



REQUEST FOR PROPOSAL

Fifth Street Bridge Replacement

Construction Management and Inspection Services

Federal Project No. BRLS – 5163(027)

Date of Request: September 2, 2016

Pre-Proposal Meeting: September 28, 2016 at 2:00 P.M.

Proposal Due Date: October 12, 2016, prior to 5:00 P.M.

**City of Yuba City
Public Works Department
1201 Civic Center Boulevard
Yuba City, CA 95993**

Table of Contents

Request for Proposal

Fifth Street Bridge Replacement Construction Management and Inspection Services

Introduction.....	3
Background.....	3
Scope of Work	4
Services By Others.....	6
Grant Funding Requirements.....	7
Proposal Content.....	7
Submittal of Proposals	9
Evaluation of Proposals	10
Additional Conditions.....	11
Appendix A – Federal Aid Requirement Notices and Forms	13
Appendix B – Sample Professional Services Agreement	23

INTRODUCTION

The City of Yuba City (City) is requesting proposals from licensed professional engineering firms to provide construction management and inspection services associated with construction of the Fifth Street Bridge Replacement Project (Project). The Project will replace the existing Fifth Street Bridge over the Feather River between Yuba City and Marysville (Br. No. 18C-0012) and the Second Street Undercrossing in Yuba City (Br. No. 18C-0055). The Project also includes significant roadway approach work in both Yuba City and Marysville. Additional information regarding the scope of the Project is contained in the Background section of this Request for Proposals (RFP).

The Project is federally funded through the Highway Bridge Program (HBP), Regional Surface Transportation Program (RSTP), and High Priority Project (HPP) program and State funded through the Surface Transportation Improvement Program (STIP). These programs are administered through Caltrans and the Sacramento Area Council of Governments (SACOG).

The Project must follow the provisions of the Caltrans Local Assistance Procedures Manual (LAPM), including Chapter 10 Consultant Selection. Proposers are advised that Caltrans audit and review procedures for “Case 3” (consultant contracts of \$3.5 million or more) described in Chapter 10 of the LAPM will be required and may require the issuance of a Caltrans “Conformance Letter” before a contract can be executed.

BACKGROUND

The City awarded a design and environmental contract for the Project to Dokken Engineering (Dokken) in September 2010. Dokken has prepared the following documents, which are available on the City’s website at http://www.yubacity.net/city_hall/departments/public_works/engineering/5th_street_bridge/.

- Project Study Report – Project Report Equivalent (April 8, 2013)
- Initial Study/Environmental Assessment (August 27, 2014)
- 90% Project Plans
- Project Specifications will not be provided. Proposers must utilize the 3 sources of information above to determine environmental and schedule constraints of the Project.

The Project is being designed and permitted to remedy two major problems associated with the existing Fifth Street Bridge. The bridge is rated as “functionally obsolete” by Caltrans under Federal Highway Administration (FHWA) prescribed inspection criteria. This rating is due to inadequate lane widths. In addition, traffic forecasts show that intersection and roadway segments on and nearby the bridge would operate at failing levels of service by 2035 and widening the facility from two to four lanes would provide needed traffic operations and capacity improvements to the transportation network between Yuba City and Marysville. The Project consists of the following improvements:

- Construction of a new four-lane bridge over the Feather River;
- Construction of a new four-lane overcrossing over Second Street;
- Expansion of 5th Street from two lanes to four lanes between the new bridge and J Street in Marysville, including four lanes under the Union Pacific Railroad underpass;
- Improvements to the 5th Street and J Street Intersection in Marysville, including a new eastbound dedicated right turn lane on to J Street and reconstruction of sidewalks and curb ramps to current ADA standards;

- Widening of the 5th Street Bridge approach roadway between 2nd Street and Shasta Street in Yuba City, from two lanes to four lanes;
- Realignment of 2nd Street under the overcrossing, construction of raised median, and extension of the left turn lane from 2nd Street to westbound Bridge Street;
- Reconstruction of the eastbound approach to the bridge and removal of the abandoned UPR underpass above the on-ramp;
- Add on-ramp from Sutter Street to westbound Bridge Street;
- Add signalization to the 2nd Street intersection with Bridge Street and the westbound on-ramp at the intersection of Sutter Street and 2nd Street in Yuba City;
- Construction of new street lighting;
- Construction of a Class I Path on the bridge, with links to levee trails and sidewalks;
- Construction of a retaining wall on the west levee to support the Class I Path connection to the top of levee from the Fifth Street Bridge
- Removal of stop logs on the top of the Marysville levee and construction of 3' to 4' tall floodwall extensions from the new bridge;
- Various utility relocations, both performed by the utility companies and by the Contractor;
- Construction of an expanded parking lot in Riverfront Park, beneath the new bridge structure;
- Replacement of damaged existing facilities, such as fences, berms, lighting, bike trail, and driveway to parking lots beneath the new and removed bridge structures;
- Removal and revegetation of riparian habitat along the banks of Feather River;
- Construction of temporary irrigation system to water revegetation;
- Removal of existing bridge and foundations in river channel, to a depth of 3' below existing ground; and
- Construction of temporary pedestrian connections to the top of the west levee, during construction of Abutment 1 and Frame 1.

The City currently anticipates the following schedule for the RFP and construction:

- | | |
|--|-------------------------------|
| • Prepare Proposals: | September – October 2016 |
| • Review Proposals: | October 2016 |
| • Interview Top Firm(s): | Mid – November 2016 |
| • Caltrans Audit of Selected Firm: | December 2016 – February 2017 |
| • Advertise Construction Contract: | February – March 2017 |
| • Award CM Contract: | March 2017 |
| • Notice to Proceed with CM: | April 2017 |
| • Award Construction Contract: | April 2017 |
| • Notice to Proceed with Construction: | May 2017 |
| • Complete Construction: | December 2019 |

SCOPE OF WORK

The City is seeking proposals from licensed professional engineering firms to provide construction management and inspection services on behalf of the City for construction of the Project. The following summary of the scope of services is not inclusive and is only intended to be used as an indication of the minimum services to be provided in preparing the consultant's detailed scope of services. It is the City's expectation that the Scope of Services shall include all work necessary for the completion of the Project, and that no future amendments to a contract would be required.

Consultant shall assign a Resident Engineer (RE) who is registered as a Professional Engineer in the State of California for the duration of the Project. The RE shall have relevant bridge construction management experience for a minimum of two bridge projects unless this function is adequately covered by another key staff member. The RE will be the City's primary representative with the contractor and general public and the party responsible for administering the construction contract for the City.

Construction management services shall include, but are not limited to, the following:

Project Administration

1. Coordinate with Contractor, design engineer, City, and other parties involved to schedule and conduct the pre-construction conference.
2. Schedule and conduct construction progress meetings. Prepare and distribute meeting minutes and agendas to all attendees.
3. Attend monthly status report meetings with the City to review detailed construction progress and budget status.
4. Enforce the construction schedule and phasing plan in order to complete the project within the allocated time and schedule. Perform schedule analysis, as needed.
5. Monitor the construction budget and ensure that the project remains within budget, including a detailed tracking of installed and expected quantities of work.
6. Act as RE in the field and comply with all Caltrans requirements, including daily field reporting and weekly statements of working days.
7. Maintain records for all work performed as part of the project in accordance with Caltrans requirements including the preparation of daily reports.
8. Review and respond to product and project submittals and/or coordinate with the design engineer and the City to review project submittals. Maintain a submittal log and track turnaround time to avoid delays.
9. Review and respond to all Requests for Information (RFIs) and/or coordinate with the design engineer to provide responses. Log and track RFI progress.
10. Assist with drafting, reviewing, and negotiation of change orders.
11. Assist with the negotiation of cost proposals.
12. Recommend corrective action for unforeseen issues, if any, to the City and design engineer.
13. Review and resolve notices of potential claims; assisting the City with the review, evaluation and documentation of potential claim issues.
14. Review and verify construction quantities installed.
15. Prepare and assist with processing progress payments.
16. Monitor activities for the duration of the construction phase, including SWPPP compliance and stormwater management and reporting.
17. Enforce the contract requirements as they pertain to Labor Compliance, Equal Employment Opportunity, Prevailing Wage, and Disadvantaged Business Enterprise according to Caltrans Local Assistance Procedures and all State and federal regulations.
18. Coordinate all utility relocations and establishment of new utility services.
19. Perform biological surveys, environmental awareness trainings, and oversee compliance with environmental mitigation measures.
20. Maintain a markup of all changes to the project drawings to be used as an as-built reference.
21. Conduct a final walkthrough with the Contractor and the City, prepare punch lists, follow up with Contractor and inspector on punch list items.
22. Maintain all original documentation in an electronic organized file system, and make it available to the City for review at any time.

Inspection

1. Provide Structure Representative and inspectors for day-to-day on-site observation/inspection of work. Make reasonable efforts to guard against defects and deficiencies in the work of the Contractor and ensure that provisions of the contract documents are being fulfilled.
2. Maintain daily inspection logs, photographs, etc.
3. Monitor project for conformance with plans, traffic control plan, and specifications.
4. Observe the Contractor's final testing.
5. Review and monitor the safety programs developed by the Contractor and as required by OSHA/Cal OSHA.
6. Accept or reject work as necessary.

Quality Assurance and Material Testing

1. Ensure effective quality control and quality assurance program.
2. Coordinate required testing stated in the specifications and special inspections as necessary.
3. Consultant shall coordinate, review and recommend mitigation measures as necessary.
4. Perform independent construction surveying checks for all grades and alignments. This surveying is meant to be a check, as the Contractor will be responsible for all construction surveying and staking.

Public and Community Relations

1. Provide a representative that is available 24-hours a day for the public to contact with any complaints or problems with the Project.
2. Coordinate with local business owners and residents immediately adjacent to the Project for any items of work that may impact access to or use of their property.
3. Report to and assist the City in resolving any complaints from the public regarding the Project.

Post Construction

1. Review closeout documents (e.g., maintenance, operational, warranty, etc.) as required in the construction documents, and as submitted by the Contractor at the completion of the work.
2. Prepare Caltrans project closeout package.
3. At the conclusion of the project, the Consultant shall provide the City with a digital copy of all the project records.
4. Perform post construction review and prepare lessons learned documents for future projects.
5. Perform optional service if needed: claim resolution and detailed schedule analysis.

SERVICES BY OTHERS

The City's design consultant or one of their subconsultants will be providing the following services during construction of the Project:

1. Prepare resident Engineer's file containing design information necessary for use during construction, including:
 - a. Quantities
 - b. Estimate

- c. Notes about any unique issues
 - d. Bridge joint settling calculations
 - e. Staking notes for horizontal and vertical control, clearing limits, line and grade offsets, rough and finish grades, slope stakes, drainage facilities, grade breaks, angle points, begin/end bridge points, begin/end of curve points, point of vertical intersection transition points, and roadway improvements at 25-foot maximum intervals.
 - f. 4-scales for setting bridge deck grades
 - g. Foundation reports
 - h. Typical cross sections
2. Foundation Reviews
 3. Respond to requests for information submitted by the CM firm.
 4. Review shop drawings submitted by the CM firm for irrigation, post-tensioning, utility components, bridge bearings, pile installations, and street lights.
 5. Prepare permit updates and update environmental commitment records.
 6. Prepare as-built plans at the end of the project using markups provided by CM firm.

GRANT FUNDING REQUIREMENTS

The Project is federally funded with HBP, RSTP, and HPP funds and State funded with STIP funds. This project is therefore subject to the provisions of Chapter 10 of the Caltrans LAPM, effective August 2016, including all applicable federal aid requirements. Appendix A contains several forms related to federal aid requirements that **must be submitted with the proposal**.

A Disadvantaged Business Enterprise (DBE) goal of **9.0 percent** has been identified for this contract. The consultant must meet the goal by using DBE firms or document a good faith effort to meet the goal. If the DBE goal is not met, the good faith effort **shall be submitted with the proposal** and contain all of the information required in Exhibit 15-M of the Caltrans LAPM.

The selected consultant will be subject to a pre-award audit. The City intends to request that Caltrans perform the pre-award audit. Refer to Section 10.3 of the Caltrans LAPM for information related to the pre-award audit. The cost proposal negotiated and submitted by the successful proposer must be presented in the applicable format (Caltrans Sample Cost Proposal Exhibit 10-H) for the Actual Cost Plus Fixed Fee method of payment for the prime and all subconsultants and must contain a breakdown of all cost components to include: unloaded labor base rate, other direct costs, indirect cost rate, escalation and net fee.

The successful proposer will be responsible for meeting all Caltrans requirements for this project.

PROPOSAL CONTENT

These guidelines are provided for standardizing the preparation and submission of proposals by all consultants for professional services. The intent of these guidelines is to assist consultants in preparation of their proposals, to simplify the review process, and to provide standards to better compare consultants' proposals.

The City discourages overly lengthy proposals. However, the proposal shall include the following information at a minimum in the order listed:

1. Introductory Letter

The introductory (or transmittal) letter shall be addressed to:

Diana Langley
Public Works Director
City of Yuba City
1201 Civic Center Blvd.
Yuba City, CA 95993

The letter shall include the consultant's contact name, mailing address, telephone number, facsimile number, and email address. The letter will address the consultant's understanding of the services being requested and any other pertinent information the consultant believes should be included.

The letter shall indicate any conflicts or non-acceptability of the terms and conditions of the City's sample Professional Services Agreement enclosed Appendix B. Proposed deviations and modifications to the contract agreement must be noted in the submittal. Changes to the agreement will not be considered by the City once consultant selection has been completed.

The letter shall be signed by the individual authorized to bind the consultant to the proposal.

2. Executive Summary

3. Consultant Information

Provide general information about the consultant including company size, location of office(s), years in business, number of staff, etc. Specify the office locations of prime consultant and sub consultants in which work will be performed as part of this project.

4. Description of the Issues

The proposal shall include a summary of the consultant's understanding of the issues confronting the Project, including potential issues which may arise based upon the consultant's work and experience in other jurisdictions on similar scopes of work. The consultant shall emphasize demonstrated and proven knowledge of the site characteristics, proposed Project Plans, and environmental and schedule constraints.

5. Methodology

The proposal shall include a detailed description of the manner in which tasks described in the "Scope of Work" will be carried out, including an overall work program and schedule. The schedule shall be broken down by task and shall include completion deadlines.

6. Qualifications and Experience

Identify key staff and sub consultant(s) proposed to perform the requested services. Describe the responsibilities of the staff's extent of involvement with the contract and experience. Any

changes in key personnel and sub consultants after the award of contract must be approved by the City before the change is made.

All key personnel listed are to have current titles and telephone numbers. Three references are to be listed for each sub consultant and key staff member. References will be contacted as part of the selection process.

The proposal must clearly describe the consultant's ability for undertaking and performing the work. The proposal must list projects of very similar nature performed by the proposed project team completed during the past five (5) years. These projects must illustrate the quality, type, and past performance of the project team. Contact names and current telephone numbers are to be provided for references on each project. The projects listed should include the names of staff and other proposed team members involved in the work.

7. Conflict of Interest Statement

The consultant shall disclose any financial, business or other relationship with the City that may have an impact upon the outcome of the contract or the construction project. The consultant shall also list current clients who may have a financial interest in the outcome of this contract or the construction project that will follow. The consultant shall disclose any financial interest or relationship with any construction company that might submit a bid on the construction project.

8. Federal and State Requirements

Consultant and sub consultants shall meet all federal and state requirements as may be applicable. Consultant should address such requirements in the proposal, including submittal of DBE and other federal aid related forms contained in Appendix A.

9. Work Hours and Fee Estimate

The consultant shall submit, along with the proposal, a work hours and fee estimate (based on labor, equipment and materials) in a separate, sealed envelope.

SUBMITTAL OF PROPOSALS

Submit five hard copies and an electronic copy on a CD of the proposal. The hard copies and CD shall be mailed or submitted to the City of Yuba City prior to 5:00 P.M., October 12, 2016. Proposals received after this time and date will not be considered and will be returned to the consultant.

Proposals shall be submitted in a sealed package clearly marked "Fifth Street Bridge Replacement" and addressed as follows:

Kevin Bradford
Engineering Division
City of Yuba City
1201 Civic Center Blvd.
Yuba City, CA 95993

Any proposal received prior to the time and date specified above may be withdrawn or modified by written request of the consultant. To be considered, however, the modified proposal must be received prior to 5:00 p.m., October 12, 2016.

Unsigned proposals or proposals signed by an individual not authorized to bind the prospective consultant will be rejected.

EVALUATION OF PROPOSALS

The consultant's proposal will be evaluated and ranked according to the following criteria:

<u>Evaluation Criteria</u>	<u>Maximum Score</u>
Responsiveness to the Request for Proposal	10
Understanding of Project	25
Qualifications	25
Work Program	25
References	<u>15</u>
Total:	100

The evaluation criteria are briefly described as follows:

1. Responsiveness to the Request for Proposal

- a. Met proposal requirements.

2. Understanding of Project

- a. Demonstrated familiarity with the project.
- b. Described issues associated with the project.
- c. Demonstrated familiarity with Caltrans Local Assistance procedures and policies related to the Project.
- d. Demonstrated familiarity with the Project Plans and environmental documents.

3. Qualifications

- a. Demonstrated professional experience and organizational, technical, and editorial skills.
- b. Identified adequate technical resources to perform.
- c. Demonstrated experience and qualifications of the project manager and key personnel and assurance of their involvement in the project until its completion.

4. Work Program

- a. Provided a detailed description of the methodology/scope of work to complete the project.
- b. Demonstrated that resources are available to complete the project.

5. References

- a. Provided records of performance on similar projects for consultant, project manager, and key staff on similar projects.
- b. Provided sub consultants' records of performance on similar projects.

An evaluation committee will review and rank the proposals. At the City's sole discretion one or more consultants may be invited to attend an interview to further the selection process. If held, the interview process would include a brief presentation by the consultant followed by a question and answer period from the interview panel.

The City will attempt to negotiate a contract with the top ranked consultant. If an agreement on scope and fee is reached, City staff will recommend that a Professional Services Agreement be entered into, subject to approval by the City Council. If an agreement on scope and fee cannot be reached with the top ranked consultant, the City may elect to enter into negotiations with the second ranked firm.

ADDITIONAL CONDITIONS

A pre-proposal meeting will be held on September 28, 2016 at 2:00 PM in the Council Chambers located at 1201 Civic Center Boulevard, Yuba City, CA 95993.

Addenda to this RFP, if issued, will be sent to all prospective consultants the City has specifically mailed a copy of the RFP to and will be posted on the City's website at:

http://www.yubacity.net/public_works_bid_notices

It shall be the prospective consultant's responsibility for checking the City's website to obtain any addenda that may be issued.

This RFP does not commit the City to award a contract, to pay any costs incurred in the preparation of a proposal for this request, or to procure or contract for services. The City reserves the right to accept or reject any or all proposals received as a result of this request, to negotiate with any qualified firm, or to modify or cancel in part or in its entirety the RFP if it is in the best interests of the City to do so.

The prospective consultant is advised that should this RFP result in recommendation for award of a contract, the contract will not be in force until it is approved and fully executed by the City.

All products used or developed in the execution of any contract resulting from this RFP will remain in the public domain at the completion of the contract.

Compensation under any contract resulting from this RFP will be on an Actual Cost-Plus-Fixed Fee basis in accordance with Chapter 10 of the Caltrans LAPM.

The consultant will begin work immediately upon execution of a Professional Service Agreement by the City. A sample of the City's professional services agreement required for this project is attached herewith as Appendix B. The consultant shall adhere to the provisions of this agreement. The consultant shall advise the City in their proposal of any provisions for which they have alternative wording or any provisions which they cannot accept.

Any questions related to this RFP shall be submitted in writing to the attention of Kevin Bradford via fax at (530) 822-4694, email at kbradfor@yubacity.net, or mail to the address shown in the Submittal of Proposals section of this RFP.

APPENDIX A – FEDERAL AID REQUIREMENT NOTICES AND FORMS

The following exhibits from the Caltrans LAPM are hereby included in this proposal. Proposers shall fill out and attach the necessary forms with the proposal:

- Exhibit 10-I – Notice to Proposers DBE Information
- Exhibit 10-O1 – Consultant Proposal DBE Commitment
- Exhibit 10-O2 – Consultant Contract DBE Commitment (to be completed at the end of final contract negotiations)
- Exhibit 10-Q – Disclosure of Lobbying Activities

EXHIBIT 10-I NOTICE TO PROPOSERS DBE INFORMATION

The Agency has established a DBE goal for this Contract of 9.0 %

OR

The Agency has not established a goal for this Contract. However, proposers are encouraged to obtain DBE participation for this contract.

1. TERMS AS USED IN THIS DOCUMENT

- The term “Disadvantaged Business Enterprise” or “DBE” means a for-profit small business concern owned and controlled by a socially and economically disadvantaged person(s) as defined in Title 49, Code of Federal Regulations (CFR), Part 26.5.
- The term “Agreement” also means “Contract.”
- Agency also means the local entity entering into this contract with the Contractor or Consultant.
- The term “Small Business” or “SB” is as defined in 49 CFR 26.65.

2. AUTHORITY AND RESPONSIBILITY

- A. DBEs and other small businesses are strongly encouraged to participate in the performance of Contracts financed in whole or in part with federal funds (See 49 CFR 26, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs”). The Consultant must ensure that DBEs and other small businesses have the opportunity to participate in the performance of the work that is the subject of this solicitation and should take all necessary and reasonable steps for this assurance. The proposer must not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.
- B. Proposers are encouraged to use services offered by financial institutions owned and controlled by DBEs.

3. SUBMISSION OF DBE INFORMATION

If there is a DBE goal on the contract, Exhibit 10-O1 *Consultant Proposal DBE Commitment* must be included in the Request for Proposal. In order for a proposer to be considered responsible and responsive, the proposer must make good faith efforts to meet the goal established for the contract. If the goal is not met, the proposer must document adequate good faith efforts. All DBE participation will be counted towards the contract goal; therefore, all DBE participation shall be collected and reported.

Exhibit 10-O2 *Consultant Contract DBE Information* must be included with the Request for Proposal. Even if no DBE participation will be reported, the successful proposer must execute and return the form.

4. DBE PARTICIPATION GENERAL INFORMATION

It is the proposer’s responsibility to be fully informed regarding the requirements of 49 CFR, Part 26, and the Department’s DBE program developed pursuant to the regulations. Particular attention is directed to the following:

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).

- B. A certified DBE may participate as a prime consultant, subconsultant, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A DBE proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:
 - 1. The proposer is a DBE and will meet the goal by performing work with its own forces.
 - 2. The proposer will meet the goal through work performed by DBE subconsultants, suppliers or trucking companies.
 - 3. The proposer, prior to proposing, made adequate good faith efforts to meet the goal.
- D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- F. The proposer shall list only one subconsultant for each portion of work as defined in their proposal and all DBE subconsultants should be listed in the bid/cost proposal list of subconsultants.
- G. A prime consultant who is a certified DBE is eligible to claim all of the work in the Contract toward the DBE participation except that portion of the work to be performed by non-DBE subconsultants.

5. RESOURCES

- A. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP. If you believe a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification toll free number 1-866-810-6346 for assistance.
- B. Access the CUCP database from the Department of Transportation, Office of Business and Economic Opportunity Web site at: <http://www.dot.ca.gov/hq/bep/>.
 - 1. Click on the link in the left menu titled *Disadvantaged Business Enterprise*;
 - 2. Click on Search for a DBE Firm link;
 - 3. Click on *Access to the DBE Query Form* located on the first line in the center of the page.

Searches can be performed by one or more criteria. Follow instructions on the screen.

6. MATERIALS OR SUPPLIES PURCHASED FROM DBES COUNT TOWARDS THE DBE GOAL UNDER THE FOLLOWING CONDITIONS:

- A. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.
- B. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the

purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.

- C. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this section.
- D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

EXHIBIT 10-01 CONSULTANT PROPOSAL DBE COMMITMENT

1. Local Agency: _____ 2. Contract DBE Goal: _____
 3. Project Description: _____
 4. Project Location: _____
 5. Consultant's Name: _____ 6. Prime Certified DBE:

7. Description of Work, Service, or Materials Supplied	8. DBE Certification Number	9. DBE Contact Information	10. DBE %
Local Agency to Complete this Section			11. TOTAL CLAIMED DBE PARTICIPATION %
17. Local Agency Contract Number: 18. Federal-Aid Project Number: 19. Proposed Contract Execution Date:			
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate. 20. Local Agency Representative's Signature 21. Date 22. Local Agency Representative's Name 23. Phone 24. Local Agency Representative's Title			IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required. 12. Preparer's Signature 13. Date 14. Preparer's Name 15. Phone 16. Preparer's Title

DISTRIBUTION: Original – Included with consultant's proposal to local agency.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

INSTRUCTIONS – CONSULTANT PROPOSAL DBE COMMITMENT

CONSULTANT SECTION

- 1. Local Agency** - Enter the name of the local or regional agency that is funding the contract.
- 2. Contract DBE Goal** - Enter the contract DBE goal percentage as it appears on the project advertisement.
- 3. Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc.).
- 4. Project Location** - Enter the project location as it appears on the project advertisement.
- 5. Consultant's Name** - Enter the consultant's firm name.
- 6. Prime Certified DBE** - Check box if prime contractor is a certified DBE.
- 7. Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
- 8. DBE Certification Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
- 9. DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and phone number, if the prime is a DBE.
- 10. DBE %** - Percent participation of work to be performed or service provided by a DBE. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
- 11. Total Claimed DBE Participation %** - Enter the total DBE participation claimed. If the total % claimed is less than item "Contract DBE Goal," an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H DBE Information - Good Faith Efforts of the LAPM).
- 12. Preparer's Signature** - The person completing the DBE commitment form on behalf of the consultant's firm must sign their name.
- 13. Date** - Enter the date the DBE commitment form is signed by the consultant's preparer.
- 14. Preparer's Name** - Enter the name of the person preparing and signing the consultant's DBE commitment form.
- 15. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 16. Preparer's Title** - Enter the position/title of the person signing the consultant's DBE commitment form.

LOCAL AGENCY SECTION

- 17. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 18. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 19. Proposed Contract Execution Date** - Enter the proposed contract execution date.
- 20. Local Agency Representative's Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
- 21. Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
- 22. Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
- 23. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 24. Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.

EXHIBIT 10-02 CONSULTANT CONTRACT DBE COMMITMENT

1. Local Agency: _____ 2. Contract DBE Goal: _____
 3. Project Description: _____
 4. Project Location: _____
 5. Consultant's Name: _____ 6. Prime Certified DBE: 7. Total Contract Award Amount: _____
 8. Total Dollar Amount for **ALL** Subconsultants: _____ 9. Total Number of **ALL** Subconsultants: _____

10. Description of Work, Service, or Materials Supplied	11. DBE Certification Number	12. DBE Contact Information	13. DBE Dollar Amount

Local Agency to Complete this Section		14. TOTAL CLAIMED DBE PARTICIPATION		\$
20. Local Agency Contract Number: 21. Federal-Aid Project Number: 22. Contract Execution Date:				%
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.		IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.		
23. Local Agency Representative's Signature	24. Date	15. Preparer's Signature	16. Date	
25. Local Agency Representative's Name	26. Phone	17. Preparer's Name	18. Phone	
27. Local Agency Representative's Title		19. Preparer's Title		

DISTRIBUTION: 1. Original – Local Agency
 2. Copy – Caltrans District Local Assistance Engineer (DLAE). Failure to submit to DLAE within 30 days of contract execution may result in de-obligation of federal funds on contract.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

INSTRUCTIONS – CONSULTANT CONTRACT DBE COMMITMENTCONSULTANT SECTION

- 1. Local Agency** - Enter the name of the local or regional agency that is funding the contract.
- 2. Contract DBE Goal** - Enter the contract DBE goal percentage as it appears on the project advertisement.
- 3. Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc).
- 4. Project Location** - Enter the project location as it appears on the project advertisement.
- 5. Consultant's Name** - Enter the consultant's firm name.
- 6. Prime Certified DBE** - Check box if prime contractor is a certified DBE.
- 7. Total Contract Award Amount** - Enter the total contract award dollar amount for the prime consultant.
- 8. Total Dollar Amount for ALL Subconsultants** – Enter the total dollar amount for all subcontracted consultants. SUM = (DBEs + all Non-DBEs). Do not include the prime consultant information in this count.
- 9. Total number of ALL subconsultants** – Enter the total number of all subcontracted consultants. SUM = (DBEs + all Non-DBEs). Do not include the prime consultant information in this count.
- 10. Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
- 11. DBE Certification Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
- 12. DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and phone number, if the prime is a DBE.
- 13. DBE Dollar Amount** - Enter the subcontracted dollar amount of the work to be performed or service to be provided. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
- 14. Total Claimed DBE Participation** - \$: Enter the total dollar amounts entered in the "DBE Dollar Amount" column. %: Enter the total DBE participation claimed ("Total Participation Dollars Claimed" divided by item "Total Contract Award Amount"). If the total % claimed is less than item "Contract DBE Goal," an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H DBE Information - Good Faith Efforts of the LAPM).
- 15. Preparer's Signature** - The person completing the DBE commitment form on behalf of the consultant's firm must sign their name.
- 16. Date** - Enter the date the DBE commitment form is signed by the consultant's preparer.
- 17. Preparer's Name** - Enter the name of the person preparing and signing the consultant's DBE commitment form.
- 18. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 19. Preparer's Title** - Enter the position/title of the person signing the consultant's DBE commitment form.

LOCAL AGENCY SECTION

- 20. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 21. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 22. Contract Execution Date** - Enter the date the contract was executed.
- 23. Local Agency Representative's Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
- 24. Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
- 25. Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
- 26. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 27. Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.

EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

COMPLETE THIS FORM TO DISCLOSE LOBBYING ACTIVITIES PURSUANT TO 31 U.S.C. 1352

<p>1. Type of Federal Action:</p> <p><input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance</p>	<p>2. Status of Federal Action:</p> <p><input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award</p>	<p>3. Report Type:</p> <p><input type="checkbox"/> a. initial <input type="checkbox"/> b. material change</p> <p style="text-align: right;">For Material Change Only: year ____ quarter ____ date of last report _____</p>
<p>4. Name and Address of Reporting Entity</p> <p><input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known</p> <p style="text-align: center;">Congressional District, if known</p>	<p>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</p> <p style="text-align: center;">Congressional District, if known</p>	
<p>6. Federal Department/Agency:</p>	<p>7. Federal Program Name/Description:</p> <p style="text-align: center;">CFDA Number, if applicable _____</p>	
<p>8. Federal Action Number, if known:</p>	<p>9. Award Amount, if known:</p>	
<p>10. Name and Address of Lobby Entity</p>	<p>11. Individuals Performing Services</p>	
(attach Continuation Sheet(s) if necessary)		
<p>12. Amount of Payment (check all that apply)</p> <p>\$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned</p>	<p>14. Type of Payment (check all that apply)</p> <p><input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other, specify _____</p>	
<p>13. Form of Payment (check all that apply):</p> <p><input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ Value _____</p>		
<p>15. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 11:</p>		
<p>16. Continuation Sheet(s) attached: Yes <input type="checkbox"/> No <input type="checkbox"/> (attach Continuation Sheet(s) if necessary)</p>		
<p>17. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying reliance was placed by the tier above when his transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</p>		
<p>Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____</p>		
<p>Authorized for Local Reproduction Standard Form - LLL</p>		
<p>Federal Use Only:</p>		

Standard Form LLL Rev. 04-28-06

Distribution: Orig- Local Agency Project Files

INSTRUCTIONS FOR COMPLETING EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime federal recipient at the initiation or receipt of covered federal action or a material change to previous filing pursuant to title 31 U.S.C. Section 1352. The filing of a form is required for such payment or agreement to make payment to lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress an officer or employee of Congress or an employee of a Member of Congress in connection with a covered federal action. Attach a continuation sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered federal action for which lobbying activity is or has been secured to influence, the outcome of a covered federal action.
2. Identify the status of the covered federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last, previously submitted report by this reporting entity for this covered federal action.
4. Enter the full name, address, city, state, and zip code of the reporting entity. Include Congressional District if known. Check the appropriate classification of the reporting entity that designates if it is or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the first tier. Subawards include but are not limited to: subcontracts, subgrants, and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee" then enter the full name, address, city, state, and zip code of the prime federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organization level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the federal program name or description for the covered federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.
8. Enter the most appropriate federal identifying number available for the federal action identification in item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract grant. or loan award number, the application/proposal control number assigned by the federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered federal action where there has been an award or loan commitment by the Federal agency, enter the federal amount of the award/loan commitments for the prime entity identified in item 4 or 5.
10. Enter the full name, address, city, state, and zip code of the lobbying entity engaged by the reporting entity identified in Item 4 to influence the covered federal action.
11. Enter the full names of the individual(s) performing services and include full address if different from 10 (a). Enter Last Name, First Name and Middle Initial (MI).
12. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
13. Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
14. Check all boxes that apply. If other, specify nature.
15. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity not just time spent in actual contact with federal officials. Identify the federal officer(s) or employee(s) contacted or the officer(s) employee(s) or Member(s) of Congress that were contacted.
16. Check whether or not a continuation sheet(s) is attached.
17. The certifying official shall sign and date the form, and print his/her name title and telephone number.

Public reporting burden for this collection of information is estimated to average 30-minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503. SF-LLL-Instructions Rev. 06-04

**APPENDIX B – SAMPLE
PROFESSIONAL SERVICES AGREEMENT**

AGREEMENT FOR PROFESSIONAL SERVICES
Fifth Street Bridge Construction Management and Inspection Services

This Agreement is made and entered into as of _____, by and between the City of Yuba City, a municipal corporation (“City”) and _____ (“Consultant”).

RECITALS

- A. Consultant is specially trained, experienced and competent to perform the special services which will be required by this Agreement; and
- B. Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement on the terms and conditions described herein; and
- C. City desires to retain Consultant to render professional services as set forth in this Agreement.

AGREEMENT

1. Scope of Services. The Consultant shall furnish the following services in a professional manner.

**See Attached Scope of Services
(Exhibit A)**

2. Time of Performance. The services of Consultant are to commence within 7 calendar days of Consultant receiving written Notice to Proceed from the City and shall continue until all authorized work is completed and approved by the City. Finalization shall be completed by _____ and at the direction of the City of Yuba City.
3. Compensation. The method of payment for this contract will be based on actual cost-plus-a-fixed fee. The City will reimburse the Consultant for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by the Consultant in performance of the work. The Consultant will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved Consultant’s Cost Proposal, which is attached hereto and incorporated herein by reference, unless additional reimbursement is provided for by contract amendment. In no event, will the Consultant be reimbursed for overhead costs at a rate that exceeds the City’s approved overhead rate set forth in the Consultant’s Cost Proposal. In the event, that the City determines that a change to the work from that specified in the Consultant’s Cost Proposal and contract is required, the contract time and/or actual costs reimbursable by the City shall be adjusted by contract amendment to accommodate the changed work.

In addition to the allowable incurred costs, the City will pay the Consultant a fixed fee of _____. The fixed fee is nonadjustable for the term of the contract, except in the event of a significant change in the scope of work and such adjustment is made by contract amendment.

Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the Consultant's approved Cost Proposal. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this contract.

Salary increases will be reimbursable if the new salary is within the salary range identified in the Consultant's approved Cost Proposal and is approved by the City. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

No payment will be made prior to approval of any work, nor for any work performed prior to approval of this contract. The total amount payable by the City including the fixed fee shall not exceed _____ without additional written authorization from the City. Payment by City under this Agreement shall not be deemed a waiver of defects, even if such defects were known to the City at the time of payment

4. Method of Payment. Consultant shall submit monthly billings to City describing the work performed during the preceding month. Consultant's invoices shall include a brief description of the services performed, the date the services were performed, the number of hours spent and by whom, and a description of any reimbursable expenses. A pro rata portion of the Consultant's fixed fee will be included in the monthly progress payments. City shall pay Consultant not later than 30 days after approval of the monthly invoice by City staff.
5. Termination. This Agreement may be terminated by the City immediately for cause or by either party without cause upon thirty days written notice of termination. Upon termination, Consultant shall be entitled to compensation for services performed up to the effective date of termination. Such compensation is subject to the conditions of Section 4 of this agreement.
6. Ownership of Documents. Consultant's designs, drawings, analyses, reports, maps, field data, laboratory test data, calculations, estimates and other similar documents prepared by Consultant for delivery to the City under this Agreement are instruments of professional service, not products. However, all such documents shall become the property of the City upon payment of Consultant invoices. Consultant may retain copies of all such documents for its files. Such documents and other services provided under this Agreement are for the exclusive use of the City for the particular PROJECT specified. No other use is authorized or permitted under this Agreement. The City will not characterize Consultant's designs, reports or recommendations to any third party as being appropriate for any use other than that for which they prepared. The City releases Consultant from liability and agrees to indemnify and hold harmless Consultant against all damages, liabilities or expenses arising from such unauthorized distribution or use.
7. Licensing of Intellectual Property. This Agreement creates a nonexclusive and perpetual license for City, the State, and the Federal Highway Administration to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data"). Consultant shall require all subcontractors to agree in writing that City is granted a non-exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right

to license any and all Documents & Data. Consultant makes no such representation and warranty in regards to Documents & Data which were prepared by design professionals other than Consultant or provided to Consultant by the City. City shall not be limited in any way in its use of the Documents & Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at City's sole risk.

8. Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents & Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of City, be used by Consultant for any purposes other than the performance of the services under this Agreement. Nor shall such materials be disclosed to any person or entity not connected with the performance of the services under this Agreement. Nothing furnished to Consultant, which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use City's name or insignia, photographs relating to project for which Consultant's services are rendered, or any publicity pertaining to the Consultant's services under this Agreement in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of City.
9. Consultant's Books and Records:
 - a. Consultant shall maintain any and all ledgers, books of accounts, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to City for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant to this Agreement.
 - b. Consultant shall maintain all documents and records which demonstrated performance under this Agreement for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.
 - c. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the City Administrator, City Attorney, City Auditor or a designated representative of these officers. Copies of such documents shall be provided to the City for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Consultant's address indicated for receipt of notices in this Agreement.
 - d. Where City has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of Consultant's business, City may, by written request by any of the above named officers, require that custody of the records be given to the City and that the records and documents be maintained in City Hall. Access to such records and documents shall be granted to any party authorized by Consultant, Consultant's representatives, or Consultant's successor-in-interest.
 - e. For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of this contract pursuant to Government Code 8546.7; the Consultant, subcontractors, and the City shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the

performance of the contract, including but not limited to, the costs of administering the contract. All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for a minimum of three years from the date of final payment under the contract. The State, the State Auditor, City, the Federal Highway Administration, or any duly authorized representative of the federal government shall have access to any books, records, and documents of the Consultant that are pertinent to the contract for audit, examinations, excerpts, and transactions, and copies thereof and these items shall be furnished, if requested.

- f. Consultant and subconsultants' contracts, including cost proposals and indirect cost rates (ICR), are subject to audits or reviews such as, but not limited to, a Contract Audit, an Incurred Cost Audit, an ICR Audit, or a certified public accountant (CPA) ICR Audit Workpaper Review. If selected for audit or review, the contract, cost proposal and ICR and related workpapers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR Audit Workpaper Review it is Consultant's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's workpapers. The contract, cost proposal, and ICR shall be adjusted by Consultant and approved by the City contract manager to conform to the audit or review recommendations. Consultant agrees that individual terms of costs identified in the audit report shall be incorporated into the contract by this reference if directed by the City at its sole discretion. Refusal by Consultant to incorporate audit or review recommendations, or to ensure that the Federal, State, or local governments have access to CPA workpapers, will be considered a breach of contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.
10. Independent Contractor. It is understood that Consultant, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and shall not act as an agent or employee of the City. Consultant shall obtain no rights to retirement benefits or other benefits which accrue to City's employees, and Consultant hereby expressly waives any claim it may have to any such rights.

Consultant is not a designated employee within the meaning of the Political Reform Act because Consultant:

- a. Will conduct research and arrive at conclusions with respect to his/her rendition of information, advice, recommendation or counsel independent of the control and direction of the City or of any City official, other than normal agreement monitoring; and
 - b. Possesses no authority with respect to any City decision beyond rendition of information, advice, recommendation or counsel. (FPPC Reg. 18700(B)(2).)
11. Interest of Consultant. Consultant (including principals, associates and professional employees) covenants and represents that it does not now have any investment or interest in real property and shall not acquire any interest, direct or indirect, in the area covered by this Agreement or any other source of income, interest in real property or investment which would be affected in any manner or degree by the performance of Consultant's services hereunder. Consultant further covenants and represents that in the performance of its duties hereunder no person having any such interest shall perform any services under this Agreement.

Consultant warrants that this contract was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any City employee. For breach or violation of this warranty, City shall have the right in its discretion; to terminate the contract without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

12. Professional Ability of Consultant. City has relied upon the professional training and ability of Consultant to perform the services hereunder 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 work performed by Consultant under this Agreement shall be 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.
13. Compliance with Laws. Consultant shall use the standard of care in its profession to comply with all applicable federal, state and local laws, codes, ordinances and regulations. Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq., are the governing factors regarding allowable elements of cost. The administrative requirements set forth in 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments are hereby incorporated into this Contract. Any costs for which payment has been made to Consultant that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by Consultant to the City.

The Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the consultant; to solicit or secure this agreement; and that he/she has not paid or agreed to pay any company or person other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award, or formation of this agreement. For breach or violation of this warranty, the local agency shall have the right to annul this agreement without liability, or at its discretion; to deduct from the agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

14. Licenses. Consultant represents and warrants to City that it has all licenses, permits, qualifications, insurance and approvals of whatsoever nature, which are legally required of Consultant to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, insurance and approvals which are legally required of Consultant to practice its profession. Consultant shall maintain a City of Yuba City business license.
15. Indemnity. The Consultant agrees, to the fullest extent permitted by law, to indemnify and hold harmless the City, its officers, directors and employees (collectively, City) against all damages, liabilities and costs, including reasonable attorneys' fees and defense costs, to the extent caused by the Consultant's negligent performance of professional services under this Agreement and that of its subconsultants or anyone for whom the Consultant is legally liable. The City agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant, its officers, directors, employees and subconsultants (collectively, Consultant)

against all damages, liabilities and costs, including reasonable attorneys' fee and defense costs, to the extent caused by the City's negligent acts in connection with the Project and the acts of its contractors, subcontractors or consultants or anyone for whom the City is legally liable. Neither the City nor the Consultant shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence or for the negligence of others.

16. Insurance Requirements. Consultant, at Consultant's own cost and expense, shall procure and maintain, for the duration of the contract, necessary insurance policies as described in Exhibit B.
17. Notices. Any notice required to be given under this Agreement shall be in writing and either served personally or sent prepaid, first class mail. Any such notice shall be addressed to the other party at the address set forth below. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section.

If to City: Ms. Diana Langley
 Public Works Department
 City of Yuba City
 1201 Civic Center Boulevard
 Yuba City, CA 95993
 (530) 822-4626

If to Consultant: _____

18. Entire Agreement. This Agreement constitutes the complete and exclusive statement of Agreement between the City and Consultant. All prior written and oral communications, including correspondence, drafts, memoranda, and representations, are superseded in total by this Agreement.
19. Amendments. This Agreement may be modified or amended only by a written document executed by both Consultant and City and approved as to form by the City Attorney. The Consultant shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by the City.
20. Assignment and Subcontracting. The parties recognize that a substantial inducement to City for entering into this Agreement is the professional reputation, experience and competence of Consultant. Assignments of any or all rights, duties or obligations of the Consultant under this Agreement will be permitted only with the express consent of the City. Consultant shall not subcontract any portion of the work to be performed under the Agreement without the written authorization of the City. If City consents to such subcontract, Consultant shall be fully responsible to City for all acts or omissions of the subcontractor. Nothing in this Agreement shall create any contractual relationship between City and subcontractor nor shall it create any obligation on the part of the City to pay or to see to the payment of any monies due to any such subcontractor other than as otherwise is required by law. Any substitution of

subcontractors must be approved in writing by the City. All subcontracts exceeding \$25,000 shall contain all required provisions of the prime contract.

21. Waiver. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision under this Agreement.
22. Severability. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.
23. Controlling Law Venue. This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this Agreement shall be held exclusively in a state court in the County of Sutter.
24. Litigation Expenses and Attorneys' Fees. If either party to this Agreement commences any legal action against the other party arising out of this Agreement, the prevailing party shall be entitled to recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorneys' fees.
25. Mediation. The parties agree to make a good faith attempt to resolve any disputes arising out of this Agreement through mediation prior to commencing litigation. The parties shall mutually agree upon the mediator and shall divide the costs of mediation equally. If the parties are unable to agree upon a mediator, the dispute shall be submitted to JAMS/ENDISPUTE ("JAMS") or its successor in interest. JAMS shall provide the parties with the names of five qualified mediators. Each party shall have the option to strike two of the five mediators selected by JAMS and thereafter the mediator remaining shall hear the dispute. If the dispute remains unresolved after mediation, either party may commence litigation.
26. Execution. This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.
27. Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective party.
28. Prohibited Interest. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising there from.

Consultant shall disclose any financial, business, or other relationship with the City that may have an impact upon the outcome of this contract, or any ensuing City construction project. Consultant shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing City construction project, which will follow.

Consultant hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this contract.

Any subcontract in excess of \$25,000 entered into as a result of this contract, shall contain all of the provisions of this Article.

29. Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Consultant shall also comply with all relevant provisions of City's Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.
30. Funding Requirements. It is mutually understood between the parties that this contract may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the agreement were executed after that determination was made. This agreement is valid and enforceable only if sufficient funds are made available to the City for the purpose of this contract. In addition, this agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature or City governing board that may affect the provisions, terms, or funding of this contract in any manner. It is mutually agreed that if sufficient funds are not appropriated, this contract may be amended to reflect any reduction in funds. The City has the option to void the contract under the 30-day cancellation clause, or by mutual agreement to amend the contract to reflect any reduction of funds.
31. Inspection of Work. The Consultant and any subcontractor shall permit the City, the State, and the Federal Highway Administration to review and inspect the project activities and files at all reasonable times during the performance period of this contract including review and inspection on a daily basis.
32. Statement of Compliance. The Consultant's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that the Consultant has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.
33. Debarment and Suspension Certification. The Consultant's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that the Consultant has complied with Title 49, Code of Federal Regulations, Part 29, Debarment and Suspension Certificate, which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has

not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to the City. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining Consultant responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

34. State Prevailing Wage Rates. The Consultant and all subconsultants shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all federal, state, and local laws and ordinances applicable to the work.

Any subcontract entered into as a result of this contract if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article.

35. Prohibition of Expending Local Agency, State, or Federal Funds for Lobbying. The Consultant certifies to the best of his or her knowledge and belief that 1.) No state, federal or local agency appropriated funds have been paid, or will be paid by or on behalf of the Consultant to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement, and 2.) if any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; the Consultant shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, US. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Consultant also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly.

36. Debarment and Suspension Certification. The Consultant's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that the Consultant has complied with Title 49, Code of Federal Regulations, Part 29, Debarment and Suspension Certificate, which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension,

debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to the City.

Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining Consultant responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

37. Equipment Purchase. Any equipment purchases as a result of this contract are assumed to be included in the indirect costs provided by the Consultant and no additional compensation will be allowed therefor without prior written approval from the City.
38. Safety. Consultant shall comply with OSHA regulations applicable to Consultant regarding necessary safety equipment or procedures. Consultant shall comply with safety instructions issued by the City Safety Officer and other City representatives. Consultant personnel shall wear hard hats and safety vests at all times while working on the construction project site.

Pursuant to the authority contained in Section 591 of the Vehicle Code, the City has determined that such areas are within the limits of the project and are open to public traffic. Consultant shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. Consultant shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

Any subcontract entered into as a result of this contract, shall contain all of the provisions of this Article.

Consultant must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in California Labor Code Sections 6500 and 6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five feet or deeper.

39. Disadvantaged Business Enterprises (DBE) Participation. Consultant must give consideration to DBE firms as specified in 23 CFR §172.5(b), 49 CFR, Part 26. If the contract has a DBE goal, Consultant must meet the goal by using DBEs as subconsultants or document a good faith effort to have met the goal. If a DBE subconsultant is unable to perform, Consultant must make a good faith effort to replace him/her with another DBE subconsultant if the goal is not otherwise met.

A DBE may be terminated only with written approval by the City and only for the reasons specified in 49 CFR 26.53 (f). Prior to requesting the City's consent for the proposed termination, the prime consultant must meet the procedural requirements specified in 49 CFR 26.53(f).

40. National Labor Relations Board Certification. In accordance with Public Contract Code Section 10296, Consultant hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been

issued against Consultant within the immediately preceding two-year period, because of Consultant's failure to comply with an order of a federal court that orders Consultant to comply with an order of the National Labor Relations Board.

41. Evaluation of Consultant. Consultant's performance will be evaluated by the City. A copy of the evaluation will be sent to Consultant for comments. The evaluation together with the comments shall be retained as part of the contract record.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first written above.

CITY OF YUBA CITY:

CONSULTANT:

By: _____

By _____

Steve Kroeger
City Manager

Attachments:

Exhibit A – Scope of Services

Exhibit B - Insurance Requirements

Exhibit 10-F – Certification of Consultant – Refer to LAPM for example

Exhibit 10-G – Certification of Local Agency – Refer to LAPM for
example

Exhibit 10-H – Cost Proposal – Refer to LAPM for example

**Exhibit A
Scope of Services**

To be determined/negotiated

Exhibit B
Professional Services Agreement
Insurance Requirements

- I. Workers' Compensation Coverage.** Consultant shall maintain Workers' Compensation Insurance for his/her employees in accordance with the laws of the State of California and Employers Liability Insurance in an amount not less than one million dollars (\$1,000,000) per accident for bodily injury and/or disease. In addition, Consultant shall require each subcontractor to similarly maintain Workers' Compensation Insurance in accordance with the laws of the State of California and Employers Liability Insurance in an amount not less than one million dollars (\$1,000,000) per accident for bodily injury and/or disease for all of the subcontractor's employees. Any notice of cancellation or non-renewal of all Workers' Compensation policies must be received by the City at least thirty (30) days prior to such change. The insurer shall agree to waive all rights of subrogation against City, its officers, agents, employees and volunteers for losses arising from work performed by Consultant for City. This provision shall not apply if Consultant has no employees performing work under this Agreement.
- II. General Liability Coverage.** Consultant shall maintain commercial general liability insurance in an amount not less than one million dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If a commercial general liability insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit.
- III. Automobile Liability Coverage.** Consultant shall maintain automobile liability insurance covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with the work to be performed under this Agreement, including coverage for owned, hired and non-owned vehicles, in an amount of not less than one million dollars (\$1,000,000) combined single limit for each occurrence.
- IV. Professional Liability Coverage.** Consultant shall maintain professional errors and omissions liability insurance for protection against claims alleging negligent acts, errors or omissions which may arise from Consultant's operations under this Agreement, whether such operations are by the Consultant or by its employees, subcontractors, or sub-consultants. The amount of this insurance shall not be less than one million dollars (\$1,000,000) combined single-limit per occurrence or claim and two million dollars (\$2,000,000) aggregate.
- V. Endorsements.** Each general liability and automobile liability insurance policy shall be with insurers possessing a current A.M. Best's rating of no less than A:VII and shall be endorsed with the following specific language or equivalent:
- A. The City, its elected or appointed officers, officials, employees, agents and volunteers are to be covered as additional insured with respect to liability arising out of work performed by or on behalf of the Consultant, including materials, parts or equipment furnished in connection with such work or operations. Conforms to ISO CG 2009 and CG 2037 10 01. Both are required.

- B. This policy shall be considered primary insurance as respects to the City, its elected or appointed officers, officials, employees, agents and volunteers. Any insurance maintained by the City, including any self-insured retention the City may have, shall be considered excess insurance only and shall not contribute with it.
 - C. This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.
 - D. The insurer waives all rights of subrogation against the City, its elected or appointed officers, officials, employees or agents.
 - E. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its elected or appointed officers, officials, employees, agents or volunteers.
 - F. The insurance provided by this policy shall not be suspended, voided, canceled, or reduced in coverage except after thirty (30) days written notice has been received by the City.
- VI. Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions must be declared to and approved by the City. At the City's option, Consultant shall demonstrate financial capability for payment of such deductibles or self-insured retention's.
- VII. Certificates of Insurance.** Consultant shall provide certificates of insurance with original endorsements to City, as evidence of the insurance coverage required herein. Certificates of such insurance shall be filed with the City on or before commencement of performance of this agreement. Current certification of insurance shall be kept on file with the City at all times during the term of this Agreement.