



# Request for Proposal – Environmental Impact Report

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING

976 OSOS STREET • ROOM 200 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

*Promoting the Wise Use of Land • Helping to Build Great Communities*

## AVILA POINT PROJECT SPECIFIC PLAN AMENDMENT / COASTAL PLAN AMENDMENT / DEVELOPMENT PLAN / REMEDIATION DRC2012-00048; LRP2012-00003, ED12-129

### SECTION 1 - GENERAL INFORMATION

#### 1.1 Purpose

The purpose of this request for proposals (RFP) is to provide interested consultant firms with sufficient information concerning the services desired by the County of San Luis Obispo. This information is intended to enable the firms to prepare and submit proposals to 1) provide consultant support services and, 2) prepare an Environmental Impact Report (EIR) for the Avila Point Project. The project includes:

- Development Plan (i.e. Conditional Use Permit) for remediation of a contaminated site which was once used as a petroleum product storage and transfer facility, and small refinery,
- a General Plan/Specific Plan/Local Coastal Plan amendment for zoning changes to change the land use category from Industrial (current) to Recreation (proposed) with specific standards and guidelines to accommodate the development of the site for a resort, and
- Development Plan (i.e. Conditional Use Permit) for the future development of the recreation and resort use.

#### 1.2 Right of Rejection

The County reserves the right to reject any or all proposals received as a result of this request. The County will not pay for any information contained in the proposals obtained from participating firms. The County is not liable for costs incurred by firms prior to issuance of a contract. The County also may negotiate separately with any source in any manner necessary to serve the best interest of the County. This request for proposals is made for informational and planning purposes only. Awards (if granted) will not be made solely on the basis of proposals resulting from this request.

#### 1.3 How to submit Proposals

In order for proposals to be examined and evaluated by the Environmental Coordinator's office, the County is requesting five (5) copies of the proposals and five (5) copies of any supportive materials (3 of the 5 copies may be on CDs). It is preferred that all proposals be submitted on recycled paper and printed on two sides. **Proposals must be delivered no later than 5:00 P.M., May 24, 2013.** Please ship copies so as to insure prompt delivery to:

**RYAN HOSTETTER, PROJECT MANAGER  
DEPARTMENT OF PLANNING AND BUILDING  
976 OSOS STREET, RM 300  
SAN LUIS OBISPO, CA 93408-2040**

Once submitted, the proposals and any supplementary documents become the property of the County.

1.4 Acceptance of Proposal Content

If a contract is awarded as a result of a response to this request, the County will select the successful firm as quickly as possible after the final date for receipt of the proposals. However, final award is contingent upon successful contract(s) negotiation.

It is likely that the content of the proposal of the successful bidder will be used in a legal contract of agreement. Bidders should be aware that methods and procedures proposed could become contractual obligations.

1.5 Inquiries

If the consultant has any questions in regard to this RFP, please contact:

Ryan Hostetter at (805) 788-2351 (direct), or via email at [rhostetter@co.slo.ca.us](mailto:rhostetter@co.slo.ca.us)

1.6 Contract Amount

The consultant shall prepare a cost estimate to be divided into two phases of work: 1) staff support services (on a time and materials basis) and 2) EIR preparation. The EIR document shall be bid at a firm, fixed price, while staff meetings, public hearings, and preparation of findings related to the EIR shall be bid on a time and materials basis.

1.7 Project Background

*History – Avila Beach Specific Plan and Clean Up*

Oil has been a part of Avila Beach’s history since the town’s beginning in the 1870s. In 1906, the Union Oil Company built a tank farm on the hills above the town to store oil piped in from the Santa Maria Valley. From the tank farm, pipelines ran through town and to the end of a pier (currently the location of the “Cal Poly Pier”) where tankers would load oil for distribution. The tank farm property occupies an approximately 95 acre site located adjacent to the southern edge of the community of Avila Beach. The property is uphill topographically from the downtown area of Avila Beach and includes the ocean front bluff and extends back to the edge of Cave Landing Road.

Avila Beach developed as a recreation venue as well as a port and became the county’s most popular beach. The restaurants, shops and surfer bars along Front Street catered to a mix of college students, locals, and vacationers. Avila Beach was also home to three- to four-hundred residents - some year-round and others seasonal.

Development in Avila Beach was effectively halted by a 1977 water moratorium that endured for 17 years. Commercial buildings that might have been replaced during this period were kept in service with minimal expenditures for maintenance and improvements. Avila Beach acquired a “funky” ambiance while investors focused their resources on other beach towns up and down the coast. The water moratorium was lifted in 1994 and the first attempt to dig a new building foundation on Front Street met with the discovery of oil. Further investigation revealed that the soils under Front Street, the beach, and commercial buildings were contaminated with petroleum that had leaked from the underground pipelines. Although experts found no evidence of an immediate health risk, lending institutions would not provide financing for projects built over the contaminated soil.

Studies commenced to determine methods for accomplishing a cleanup. Excavation was chosen as the quickest way to achieve removal of the contaminants, but this meant the destruction of the old commercial district. Early in the process, a “Front Street Enhancement Committee” was formed to consider the possibility of rebuilding the streetscape with wider sidewalks, landscaping, and amenities for improving the pedestrian environment. When it became clear that excavation would involve more than Front Street, the County began an intensive public hearing process to prepare a Specific Plan. Town hall meetings were

conducted to ensure that local residents participated in the articulation of a community vision and in the creation of specific guidelines for new development.

The Avila Beach Specific Plan defines a rebuilt commercial district with the looks and feel of the old Avila, along with features to improve the community's image. Design standards for new buildings were crafted to provide flexibility and to ensure that historic features are preserved or replicated. The Plan also included language specific to the tank farm site (subject property) which is at the top of the hill at the end of Front Street, however it only discusses a potential vision for the property and requires that future development include an amendment to the Specific Plan to further define the redevelopment of the site once any remediation activities had occurred at the site.

While the focus of past studies and actions has been on the town, beach and pier area of Avila Beach, it was also known that contamination exists at the tank farm site. Assessment of the contamination began in around the time the last tanks were decommissioned, demolished and removed from the site (1998). While assessment activities proceeded through several phases, the most recent activities began in 2005 with the formation of the Avila Tank Farm Collaborative Assessment Team (ATCAT). The ATCAT is comprised of State and local agencies, Chevron, and consultants. The ATCAT continues to oversee contamination and risk assessment work.

#### *Anticipated Project*

Chevron Land and Development Company has submitted an "initial application" on behalf of the land owner, Union Oil Company of California, to begin the process through the County of obtaining an EIR consultant very early. The intent is that the selected consultant will work with the County in development of a formal project description as well preparation of CEQA documentation for this complex permit process. An initial project application was submitted to the County for processing on December 7, 2012 which includes applications for a Local Coastal Program/Specific Plan/General Plan amendment to rezone the site from Industrial to Recreation, a "Development Plan/Coastal Development Permit" application for site remediation, and a "Development Plan/Coastal Development Permit" application for future re-development activities (final site layout not yet complete). It is anticipated that the selected EIR consultant would partner with the County for all initial public workshops and scoping meetings, notice of preparation completion, and other CEQA process completion for the requested entitlements.

#### 1.8 Project Location

The proposed project is a 95 acre site within the Industrial land use category and is located at 1717 Cave Landing Road, in the Community of Avila Beach. The property is adjacent to the southern side of downtown Avila Beach and extends south up to Cave Landing Road. The site is in the San Luis Bay Coastal planning area, and Avila Beach Specific Plan area.

#### 1.9 Project Description

The proposed project includes three distinct phases and the County will approve or process the appropriate actions associated with each phase. This includes:

- Remediation - A Development Plan is necessary for the clean up of the tank farm property. A Remedial Action Plan has not been submitted by Chevron at this time, but is anticipated in the future. The Development Plan would be approved by the County (Planning Commission and/or Board of Supervisors), and is appealable to the California Coastal Commission.
- Future Development – Two separate actions/phases are involved with the re-use and development of the Avila Tank Farm:
  - Local Coastal Plan/Specific Plan Amendment - The site is currently designated Industrial. This land use category needs to be changed to a new designation that would accommodate re-use and re-development of the site (Recreation is

requested). This rezoning requires a Specific Plan amendment/Local Coastal Plan Amendment to identify future appropriate development and uses, including development standards for future development. A Local Coastal Plan/Specific Plan Amendment would be considered by the County Planning Commission, and approved by the Board of Supervisors and the California Coastal Commission.

- Development Plan – A Development Plan is required to develop and construct the new uses (allowed under the new land use designation) consistent with the amended Specific Plan.

While the formal project description has yet to be developed, Chevron has submitted a project “vision package” (attached for your information) which includes the rezoning, clean-up. Entitlements for redevelopment of the property will be sought as part of the proposed project, but actual development would be done by an outside developer. The “vision” submitted by Chevron includes rezoning the property from Industrial to Recreation and construction of a resort which includes a restaurant, spa, shops, cottages, hotel rooms and related facilities (some of which may be fractional ownership). Included in the project is a coastal bluff trail and other trails throughout the site, remote parking areas (idea is for the site to remain car free if possible), and golf cart facilities for use on site. Water and wastewater facilities may be obtained by the Avila Beach Community Services District, however Chevron has informed the County that wastewater may remain on-site. This, along with several other details of the project would be refined through development of the EIR project description, or explored through EIR alternatives. Remediation of the site will include clean up of previous contamination from the industrial use of the property per all state and federal standards as well as demolition of existing buildings and remaining industrial facilities on the site.

It is anticipated that one EIR will be prepared that will cover the “whole of the action” described above. The EIR should be structured to contemplate tiering of subsequent approvals and/or entitlements.

## **SECTION 2 - SCOPE OF WORK**

### **2.1 General Requirements**

The EIR shall meet all of the requirements set forth in the California Environmental Quality Act (Public Resources Code 21000 et seq.) and the State CEQA guidelines (California Code of Regulations, section 15000 et seq.).

### **2.2 Specific Requirements**

#### *Staff Support and Project Scoping*

The EIR consultant will assist the County in:

- developing a project description including development of specific plan language,
- complete an Initial Study outlining the potential environmental impacts,
- complete a Notice of Preparation for the CEQA document,
- conduct an EIR scoping meeting.
- Interact and coordinate with the applicant and State and local agencies.
- SB 18 consultation with Native American tribes and groups.

In addition, the consultant will be expected to attend and or assist with any initial public workshops and outreach meetings with the community early in the process.

### *EIR Preparation*

It is anticipated that the consultant will assist the County in developing the best document type (i.e. Master EIR, Program EIR etc.) which will cover the range of actions and entitlements required for this property from the site remediation, rezoning and development standards, to future entitlements for individual buildings and related service and infrastructure improvements. The EIR shall also be flexible enough to allow decision makers the ability to act upon a range of project options and alternatives.

The applicant is not disputing the need for preparation of an EIR based on the anticipated project description. The consultant shall include peer review as one of the methodologies for evaluation and preparation of the EIR for those issue areas where consultants have prepared and submitted technical studies on behalf of the applicant. Please note that there is a host of technical data and studies which have been conducted on this property and it is expected that the EIR consultant will have reviewed all of this data and incorporate it into the Initial Study. Given the technical nature of much of this information, consultants with the appropriate expertise may need to be included. If the consultant identifies areas of concern not mentioned in this request, these should be described in the consultant's proposal and included in the cost estimate.

Identified impacts shall be designated as significant or insignificant pursuant to the criteria of CEQA and the State CEQA Guidelines, and any thresholds or criteria used by the County. Indirect or secondary impacts of the project shall also be discussed and mitigation measures recommended. Impacts will need to be clearly assigned to the different phases of the project (e.g. remediation, redevelopment) and impacts and mitigation measures worded correctly so as to be able to be incorporated in the appropriate approval (e.g. conditions of approval, specific plan standards, design guidelines).

Mitigation measures should be described in detail and should be specific to the project. Two types of mitigation measures should be recommended: measures addressing impacts related to the primary impacts; and measures addressing impacts related to the secondary impacts associated with the proposed project.

The alternatives analysis, while mostly a qualified effort, shall make all efforts to use or cite existing applicable detailed information to make for as meaningful a comparison as possible to the proposed project. The alternatives analysis for this particular project will rely heavily on information related to existing site contamination, however will not be dictated necessarily by existing contamination understanding that the site clean-up is a part of the project description. The County expects multiple design alternatives which best incorporate all of the CEQA issues, Coastal Plan Policies, and community and neighborhood issues for the project.

The County recognizes that a complete Project Description and Remedial Action Plan is not available at the time of this RFP. Issues and complexities related to issues will likely arise during the first phase (Scoping) of the scope of work. This may require adjustments to any EIR work scope (Phase 2) that will be part of any proposal or contract. These adjustments will need to be justified and approved by the County and could result in a contract revision. The County also reserves the right to circulate a new RFP for the second phase (EIR) of work.

### Mitigation Monitoring

A comprehensive Mitigation Monitoring and Reporting Program (MMRP), pursuant to Public Resources Code section 21081.6 shall be developed for applicable mitigation measures. The monitoring program shall incorporate both monitoring by the county and reporting by the developer, with subsequent report verification by on-site inspection, if necessary. Involvement of a private, independent consultant may be included in the mitigation monitoring program.

### 2.3 Findings

A time and materials not-to-exceed-budget of 50 hours shall be included in the proposal and cost

estimate, for preparation of findings pursuant to Sections 15091 and 15093 of the State CEQA Guidelines. These findings shall be prepared in a format approved by the Environmental Division.

#### 2.4 Staff Meetings

The consultant shall be available for community, staff and outreach meetings for this project over the course of the next couple of years or as the project progresses through the permit process. This will at a minimum include an initial kick off meeting, community meeting, staff meetings (at least two in the initial kick off process), meeting with applicants (at least two) and other time required to assist the County in development of the project description early on. In addition it is anticipated that the EIR consultant will attend the regular "ATCAT" (Avila Tank Farm Collaborative Assessment Team) meetings which are a collaborative group formed specifically with Chevron for this project site and include at a minimum the County, Regional Water Quality Control Board, Air Pollution Control District, State Department of Fish and Wildlife, and County Environmental Health. These are technical meetings regarding site clean-up and characterization of existing contamination. These meetings occur generally once every month or as needed.

#### 2.5 Public Hearings

The consultant shall include costs for attendance at six (6) public hearings. The consultant shall be prepared to respond to questions, make presentations and/or participate in an advisory capacity during meetings/hearings. The costs for attendance at the public hearings shall be itemized and are to be considered an option to be exercised by the County.

#### 2.6 Deliverables

The format for all text documents, tables, charts, and illustrations shall be 8-1/2 x 11" vertical. If oversize inclusions are necessary, they will be 11" x 17". Document covers for all related documents shall be coordinated so they appear as a "set". All efforts shall be made to reduce the size of the EIR analysis to no more than 200 pages. As much of the technical information as possible shall be placed in the appendices. Duplication of information in multiple locations of the EIR shall be avoided to the extent feasible. **All hard copy administrative drafts, drafts, and final documents shall be two-sided, black ink, on white or light recycled stock paper.**

Deliverables shall include:

- A. Four (4) hard copies and one electronic copy of the draft Project Description and EIR Outline.
- B. Five (5) copies of the Administrative Draft EIR with appendices as follows: four (4) hard copies (in three ring binders); and one CD in original format (e.g., Word).
- C. Forty five (45) copies of the Draft EIR as follows: five (5) hard copies with appendices (in three ring binders); fifteen (15) bound copies with appendices included as a CD in an envelope; twenty five (25) CDs (with graphics and appendices) in "searchable" .pdf format; ten (10) separately bound copies of appendices; and one (1) electronic copy in original format [e.g., Word].
- D. One (1) copy of the Draft EIR in an HTML, or other acceptable web-friendly format, so text and graphics can be easily placed on the county's web site; (this shall at least include breaking the document in smaller, easily downloadable portions).
- E. Five (5) copies (2 three-hole drilled, 2 bound, 1 CD) of the Administrative Final EIR with appendices.
- F. Fifty five (55) copies of the Final EIR as follows: five (5) hard copies with appendices (in three ring binders); twenty five (25) bound copies with appendices as CDs in envelopes at back of document; twenty five (25) CDs (with graphics and appendices) in "searchable" .pdf format; fifteen (15) separately bound copies of appendices; and one (1) CD in original software format (e.g., Word).
- G. If Mitigation Monitoring and Reporting Program (MMRP) not incorporated into the Final EIR,

provide five (5) bound copies, one (1) unbound copy (single-sided), and 1 CD (with graphics and appendices) in “searchable” .pdf format, and one (1) CD in original software format (e.g., Word) of the final MMRP.

- H. One set of CDs (or other electronic medium acceptable to the county), in Word (current version, properly formatted), with the Draft and Final EIR, mitigation monitoring program and appendices. Spreadsheets and or databases developed for this EIR shall also be included on these CDs using the latest County’s spreadsheet software. If GIS layers are developed / used, this information shall also be submitted electronically. The County uses ArcGIS and expects the following process to be used for GIS work:

*Any geographic information electronically mapped as part of this project shall be provided as a .SHP file, a format compatible with ESRI’s ArcView GIS software program, and shall be registered to the California State Plane NAD 83, Zone 5 coordinate system, units in feet. A .PRJ file shall be included reflecting this coordinate system.*

*All .SHP files submitted shall include sufficient metadata compatible with the ArcCatalog .XML format. This metadata shall include at minimum the following:*

- *An abstract containing a brief narrative summary of the data set including levels of accuracy and methods of data capture.*
- *Purpose for creating the data with a summary of the intentions with which the data set was developed*
- *Citation including the name of the organization and/or individual that developed the dataset*
- *Maintenance requirements noting the frequency with which changes (if any are necessary) are made to the data set after the initial data set is completed*
- *Theme key words associated with the data set*
- *Contact information for the creator of the data set and for the creator of the metadata*
- *Date the data was published*

*Descriptive text, thoroughly defining all features within each mapped data set, shall be incorporated into the data attribute tables. If codes or abbreviations were used for data attributes then a .LYR or other document explaining the codes shall be included. If maps were created in ArcView a .MXD file shall be included showing proper final map layout with any necessary symbolization. Map symbology shall be provided in a .LYR file which the County can import into any subsequent maps if desired.*

- I. Two unbound copies of CEQA Findings and an electronic version (include as an optional task).

### **SECTION 3 - PROPOSAL CONTENT**

#### **3.1 Form**

Proposals and supporting materials shall be submitted in bound copies suitable for evaluation. Legibility, clarity and completeness are essential. Proposals should provide assurance that the firm has the professional capability to satisfactorily complete all tasks as described in Section 2 of this RFP.

#### **3.2 Personnel and Experience**

Consultants hired to work on this proposal could potentially be a combination or “team” of firms as it relates to the best experience in:

- 1) contamination issues and clean-up projects and
- 2) planning experience with emphasis on design plans and development of standards for the Specific Plans/Local Coastal Plans.

The consultant should have demonstrated experience and understanding of the following:

- Remediation activities and techniques
- Specific Plans / Community Planning

- Networking with various Responsible and Trustee agencies as well as community groups
- Coastal Plans and permitting
- Coastal regulatory framework and process
- Subdivision process
- Drainage issues and especially as they relate to bluff top development on the coast
- Visual/Scenic resources
- Cultural resources and SB18 consultation.
- Biological resources and coastal wetland issues

If subcontractors are to be used, describe the methods that will be used to assure their cooperation and performance. Describe the project contribution of each key person and approximate amount of time to be devoted to the project. Include a resume for each of the key personnel detailing their special qualifications applicable to the project. Describe the firm's qualifications in relationship to the required services. Summarize past projects of a similar nature that the consultant's firm has completed.

### 3.3 Coordination

Describe the process for maintaining a close working relationship between the consultant and the county project coordinator. Considerable merit will be placed on a relationship in which county staff is frequently and completely briefed on all work in process.

### 3.4 Task Timetable and Cost Estimates

The proposal shall contain the tasks required to complete the EIR with a completion target date for each milestone (i.e., Project Description and EIR Outline and Thresholds, Administrative Draft EIR, Draft EIR, Administrative Final EIR, and Final EIR). Examples of key tasks are: data collection, data verification and analysis, completion of the Draft EIR, responses to comments, attendance at public hearings, and certification of the Final EIR. The proposal shall include a table which specifies the following for each task: assigned personnel, number of hours to be spent, rate/hour, and total cost. The time for firm members to attend public hearings where the EIR is considered (minimum of four) should be included as part of the hours estimate. Proposal amounts will be considered a factor in selecting a consultant.

### 3.5 Objectivity

Environmental Impact Reports are to be an independent, objective, and unbiased work product. Proposals shall certify that the consultant, principals, and subcontractors (if used) have the capacity to submit a neutral and unbiased environmental document.

## **SECTION 4 - CRITERIA FOR EVALUATION OF PROPOSAL**

The County of San Luis Obispo will evaluate the proposals based on but not limited to the following criteria:

### 4.1 Understanding of the scope of work to be performed

- A. Demonstrated understanding of the project objectives.
- B. Consultant's approach to accomplishing the scope of work.
- C. Timetable and costs for completing the project.

4.2 Consultant's methods and procedures to be used

- A. Consultant's general approach to evaluating the issues.
- B. Complete description of the procedures and analytical methods to be utilized.

4.3 Management, personnel and experience

- A. Qualifications of each participant and overall "skill mix" for the firm.
- B. Experience and performance on projects of a similar nature.
- C. Information obtained by contacting references listed by the consultant.

4.4 Consultant's consultation and coordination with the County of San Luis Obispo

- A. Procedures to be used to insure close contact between consultant and the project coordinator. A discussion should also be provided regarding consultation with applicable responsible agencies (e.g. CDFG, RWQCB, etc.). Consultation with agencies may be more extensive in the case of this project because of the many agency approvals and work done with the ATCAT.
- B. Demonstrated experience in working with local government.

4.5 Cost Estimates

- A. Are professionals and nonprofessionals used for the appropriate tasks in the proposal?
- B. What quality of product will be delivered for the consultant's fee?
- C. Are the cost estimates reasonable for the work product proposed?

4.6 Interviews

The County may decide to interview consultants who propose based on an evaluation of submitted proposals.

4.6 Bidders meeting

The County invites consultants to an on-site briefing/bidders meeting on **Thursday April 18, 2013** in order to allow prospective consultants the opportunity to meet with Chevron, and County staff for an on site visit and question and answer session before proposals are submitted. Staff from other responsible agencies will also be invited to attend. The meeting will start at the City/County library located at 995 Palm Street in downtown San Luis Obispo at **10 AM** with a presentation and question and answer session. The meeting will break for lunch and reconvene in Avila Beach for a site tour at 1:30 in the afternoon. Directions to the meeting point for the site visit will be given at the morning presentation. **Please RSVP for this meeting to Ryan Hostetter, County Planning project manager by April 15, 2013.**

**SECTION 5 - EXISTING INFORMATION**

5.1 Background Information

The following materials and documents contain information and standards applicable to the project site:

- County Land Use Ordinance - Coastal Portion
- County Framework for Planning - Coastal Portion of the Land Use Element
- San Luis Bay Area Plan
- Avila Beach Specific Plan
- Clean Air Plan and Technical Appendices
- State Natural Diversity Database
- Countywide Public Facility Fee Program

- San Luis Obispo Regional Transportation Plan
- County Ag & Open Space Element
- Energy Element
- Noise Element
- Annual Resource Summary Report (2008)
- County of San Luis Obispo Safety Element (1999)
- Draft Conservation Open Space Element
- Uniform Fire Code
- Solid Waste Management Plan
- Parks & Recreation Element
- County Master Water and Sewer Plan (1972)
- San Luis Obispo County Water Quality Reports
- San Luis Obispo County Hydrologic Reports - Water Years 01-02 & 02-03
- San Luis Obispo County Integrated Regional Water Management Plan (2005)

NOTE: *An additional list of County documents will be provided to the consulting firm chosen for the proposed project prior to starting the EIR to ensure the chosen consultant has all relevant information needed to complete a satisfactory analysis.*

## 5.2 Specific Information

The applicant has submitted a list of technical studies and reports which have been conducted on the property. The consultant may use any or all of this information in the preparation of the EIR. However, the consultant must verify the accuracy of all information submitted by the applicant and shall not adopt any of the conclusions of the documents submitted by the applicant without independent analysis. The consultant shall be solely responsible for the contents of the EIR. To view any of the applicant's technical reports completed prior to submitting your proposal, contact Ryan Hostetter via email for an ftp login and password.

**The following Sections 6 and 7 are excerpts from the Master Contract and are intended mainly for informational purposes. However, for those Consultants not on the Master Contract list, they must be willing to accept these provisions as written should they decide to submit a proposal.**

### **SECTION 6 - INDEMNIFICATION**

The County of San Luis Obispo will require the successful bidder to indemnify the County as follows. These provisions will become contractual obligations.

6.1 (1) Except as provided in paragraph (2) below, Consultant shall defend, indemnify and save harmless the County of San Luis Obispo, its officers, agents and employees, from any and all claims, demands, damages, costs, expenses, judgments or liability arising out of this Contract or attempted performance of the provisions hereof, including but not limited to those predicated upon theories of violation of statute, ordinance, or regulation, professional malpractice, negligence, or recklessness including negligent or reckless operation of motor vehicles or other equipment, furnishing of defective or dangerous products or completed operations, premises liability arising from trespass or inverse condemnation, violation of civil rights and also including any adverse determination made by the Internal Revenue Service or the State Franchise Tax Board with respect to Consultant's "independent contractor" status that would establish a liability for failure to make social security and income tax withholding payments, failure to comply with workers' compensation laws, or any act or omission to act, whether or not it be willful, intentional or actively or passively negligent on the part of Consultant or his agents, employees or other independent Consultants directly responsible to Consultant; providing further that the foregoing shall apply to any wrongful acts or any active or passively negligent acts or omissions to act, committed jointly or concurrently by Consultant or Consultant's agents, employees or other independent contractors and the County, its agents, employees or independent contractors. Nothing contained in the foregoing indemnity provision shall be construed to require indemnification for claims, demand, damages, costs, expenses or judgments resulting solely from the conduct of the County.

(2) If any claim, demand, litigation or other challenge to the County is brought alleging a deficiency with the County's compliance under the California Environmental Quality Act, the County shall provide the initial legal response to such challenge and shall give the Consultant notice of the challenge within 10 business days of the County's receipt of the challenge. If the case moves to litigation, the County shall provide the attorneys to defend the action. However, the Consultant shall assist in the defense by providing any and all documents, personnel who worked on the project, including sub-consultants, and any other in-house expertise that can assist the County in preparing for and presenting the defense to the CEQA challenge. Such assistance shall be at no cost to the County, and shall continue until the CEQA challenge is finally resolved. If the environmental study or documents need to be upgraded or modified, the Consultant shall accomplish the same at no cost to the County, unless the Consultant has advised the County in writing of the need to upgrade or modify the study or documents and the County has declined to follow the advice of the Consultant. If the County, Consultant or anyone in Consultant's chain of contractual privity is found to be liable for the claim, demand, challenge or litigation, including attorney's fees, the Consultant shall reimburse the County in accordance with the percentage of fault attributed to the Consultant. The reimbursement to the County shall include a reimbursement for the County's attorney's fees and costs of defending the suit apportioned by the same percentage of fault. If the percentage of fault is not included in a judgment, the percentage of fault shall be determined by agreement between the County and the Consultant or arbitration. Arbitration shall be in accordance with the California Code of Civil Procedure, section 1280 et seq.

### **SECTION 7 - INSURANCE**

The County of San Luis Obispo will require the successful bidder to provide insurance as follows. These provisions will become contractual obligations.

7.1 Consultant shall not perform any work under the Contract until it has obtained insurance complying with the provisions of this section, delivered a copy of each insurance policy to the County, and obtained County approval of all such policies. Said policies shall be issued by companies authorized to do business in California. Consultant shall maintain said insurance in force at all times. The following coverages with the following features shall be provided:

A. Professional Liability Insurance

Contractor shall maintain professional liability "errors and omissions" insurance with limits of liability of not less than \$100,000 per occurrence to cover all services rendered by Contractor pursuant to this contract.

B. Comprehensive Liability Insurance and Automobile Insurance

Consultant shall maintain comprehensive general and automobile liability insurance, which shall cover claims arising from bodily and personal injury, including death resulting therefrom, and damage to property, resulting from any act or occurrence arising out of Consultant's operations in the performance of the contract, including, without limitation, acts involving automobiles. The policies shall provide not less than \$1,000,000.00 single limit coverage applying to bodily and personal injury, including death resulting there from, and property damage. The following endorsements must be attached to the policy:

1. If the policy covers on an "accident" basis, it must be changed to an "occurrence" basis.
2. The Comprehensive Liability Insurance policy must cover personal injury as well as bodily injury.
3. The Comprehensive Liability Insurance policy must have blanket coverage of contractually assumed liability, subject to the limitations of the policy.
4. The policy must have a "Cross Liability" ("Severability of Interests") endorsement such that each insured is covered as if separate policies had been issued to each insured.
5. The County of San Luis Obispo, its officers, employees and agents shall be named as additional insureds under the Comprehensive Liability Insurance policy, and the policy shall provide that the insurance will operate as primary insurance and that no other insurance effected by the County will be called upon to contribute to a loss hereunder.

C. Workers' Compensation Coverage

In accordance with the provisions of " 3700 et seq. of the Labor Code, Consultant is required to be insured against liability for workers compensation or to undertake self-insurance. Consultant agrees to comply with such provisions before commencing performance of the work covered by this Contract.

D. Certification of Coverage

Prior to commencing work under the contract, Consultant shall furnish County with the following for each insurance policy required to be maintained by this contract:

1. A copy of the entire policy and not just the "face sheet" or proof of coverage (except that no copy of Consultant's workers' compensation policy need be provided).
2. A certificate of insurance including certification that the policy will not be canceled or reduced in coverage or changed in any other material aspect without thirty (30) days prior written notice to the County.

E. Effect of Failure or Refusal

If Consultant fails or refuses to procure or maintain the insurance required by this contract, or fails or refuses to furnish County with the certifications required by subparagraph (B4) above, County shall have the right, at its option, to forthwith terminate the Contract for cause.