

CITY OF YUBA CITY
STAFF REPORT

Date: August 18, 2020
To: Honorable Mayor & Members of the City Council
From: Public Works Department
Presentation by: Diana Langley, Interim City Manager

Summary

Subject: Harter Tanks Painting Improvement Project (20-06) Award

Recommendation:

- A. Adopt a Resolution approving the plans and specifications for the Harter Tanks Painting Improvement Project.
- B. Adopt a Resolution adopting a finding of Class 1 Categorical Exemption for the project per CEQA Guidelines Section 15301 (Existing Facilities); rejecting the apparent low bid as unresponsive; awarding a construction contract to Farr Construction, Inc. of Sparks, NV in the amount of their total bid \$1,259,900.00; and authorizing the City Manager to execute the contract on behalf of the City, subject to review and approval as to legal form by the City Attorney.
- C. Adopt a Resolution authorizing the City Manager to enter into a Professional Services Agreement with Jacobs Engineering, Inc. of Sacramento, CA in the amount of \$60,000 for engineering services during construction, with the finding that it is in the best interest of the City, and subject to approval as to legal form by the City Attorney.
- D. Adopt a Resolution authorizing the City Manager to enter into a Professional Services Agreement with West Coast Coatings, Inc. of Albany, CA in the amount of \$106,000 to provide inspection and testing services during construction, with the finding that it is in the best interest of the City, and subject to approval as to the legal form by the City Attorney.

Fiscal Impact: \$1,661,890.00 – Account No. 971096 (Recoating Water Storage Reservoirs)

Purpose:

To provide reliable water service for City residents and businesses through maintaining water storage reservoirs in a state of good repair.

Background:

The City’s water distribution system is interconnected with five reservoir booster stations holding a total of 13 million gallons, 4 million of which are stored at the Harter tank facility. The Harter tank facility was constructed in 2005 and is located on Harter Parkway between Butte House Road and State Route 20 (refer to attached location map).

The Harter tank facility is comprised of two, 2-million gallon water storage tanks and a booster pump station. Each of the two tanks are 120 feet in diameter, 25-feet high, and constructed of welded steel with interior and exterior ladders and a single roof hatch on each tank.

Reports completed by CSI Services and Potable Divers, Inc. have identified areas of blistering, delamination, rust and peeling in both tanks. In a 2012 evaluation the inspector states that “the lining is in a condition that is on par with a coating that is more than 20 years old...” and “the exterior paint is in a condition of a system typical for a system that is 20-25 years old...”. Staff has been diligent in maintaining operation of the reservoirs by inspecting them annually and performing “spot repairs”. However, the number and variety of repairs needed at this time warrants staff recommending that the tanks be drained, cleaned, repaired and recoated.

The Harter Tanks reports are on file in the Public Works Department at City Hall and at www.yubacity.net/publicworksplans for review.

Analysis:

Based upon the inspection firm findings, staff engaged the services of Jacobs Engineering to prepare plans and specifications for the interior and exterior cleaning, repairing and recoating of the tanks. The plans and specifications for the project are on file in the Public Works Department at City Hall and at www.yubacity.net/publicworksplans for review. Adherence to the preparation and coatings application requirements, along with thorough independent inspections, will provide storage reservoirs that will serve the city for the next fifteen to twenty years with minimal maintenance needs.

The Harter Tanks Painting Improvement Project was advertised for bids beginning May 22, 2020. Plans and specifications were provided to local builder/contractor exchanges. On July 14, 2020, eleven (11) bids were received and opened by the City Clerk. A list of the bids received and the Engineer’s Estimate are shown below.

<u>Company</u>	<u>Total Bid</u>
Farr Construction Corp dba Resource Development	\$1,259,900.00
Advanced Industrial Services, Inc	\$1,850,869.00
Simpson Sandblasting & Special Coating	\$1,850,000.00
JEFFCO Painting & Coating, Inc.	\$1,916,042.00
Capital Industrial Coatings	\$1,730,000.00
Certified Coatings	\$1,601,771.00
Crosno Construction, Inc.	\$1,666,120.00
Euro Style Management, Inc.	\$1,427,000.00
Unified Field Services	\$1,474,514.00
Superior Tank Solutions	\$1,553,664.00
CalSierra Construction, Inc.	\$1,258,860.00
<i>Engineer’s Estimate</i>	<i>\$1,700,000.00</i>

Staff reviewed the bids in coordination with the City Attorney and found that the apparent low bid from Cal Sierra Construction, Inc. in the amount of \$1,258,860, is not responsive due to several reasons detailed in the City's letter dated July 23, 2020 attached to this staff report (Attachment 2).

Farr Construction Corp. dba Resource Development of Sparks, NV is the low, responsible, and responsive bidder.

City staff will provide project management and oversight, but City staff does not have the capacity or certifications to provide full-time engineering services and inspection. Jacobs Engineering, Inc. completed the design of the project and is highly knowledgeable of the project design. Staff therefore recommends awarding a Professional Services Agreement to Jacobs Engineering, Inc. to provide engineering services during construction, such as submittal review, responses to requests for information, and preparation of as-built drawings.

Staff issued a request for quotations to provide special coating inspections and testing. West Coast Coatings, Inc. was determined to be the most cost-effective, qualified provider of these services. Staff therefore recommends awarding a Professional Services Agreement to West Coast Coatings, Inc. to provide these services.

Since the Harter tanks are vital to the City's water distribution system, both tanks would be operational during the summer months when usage demands are high and one of the tanks would always remain in service while the recoating work is being completed. Project construction is therefore expected to begin in Fall 2020 and continue through Summer 2021, when the exterior painting can be completed without interruption of the reservoir operation.

Fiscal Impact:

The estimated total construction cost for the project is approximately \$1,661,890.00, which consists of the following components:

- \$ 1,259,900 – Contract Award Amount
- \$ 125,990 – Construction Contingency (10%)
- \$ 60,000 – Engineering Services During Construction
- \$ 106,000 – Special Coating Inspections and Testing
- \$ 50,000 – Contract Administration
- \$ 60,000 – Consultant Contingency

Staff is requesting a construction contingency of \$125,990 (10%) to cover possible metal repairs resulting from corrosion damage to tank elements and any needed puddle welding on the tank floor that cannot be quantified until the tanks are drained.

Staff is also requesting a consultant contingency of \$60,000 to cover additional inspection and project management costs associated with any metal repairs that cannot be quantified until the tanks are drained the condition is assessed and work is underway.

The project will be funded through Capital Improvement Program Account No. 971096 (Recoating Water Storage Reservoirs), which has a current balance of approximately \$2,328,000.

Environmental:

Staff has performed a preliminary environmental assessment of the project and has determined that it falls within the Class 1 Categorical Exemption set forth in CEQA Guidelines Section 15301 (Existing Facilities), as the rehabilitation of the Harter Storage Tanks apply to existing water distribution facilities, involving negligible or no expansion. Further, none of the exceptions to Categorical Exemptions set forth in CEQA Guidelines 15300.2 apply to this project.

Alternatives:

Reject the bids and delay/cancel the project.

Recommendation:

- A. Adopt a resolution approving the plans and specifications for the Harter Park Tanks Painting Improvement Project.
- B. Adopt a resolution adopting a finding of Class 1 Categorical Exemption for the project per CEQA Guidelines Section 15301 (Existing Facilities), rejecting the apparent low bid as unresponsive, awarding a construction contract to Farr Construction, Inc. of Sparks, NV in the amount of their total bid \$1,259,900.00 and authorizing the City Manager to execute the contract on behalf of the City, subject to review and approval as to legal form by the City Attorney.
- C. Adopt a resolution authorizing the City Manager to enter into a Professional Services Agreement with Jacobs Engineering, Inc. of Sacramento, CA in the amount of \$60,000 to engineering services during construction, with the finding that it is in the best interest of the City, and subject to approval as to the legal form by the City Attorney.
- D. Adopt a resolution authorizing the City Manager to enter into a Professional Services Agreement with West Coast Coatings, Inc. of Albany, CA in the amount of \$106,000 to provide inspection and testing services during construction, with the finding that it is in the best interest of the City, and subject to approval as to the legal form by the City Attorney.

Attachments:

- 1. Resolution – Approval of Plans and Specifications
- 2. Resolution – CEQA & Contract Award
 - A. (Draft) Agreement – Contract 20-06
- 3. Resolution - Professional Service Agreement – Jacobs Engineering, Inc
 - A. Professional Services Agreement
- 4. Resolution - Professional Services Agreement – West Coast Coatings, Inc.
 - A. Professional Services Agreement
- 5. Location Map
- 6. Correspondence from City to Cal Sierra Construction, dated July 23, 2020

Prepared by:

Submitted by:

/s/ Claire Shawver

Claire Shawver
Construction Project Manager

/s/ Diana Langley

Diana Langley
Interim City Manager

Reviewed by:

Department Head

[DL](#)

Finance

[SM](#)

City Attorney

[SLC by email](#)

ATTACHMENT 1

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUBA CITY
APPROVING THE PLANS AND SPECIFICATIONS FOR THE HARTER TANKS
PAINTING IMPROVEMENT PROJECT**

BE IT RESOLVED AND ORDERED by the City Council of the City of Yuba City that the plans and specifications for the Harter Tanks Painting Improvements Project be approved.

The foregoing resolution was duly and regularly introduced, passed, and adopted by the City Council of the City of Yuba City at a regular meeting thereof held on the 18th day of August 2020.

AYES:

NOES:

ABSENT:

Shon Harris, Mayor

ATTEST:

Patricia Buckland, City Clerk

APPROVED AS TO FORM
COUNSEL FOR YUBA CITY:

Shannon Chaffin, City Attorney
Aleshire & Wynder, LLP

ATTACHMENT 2

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUBA CITY
ADOPTING A CEQA CLASS 1 CATEGORICAL EXEMPTION; REJECTING LOW BID; AND
AWARDING A CONSTRUCTION CONTRACT TO FARR CONSTRUCTION CORP DBA
RESOURCE DEVELOPMENT IN THE AMOUNT OF \$1,259,900 AND AUTHORIZING THE
CITY MANAGER TO EXECUTE THE CONTRACT ON BEHALF OF THE CITY, SUBJECT TO
REVIEW AND APPROVAL AS TO LEGAL FORM BY THE CITY ATTORNEY**

WHEREAS, the City of Yuba City (City) advertised for bids for the City's Harter Tanks Painting Improvement Project; and

WHEREAS, in response to the advertisement, the City received eleven bids for the Harter Tanks Painting Improvement Project in the following bid amounts:

Farr Construction Corp dba Resource Development	\$1,259,900.00
Advanced Industrial Services, Inc	\$1,850,869.00
Simpson Sandblasting & Special Coating	\$1,850,000.00
JEFFCO Painting & Coating, Inc.	\$1,916,042.00
Capital Industrial Coatings	\$1,730,000.00
Certified Coatings	\$1,601,771.00
Crosno Construction, Inc.	\$1,666,120.00
Euro Style Management, Inc.	\$1,427,000.00
Unified Field Services	\$1,474,514.00
Superior Tank Solutions	\$1,553,664.00
Cal Sierra Construction, Inc.	\$1,258,860.00

; and

WHEREAS, the City's Notice to Contractors inviting sealed bids for the project provides, among others, that:

- "No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5."
- Section 2.2 also requires "No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)."
- The Notice to Contractors attached and required a mandatory bidder's bond in the form attached to the Notice. In conjunction with this requirement, Section 2.2 requires that "All proposal forms shall be directly purchased from the City of Yuba City *and shall be made on the proposal forms included in these special provisions.*" (Emphasis added.)
- "Bids will be required to set forth the price of the items bid upon ... and a total figure for the price plus tax." "Unit prices shall be shown on bids submitted as well as the total price for each item bid upon."

- Per section 2.6, “Proposals may be rejected if they show any alternations of form, additions not called for, conditional or alternative bids, incomplete bids, erasures, or irregularities of any kind.”

; and

WHEREAS, the City Public Works Department has reviewed the 11 bids, and examined the apparent low bid from Cal Sierra Construction, Inc. and found it to be unresponsive for the following reasons:

1. Unregistered Subcontractor: The prime subcontractor listed in the bid, Garrett Painting & Sandblasting, was not registered with the Department of Industrial Relations at the time the bid was submitted. Among others, this violates Section 2.2 of the Special Provisions and Labor Code sections 1725.5 and 1771.1.
2. Insufficient Bid Bond: Section 2.7 requires a 10% bidder guarantee in either by providing cash/cash equivalent, or by submission of a conforming bid bond. A conforming bid bond was attached to the Notice to Contractors as part of the proposal forms, and was required to be used by any contractor show submitted a bid bond as bidder security. However, the conforming bid bond actually submitted with the bid was marked “sample,” which is an irregularity indicating the submitted document is not valid or enforceable. Additionally, a separate bid bond was also submitted that was not conforming with the proposal forms. This non-conforming bid bond altered the form of the required bid bond and removed material provision(s) required in the conforming bid bond, including those related to the recovery of attorney’s fees and costs in the event of certain disputes.
3. “No bid” Response to “Metals:” No total figure or price was provided in response to the item description for “Metals.”

; and

WHEREAS, taken together and separately, these irregularities constitute a substantial and consequential discrepancy from the City’s call for bids because it affects the amount of the bid, gives a bidder an unfair advantage, and affects the ability to make bid comparisons; and

WHEREAS, requiring work from registered subcontractors per State law, providing conforming bid bonds to secure the work, and providing a complete response for all unit prices is an important component of the project, the absence of which is a consequential discrepancy from the City’s call for bids; and

WHEREAS, when reviewing bids, the City has discretion to determine responsiveness and may demand strict compliance with the bid specifications; and

WHEREAS, on July 23, 2020, the City sent a Notice of Non-Responsive Bid – City of Yuba City, Harter Tanks Coating Project, Contract 20-06 to Cal Sierra Construction, Inc., which provided that the bid was nonresponsive and providing an opportunity to protest the same; and

WHEREAS, the City Public Works Department has reviewed and examined the next apparent low bid, Farr Construction Corp dba Resource Development and its bid response, found it to be both the lowest qualified responsive and responsible bidder, and has recommended it for award of this project; and

WHEREAS, the City has performed a preliminary environmental assessment of the project, and has determined that a Class 1 Categorical Exemption set forth in the California Environmental Quality Act (CEQA) Guidelines, Section 15301, applies to this project; and

WHEREAS, the City desires to award the bid to Farr Construction Corp dba Resource Development of Sparks, NV and enter into an agreement with Farr Construction Corp dba Resource Development to construct the Harter Tanks Painting Improvement Project.

NOW, THEREFORE, be it resolved by the City Council of the City of Yuba City as follows:

1. The recitals set forth, above, are incorporated herein as if set forth in full.
2. The City Council finds and determines that a Class 1 Categorical Exemption set forth in CEQA Guidelines, Section 15301, applies to this project, as the rehabilitation of the Harter Storage Tanks applies to existing water distribution facilities and involving negligible or no expansion to those existing facilities. Further, none of the exceptions to Categorical Exemptions set forth in CEQA Guidelines 15300.2 apply to this project.
3. The City Council exercises its discretion and rejects Cal Sierra Constructions' bid for Contract No. 20-06 as non-responsive for all the reasons stated herein and included in the record.
4. The City Council does hereby accept the bid of Farr Construction Corp, dba Resource Development, and further finds that Farr Construction Corp, dba Resource Development, is the lowest qualified responsive and responsible bidder.
5. The City Council awards the bid to Farr Construction Corp, dba Resource Development, in the total amount of \$1,259,900.00 for the Harter Tanks Painting Improvement Project, with the finding that it is in the best interests of the City. The Council further authorizes the City Manager to execute an agreement with Farr Construction Corp, dba Resource Development, in substantially the same material terms and conditions as the draft agreement attached as Attachment "A" to this Resolution, subject to approval as to legal form by the City Attorney.
6. This Resolution shall immediately take effect upon passage.

The foregoing resolution was duly and regularly introduced, passed, and adopted by the City Council of the City of Yuba City at a regular meeting thereof held on the 18th day of August 2020.

AYES:

NOES:

ABSENT:

Shon Harris, Mayor

ATTEST:

Patricia Buckland, City Clerk

APPROVED AS TO FORM
COUNSEL FOR YUBA CITY:

Shannon Chaffin, City Attorney
Aleshire & Wynder, LLP

Attachment(s):

A. (Draft) Agreement – Contract 20-06

**CITY OF YUBA CITY
DEPARTMENT OF PUBLIC WORKS**

CONTRACT AGREEMENT

**HARTER TANKS PAINTING IMPROVEMENTS
CONTRACT NO. 20-06**

THIS AGREEMENT, made and concluded this ____ day of _____ 2020, between the City of Yuba City, party of the first part, and _____, Contractor, party of the second part.

ARTICLE I. – WITNESSETH, that for and in consideration of the payments and agreements hereinafter mentioned to be made and performed by the said party of the first part under the conditions expressed in the two bonds bearing even date with these presents and hereunto annexed, the said party of the second part agrees with the said party of the first part, at his own proper cost and expense, to do all the work and furnish all the materials, except such as are mentioned in the specifications to be furnished by said party of the first part, necessary to construct and complete in a good, workmanlike and substantial manner and to the satisfaction of the Department of Public Works, construction on various roads, all in accordance with the Special Provisions hereto annexed and also in accordance with the Standard Specifications of the State of California Department of Transportation dated May 2010, the Standard Plans dated May 2010, the “Labor Surcharge” and “Equipment Rental Rates” in effect on the date the work is accomplished, and the “General Prevailing Wage Rates” of the State of California Department of Transportation, which said Special Provisions, Standard Plans, Standard Specifications are hereby specially referred to and by such reference made a part hereof.

The Special Provisions and the project plans for the work to be done are entitled:

**HARTER TANK PAINTING IMPROVEMENTS
CONTRACT NO. 20-06**

Which are hereby made part of this contract.

ARTICLE II. – The said Contractor agrees to receive and accept the following prices as full compensation for furnishing all materials and for doing all the work contemplated and embraced in this Agreement; also for all loss or damage arising out of the nature of the work aforesaid, or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its acceptance by the City of Yuba City and for all risks of every description connected with the work; also for all expenses incurred by or in consequence of the suspension or discontinuance of work and for well and faithfully completing the work, and the whole thereof, in the manner and according to the plans and specifications and the requirements of the Engineer under them, to wit.

ARTICLE III. – The said party of the first part hereby promises and agrees with the said Contractor to employ, and does hereby employ, the said Contractor to provide the materials and to do the work according to the terms and conditions herein contained and referred to, for the prices hereinafter set forth, and hereby contracts to pay the same at the time, in the manner and

upon the conditions above set forth; and the said parties for themselves, their heirs, executors, administrators, successors and assigns, do hereby agree to the full performance of the covenants herein contained.

ARTICLE IV. – By my signature hereunder, as Contractor, I certify that I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workers Compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this contract.

ARTICLE V. – It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the bid or proposal of said Contractor, then this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

ARTICLE VI. – The City of Yuba City hereby employs Contractor to provide material and to do the work according to the terms and conditions herein contained and referred to for the following prices to be paid at the time, in the manner and upon the conditions hereinafter set forth.

ARTICLE VII. – The improvement contemplated in the performance of this contract is an improvement over which the City of Yuba City shall exercise general supervision.

ARTICLE VIII. – The statement of prevailing wages appearing in the General Prevailing Wage Rates is hereby specifically referred to and by this reference is made a part of this contract. It is further expressly agreed, by and between the terms of this instrument and the bid or proposal of said Contractor, that this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

**HARTER TANKS PAINTING IMPROVEMENTS
CONTRACT NO. 20-06**

Bid Item	Item Description	Unit of Measure	Estimated Quantity	Total Amount
1	Mobilization	LS	1	\$ 12,800.00
2	Temporary Containment	LS	1	\$ 10,000.00
3	Coatings	LS	1	\$ 1,200,800.00
4	Metals	LS	1	\$ 26,400.00
5	Insurance & Bonds	LS	1	\$ 9,900.00
Total Bid = \$ 1,259,900.00				

Approved as to form:

City Attorney
City of Yuba City

CITY OF YUBA CITY

Diana Langley
Interim City Manager

Date

CONTRACTOR

Company Name

By and Title (signature)

Date

By and Title (printed)

Address

Telephone Number

ATTACHMENT 3

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUBA CITY
AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES
AGREEMENT WITH JACOBS ENGINEERING, INC. FOR THE HARTER TANKS PAINTING
IMPROVEMENT PROJECT**

WHEREAS, the City desires to carry out the Harter Tanks Painting Improvement Project; and

WHEREAS, the City does not have the capacity or certifications to provide full-time engineering services and inspection for the project; and

WHEREAS, Jacobs Engineering, Inc., completed the design of project, is highly knowledgeable, and has a unique understanding and familiarity with the project design; and

WHEREAS, the City desires to enter into a Professional Services Agreement with Jacob Engineering, Inc. of Sacramento, CA.

NOW, THEREFORE, be it resolved by the City Council of the City of Yuba City that the City Manager is hereby authorized to enter into a Professional Services Agreement with Jacobs Engineering, Inc. of Sacramento, CA in the amount of \$60,000 to provide engineering services during construction for the Harter Tanks Painting Improvement Project, with the finding that it is in the best interest of the City, subject to review and approval as to legal form by the City Attorney.

The foregoing resolution was duly and regularly introduced, passed, and adopted by the City Council of the City of Yuba City at a regular meeting thereof held on the 18th day of August 2020.

AYES:

NOES:

ABSENT:

Shon Harris, Mayor

ATTEST:

Patricia Buckland, City Clerk

APPROVED AS TO FORM
COUNSEL FOR YUBA CITY:

Shannon Chaffin, City Attorney
Aleshire & Wynder, LLP

Attachment(s):

A. Professional Services Agreement

AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is made and entered into as of _____, by and between the City of Yuba City, a municipal corporation ("City") and JACOBS ENGINEERING GROUP, INC. ("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.

Construction Administration services for the Harter Tanks Painting Project, on a time & material basis, per proposal (Exhibit A)

2. Time of Performance. The services of Consultant are to commence upon execution of this Agreement and shall continue until all authorized work is completed and approved by the City. Finalization shall be completed at the direction of the City of Yuba City.
3. Compensation. Compensation to be paid to Consultant shall be in accordance with the Schedule of Charges set forth in Exhibit A, which is attached hereto and incorporated herein by reference. In no event shall Consultant's compensation exceed **Sixty Thousand Dollars (\$60,000)** 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. City shall pay Consultant not later than 30 days after approval of the monthly invoice by City staff. When

payments made by the City equal 90% of the maximum fee provided for in this Agreement, no further payments shall be made until the final work under this Agreement has been accepted by City.

5. Extra Work. At any time during the term of this Agreement, City may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by City to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from City.
6. Termination. This Agreement may be terminated by the City immediately for cause or by either party without cause upon fifteen 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.
7. Ownership of Documents. All plans, studies, documents and other writings prepared by and for Consultant, its officers, employees, agents and subcontractors in the course of implementing this Agreement, except working notes and internal documents, shall become the property of the City upon payment to Consultant for such work, and the City shall have the sole right to use such materials in its discretion without further compensation to Consultant or to any other party. Consultant shall, at Consultant's expense, provide such reports, plans, studies, documents and other writings to City upon request.
- * Licensing of Intellectual Property. This Agreement creates a nonexclusive and perpetual license for City 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.

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.

8. 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.

9. 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).)

10. 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.

11. 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.

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.

14. Indemnity. Consultant agrees to defend, indemnify and hold harmless the City, its officers, officials, agents, employees and volunteers from and against any and all claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all costs, including attorney fees and expenses in connection therein), arising out of the performance of this Agreement in whole or in part by any negligent act or omission of the Consultant, or anyone directly or indirectly employed by the Consultant or anyone for whose acts the Consultant may be liable, or its failure to comply with any of its obligations contained in this Agreement, except for any such claim arising out of the sole negligence or willful misconduct of the City, its officers, agents, employees or volunteers.
15. 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.
16. 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: Claire Shawver
Public Works
City of Yuba City
1201 Civic Center Blvd
Yuba City, CA 95993
(530) 822-4713

If to Consultant: Matthew S. Mathews
Jacobs Engineering Group, Inc.
180 Promenade Circle, Suite 300
Sacramento, CA 95834-2952
916-920-0300

17. 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.

18. 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.
19. 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.
20. 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.
21. 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.
22. 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.
23. 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.
24. 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.

25. 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.
26. 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.
27. 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.
28. 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.

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

CITY OF YUBA CITY:

JACOBS ENGINEERING GROUP, INC.

By: _____

By: _____

Diana Langley
Interim City Manager
City of Yuba City

Matthew S. Mathews
Jacobs Engineering Group, Inc.
an authorized representative

Attachments: Exhibit A – Scope of Services
 Exhibit B - Insurance Requirements
 Exhibit C - Workers' Compensation Exemption

EXHIBIT A

Scope of Work

Yuba City Harter Tank Painting Improvements

This scope of work provides engineering services during construction (ESDC) for painting improvements for water storage tanks at the existing Harter Storage and Pumping Plant. The tanks consist of two 2-million-gallon steel reservoirs located near Harter Way and operated by the City of Yuba City, California.

The tanks were constructed in 2005, and recent inspections by the City have found some deterioration of existing interior and exterior painting systems that were applied during construction. The objective of the painting improvements project is to repair and restore deteriorated areas and prevent corrosion of the steel tank structures.

It is anticipated that the construction period for the improvements will have a duration of one year. This is due in part to the need to have both tanks in service during summer and at least one tank in service at all other times, thereby reducing the availability of facilities and increasing the time required for the construction contractor to complete the work. On this basis, it is assumed that the improvements will be constructed on one tank in the fall of 2020 and on the other tank in the spring of 2021.

Services will be provided by CH2M HILL Engineers, Inc., a wholly owned direct subsidiary of Jacobs, and referred to as Jacobs in this Scope of Work.

Task 1 is as described below.

Task 1. Engineering Services During Construction

The purpose of this task is to assist the City during construction of painting improvements to the Harter tanks.

Subtasks:

- Attend preconstruction meeting (two Jacobs staff).
- Attend construction progress meetings (one Jacobs staff for eight (8) 1-hour construction progress meeting in Yuba City and travel).
- Review submittals, shop drawings, and substitution requests (up to eight (8) submittals and resubmittals).
- Prepare answers to Contractor Requests for Information (RFIs), with a total of up to ten (10) RFIs.
- Attend special field meetings, if necessary, with a total of four (4) trips for one (1) Jacobs staff and each meeting lasting for 4-hours each and travel.
- Prepare Record Drawings and Specifications.
- Project management for the period described in the Project Schedule section below.

City Involvement:

- Provide direction for any services requested of Jacobs.
- All other construction services will be performed by the City.
- Provide contractor as-built drawings for preparation of Record Drawings

Assumptions:

- The City will, at its sole discretion, identify and request any service desired from Jacobs.

- The actual cost of Jacobs services will vary depending upon the City's request.
- No field inspections or materials testing is included.
- Design of structural repairs (if needed following tank interior inspection) will be completed under remaining budgets from Task 2 Design and Task 3 Bid Services.

Deliverables:

- Record Drawings (Half and Full-Size PDF files. Hard copies are not included.)
- Other deliverables will be as requested by the City and as described above.

Project Schedule

Engineering Services During Construction are anticipated to begin in September 2020 and extend through June 2021. The schedule for delivery of engineering services will be determined by the City and the construction contractor.

ATTACHMENT 4

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUBA CITY
AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES
AGREEMENT WITH WEST COAST COATINGS FOR THE HARTER TANKS PAINTING
IMPROVEMENT PROJECT**

WHEREAS, the City desires to carry out the Harter Tanks Painting Improvement Project, including special coating inspections and testing; and

WHEREAS, the City issued a request for quotations to provide said services; and

WHEREAS, West Coast Coating, Inc., was the most cost-effective and qualified provider of these services that responded to the City; and

WHEREAS, obtaining the most cost-effective and qualified provider of these services is in the best interest of the City; and

WHEREAS, the City desires to enter into a Professional Services Agreement with West Coast Coatings, Inc. of Albany CA.

NOW, THEREFORE, be it resolved by the City Council of the City of Yuba City that the City Manager is hereby authorized to enter into a Professional Services Agreement with West Coast Coatings, Inc. of Albany CA in the amount of \$106,000 to provide inspection and testing services during construction for the Harter Park Painting Improvement Project, with the finding that it is in the best interest of the City, subject to review and approval as to legal form by the City Attorney.

The foregoing resolution was duly and regularly introduced, passed, and adopted by the City Council of the City of Yuba City at a regular meeting thereof held on the 18th day of August 2020.

AYES:

NOES:

ABSENT:

Shon Harris, Mayor

ATTEST:

Patricia Buckland, City Clerk

APPROVED AS TO FORM
COUNSEL FOR YUBA CITY:

Shannon Chaffin, City Attorney
Aleshire & Wynder, LLP

Attachment(s):

- A. Professional Services Agreement

AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is made and entered into as of _____, 2020 by and between the City of Yuba City, a municipal corporation ("City") and WEST COAST COATING CONSULTANTS ("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.

Coatings inspection services for the Harter Tanks Painting Project, on a time & material basis, per proposal (Exhibit A)

2. Time of Performance. The services of Consultant are to commence upon execution of this Agreement and shall continue until all authorized work is completed and approved by the City. Finalization shall be completed at the direction of the City of Yuba City.
3. Compensation. Compensation to be paid to Consultant shall be in accordance with the Schedule of Charges set forth in Exhibit A, which is attached hereto and incorporated herein by reference. In no event shall Consultant's compensation exceed **One Hundred Six Thousand Dollars (\$106,000)** 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. City shall pay Consultant not later than 30 days after approval of the monthly invoice by City staff. When

payments made by the City equal 90% of the maximum fee provided for in this Agreement, no further payments shall be made until the final work under this Agreement has been accepted by City.

5. Extra Work. At any time during the term of this Agreement, City may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by City to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from City.
6. Termination. This Agreement may be terminated by the City immediately for cause or by either party without cause upon fifteen 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.
7. Ownership of Documents. All plans, studies, documents and other writings prepared by and for Consultant, its officers, employees, agents and subcontractors in the course of implementing this Agreement, except working notes and internal documents, shall become the property of the City upon payment to Consultant for such work, and the City shall have the sole right to use such materials in its discretion without further compensation to Consultant or to any other party. Consultant shall, at Consultant's expense, provide such reports, plans, studies, documents and other writings to City upon request.
- * Licensing of Intellectual Property. This Agreement creates a nonexclusive and perpetual license for City 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.

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.

8. 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.

9. 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).)
10. 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.
11. 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.
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.

14. Indemnity. Consultant agrees to defend, indemnify and hold harmless the City, its officers, officials, agents, employees and volunteers from and against any and all claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all costs, including attorney fees and expenses in connection therein), arising out of the performance of this Agreement in whole or in part by any negligent act or omission of the Consultant, or anyone directly or indirectly employed by the Consultant or anyone for whose acts the Consultant may be liable, or its failure to comply with any of its obligations contained in this Agreement, except for any such claim arising out of the sole negligence or willful misconduct of the City, its officers, agents, employees or volunteers.
15. 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.
16. 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: Claire Shawver
Public Works
City of Yuba City
1201 Civic Center Blvd
Yuba City, CA 95993
(530) 822-4713

If to Consultant: Greg Whiting
West Coast Coating Consultants
727 Pomona Avenue
Albany, CA 94706
415-244-6429

17. 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.

18. 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.
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20. 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.
21. 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.
22. 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.
23. 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.
24. 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.

25. 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.
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27. 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.
28. 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.

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

CITY OF YUBA CITY:

WEST COAST COATING CONSULTANTS

By: _____ By: _____

Diana Langley
Interim City Manager
City of Yuba City

Greg Whiting
Owner

Attachments: Exhibit A – Scope of Services
 Exhibit B - Insurance Requirements
 Exhibit C - Workers' Compensation Exemption

EXHIBIT A



West Coast Coating Consultants

The Coating Experts

(415)244-6429

www.westcoastcoatingconsultants.com

727 Pomona Ave
Albany, CA 94706
gregwccc@gmail.com

6/9/2020

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

Attn: Claire Shawver Construction P.M.

West Coast Coating Consultants (WCCC) is pleased to submit this proposal to provide Coating Inspection Services for the City of Yuba City Public Works Department.

WCCC is a limited liability company with a Perfect Safety Record for 18 years of service! Each of our NACE Certified Inspectors are trained annually in confined space, fall protection, respirator fit testing, heat & illness protection & safe work place practices. A copy of our WCCC Injury Illness Prevention Plan is available upon request. WCCC main corporate office is located in Berkeley, California.

We are submitting the following for your review:

- Cover Letter
- Firm Qualifications
- Scope of Services
- Project References
- 2020/2021 Hourly Rates

Should you have any questions, please feel free to contact me at (415)-244-6429 or I can be reached by email at gregwccc@gmail.com.

Sincerely,

Greg Whiting

Greg Whiting
Owner
West Coast Coating Consultants

Firm Qualifications

WCCC has a long successful history in providing the scope of inspection services required by the RFQ. A list of applicable references is provided. West Coast Coating Consultants, LLC (WCCC) has offices in Berkeley California, Northridge California, Portland Oregon and Olympia, Washington. WCCC employs NACE Certified Coating Inspectors who have extensive practical experience in the industrial coating industry. Owner, Greg A. Whiting has over 40 years of industrial coatings experience and more than 20 years of experience conducting industrial coating inspections as a NACE Level III Certified Inspector and a Quality Assurance/Quality Control Supervisor.

WCCC's staff includes ten NACE Certified Coating Inspectors – some of whom have more than 40 years industrial coating experience and more than 20 years of experience as a NACE Certified Inspector. Our inspectors are qualified to conduct all tests in the ASTM Protective Coating Inspection Standards Guide. In addition, our inspectors are excellent communicators who forge effective working relationships with clients and contractors alike.

West Coast Coating Consultant's objective is to ensure that our clients receive the highest quality product and service from the painting contractor. Our top priority on all of our industrial coating projects are, Safety! Quality! & Team work!

NACE INSPECTORS QUALIFICATIONS

Our NACE Certified Coating Inspectors are certified through NACE International. In addition, some hold a SSPC C3 Certification, Supervisor/Competent Person Training: For Deleading/Hazardous Coatings Removal on Industrial and Marine Structures. They have performed coating inspections on water tanks, bridges, naval ships, pipelines & all types of infrastructure projects.

West Coast Coating Consultants owner Mr. Greg Whiting a NACE Level III Certified Inspector would be assigned to the projects.

WCCC Team is proud of our Perfect Safety Record for 18 years of service!

Scope of services:

1. Pre-Surface Preparation. Surfaces to be prepared are inspected to assure that grease and oil, sharp edges, and weld spatter are removed.
2. Protective Coverings. Any protective coverings are examined to assure placement that will prevent contamination of surfaces not to be subjected to overblast or overspray.
3. Ambient Conditions. Air and surface temperatures, relative humidity, and the dew point are monitored to assure that the work is done under proper weather conditions.
4. Compressed Air Cleanliness. Operations requiring such as blast cleaning, conventional spray application, and air for blow down are checked to assure that the air is free of moisture and oil contamination.
5. Surface Preparation. Abrasive equipment used for surface preparation is examined for adequacy to do the work. Proper storage and size of abrasives is verified, recycled abrasives are tested for contamination, proper degree of cleaning and surface profile is confirmed. Areas of insufficient or inadequate surface preparation are marked for repair and rework prior to the application of coatings.
6. Coating Mixing. Mixing of coatings is observed to document that the specified material is used, and that multiple components are used within the allowable pot and shelf lives. All batch and lot numbers are documented for tracking purposes.
7. Coating Application. Application equipment is examined for cleanliness and adequacy to perform the work. Application techniques are observed and documented to ensure that coverage is obtained without detrimental runs, sags, pinholes or other deficiencies. Spot wet film thickness readings are taken to ensure that the correct amount of material is used.
8. Dry Film Thickness. Dry film thickness of individual coats is measured and documented to ensure that it complies with the specification requirements and manufacturer's instructions. All dry film thickness surveys are measured according to SSPC-PA2 Standard.

9. Inter Coat Cleanliness. The integrity and cleanliness of each coat is examined prior to application of the next. This includes determination that the surfaces are free from oil/grease, dry spray, overspray, or other detrimental contamination.
10. Recoat Times. The time between coats can be critical for certain materials. The minimum and maximum recoat times are observed and recorded, and required conditioning agents or roughening between coats are verified to have been accomplished.
11. Final Inspection. The entire coating system is examined until a quality product Has been achieved. Final inspection operations include visual appearance, cure assessment and holiday detection.
12. Holiday Testing. Following adequate cure of the lining system, hi voltage holiday testing is conducted to assure that a void and pinhole free, continuous lining has been achieved.
13. Documentation. **Detailed Daily Reports will be included in a PDF file with digital photographs and mailed electronically to the Project Engineer and client on a daily basis to keep them apprised of daily progress.** The general progress of the initial field work will be thoroughly documented in Daily Inspection Reports that, among other things, will contain a record of the quality control items listed above.
14. Additional Services. Any additional services can and will be provided if such services are deemed necessary for a successful completion of the project.



West Coast Coating Consultants

The Coating Experts

(415)244-6429

www.westcoastcoatingconsultants.com

727 Pomona Ave

Albany, CA 94706

gregwccc@gmail.com

WCCC Coating Inspection Project References:

1. Chevron Tank Farm Inspection Projects. Pipelines, Tanks, Columns. Plural Component 100% Solids Material, Hi Solids Epoxy & Sand blasting projects.
Contact: Mr. Josh Whitney P.E. (510)965-3492 Ray Martinez P.E. (510)242-3464
2. Vantage Point Inc. EBMUD Tanks & Digesters Rehabilitation Projects: 2-5 Million Gallon Digesters & WWTP Coating Inspection Projects: Plural Component Spray 100% Solids Material. Zinc, Epoxy Urethane Finishes.
Contact- Mr. Burt Olhiser P.M. (925)383-1699
3. City of Dixon Public Works: Fitzgerald Potable Water Tank Coating Inspection Project. Hi Solids Epoxy Materials. Powder Coatings, Plural Component, Zincs, Epoxies.
Contact: Mr. Jason Hoffman P.M. (707)678-7030
4. Chevron Corporation Refineries: Major Turn Around & Shut Down Projects. Pipelines, Columns & Vessels. Coating Inspection Projects: Multiple Inspection projects using Plural Component 100% Solids Material from multiple coating manufactures. Carboline, International & Sherwin Williams
Contact - Mr. Josh Lohman P.M. (925)628-6848 Mike Carroll P.M. (510)242-3579
5. Metropolitan Water District of Southern California Etiwanda Pipeline Coating Project. Plural Component Spray applications, urethanes & motor linings.
Contact- Mr. Dan Hall P.M. (951)733-8406
6. Clark PUD Vancouver Washington: Water Reservoirs & Water Treatment Plant Coating Inspection Projects. Plural component, epoxies, zincs & motor linings.
Contact-Mr. Barry Lovingood P.M. (360)600-4834

WCCC Team is proud of our Perfect Safety Record for 18 years of service!



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WCCC 2020/2021 Prevailing Wage Hourly Rate Sheet:

- 2020 - Straight time hourly rate \$100.00 per hour:
- Overtime hourly rate \$120.00 per hour:
- Double time hourly rate Sundays/Holidays \$140.00 per hour:
- On call hourly rate \$120.00 per hour:
- 2021 – Straight time hourly rate \$105.00 per hour:
- Overtime hourly rate \$125.00 per hour:
- Double time hourly rate \$145.00 per hour:
- On call hourly rate \$125.00 per hour:

All equipment and company vehicle are included in our hourly rates: 8 Hour daily minimum.

Sincerely: President Greg A Whiting

A handwritten signature in black ink, appearing to read "Greg A Whiting". The signature is fluid and cursive, with a large initial "G" and a long, sweeping underline.

WCCC is proud of our perfect safety record for 18 years of service!



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727 Pomona Ave

Albany, CA 94706

gregwccc@gmail.com

Greg A. Whiting NACE Level 3 - SSPC C3

Owner, West Coast Coating Consultants LLC

415-244-6429 email gregwccc@gmail.com

Project Experience

Principle, Senior Consultant, West Coast Coating Consultants, Aug 2002 - Present

- Q/A Q/C NACE Certified Coating Inspection Services Golden Gate Bridge S-Rail Deterrent Project. 2018/2020
 - Q/A NACE Certified Coating Inspection Services Colorado State Capitol Dome Restoration Project. 2019/2020
 - Q/A NACE Certified Coating Inspection Services Chevron Refinery Tanks, Columns, Vessels & Pipe coating projects. 2015/2020
 - Q/C NACE Certified Coating Inspection Services SFPUC Oceanside WPCP Digester Rehabilitation Project. 2019
 - Q/A NACE Certified Coating Inspection Services ODOT Ross Island Bridge Painting Project. 2017/2018
 - Q/A NACE Certified Coating Inspection Services ODOT Yaquina Bay Bridge Painting Project. 2018/2019
 - Q/A NACE Certified Coating Inspection Services Army Corp of Engineers Folsom Dam Radial Gate TSA Project. 2015/2016
 - On-site Q/A Coating Inspector Oregon Department of Transportation Astoria Bridge Painting Project. 2014/2017
 - Q/C NACE Certified Coating Inspection Services United States Capitol Dome Restoration Project. 2015/2016
 - Q/A Coating Inspector Foresthill Bridge Retrofit & Painting Project. 2012/2014
 - On-site Q/C coating specification compliance inspector and Site Safety Monitor, New Oakland Bay Bridge Skyway Project.
 - Q/A Coating Inspector Guy West Bridge Painting Project.
 - On-site Q/A Coating Inspector USS Nimitz Flight Deck Rehabilitation Project.
 - On-site Q/A Coating Inspector City of Santa Clara 5 MG Potable Water Tanks Rehabilitation Projects.
 - On-site Q/C coating specification compliance and Site Safety Monitor, Golden Gate Bridge Seismic Retrofit Phase 2 Project.
-

- Q/A Coating Inspector City of Sunnyvale Public Works 5 MG Potable Water Tanks Rehabilitation Projects.
- Q/A Coating Inspector Vancouver Washington CPU 1MG Potable Water Tanks Rehabilitation Projects.
- Q/A Coating Inspector USS Stennis Potable Water Tanks & Hull Preservation Project.
- Q/C Coating Inspector Travis Air Force Base, 4 MG JP8 Jet Fuel Tanks.
- Q/A Coating Inspector Intel Corporation Expansion Project.
- Q/A Coating Inspector Santa Clara Valley Water District 5 MG Potable Water Reservoirs.
- Q/C Coating Inspector USCGC Stratton
- Q/C Coating Inspector USCGC Alex Haley
- Q/C Coating Inspector USCGC Aspen
- Q/C Coating Inspector San Francisco Bay Bridge Seismic Retrofit Project.
- Q/A Coating Inspector West Kern Water District, 3 - 1 MG potable water reservoirs.
- Q/A Coating Inspector Sacramento Municipal Utility District, 1 MG water reservoir, two .85 MG water reservoirs.
- Q/A Coating Inspector Morgan Hill Public Works Dept. Steel truss work and final inspection of 1 MG water reservoir.
- Q/A Coating Inspector Castroville Water District, 1 MG water reservoir.
- Q/A Coating Inspector City of San Bernardino Water Department 5MG Potable Water Reservoir.
- Q/A Coating Inspector Weimar Water District 2 MG Potable Water Reservoir.
- Q/C Coating Inspector SFPUC Eastern Segment Potable Water Pipeline.
- Q/C Coating Inspector SFPUC Western Segment Potable Water Pipeline.
- Q/A Coating Inspector La Puente Valley Water District, 1 MG water tank.
- Failure Analysis of New San Francisco Bay Bridge anchors.
- Failure Analysis of Mountain State Steel Structural support beams.

Supervisor/QC/In-house Inspector, North Bay Sandblasting, 2000-2001

- San Mateo Bridge
- Mirant Power Plant, Pittsburg CA
- Duke Energy Power Plant, Moss Landing CA

Quality Assurance/Quality Control, Contra Costa Painting & Coating, 1993-2000

- Port of Oakland Container Cranes
 - Container Cranes in Alaska & Hawaii
-

**Painter, Blaster & Supervisor, Certified Coatings of California, 1988-1990
Valdez Marine Terminal, Valdez, Alaska**

Universal Coatings Inc – Hunters Point Shipyard NASCO Shipyard 1980-1987

USS Enterprise

USS Nimitz

USS New Orleans

Education, Training, and Certifications

N.A.C.E. Certified Coating Inspector #9264, Level III

SSPC C3 Certified De-Leading of Industrial Structures

OSHA Rules and Regulations

First Aid, CPR Trained

Confined Space, Fall Protection, Respirator Fit Testing Training

ATTACHMENT 5

HARTER TANK PAINTING IMPROVEMENT PROJECT LOCATION MAP



ATTACHMENT 6

Public Works



July 23, 2020

Mr. Marco Lucich
CalSierra Construction, Inc.
5904 Van Alstine Avenue
Carmichael, CA 95608

RE: Notice of Non-Responsive Bid
City of Yuba City, Harter Tanks Coating Project
Contract 20-06

Dear Mr. Lucich:

Thank you for your bid submittal to the City of Yuba City ("City") for the Harter Tanks Painting Improvement project, Contract 20-06 ("project"). While the City appreciates your bid, this letter is to provide you notice that Cal Sierra Construction, Inc.'s ("Cal Sierra") bid regarding the project does not comply with the bid requirements for the reasons set forth below. As such, and based on the submitted bid material, City staff will recommend to City Council that Cal Sierra's bid be rejected as non-responsive.

As an initial matter, please note that the Notice to Contractors inviting sealed bids for the project provides that:

- "No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5." Section 2.2 also requires "No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)."
- The Notice to Contractors attached and required a mandatory bidder's bond in the form attached to the Notice. In conjunction with this requirement, Section 2.2 requires that "All proposal forms shall be directly purchased from the City of Yuba City *and shall be made on the proposal forms included in these special provisions.*" (Emphasis added.)
- "Bids will be required to set forth the price of the items bid upon ... and a total figure for the price plus tax." "Unit prices shall be shown on bids submitted as well as the total price for each item bid upon."
- Per section 2.6, "Proposals may be rejected if they show any alternations of form, additions not called for, conditional or alternative bids, incomplete bids, erasures, or irregularities of any kind.

Public Works



A bid must conform to the material terms of the bid package. (*DeSilva Gates Constr. v Department of Transp.* (2015) 242 Cal. App. 4th 1409.) The responsiveness of a bid is determined solely on the face of the bid documents. (*Great W. Contractors, Inc. v Irvine Unified Sch. Dist.* (2010) 187 Cal. App. 4th 1425, 1450.) A bid that “substantially conforms” to a call for bids may, even if it is not strictly responsive, be accepted if the variance or defect in the bid proposal is minor or inconsequential. (*Bay Cities Paving & Grading, Inc. v. City of San Leandro* (2014) 223 Cal. App. 4th 1181.) A bid may be responsive even if there is a discrepancy in the bid as long as the discrepancy is inconsequential, that is, the discrepancy must not (1) affect the amount of the bid; (2) give a bidder an advantage over others; (3) be a potential vehicle for favoritism; (4) influence potential bidders to refrain from bidding; or (5) affect the ability to make bid comparisons. (*Ghilotti Constr. Co. v City of Richmond* (1996) 45 Cal. App. 4th 897.) Hence, technical or minor defects in a bid may be waived. The question of whether, in any given case, a bid varies substantially or only inconsequentially from the call for bids is a question of fact. These considerations must be evaluated from a practical, rather than hypothetical, standpoint with reference to the factual circumstances of the case. (*Id.* at 908.) Bidders may not make any changes to their bids due to mistake. (Pub. Contract Code § 5101(a).)

After careful review, City staff has determined your bid to be non-responsive. Specifically:

1. **Unregistered Subcontractor:** The prime subcontractor listed in your bid, Garrett Painting & Sandblasting, was not registered with the Department of Industrial Relations at the time the bid was submitted. Among others, this violates Section 2.2 of the Special Provisions and Labor Code sections 1725.5 and 1771.1.
2. **Insufficient Bid Bond:** Section 2.7 requires a 10% bidder guarantee in either by providing cash/cash equivalent, or by submission of a conforming bid bond. A conforming bid bond was attached to the Notice to Contractors as part of the proposal forms, and was required to be used by any contractor show submitted a bid bond as bidder security. However, the conforming bid bond actually submitted with the bid was marked “sample,” which is an irregularity indicating the submitted document is not valid or enforceable. Additionally, a separate bid bond was also submitted that was not conforming with the proposal forms. This non-conforming bid bond altered the form of the required bid bond and removed material provision(s) required in the conforming bid bond, including those related to the recovery of attorney’s fees and costs in the event of certain disputes.
3. **“No bid” Response to “Metals:”** No total figure or price was provided in response to the item description for “Metals.”

Taken together and separately, these irregularities constitute a substantial and consequential discrepancy from the City’s call for bids because it affects the amount of the bid, gives a bidder an unfair advantage, and affects the ability to make bid comparisons.

Based on this assessment, City staff will recommend that the City Council reject Cal Sierra’s bid on the grounds that it is non-responsive. The Council will consider this matter at its regular meeting on August 18, 2020, starting at 6:00. The Agenda and associated materials are anticipated to be posted on the City’s website at least 72 hours before the hearing, and can be found at https://www.yubacity.net/city_hall/city_council/council_meetings. Should you desire to protest these findings, you may be heard by the City Council during the public comment period. While the

Public Works



meeting will take place at 1201 Civic Center Blvd., Yuba City, California 95993, due to the state of emergency associated with the COVID-19 pandemic it is anticipated that public comment will be conducted remotely and comments may need to be submitted in writing. See the Agenda for additional information.

If you have further questions about this matter, please do not hesitate to contact the undersigned. As always, we thank you for your participation in this bid, and although staff cannot recommend award of the bid in this particular circumstance, we continue to encourage Cal Sierra Construction, Inc. to participate in future opportunities within the City of Yuba City.

Sincerely,

Claire Shawver



Claire Shawver | Construction Project Manager

City of Yuba City | Public Works Department

1201 Civic Center Blvd. | Yuba City, CA 95993

Phone (530) 822-4713 | cshawver@yubacity.net