of-custody forms as required in advance of sampling events. Quality control data must accompany analytical reports.

See **Attachment A** for Whole Effluent Toxicity Testing requirements per NPDES permit for Acute Toxicity Testing and Chronic Toxicity Testing.

Upon request, the laboratory must develop a Toxicity Reduction Evaluation (TRE) and Toxicity Identification Evaluation (TIE). The laboratory must, if necessary, be capable of performing the appropriate follow-up tests in response to TRE / TIE triggers. See also **Attachment A** for special studies, technical reports and additional monitoring requirements per special provisions of the NPDES permit.

The City’s WQCD staff will:

* Collect and preserve samples in conformance with regulatory protocols
* Observe chain of custody protocols
* Correct methods as requested
* Maintain communication with laboratory to inform of sampling schedule

**METHOD OF COMPENSATION**

Any necessary services outside the scope of the work must be identified and approved in advance by the City of Merced Public Works Director or his designee. In addition, no change orders or contract amendments will be considered without prior authorization from the City Public Works Director or his designee.

Payments, upon invoicing, will be made as laboratory analyses are received.

###### **SPECIAL ISSUES AND REQUIREMENTS**

###### Form and Execution of Contract. **Attachment B** is the form of the contract (***Agreement for Professional Services***) the successful proposer will be expected to execute. Any exceptions to the form of the contract must be clearly stated in the proposal and may be grounds for being declared non-responsive.

Labor Code. The laboratory 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.

Civil Rights Laws.Laboratory, its employees, and any subcontractors shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and all other applicable non-discrimination civil rights requirements.

Insurance. The Laboratory shall also meet the insurance requirements in Section 9 of the contract, including liability insurance in the amount of $1,000,000, naming the Agency as additional insured.

Conflict of Interest. The laboratory 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.

City of Merced Business License.Laboratory shall obtain and maintain a City of Merced Business license throughout the contracted period.

**PROPOSAL CONTENT**

The City requires the proposer to submit a concise proposal clearly addressing all the requirements outlined in this RFP; it must contain information covering the following topics:

1. Cover Letter. The RFP shall include a cover letter signed by the laboratory representative authorized to sign contracts stating interest and ability to perform the work, and ability to perform according to the schedule shown above (through June 30, 2027).
2. Experience and Services. The RFP shall list and describe previous experience and expertise with providing laboratory services at a scale comparable to this RFP.
3. Project Understanding. The RFP shall include a summary of the laboratory’s understanding of the services to be provided to the City of Merced as well as any recommendations regarding additional services.
4. Special Requirements. The RFP shall include a statement of understanding and compliance with the special requirements listed herein.
5. References. The RFP shall include information on three (3) references that may be contacted to discuss the references’ experience with the laboratory; include telephone number and email address.
6. Fee Estimates. Each proposal shall include a fee estimate for providing services and must be contained in a sealed envelope separate from the proposal. Specify hours by billing grades, hourly rates, costs by task, details of any other charges, a not-to-exceed amount for each task, and the total. In the event a monitoring trigger is exceeded, and additional monitoring is required, **include a fee for two (2) chronic toxicity sample events per the requirements of section 2.ii.(b) *Evaluate 6-week Median* of** **Attachment A**.

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

PROPOSAL SELECTION

## RFP submittal will be reviewed for completeness and qualifications by City representatives. The City representative will negotiate with the top-ranked proposer(s) to determine the final award.

This RFP does not commit the City to enter into a contract, nor does it obligate the City to pay for any costs incurred in preparation and submission of proposals or in anticipation of a contract. The City reserves the right, without qualification, to:

* Select any proposal when such action is considered to be in the best interest of the City
* Reject any and all proposals
* Issue subsequent requests for proposals
* Postpone opening for its own convenience
* Approve or disapprove the use of particular subcontractors
* Accept other than the lowest offer
* Exercise discretion and apply its own judgment with respect to selection of any proposals submitted
* Waive informalities and minor irregularities in the proposals
* Negotiate with any, all, or none of the Proposers
* Select proposals, based on initial proposals received, without discussion or after detailed discussions or contract negotiations
* Enter into an agreement with another Proposer in the event the originally selected Proposer defaults or fails to execute an agreement with the City.

An agreement shall not be binding or valid with the City unless and until it is executed by authorized representatives of the City and of the Proposer.

## PROTEST PROCESS

RFP AWARD PROTEST AND APPEAL: Potential bidders, proposers, contractors, and sub-contractors wishing to protest or appeal a procurement or contracting decision made by the City must follow the procedures provided by this section. Protests or appeals which are not submitted in accordance with these procedures will not be reviewed.

PROCEDURE: PROTEST SUBMISSION

(1) Any interested party (actual or prospective bidder or proposer) may file a written protest with the Purchasing Supervisor (PS) no later than five (5) working days after the date of mailing a Notice of Intent to Award (NIA).

(2) The written protest may be delivered in person or via certified mail to the PS.

(3) The protest must be physically received by the PS by 4:00 p.m. PST, by the fifth day during the protest period.

(4) The protest filed with the PS shall meet the following prerequisites:

**a.** The name, address, and business telephone number of the protestor.

**b.** Identify the project under protest by name, RFP/quotation/bid number, and RFP/quotation/bid date.

**c.** Contain a concise statement of the grounds for protest; however, the RFP or bid procedures (including evaluation criteria) shall not constitute grounds for protest. Concerns related to those issues must be raised and addressed prior to the bid or proposal opening date to allow adjustments before evaluation of bids or proposals.

**d**. Include all supporting documentation, if any. Documentation submitted after filing the protest will not be considered during review of the protest or during an appeal.

PROTEST REVIEW AND APPEAL

(1) Upon receipt of a protest, the PS shall review all the submitted materials and shall create and retain a written record of the review. The PS shall respond in writing at least generally to each material issue raised in the protest not later than ten (10) working days after receipt of the protest.

(2) If the protested procurement involves federal funds, the PS shall give notice to the interested party that he or she has the right to appeal to the appropriate federal agency which shall be identified by name and address. An appeal hereunder shall be City of Merced Procurement Manual 26 filed with the appropriate agency within five (5) working days of the dispatch of rejection notices to the interested parties.

(3) The PS’ decision may be appealed in writing to the City Manager (CM) or his or her designee(s), with a copy to the PS, not later than ten (10) working days after the date the PS’ decision is mailed to the protesting party. A bid appeal review committee comprised of the CM or designee, and any other person(s) he or she selects shall review and decide the appeal based on the grounds and documentation set forth in the original protest to the PS. The appealing party may be represented by legal counsel, if desired. Each party shall bear its own costs and expenses involved in the protest and appeal process, including any subsequent litigation. The decision of the bid appeal review committee shall be final.

(4) If the protested procurement involves federal funds, interested parties may have the right to appeal to the appropriate federal agency. When applicable, the PS shall give notice to the interested party that he or she has the right to such an appeal and shall identify the federal agency by name and address. When applicable, an appeal hereunder shall be filed with the appropriate agency within five (5) working days of the dispatch of rejection notices to the interested parties.

PUBLIC RECORD

Responses to this RFP become the exclusive property of the City of Merced. At such time as the Public Works Department recommends a firm to the City Council, all proposals received in response to this RFP become a matter of public record and shall be regarded as public records, with the exception of those elements in each proposal which are defined by the Proposer as business or trade secrets and plainly marked as “Confidential,” “Trade Secret,” or “Proprietary”. The City shall not in any way be liable or responsible for the disclosure of any such proposal or portions thereof, if they are not plainly marked as “Confidential,” “Trade Secret,” or “Proprietary” or if disclosure is required under the Public Records Act. Any proposal which contains language purporting to render all or significant portions of the proposal “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 Merced may not accept or approve that the information that a Proposer submits is a trade secret. If a request is made for information marked “Confidential,” “Trade Secret,” or “Proprietary,” the City shall provide the Proposer who submitted the information with reasonable notice to allow the Proposer to seek protection from disclosure by a court of competent jurisdiction.

WITHDRAWAL OF PROPOSALS

A Proposer may withdraw its proposal at any time before the expiration of the time for submission of proposals as provided in the RFP by delivering a written request for withdrawal signed by, or on behalf of, the Proposer.

**All submittals shall be submitted 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.

All correspondence or communications in reference to this RFP shall be directed to:

Jeremy Geiger

Supervisor – Water Quality Control Division

City of Merced

1776 Grogan Avenue

Merced, CA 95341

geigerj@cityofmerced.org

All costs for preparation of the submittals shall be borne by the applicant, and submittals received shall become the property of the City, whether accepted or rejected. Incomplete submittals may be rejected as non-responsive. The City reserves the right to reject any and all proposals submitted in response to the RFP.