

CITY of COLFAX

C A L I F O R N I A

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33 S Main Street, PO Box 702, Colfax, CA 95713

INVITATION TO SUBMIT A PROPOSAL

FOR

GRASS VALLEY RULE 20A UNDERGROUNDING DESIGN SERVICES

CLOSING DATE FOR RECEIVING PROPOSALS:

3:00 PM, JULY 24, 2014

SUBMIT PROPOSALS TO:

JIM FLETTER, P.E.
ASSISTANT CITY ENGINEER
PONTICELLO ENTERPRISES
1216 FORTNA AVENUE
WOODLAND, CA 95776

Questions regarding this RFP may be directed to Mr. Fletter at jim.fletter@ponticelloinc.com.

**CITY OF COLFAX
REQUEST FOR PROPOSALS
GRASS VALLEY RULE 20A UNDERGROUNDING
PLANNING AND DESIGN SERVICES**

PROJECT BACKGROUND

The City of Colfax, located in Placer County, CA, is the lead agency to underground overhead lines and equipment on Grass Valley Street between the Union Pacific Railroad tracks and the alley west of Main Street. The stakeholder agencies include PG&E, Verizon Communication, and Wave Broadband. The project location and general information about the lines to be undergrounded are identified in the concept plan included as Exhibit A.

PROJECT OVERVIEW

The work, as determined during the site walk, is estimated to involve the following:

- Trenching for PG&E, Verizon and Wave Broadband facilities, including conduit and junction boxes, from the first electrical pole just west of the railroad tracks on the north side of Grass Valley to a location several dozen feet west of an electrical pole on the west side of the alley behind Main Street and the north side of Grass Valley (approx. 330 feet)
- Trenching, conduit and electrical panel conversion for PG&E service to the “Colfax Railroad Station” building on North Main Street (approx. 210 feet).

The 2014 work credit balance from Rule 20A funds of \$167,594 and a 5-year borrow out of \$47,315 for a total budget of \$214,909.

The City, PG&E and the other stakeholders have tentatively agreed to a construction start date in May 2015 with completion by July 2015. To facilitate this aggressive schedule, the City has begun preparing a base survey map of the site and developing the Underground Utility District. The project will include preliminary engineering, verification that funds are sufficient to cover project costs, design, coordination with stakeholders, scheduling and conflict resolution with PG&E, and construction oversight as necessary. Environmental clearance has not been completed but it is assumed that this project can be cleared through a Categorical Exemption.

The City is looking to hire a “Prime” consultant to be responsible for coordination of all required sub-consultants (single point of contact). The City is seeking the service of an electrical engineering firm, licensed in the State of California, to design PG&E and joint trench underground facilities, assist with environmental clearance (if a categorical exemption is not possible), planning, and construction administration of the proposed project. Since the project involves working closely with PG&E, the City prefers a consultant that has experience implementing similar projects with PG&E. The Consultant will receive direction from the City through Ponticello Enterprises, who is acting as the City’s Contract Project Manager. All meetings, submittals and presentations shall be coordinated through Ponticello Enterprises. The City Manager has final approval authority on project scope, schedule and budget.

SCOPE OF SERVICES

The Consultant Scope of Services shall follow, but not be limited to, the tasks identified in the following outline. The Consultant may use this as a baseline but should develop its own Scope of Services based on project understanding and past experience. The City is flexible with regard to the process that can best be applied to achieve the desired result.

Project Management

The Consultant's project manager shall conduct regular meetings with the lead designers to monitor progress, and shall coordinate quality control review procedures. Consultant shall provide a primary point of contact with City staff through the project manager. The project manager shall be aware of progress, problems, and information needs for the project, and shall work to keep the City informed. This structure is not, however, intended to limit beneficial interaction between the lead designers and City staff as design concepts and details are developed. Given the limited time and budget, streamlining of management, planning and design personnel is an important consideration.

Preliminary Engineering

Attend project Kick off meeting with Ponticello Enterprises and City Staff in order to review the scope of the work, City's objectives, goals, programming needs, agency and consultant contacts, current budget, and project schedule.

Meet with PG&E, Verizon and Wave, as necessary

Review all relevant prior documentation.

Conduct any other required investigations as needed.

Review current topographical and boundary survey of the site to ensure information is sufficient for design level work.

Create, as necessary, preliminary designs and cost estimates of the improvements based on input from the City and PG&E.

Prepare Composite and Form B to submit to PG&E

Develop detailed Project Schedule from preliminary design through completion including City and staff, utility coordination and regulatory interactions, City Council, community meetings, and all City approvals.

Develop and analyze cost estimate for the final design based on market conditions and previous experience.

Design Engineering

Coordinate the design and preparation of the Plans and Contract Documents with City staff and utility companies throughout the project.

Prepare Project Plans in conformance with the latest applicable standard.

Prepare Erosion Control Plan and Storm Water Pollution Plan as necessary.

Prepare construction documents in to meeting PG&E requirements.

Prepare and submit a construction cost estimate, utilizing the Bid Schedule included in the proposal, with the 50% and 95% (Final) design.

Submit five (5) sets of plans and specifications to City at 50% and 95% completion.
Meet with City if necessary to discuss review comments and revise documents accordingly.
Submit 1 hard-copy set of wet-stamped final plans and specs, and 1 PDF set.

Bidding & Construction

Coordinate with City and provide consultation during the bidding process.
Provide written answers to all questions during the bidding process.
Prepare all necessary Addenda. Provide printer ready Addenda in hard format and appropriate electronic files for distribution.
Attend Pre-Construction Meeting.
Review and process submittals.
Provide consultation during the construction phase of the project, including providing written responses to the City regarding Requests for Information from the Contractor and assist City staff in preparing Change Orders as required.
Perform periodic construction site visits and attend construction meetings (assume up to two per month) to observe and evaluate the ongoing construction
Prepare a short report of field observations and distribute it to all pertinent team members
Assist City construction personnel in verifying contractor's monthly and final payment requests.
Assist City construction personnel in preparing "Punch List."
Participate in final inspection and make a recommendation to the City of project acceptance.
Prepare final Record Drawings based on as-builts from the contractor. Provide a final Mylar of Record set and a CD-Rom of final specifications in Microsoft Word format, and CD-Rom with final plans in PDF format and AutoCAD format.

PROPOSAL SUBMITTAL:

Please provide 4 copies of the submittal. The Proposal shall be limited to 15 single-sided pages, excluding the cover letter, resumes, Insurance Certificate, and Rate Schedule (separate envelope). Submit the information to the Assistant City Engineer, Jim Fletter with Ponticello Enterprises, at 1216 Fortna Avenue, Woodland, CA 95776, by **3:00 p.m. on July 24, 2014**. The City will review the information provided and make a selection. If necessary, one or more firms will be chosen to participate in a presentation/interview session, and a selection will be made hence.

The Proposal shall include the following:

1. Date.
2. Legal name of firm, address and telephone number, and the year firm was established.
3. Identify who would be the principal in charge of the project, and who would be the City's project contact.
4. Names of proposed personnel and subconsultants, their professional qualifications for the services and type of project, and any certifications/registrations.

5. Outline of the scope of services proposed for preliminary planning and engineering, design, and bidding and construction phases of the project.
6. Discuss firm's understanding of the City's needs and the firm's design approach to addressing those needs for projects.
7. Give a representative listing of projects completed in the past five years, with a special emphasis on Rule 20A Undergrounding projects of similar scope. If more than one firm is involved in this proposal, specify which firm was involved in the representative project and whether the firms worked collaboratively on the specified project(s).
8. Provide a list of references, with contact persons and phone numbers from agencies for whom your firm has provided similar services. Please specify if the personnel selected to provide services for the City of Colfax projects were involved with the referenced projects.
9. List any other information that might aid in ascertaining your firm's qualifications.
10. A copy of the City's standard Professional Services Agreement is included in the Appendix. Provide a summary of changes to the standard language, which will be requested by the firm if selected.
11. Insurance Requirements: Provide an Insurance Certificate, showing current amounts and carriers of both general and auto liability, and professional liability insurance. Selected firm (s) will have to meet City's insurance requirements as outlined in the Professional Services Agreement.
12. In a separate sealed envelope provide one copy of your not-to-exceed cost proposal to complete your entire scope of work through to construction completion; and, your 2014 Rate Schedule (prime and subs).

TENTATIVE SCHEDULE:

While the successful Consultant will be required to prepare a project schedule, the following are tentative dates scheduled for approval of the City's agreement with selected Consultant:

<u>Description of Task</u>	<u>Date(s)</u>
Notice of RFP sent to Consultants	7/1/14
Deadline to submit proposals	7/25/14
Final ranking of Consultant	8/8/14
Interviews (if necessary)	week of 8/11/14
Final selection of Consultant	8/15/14
Negotiate and finalize Professional Services Agreement	8/22/14
City Council approval of Agreement.....	8/27/14

SELECTION PROCESS:

1. A staff committee will review and evaluate the submitted proposals and rank the Consultants. The committee will make a recommendation for selection, to the City Manager for approval.
2. The consultants cost proposal and rates schedule, submitted in separate sealed envelope, will be reviewed and the combination of ranking, costs, and rates will be used for the final selection.
3. If necessary, highly qualified firms will be invited to make an oral presentation to the committee, and the committee will ask questions. The committee will submit its final recommendations to the City Manager for approval.
4. After negotiation of a mutually satisfactory agreement, the final selection will be submitted to the City Council with a recommendation for award of contract. A copy of a "Sample" Consultant Services Agreement is included in the Appendix. The agreement includes the City's insurance requirements as well as other pertinent information.

EVALUATION CRITERIA:

Firms will be evaluated using the following criteria. Each criterion will be weighed according to its importance to the particular services required for the project.

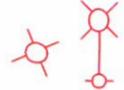
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|---|-----------|
| 1. Demonstrates a clear understanding of the requirements for the site and the work to be performed, and any opportunities or constraints associated with the site. | 25 Points |
| 2. The overall quality of the technical proposal. | 10 Points |
| 3. Relevant experience and technical competence of the consultant and the proposed sub-consultants, and the personnel assigned to this project. | 10 Points |
| 4. Demonstrated understanding and experience with Rule 20A process and PG&E process for design of similar type projects. | 30 Points |
| 5. Organizational structure for proposed design team, identifying roles and responsibilities for lead consultant and sub-consultant personnel. | 10 Points |

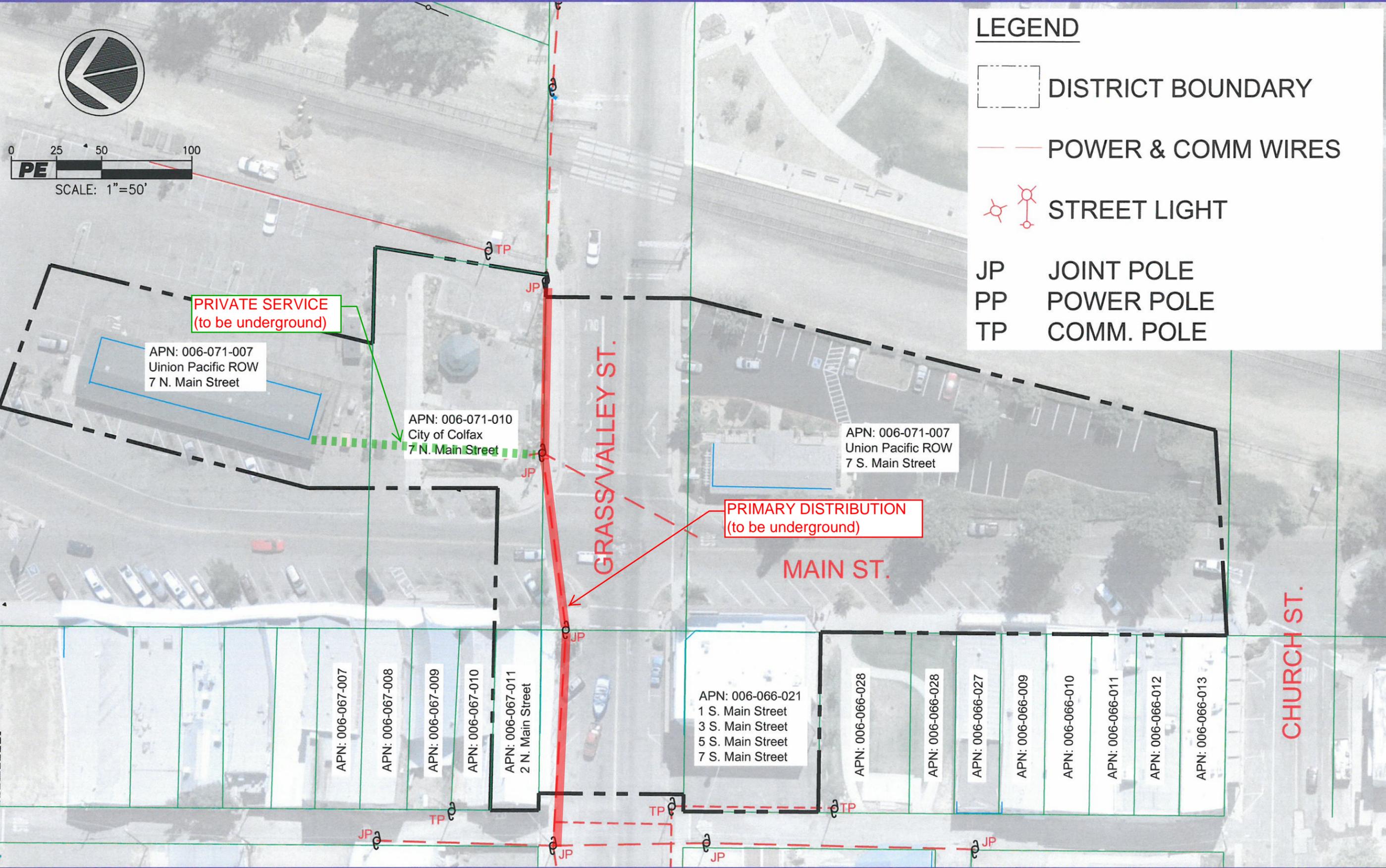
Total 85 Points

APPENDIX

- Project Scope/Concept Plan
- Sample Professional Services Agreement

LEGEND

-  DISTRICT BOUNDARY
-  POWER & COMM WIRES
-  STREET LIGHT
- JP JOINT POLE
- PP POWER POLE
- TP COMM. POLE



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AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT is made and entered into on this _____ day of _____, 20__ by and between the City of Colfax, a municipal corporation of the State of California (“City”) and _____ (“Consultant”).

RECITALS

A. The City desires to retain Consultant to provide the Services set forth in detail in Exhibit A hereto (the “Services”) subject to the terms and conditions of this Agreement.

B. Consultant is duly licensed and sufficiently experienced to undertake and perform the Services in a skilled and workmanlike manner and desires to do so in accordance with the terms and conditions of this Agreement.

Now, therefore, in consideration of the mutual covenants, promises and conditions set forth in this Agreement, the City and Consultant agree as follows:

Section 1. Services.

Subject to the terms and conditions set forth in this Agreement, Consultant shall furnish and perform all of the Services described in detail in Exhibit A hereto and incorporated herein by this reference (the “Services”) to the satisfaction of the City. Consultant shall not perform any work exceeding the scope of the Services described in Exhibit A without prior written authorization from the City.

Section 2. Time of Completion.

Consultant’s schedule for performance of the Services is set forth in Exhibit A hereto which is incorporated herein by this reference. Consultant shall commence performance of the Services promptly upon receipt of written notice from the City to proceed. Performance of the Services shall progress and conclude in accordance with the schedule set forth in Exhibit A. During the performance of the Services, Consultant shall provide the City with written progress reports at least once each month and at such additional intervals as City may from time to time request.

Section 3. Compensation.

A. Except as may otherwise be provided in Exhibit A or elsewhere in this Agreement or its exhibits, Consultant shall invoice City once each month for the Services performed during the preceding month. Such invoices shall itemize all charges in such detail as may reasonably be required by City in the usual course of City business but shall include at least (i) the date of performance of each of the Services, (ii) identification of the person who performed the Services, (iii) a detailed description of the Services performed on each date, (iv) the hourly rate at which the Services on each date are charged, (v) an itemization of all costs incurred and (vi) the total charges for the Services for the month invoiced. As long as the Consultant performs the Services to the satisfaction of the City, the City shall pay the Consultant an all inclusive compensation that shall

not exceed the amount as detailed in Exhibit A except pursuant to an authorized written change order issued pursuant to Section 15 of this Agreement before the Services requiring additional compensation are performed. City shall pay Consultant no later than thirty (30) days after approval of the monthly invoice by City's staff.

B. The Consultant's compensation for the Services shall be full compensation for all indirect and direct personnel, materials, supplies, equipment and services incurred by the Consultant and used in carrying out or completing the Services. Payments shall be in accordance with the payment schedule established in Exhibit A or elsewhere in this Agreement or its exhibits.

C. The City shall have the right to receive, upon request, documentation substantiating charges billed to the City pursuant to this Agreement. The City shall have the right to perform an audit of the Consultant's relevant records pertaining to the charges.

D. Any Services performed more than sixty (60) days prior to the date upon which they are invoiced to the City shall not be compensable.

Section 4. Professional Ability; Standard of Quality.

City has relied upon the professional training and ability of Consultant to perform the Services described in Exhibit A as a material inducement to enter into this Agreement. Consultant shall therefore provide properly skilled professional and technical personnel to perform all Services under this Agreement. All Services performed by Consultant under this Agreement shall be in a skillful, workmanlike manner in accordance with applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Consultant's field of expertise.

Section 5. Indemnification.

Consultant shall hold harmless and indemnify, including without limitation the cost to defend, the City and its officers, agents and employees from and against any and all claims, demands, damages, costs or liability that arise out of, or pertain to, or relate to the negligence, recklessness or willful misconduct of Consultant and/or its agents in the performance of the Services. This indemnity does not apply to liability for damages for death or bodily injury to persons, injury to property, or other loss, arising from the sole negligence, willful misconduct or material defects in design by the City or its agents, servants employees or independent contractors other than Consultant who are directly responsible to the City, or arising from the active negligence of the City officers, agents, employees or volunteers

Section 6. Insurance.

Without limiting Consultant's indemnification obligations provided for above, Consultant shall take out before beginning performance of the Services and maintain at all times during the life of this Agreement the following policies of insurance with insurers possessing a Best rating of not less than A. Consultant shall not allow any subcontractor, professional or otherwise, to commence work on any subcontract until all insurance required of the Consultant has also been obtained by the

subcontractor.

- A. Workers' Compensation Coverage. Statutory Workers' Compensation insurance and Employer's Liability Insurance to cover its employees. In the alternative, Consultant may rely on a self-insurance program to meet its legal requirements as long as the program of self-insurance complies fully with the provisions of the California Labor Code. Consultant shall also require all subcontractors, if such are authorized by the City, to similarly provide Workers' Compensation insurance as required by the Labor Code of the State of California for all of the subcontractor's employees. All Workers' Compensation policies shall be endorsed with the provision that the insurance shall not be suspended, voided, or cancelled until thirty (30) days prior written notice has been provided to City by the insurer. The Workers' Compensation insurance shall also contain a provision whereby the insurance company agrees to waive all rights of subrogation against the City and its elected or appointed officials, officers, agents, and employees for losses paid under the terms of such policy which arise from the Services performed by the insured for the City.
- B. General Liability Coverage. General liability insurance, including personal injury and property damage insurance for all activities of the Consultant and its subcontractors, if such are authorized by the City, arising out of or in connection with the Services. The insurance shall be written on a comprehensive general liability form and include a broad form comprehensive general liability endorsement. In the alternative, the City will accept, in satisfaction of these requirements, commercial general liability coverage which is equivalent to the comprehensive general liability form and a broad form comprehensive general liability endorsement. The insurance shall be in an amount of not less than \$1 million combined single limit personal injury and property damage for each occurrence. The insurance shall be occurrence based insurance. General liability coverage written on a claims made basis shall not be acceptable absent prior written authorization from the City.
- C. Automobile Liability Coverage. Automobile liability insurance covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with this Agreement, including coverage for owned, hired and non-owned vehicles, in an amount of not less than \$1 million combined single limit for each occurrence.
- D. Policy Endorsements. Each general liability and automobile liability insurance policy shall be endorsed with the following provisions:
1. The City, and its elected or appointed officials, employees and agents shall be named as insureds or additional insureds with regard to damages and defenses of claims arising from activities performed by or on behalf of the Consultant.
 2. The insurance afforded by each policy shall apply separately to each insured who is seeking coverage or against whom a claim is made or a suit is brought, except with respect to the insurer's limits of liability.
 3. The insurance shall be primary insurance as respects the City and its elected or appointed officers, officials, employees and agents. Any other insurance maintained by

the City or its elected or appointed officers, officials, employees, agents or volunteers shall be in excess of this insurance and shall not contribute with it.

4. The insurance shall not be suspended, voided, cancelled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been provided to the City.
 5. Any failure to comply with the reporting requirements of any policy shall not affect coverage provided to the City, its elected or appointed officers, officials, employees, or agents.
- E. Professional Liability Coverage. If required by the City, Consultant shall also take out and maintain professional liability, errors and omissions insurance in an amount not less than \$1 million. The professional liability insurance policy shall be endorsed with a provision stating that it shall not be suspended, voided, cancelled, or reduced in coverage or in limits except after thirty (30) days written notice has been provided to the City.
- F. Insurance Certificates and Endorsements. Prior to commencing the Services under this Agreement, Consultant shall submit to the City documentation evidencing the required insurance signed by the insurance agent and the companies named. This documentation shall be on forms which are acceptable to the City and shall include all required endorsements and verify that coverage is actually in effect. This Agreement shall not be effective until the required insurance forms and endorsements are submitted to and approved by the City. Failure to provide these forms within the time period specified by City may result in the award of this Agreement to another Consultant should the City, in its sole discretion, decide to do so. Current certification of insurance shall be kept on file with the City at all times during the term of this Agreement.
- G. Deductible and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City.
- H. Termination of Insurance. If the City receives notification that Consultant's insurance will be suspended, voided, cancelled or reduced in coverage or in limits, and if the Consultant does not provide for either the reinstatement of that insurance or for the furnishing of alternate insurance containing all of the terms and provisions specified above prior to the termination of that insurance, City may either terminate this Agreement for that breach, or City may secure the required insurance to satisfy the conditions of this Agreement and deduct the cost thereof from compensation which would otherwise be due and payable to the Consultant for Services rendered under the terms of this Agreement.

Section 7. Subcontracts.

Consultant may not subcontract any portion of the Services without the written authorization of City. If City consents to a subcontract, Consultant shall be fully responsible to the City and third parties for all acts or omissions of the subcontractor to which the Services or any portion thereof are subcontracted. Nothing in this Agreement shall create any contractual relationship between City and any subcontractor, nor shall it create any obligation on the part of the City to pay or cause the

payment of any monies due to any such subcontractor except as otherwise is required by law.

Section 8. Assignment.

Consultant shall not assign any right or obligation under this Agreement without the City's prior written consent. Any attempted assignment of any right or obligation under this Agreement without the City's prior written consent shall be void.

Section 9. Entire Agreement.

This Agreement represents the entire understanding of City and Consultant as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. This Agreement may not be modified or altered except in writing signed by both parties.

Section 10. Jurisdiction.

This Agreement shall be administered and interpreted under the laws of the State of California. Jurisdiction over any litigation arising from this Agreement shall be in the Superior Court of the State of California with venue in Placer County, California.

Section 11. Suspension of Services.

Upon written request by Consultant, City may suspend, in writing, all or any portion of the Services if unforeseen circumstances beyond the control of the City and Consultant make normal progress of the Services impossible, impractical or infeasible. Upon written City approval to suspend performance of the Services, the time for completion of the Services shall be extended by the number of days performance of the Services is suspended.

Section 12. Termination of Services.

City may at any time, at its sole discretion, terminate all or any portion of the Services and this Agreement upon seven (7) days written notice to Consultant. Upon receipt of notice of termination, Consultant shall stop performance of the Services at the stage directed by City. Consultant shall be entitled to payment within thirty (30) days for Services performed up to the date of receipt of the written notice of termination. Consultant shall not be entitled to payment for any Services performed after the receipt of the notice of termination unless such payment is authorized in advance in writing by the City.

Should Consultant fail to perform any of the obligations required of Consultant within the time and in the manner provided for under the terms of this Agreement, or should Consultant violate any of the terms and conditions of this Agreement, City may terminate this Agreement by providing Consultant with seven (7) days written notice of such termination. The Consultant shall be compensated for all Services performed prior to the date of receipt of the notice of termination. However, the City may deduct from the compensation which may be owed to Consultant the amount of damage sustained or estimated by City resulting from Consultant's breach of this

Agreement.

Consultant's obligations pursuant to Sections 5 and 6 of this Agreement shall survive termination, and continue in effect for as long as necessary to fulfill the purposes of Sections 5 and 6.

Section 13. Independent Contractor.

Consultant shall in all respects be an independent contractor and not an agent or employee of City. Consultant has and shall retain the right to exercise full control and supervision of the means and methods of performing the Services. Consultant shall receive no premium or enhanced pay for Services normally understood as overtime; nor shall Consultant receive holiday pay, sick leave, administrative leave or pay for any other time not actually expended in the performance of the Services. It is intended by the parties that Consultant shall not be eligible for benefits and shall receive no compensation from the City, except as expressly set forth in this Agreement. Consultant shall submit completed W-9 and Report of Independent Contractor forms upon execution of this Agreement and prior to the payment of any compensation hereunder.

Section 14. Ownership of Documents.

Within thirty (30) days after the Consultant substantially completes performance of the Services, or within thirty (30) days after the termination of this Agreement, the Consultant shall deliver to the City all files, records, materials and documents drafted or prepared by Consultant's in the performance of the Services. It is expressly understood and agreed that all such files, records, materials and documents are the property of the City and not the property of the Consultant. All finished and unfinished reports, plans, studies, documents and other writings prepared by and for Consultant, its officers, employees and agents in the course of performing the Services shall become the sole property of the City upon payment to Consultant for the Services, and the City shall have the exclusive right to use such materials in its sole discretion without further compensation to Consultant or to any other party. Consultant shall, at Consultant's expense, provide such reports, plans, studies, documents and writings to City or any party the City may designate, upon written request. Consultant may keep file copies of all documents prepared for City. Use of any such documents by the City for projects that are not the subject of this Agreement or for purposes beyond the scope of the Services shall be at the City's sole risk without legal liability or expense to Consultant.

Section 15. Changes and/or Extra Work.

Only the City Council may authorize extra and/or changed Services, modification of the time of completion of the Services, or additional compensation for the tasks to be performed by Consultant. Consultant expressly recognizes that other City personnel are without authorization to order extra and/or changed Services or to obligate the City to the payment of additional compensation. The failure of Consultant to secure the prior written authorization for such extra and/or changed Services shall constitute a waiver of any and all right to adjustment in the contract price due to such unauthorized Services, and Consultant thereafter shall not be entitled to any compensation whatsoever for the performance of such extra or changed Services. In the event Consultant and City agree that extra and/or changed Services are required, or that additional compensation shall be

awarded to Consultant for performance of the Services under this Agreement, a supplemental agreement providing for such compensation shall be prepared and shall be executed by the Consultant and the necessary City officials before the extra and/or changed Services are provided.

Section 16. Compliance with Federal, State and Local Laws.

Consultant shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations affecting the Services, including without limitation laws requiring licensing and prohibiting discrimination in employment because of race, creed, color, sex, age, marital status, physical or mental disability, national origin or other prohibited bases. City shall not be responsible or liable for Consultant's failure to comply with applicable laws, statutes, ordinances, rules or regulations.

Section 17. Retention of Records.

Consultant and any subconsultants authorized by the terms of this Agreement shall keep and maintain full and complete documentation and accounting records, employees' time sheets, and correspondence pertaining to the Services, and Consultant shall make such documents available for review and/or audit by City and City's representatives at all reasonable times during performance of the Services and for at least four (4) years after completion of the Services and/or termination of this Agreement.

Section 18. Alternative Dispute Resolution

- A. Before resorting to mediation, arbitration or other legal process, the primary contacts of the parties shall meet and confer and attempt to amicably resolve any dispute arising from or relating to this Agreement subject to the following provisions. Any party desiring to meet and confer shall so advise the other party pursuant to a written notice. Within 15 days after provision of that written notice by the party desiring to meet and confer, the primary contacts for each party shall meet in person and attempt to amicably resolve their dispute. Each primary contact, or the person acting in their absence with full authority to resolve the dispute, shall attend the meeting and shall be prepared to devote an entire day thereto. If any dispute remains unresolved at the end of the meeting, any party to this Agreement shall have the right to invoke the mediation process provided for in the subparagraph B below.
- B. Subject to the provisions of subparagraph A, any dispute that remains unresolved after the meet and confer shall immediately be submitted to non-binding neutral mediation, before a mutually acceptable, neutral retired judge or justice at the Sacramento Office of the Judicial Arbitration and Mediation Service ("JAMS"). If within five days after the meet and confer the parties are unable to agree upon the selection of a neutral mediator, then the first available retired judge or justice at the Sacramento office of JAMS shall serve as the neutral mediator. The parties agree to commit to at least one full day to the mediation process. Additionally, to expedite the resolution of any dispute that is not resolved by mediation, the parties agree to each bring to the neutral mediation a list of at least five neutral arbitrators, including their resumes, whose availability for an arbitration hearing within 30 days after the mediation has been confirmed.

If to Consultant:

Section 23. Execution.

This Agreement may be executed in original counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one original counterpart is signed by both parties hereto. In proving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

Section 24. Successors. This Agreement shall be binding on and inure to the benefit of the respective parties hereto except to the extent of any contrary provision in this Agreement.

Section 25. Attorney's Fees. If any party to this Agreement commences legal proceedings to enforce any of its terms or to recover damages for its breach, the prevailing party shall be entitled to recover its reasonable attorney's fees, costs and the expenses of expert witnesses, including any such fees costs and expenses incurred on appeal.

IN WITNESS WHEREOF, the parties hereby have executed this Agreement on the day first above written:

CITY

CONSULTANT

Signature_____

Signature_____

Printed Name_____

Printed Name_____

Title_____

Title_____

Date_____

Date_____

APPROVED AS TO FORM:

City Attorney