

CITY OF YUBA CITY
STAFF REPORT

Date: January 19, 2010
To: Honorable Mayor & Members of the City Council and
Honorable Chairman and Directors of the Redevelopment Agency
From: Administration
Presentation By: Steven R. Jepsen, City Manager

Summary

Subject: Agreement with The Ferguson Group, Washington DC for Flood Protection and lobbying efforts on behalf of Yuba City and Sutter County
Recommendation: Authorize the City Manager to continue the existing Agreement with The Ferguson Group of Washington DC for lobbying services for not to exceed \$63,000 for calendar year 2010 to be funded from 50% Flood CIP and 50% Redevelopment
Fiscal Impact: \$63,000. These funds were appropriated through the Fiscal Year 2009-2010 Citywide Purchases allocation approved by Council in July 2009

Background:

Over the last several years, Yuba City and Sutter County have been involved in many efforts to improve flood protection throughout the region, including the formation of the Sutter-Butte Flood Control Agency. In February 2008, the City and County retained Ferguson Group to represent Yuba City and Sutter County's joint interest in Washington, D.C. on an equal cost share basis. The cost for Ferguson's lobbying services is \$10,000 per month, plus \$6,000 in reimbursable expenses during the life of the contract. Although the Agreement does not have a termination date, Staff is requesting authorization to continue the existing Agreement (Attachment A) for the 12 month period covering the 2010 and 2011 federal funding cycles.

Analysis:

The City of Yuba City and Sutter County have a joint interest in monitoring actions of State and Federal agencies impacting flood protection in the Yuba City basin, pursuing administrative and legislative alternatives to proposed actions, and seeking funding opportunities whenever possible. As the federal government is continuing the process of allocating funds from the American Recovery and Reinvestment Act, and preparing their FY 2011 Budget Bill, it is just as important as ever to have representation in Washington, D.C. to ensure that local interests and priorities for funding are well represented. The Ferguson Group has prepared a draft federal agenda for the FY 2011 based on Yuba City and Sutter County priorities (Attachment B).

Fiscal Impact:

The fixed cost of the Ferguson Group contract for Yuba City for the calendar year is \$60,000 with up to \$3,000 of pre-approved travel costs to be paid 50% out of the Flood Control CIP account 90636 and 50% from Redevelopment Agency Professional Services Account. These

funds were appropriated through the Fiscal Year 2009-2010 Citywide Purchases allocation approved by Council in July 2009.

Alternatives:

The continued work on flood control priorities requires working on multiple fronts. The City Council has expressed a desire to work cooperatively on a regional basis for flood control issues. The City can choose to participate as a partner in the Washington D.C. efforts, or choose not to participate.

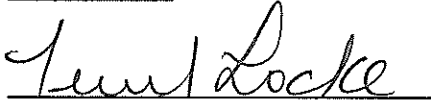
Recommendation:

Authorize the City Manager to continue the existing Agreement with the Ferguson Group of Washington DC for lobbying services for not to exceed \$63,000 for calendar year 2010 to be funded from 50% Flood CIP and 50% Redevelopment

Attachments:


- A) Agreement Sutter County and Yuba City California and the Ferguson Group, LLC
- B) Sutter County/City of Yuba City Fiscal Year 2011 Federal Agenda Appropriation Requests

Prepared By:



Terrel Locke
Administrative Analyst


Submitted By:



Steven R. Jepsen
City Manager

Reviewed By:

Assistant City Manager
Finance
City Attorney



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**SUTTER COUNTY AND YUBA CITY, CALIFORNIA, AND THE FERGUSON GROUP,
L.L.C. AGREEMENT**

THIS AGREEMENT is made and entered into by and between SUTTER COUNTY ("County"), a political subdivision of the State of California, and YUBA CITY ("City"), and THE FERGUSON GROUP, L.L.C. ("Consultant").

RECITALS

A. Sutter County and Yuba City have determined that it is desirable to retain advisory services in Washington D.C; and

B. The Ferguson Group, L.L.C. represents that it possesses the qualifications, experience, and facilities necessary to perform the services contemplated herein and has proposed to provide those services; and

C. The County and City desire to retain the Consultant to perform the proposed services.

County, City and the Consultant agrees as follows:

1. Scope of Services Provided by the Consultant

- a. The Ferguson Group will act as the Consultant to the City and County. W. Roger Gwinn and Robert A. Schmidt will serve as the client managers for the County and City.
- b. In general, the Consultant will confer with the County Administrative Officer, the City Manager and such other personnel as the County Administrative Officer and the City Manager may designate at the times and places mutually agreed to by the County Administrative Officer, the City Manager and the Consultant in order to help the County and City make the best use of federal programs and develop strategies consistent with federal agendas for accomplishing the County and City's goals and objectives.
- c. The Consultant will confer with the County Administrative Officer, the City Manager, the Board of Supervisors, the City Council and such other personnel as the County Administrative Officer and City Manager may designate to develop a draft federal agenda for calendar year 2008 (federal fiscal year 2009 appropriations process) for the review and consideration of the Board of Supervisors and the City Council. The Consultant will work with the County and City to develop and implement a plan of advocacy for the individual items on the approved federal agenda.
- d. The Consultant will review federal executive proposals, legislation under consideration, proposed and adopted administrative rules and regulations and other Washington developments for the purpose of advising the County and City, on the representative's own initiative, of those items that may have a bearing on the County and City's policies or programs.

- e. The Consultant will secure and furnish such detailed information as may be available on federal issues in which the County and City indicate an interest.
- f. The Consultant will review and comment on proposals of the County and City, which are being prepared for submission to federal agencies, when requested to do so by the County Administrative Officer or the City Manager.
- g. The Consultant will maintain liaison with the County and City's congressional delegation and assist the delegation in any matter that is in the best interest of the County and City and in the same manner as any other member of the County and City's staff might render such assistance. The Consultant will counsel with the County and City, and prepare briefing materials and/or conduct briefings for County and City representatives who are preparing to meet with Members of Congress, testify before congressional committees and administrative agencies, and conduct other County and City business, or attend national conferences.
- h. The Consultant will arrange appointments (and accommodations when requested) for County and City officials to facilitate the efficient and effective performance of County and City business while in Washington, D.C.
- i. The Consultant will submit monthly reports providing the latest information on issues of interest to the County and City; and provide an annual report giving an overview of The Ferguson Group's work over the past year and a forecast of issues to be faced in the upcoming year.
- j. In fulfilling the responsibilities under this Agreement, the Consultant will act in the name of the County and City, with the title Consultant of Sutter County and Yuba City, California.

2. Scope of Services Provided by the County and City

- a. The County, through the County Administrative Officer, and the City, through the City Manager, will advise the Consultant of the name or names of persons other than the County Administrative Officer and the City Manager authorized to request service by the Consultant and the person or persons to be kept advised by the Representative.
- b. The County and City will supply the Consultant with a summary of all federal issues in which the County and City have interests and advise the Consultant of any new developments, together with the pertinent details as to the substance of such developments.
- c. The County and City will supply the Consultant with copies of budgets, planning documents and regular reports of the County Administrative Officer, the City Manager, the County and City's agenda and proceedings, newspapers and other materials to assist the Consultant in keeping current on the County and City's policies and programs.

- d. Reimbursable expenses incurred by the Consultant in representing the County and City (including travel outside of Washington, DC, if pre-approved by the County and City) shall be borne by the County and City, but shall not exceed \$6,000 for the twelve month contract period.

3. Term of Agreement

This Agreement shall commence on January 1, 2008 and shall terminate pursuant to the provisions of Paragraph 14, below.

4. Compensation

Compensation for services rendered under this contract will be a fixed fee of \$10,000 per month.

Reimbursable expenses incurred by the Consultant in representing the County and City, including travel outside of Washington, DC, if pre-approved by the County and City, shall be borne by the County and City, but shall not exceed \$6,000 for the twelve month contract period.

5. Invoice, Payments, Notices

The Consultant shall submit monthly invoices for services rendered during the preceding month. The Consultant shall attach documentation to each invoice for the amount charged. The County shall pay invoices that are undisputed within thirty (30) days of receipt and approval. The parties agree to exercise good faith and diligence in the resolution of any disputed invoices.

All invoices, notices, or other documents concerning this Agreement shall be served as follows:

If to the County:
County of Sutter
Attn: Larry T. Combs, County Administrative Officer
1160 Civic Center Blvd, Suite A
Yuba City, CA 95993

If to The Ferguson Group, L.L.C.:
The Ferguson Group, L.L.C.
Attn: W. Roger Gwinn, President
1130 Connecticut Avenue, NW
Suite 300
Washington, D.C. 20036

6. Exclusions and Prohibitions

The Consultant assigned to the County and City:

- a. will not represent the County and City before formal congressional committee hearings or in any judicial or quasi-judicial hearing conducted by boards or examiners of federal agencies or commissions; and
- b. will not perform any legal, engineering, accounting or other similar professional services.

7. Conflicts

The Consultant shall provide advisory services so as to avoid the existence or appearance of a conflict of interest between the individuals providing the advisory services and any party whose interest is in opposition to County or City's agenda. If a possibility of a conflict of interest arises, the Consultant will find another source to provide advice.

8. Indemnification

It is understood and agreed, and is the intention of the parties hereto, that Consultant is an independent contractor, and not the employee or agent of County and City for any purpose whatsoever. County and City shall have no right to and shall not control the manner or prescribe the method by which the professional services are performed by Consultant herein, except as are expressly provided for herein. Consultant shall be entirely and solely responsible for his acts and the acts of his agents, employees, and subcontractors while engaged in the performance of services hereunder. Consultant shall have no claim under this agreement or otherwise against County and City for vacation pay, sick leave, retirement benefits, Social Security, workers compensation, disability, or unemployment insurance benefits or other employee benefits of any kind. The parties acknowledge that County and City shall not withhold from Consultant's compensation any funds for income tax, FICA, disability insurance, unemployment insurance or similar withholding and Consultant is solely responsible for the timely payment of all such taxes and related payments to the state and federal governments, for himself and for his employees, agents, and subcontractors who might render services in connection with this agreement. The Consultant shall inform all persons who perform any services pursuant to this agreement of the provisions of this section.

In the event that the Consultant's activities under this agreement, or any of them, are found by any state or federal agency to be those of an employee rather than an independent contractor, Consultant agrees to indemnify County and City and hold County and City harmless for any damages, costs, or taxes imposed upon it pursuant to the Internal Revenue Code or state or federal taxing laws, including but not limited to any penalties and interest which County and City may be assessed by such state or federal agency for failing to withhold from the compensation paid to Consultant under this agreement any amount which may have been required to be withheld by law.

Consultant further agrees that he shall provide to County and City documentation, including copies of income tax returns, satisfactory to the County and City evidencing payment by Consultant of state and federal income and other employment related taxes for any tax year during which services are rendered pursuant to this agreement.

9. Subcontracting and Assignment

Consultant shall not subcontract or assign any portion of the work to be performed under this agreement without the prior written consent of County and City.

10. Ownership of Work Product

All technical data, evaluations, plans, specifications, reports, documents, or other work products of Consultant shall become the property of the County and City and shall be delivered to the County and City upon completion of services. Consultant may retain copies for its files and internal use, however, Consultant shall not disclose any of the work products of this Agreement to any third party, person, or entity, without prior written consent of the County and City. Upon reasonable notice, County and City representatives shall have access to the work for purposes of inspecting same and determining that the work is being performed in accordance with the terms of the Agreement. Consultant may not publish information obtained in connection with services rendered under this Agreement.

11. Professional Services

The work shall be performed and completed in a professional manner. All services shall be performed in the manner and according to the professional standards observed by a competent practitioner of the profession in which Consultant and any subcontractors are engaged.

12. Responsibility of Consultant

Consultant shall be solely responsible for the quality and accuracy of its work and the work of its consultants performed in connection with this Agreement. Any review, approval, or concurrence therewith by the County and City shall not be deemed to constitute acceptance or waiver by the County and City of any error or omission as to such work.

Consultant shall coordinate the activities of all sub-consultants and is responsible to ensure that all work products are consistent with one another to produce a unified, workable, and acceptable whole functional product.

County and City shall promptly notify Consultant of any defect in Consultant's performance.

13. Insurance

Without limiting Consultant's indemnification of the County and City, Consultant shall provide and maintain at its own expense during the term of this Agreement the following insurance coverages and provisions:

A. Prior to commencement of this Agreement, Consultant shall provide certificates of insurance certifying that all coverage as required herein has been obtained and remains in force for the period required by this Agreement. Any required endorsement shall be attached to the Certificate or certified as issued on the Certificate. All Certificates of Insurance shall be sent to the following address:

County of Sutter
Larry T. Combs
County Administrative Officer
1160 Civic Center Blvd., Suite A
Yuba City, CA 95993

Consultant shall not proceed with the work under this Agreement until it has obtained all insurance required. All Certificates of Insurance shall provide that the County shall receive thirty (30) days advance written notice of cancellation before the expiration date, except ten (10) days prior written notice for cancellation due to non-payment.

B. Should, consistent with the terms of this Agreement, any of the work under this Agreement be subcontracted, Consultant shall require each of its subcontractors to provide the insurance required herein, or Consultant may name the subcontractors as additional insureds under its own policies.

C. Insurance Required:

(i) Comprehensive General Liability Insurance or Commercial General Liability Insurance for bodily injury (including death) and property damage which provides limits of not less than one million dollars (\$1,000,000) each occurrence and written on an occurrence basis. If the insurance has a General Aggregate it must be no less than two million dollars (\$2,000,000). Each type of insurance shall include coverage for premises/operations, products/completed operations, contractual liability, broad form property damage, X/C/U hazards and personal injury.

For either type of general liability insurance, coverage shall include the following endorsements:

a. Additional Insured Endorsement: Insurance afforded by this policy shall also apply to the County of Sutter, and members of the Board of Supervisors of the County of Sutter, the officers, agents and employees of the County of Sutter, individually and collectively, as additional insureds.

b. Primary Insurance Endorsement: Insurance afforded by the Additional Insured Endorsement shall apply as primary insurance, and other insurance maintained by the County of Sutter, its officers, agents and employees shall be excess only and shall not contribute to insurance provided under this policy.

c. Notice of Cancellation or Change of Coverage Endorsement: Insurance provided by this policy shall not be cancelled so as to no longer meet the specified County insurance requirements without thirty (30) days written notice of such cancellation being delivered to the County at the address as specified above, except that ten (10) days prior written notice will be given due to non-payment.

d. Severability of Interest Endorsement: Insurance provided by this policy shall apply separately to each insured who is seeking coverage or against whom a claim is made or a suit brought, except with respect to the policy's limits of liability.

(ii) Automobile Liability Insurance for bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned, and hired vehicles.

(iii) Workers' Compensation and Employer's Liability Insurance with statutory California Workers' Compensation coverage and Employer's Liability coverage of not less than one million dollars (\$1,000,000) per occurrence for all employees engaged in services or operations under this Agreement. Coverage shall include an endorsement whereby the insurer agrees to waive all rights of subrogation against the County of Sutter, Sutter County Board of Supervisors, and officers, officials, employees and designated volunteers of Sutter County for losses arising from work performed by the Consultant under this Agreement.

14. Termination

This agreement may be terminated by any party, at their sole discretion, upon thirty (30) days advance written notice thereof to the other party.

The County and City, upon written notice to the Consultant, may terminate this agreement if the Consultant fails to perform properly any of its obligations hereunder.

15. Jurisdiction

This agreement shall be administered and interpreted under the laws of the State of California and any action brought hereunder shall be brought in the Superior Court of California in and for the County of Sutter.

16. Conflict with Laws or Regulations/Severability

This agreement is subject to all applicable laws and regulations. If any provision of this agreement is found by any court or other legal authority, or is agreed by the parties, to be in conflict with any code or regulation governing its subject, the conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the agreement to either party is lost, the agreement may be terminated at the option of the affected party. In all other cases, the remainder of the agreement shall continue in full force and effect.

17. Waivers

Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

18. Amendments

Modifications or amendments affecting the proposed scope of work that results in an adjustment of the compensation under this Agreement shall be in writing and executed by all parties.

19. Entire Agreement

This Agreement, all exhibits attached hereto, all other terms or provisions incorporated herein by reference, and any notice to proceed issued in accordance with the terms hereof constitute the entire Agreement and understanding between the County, City and the Consultant as to the subject matter hereof.

20. Construction

This agreement reflects the contributions of both parties and accordingly the provisions of Civil Code section 1654 shall not apply in interpreting this Agreement.

County of Sutter, California

Yuba City, California

[Signature]
LARRY T. COMBS
County Administrative Officer

1/16/08
Date

[Signature]
STEVE JEPSEN
City Manager

2-5-08
Date

The Ferguson Group, L.L.C.

[Signature]
W. Roger Gwinn
President

[Signature]
1/15/08
Date

ATTEST:

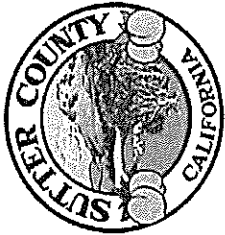
DONNA M. JOHNSTON, CLERK

By [Signature]
Deputy

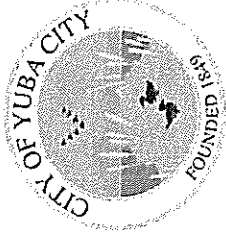


APPROVED AS TO FORM
SUTTER COUNTY COUNSEL

By [Signature]



DRAFT
SUTTER COUNTY / CITY OF YUBA CITY
Fiscal Year 2011 Federal Agenda



Appropriations Requests

PROJECT	REQUEST	BILL AND PROGRAM	PROJECT DESCRIPTION
Sutter County Feasibility Study	Corps capability number, which we will get from them	Energy and Water Development Corps of Engineers Investigations	In many areas of Sutter County, the existing flood control levees are subject to failure or overtopping during large floods. During a levee failure, flooding would reach depths of up to 20 feet in some locations and cause substantial damages to many residential and commercial-industrial structures, with more than 80,000 people and over \$5 billion in property at risk. The funds being requested will enable the Corps to accelerate the study so that a comprehensive solution to the flood problem can be identified as soon as possible.
Yuba City Water Supply Intake Fish Screen Replacement Project	\$1,000,000	Interior, Environment and Related Agencies Environmental Protection Agency State and Tribal Assistance Grants	Yuba City residents currently rely on surface water from the Feather River for their primary water supply. The current water supply intake structure requires new fish screens to protect federally listed fisheries. The current estimated project cost is \$6 million dollars.
Sutter County/Yuba City Gang Suppression Initiative	\$200,000- \$1,000,000	Commerce, Justice, Science, and Related Agencies Department of Justice Juvenile Justice Programs	
Sutter County/Yuba City Interoperable Communications	\$200,000- \$1,000,000	Commerce, Justice, Science, and Related Agencies	Acquisition of equipment for police/fire/EMS - Joint Dispatch Facility

PROJECT	REQUEST	BILL AND PROGRAM	PROJECT DESCRIPTION
<p>Bridge Street Approach Modifications</p>	<p>\$2,000,000</p>	<p>Department of Justice Byrne Discretionary Grants Transportation, Housing and Urban Development and Related Agencies Department of Transportation Federal Aid Highways</p>	<p>The SAFETEA-LU legislation provided \$4,000,000 to improve the highway connection over the Feather River between the communities of Yuba City and Marysville. That work is proceeding and in connection with that effort the Bridge Street approach to the Fifth Street Bridge needs to be improved to increase capacity and reduce congestion. The improved roadway will better the connection between Yuba City and Marysville and other areas of growth in the Sacramento Region. The current plan is that Bridge Street would be improved between Shasta Street and the bridge structure, including widening the approach to four lanes and realigning the on ramp from Bridge Street and the off ramp to Sutter Street. Increasing the capacity of the approaches to the bridge will result in a better connection to Highway 65 in Yuba County and other growing communities in the Sacramento Region. The total estimated cost of this project is \$8,920,000.</p>
<p>Sutter County At-Risk Literacy and Tutoring Programs</p>	<p>\$150,000</p>	<p>Labor, Health and Human Services, Education and Related Agencies Department of Education Fund for the Empowerment of Education</p>	<p>Sutter County has a significant gang problem among Latino youth. Less than 30% of the County's Latino youth finish high school. The County experienced five gang-related homicides involving Latino youth in nine month time frame and a significant portion of the County's local Hispanic youth are involved in gangs. An increasing high school drop-out rate and a rise in unemployment are also attributed to the increase in youth gang activity. Sutter County proposes to combat the literacy and education skills of its at-risk youth population by implementing to programs.</p> <ul style="list-style-type: none"> - At-Risk Children Tutoring (\$50,000): This tutoring program will use older youth to mentor/tutor younger children, specifically grades 3-5, within an established after school program setting by using a bicultural, bilingual youth with pro-social attitudes and behaviors. - Latino Family Literacy Program (\$100,000): This evidence-based program will provide ongoing classes using a bilingual, bicultural approach to literacy education for those Spanish-speaking individuals in Sutter County with school-aged children who can benefit from such curriculum.
<p>Willow Island Restoration</p>	<p>\$100,000</p>	<p>Energy and Water Development Corps of Engineers</p>	<p>Funds will be used to initiate a Section 1135 restoration project of 2.8 miles of Feather River streambank on Willow Island, the second largest sub-area within the Feather River Parkway Plan. The Corps of Engineers constructed the levees along the Feather River, and, therefore, the restoration of this area is eligible for funding under Section 1135. The project will involve the restoration of riparian and wetland areas on the Island for the benefit of a variety of threatened and</p>

PROJECT	REQUEST	BILL AND PROGRAM	PROJECT DESCRIPTION
		Construction (Sec. 1135)	endangered aquatic and terrestrial plant and animal species.

Other Issues/Non-Appropriations Items

Water Resources Development Act — Seek an authorization that would permit the Corps to support the Early Implementation Project to improve flood control levees that is being developed by the Sutter-Butte flood control agency. Also, in order to assist the County and City address its wastewater treatment problems and other water resources infrastructure issues, TFG will work with the County and City to obtain an authorization in the next Water Resources Development Act which would permit the Army Corps of Engineers to participate in this work.

Authorization of Transportation Projects/Programs – In addition to the appropriated funding being sought above for the Bridge Street modifications, TFG will work with the County and City to receive authorization for the bridge replacement project.