

**CITY OF FARMERSVILLE, CA
REQUEST FOR PROPOSAL (RFP)
FOR
DESIGN SERVICES FOR
CITY OF FARMERSVILLE'S PEDESTRIAN
IMPROVEMENTS PROJECT**



PROPOSALS MAY BE MAILED OR DELIVERED IN-PERSON TO:

CITY OF FARMERSVILLE
ATTN: CITY CLERK
909 WEST VISALIA ROAD
FARMERSVILLE, CA 93223

RFP RELEASE DATE: NOVEMBER 12, 2025
WRITTEN QUESTIONS DUE: DECEMBER 05, 2025
PROPOSALS MUST BE RECEIVED BY:
4:00 P.M. PST JANUARY 09, 2026

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I. DEFINITIONS

For the purposes of this RFP, the following terms shall have the meanings indicated:

1. **City** – City of Farmersville
2. **Consultant** – The person, firm, or corporation or other entity submitting a Bid or Proposal in response to the Request for Bid or the Request for Proposals.
3. **RRFB** – Rectangular Rapid Flashing Beacon

II. INTRODUCTION

The City of Farmersville is soliciting proposals from qualified consulting firms for professional engineering services to implement pedestrian safety improvements at various locations within the City under the Highway Safety Improvement Program (HSIP). The primary objective of this project is to enhance pedestrian crossing safety and accessibility through the design and construction of high-visibility crosswalks, pedestrian signage, curb ramps, and other related improvements in compliance with applicable federal, state, and local standards.

The selected consultant will be expected to provide a full range of professional services, which may include site evaluation, data collection, traffic analysis, preparation of plans, specifications, and estimates (PS&E), coordination with regulatory agencies, and assistance during bidding and construction.

A selection committee will comprehensively rank firms based on, but not limited to, proposals, qualifications, references, and other relevant information. Contract negotiations will begin with the highest-ranking firm. If an agreement cannot be reached after a reasonable period of time, as determined by the City, the City will terminate negotiations with the highest-ranked firm and negotiations will be opened with the second-ranked firm and so on. The compensation discussed with one prospective Consultant will not be disclosed or discussed with another Consultant.

The selected Consultant will be expected to enter into a Professional Services Agreement with the City. It is expected that the successful proposer will accept these terms without modification.

The contract shall not be in force until the City's City Council approves the contract.

III. SCOPE OF SERVICES

The Consultant shall provide preliminary and final engineering services leading to the completion of plans, specifications, and estimates for construction of the various requested pedestrian crossings. Consultant shall prepare a detailed scope, and services based, in part and at minimum, on information presented in this Request for Proposal (RFP) and other information. The selected consulting firm will provide project management, coordination, and preparations of

all required construction documents. The scope of work for this project will generally include engineering design services for the following improvements:

- A rectangular rapid flashing beacon (RRFB) solar system at the intersection of E. Visalia Road and Magnolia Avenue. Refresh pavement markings and install new where necessary.
- A RRFB system at the intersection of S. Farmersville Boulevard and E. Oakland Avenue, including school zone pavement markings where needed.
 - Installation of one new accessible curb ramp on the west side of S. Farmersville Boulevard at E. Oakland Avenue.
- Right of Way Acquisition Services (if applicable)

Background Research:

The Consultant shall research and review existing topographic mapping, photographs, right of way maps, record maps, surveys, assessor maps, local street improvement plans, collision reports, sight distance, approach speed, public transit routes, grade, need of advance warning signs and flashers, and other geometrical and operational characteristics of the project.

The Consultant shall conduct field reconnaissance of the project limits. The Consultant shall work with all pertinent utilities to identify conflicts, coordinate utility plan review, conduct necessary coordination meetings, and locate designed improvements as required to facilitate any utility relocations. The Consultant will need to coordinate with the City to the maximum extent possible to route this information to utility companies. Consultant must show all existing utilities that will be impacted or cause impact by the proposed improvements. The Consultant is responsible for arranging and coordinating with all utility companies, within the project sphere, to resolve any utility issues.

The Consultant shall identify required permits, prepare all permit applications, and assist the City with negotiations relative to permit conditions, if required. Permit fees will be paid by the City.

Project Management:

The Consultant shall manage the design team’s progress throughout the life of the project. The City will act as the Contract Administrator for the project. The purpose of the project management task is to organize the efforts of the project team, including subconsultants and the City, to keep the project on schedule and within budget. The Consultant shall:

- Provide project administration.
- Schedule meetings in coordination with the City (a total of 3 meetings have been assumed).
- Implement and maintain quality control across all disciplines that are involved in the project.
- Prepare and deliver monthly invoices to the City of Farmersville.

Topographic Survey:

The Consultant shall complete the topographic survey of the project limits for use in creating the base maps. The topographic survey shall include, but not be limited to, the following:

- Property and right of way lines based on available existing survey information (City to provide Preliminary Title Reports for all parcels that are impacted by the project)
- Existing grade and elevations to 10-feet beyond future right of way and within the street right of way of any existing pavement, curb, gutters, sidewalks, natural grades, and other miscellaneous items
- Monument lines, if applicable
- Street centerlines
- Pavement edges, crowns, quarter crowns, and hinge points
- Flowlines
- Curbs and gutters
- Sidewalks
- Drive approaches and driveways
- Edges of pavement
- Existing pavement delineation
- Sign locations
- Visible utility infrastructure including utility poles, valves, and streetlights
- Fence locations
- Local property control monuments to serve as the horizontal control and local City benchmark to serve as the vertical control
- Other surface improvements

The Consultant will then prepare the topographic survey and base maps. Right of way limits will be drafted on the topographic survey from record maps. This fee does not include ordering title reports for separate properties or record research of dedicated easements/additional right of way. The City shall also provide available as-built plans for the project limits.

Utility Research and Coordination:

The Consultant shall be responsible for performing utility investigations and coordination with utility owners throughout the project development process. The Consultant will be responsible for, but not limited to, the following:

- Utility Research:

- o Obtain utility plats and record drawings from utility companies.
- o Draft obtained utility information in the topographic survey and base maps.

Consultant shall meet with utility companies as needed to ensure that conflicts are identified, and relocations performed if necessary.

Environmental:

The Consultant will undertake the environmental work in compliance with the California Environmental Quality Act (CEQA). Per Caltrans correspondence, National Environmental Policy Act (NEPA) documentation will not be required for this project.

As such, the City proposes to prepare a Categorical Exemption (CE) pursuant to CEQA. The CE will provide the rationale used to support the appropriateness and applicability of this type of CEQA document. Upon completion of the CE and approval by the City, the completed CE will shall be filed with the Tulare County Clerk’s Office. Further, with authorization from the City, , a Notice of Exemption shall be filed with the State Clearinghouse. This task will also include submitting the Preliminary Environmental Study (PES) form.

Right of Way Acquisition Services (if applicable)

This project may require partial right of way acquisitions. The Consultant shall be responsible for preparing right of way estimates and appraisals, reviewing appraisals, acquisition, and preparation of Right of Way Certification documents for approval by Caltrans.

Construction Documents:

The Consultant shall provide the necessary services to complete the design of the Pedestrian Crossings at various project locations. The design will be in accordance with City Standards and Caltrans Standards. The Consultant shall prepare and submit plans, specifications, and engineer’s opinion of probable construction cost estimates (PS&E) to the City for review at the 30%, 90%, 100%, and final design milestones. It is anticipated that the City will provide a full PS&E review from all necessary parties at each submittal stage and will compile all comments into one set of comments to provide to the Consultant. The Consultant will then review and revise the PS&E documents in accordance with the City’s comments and provide the City with a copy of the design team’s internal QC review at each submittal, if requested. Any comments not incorporated into the submittals shall be tracked and justification provided in the comment matrix.

The PS&E shall be subject to quality control reviews before submittal. These reviews will ensure conformance to City Standards and Caltrans Standards, as well as minimize typographical omissions.

This task shall include, but not be limited to:

Design Plans:

The Consultant shall prepare a full set of improvement plans per the City's specifications, including, but not limited to:

- Cover Sheet
- Topographic Survey/Demolition Plan
- Civil Plans: layout of surface improvements with existing topographic survey faded in the background, including:
 - o Stationing, offsets, etc.
 - o Property data of adjacent properties (APN, addresses)
 - o ADA/PROWAG-compliant curb ramp
 - o Signing, striping, and pavement marking improvements
 - o Rectangular rapid flashing beacon (RRFB) system plans
 - o Civil detail sheets and standard detail sheets

All sheets will maintain a consistent north orientation, have consecutively numbered pages, and shall be legible at full and half size. All design features will match existing grades unless otherwise specified. Project benchmarks and existing grades will be clearly shown. The design components will address ADA/PROWAG-compliance and cost efficiency.

Specifications:

The City shall provide the Consultant with an electronic copy in MS Word format of the latest standard template specifications. The Consultant will update the specifications with project-specific content.

Engineer's Estimate of Probable Construction Costs:

The Consultant shall prepare a detailed, itemized engineer's estimate of probable construction costs, which shall include:

- Descriptions of all items of work, units, quantities, unit prices, amounts, subtotals, contingencies, and project total.
- Clearly identified non-participating work items, if any.

Work Products:

The following will be submitted to the City at the 30%, 90%, 100%, and Final design stages:

- Full-sized plans (22"x34") – electronic PDF
- Project specifications – electronic PDF file starting at the 90% submittal

- Engineer's estimate of probable construction costs – electronic PDF file

Coordination/Meetings

The Consultant shall attend a design kick-off meeting and other subsequent meetings (in-person or virtual), as needed, to finalize the design. The Consultant is responsible for preparing and distributing the meeting agenda and minutes to all participants. The Consultant shall attend a pre-construction meeting, a post-construction meeting, and meet and assist staff during construction as required.

City of Farmersville Responsibilities

- The City shall provide the following information/data to Consultant upon notice to proceed:
 - o Current City Standard Plans
 - o Current City specifications and technical special provisions in MS Word
 - o Record drawings of the project area
 - o Right of way documents or title reports for the project
 - o Any utility information the City may have for the project area
- The City shall provide responses to Consultant's questions within two (2) working days throughout the project
- The City shall attend and participate in project coordination meetings and City review meetings.

IV. PROPOSAL REQUIREMENTS

Proposals must be clear, well-organized, and complete. At a minimum, each proposal shall include the following information in the order listed below:

Cover Letter

- A signed letter on firm letterhead identifying the prime consultant and any subconsultants.
- Name, title, phone number, and email address of the primary contact person.
- A statement of interest and commitment to the project.

Project Understanding & Approach

- A narrative that demonstrates the Consultant's understanding of the Highway Safety Improvement Program (HSIP) program, pedestrian safety priorities, and the unique needs of this project.
- A description of the technical approach, methodologies, and tools that will be used to complete the work.
- Discussion of anticipated challenges and strategies for addressing them.

Relevant Experience & References

- A summary of the firm's relevant project experience, particularly with HSIP-funded projects and pedestrian safety improvements.
- Up to five (5) recent and comparable project examples.
- At least three (3) references, including name, title, agency/organization, phone number, and email address.

Key Personnel & Resumes

- An organizational chart of the project team, including subconsultants.
- Identification of the Project Manager (required) and key technical staff.
- Brief resumes (no more than two pages each) of key personnel highlighting relevant experience and qualifications.

Work Plan & Deliverables

- A proposed work plan outlining major tasks, subtasks, deliverables, and approximate timeframes.
- A staffing plan identifying the level of effort for each task.
- Identification of critical milestones, especially those tied to HSIP funding deadlines.

Fee Proposal / Cost Estimate

- A detailed cost proposal submitted as a separate sealed envelope (or separate PDF if electronic).
- Task-based breakdown of hours, staff classifications, hourly rates, and anticipated reimbursable expenses.
- If subconsultants are proposed, provide a cost breakdown for each subconsultant.

V. PROPOSAL SUBMITTAL INSTRUCTIONS

Submission Deadline & Format

All proposals must be received by the City of Farmersville no later than January 09, 2026 at 4:00 PM. Proposals received after this deadline will not be considered.

- Consultant shall submit **one (1) electronic PDF** via email to: rgiovani@cityoffarmersville-ca.gov AND **one (1) hard copy** delivered to:
Farmersville City Hall
909 W Visalia Road
Farmersville, CA 93223
- For hard copies the proposal shall be firmly sealed in an envelope which will be clearly marked on the outside with “Proposal – HSIP Pedestrian Crossing Improvements for the City of Farmersville.” The fee proposal/cost estimate must be in a sealed envelope separate from the proposal (or separate PDF) if electronic submission.

Questions & Clarifications

Any questions or requests for clarification regarding this RFP must be submitted in writing via email to Steven Thompson, Public Works Director at sthompson@cityoffarmersville-ca.gov no later than **4:00 PM, December 05, 2025**. Responses to all questions will be provided in writing and distributed to all potential proposers.

Withdrawal of Proposals

A proposer may withdraw their proposal at any time before the submission deadline by providing written notice to the City.

Acceptance or Rejection of Proposal

The City reserves the right to negotiate an agreement with the firm submitting the highest-ranking proposal. The City also reserves the right to reject any and all proposals or to waive any irregularity in a proposal if it is deemed to be in the best interests of the City. Failure to submit all the requested information could be grounds to reject the proposal.

Causes for Disqualification

Any of the following may be considered cause to disqualify a proposal:

- Evidence of collusion among proposers.
- Any attempt to improperly influence any member of the evaluation panel.
- A proposer’s default or breach of contract in previous work that resulted in termination of that agreement and/or
- Existence of any lawsuit, unresolved contractual claim, or dispute between proponent and the City.

- Any attempt to communicate in any manner with a City of Farmersville elected official during the RFP process will, and shall be, just cause for disqualifications/rejection of proposer's proposal and considered nonresponsive.

VI. EVALUATION & SELECTION CRITERIA

Proposals will be evaluated based on the following criteria:

Project Understanding & Approach (25 points)

- Demonstrated understanding of HSIP requirements, pedestrian crossing safety improvements, and project objectives.
- Quality, clarity, and feasibility of the proposed technical approach and methodologies.
- Identification of potential challenges and strategies to address them.

Relevant Experience & References (25 points)

- Experience with HSIP-funded projects and federally funded transportation improvements.
- Successful completion of similar pedestrian safety or crossing enhancement projects.
- Feedback from provided client references.

Key Personnel & Team Qualifications (20 points)

- Qualifications and experience of the proposed Project Manager and key technical staff.
- Demonstrated ability of the project team to successfully complete comparable projects.
- Effective use of subconsultants, if applicable.

Work Plan & Schedule (15 points)

- Realistic and detailed work plan with clear tasks, deliverables, and milestones.
- Ability to meet HSIP funding deadlines and City requirements.
- Staffing plan that demonstrates adequate resources and level of effort.

Cost Proposal (15 points)

- Reasonableness of proposed costs relative to the scope of work.
- Clarity and completeness of the cost breakdown.
- Efficient use of resources to deliver a quality product.

Total: 100 Points

The City may invite top-ranked firms for an interview and/or request additional information before making a final selection. **The City reserves the right to reject any or all proposals, waive irregularities, and award a contract in the best interest of the project.**

VII. GENERAL TERMS & CONDITIONS

Compliance with Laws and Regulations

The selected consultant shall comply with all applicable federal, state, and local laws, ordinances, regulations, and directives, including but not limited to the California Manual on Uniform Traffic Control Devices (CA MUTCD), Americans with Disabilities Act (ADA), and HSIP requirements.

Licensing Requirements

Any professional certifications or licenses that may be required are the sole cost and responsibility of the Consultant. A City of Farmersville business license is required.

Insurance Requirements

The Consultant shall maintain insurance coverage for the duration of the contract, including but not limited to:

- **Commercial General Liability Insurance** – minimum coverage of \$1,000,000 per occurrence and \$2,000,000 aggregate.
- **Automobile Liability Insurance** – minimum coverage of \$1,000,000 per accident.
- **Professional Liability (Errors & Omissions) Insurance** – minimum coverage of \$1,000,000 per claim.
- **Workers' Compensation Insurance** – as required by California law.

The City of Farmersville, its officers, employees, and agents shall be named as additional insureds on all applicable policies. Proof of insurance shall be provided prior to contract execution.

Indemnification

The selected consultant shall defend, indemnify, and hold harmless the City of Farmersville, its appointed and elected officers, employees, and agents from any and all claims, damages, losses, and expenses, including attorneys' fees and costs, arising out of or resulting from the performance of services under the contract, except to the extent caused by the sole negligence or willful misconduct of the City.

HSIP and Federal Funding Requirements

This project is funded in part through the Federal Highway Safety Improvement Program (HSIP). As such, the consultant shall comply with all applicable federal requirements, including but not limited to:

- Title VI of the Civil Rights Act of 1964.
- Federal contracting, invoicing, and record-keeping requirements.

Contract Term and Termination

The contract term shall commence upon execution by the City and shall remain in effect until completion of all services unless earlier terminated by the City. The City reserves the right to terminate the contract for convenience upon thirty (30) days written notice, or immediately for cause.

Proposal Costs

All costs associated with preparing and submitting a proposal in response to this RFP shall be the sole responsibility of the proposer and shall not be reimbursed by the City.

Public Records

All proposals submitted in response to this RFP shall become the property of the City and shall be subject to public disclosure in accordance with the California Public Records Act, unless otherwise exempt by law.

Product Ownership

Any documents resulting from the performance of work in the contract will become property of the City. This includes any and all work performed by subconsultants.

VIII. PROPOSAL EVALUATION

The Consultant selection process will follow the timeline shown below.

Event	Date
Request for Proposals	11/12/25
Written Questions submitted by	12/05/25
Response to Written Questions	12/08/25
Proposals Due	01/09/26
Negotiations	TBD
City Council Approval	TBD

IX. EXAMINATION OF CONTRACT REQUIREMENTS AND ACCEPTANCE OF RFP CONTENT

By submitting a proposal, the proposer acknowledges that they have carefully examined the Request for Proposals (RFP), including all attachments, exhibits, and referenced documents, and have fully informed themselves of the nature and extent of the work required, local conditions, and all other matters that may affect the cost and performance of the services proposed.

The submission of a proposal shall be deemed conclusive evidence that the proposer has investigated and is satisfied as to the conditions to be encountered, the character, quality, and scope of the work, and the requirements of the contract documents.

Failure or neglect of the proposer to examine the RFP documents or to fully investigate the work shall not relieve the proposer from any obligations under the proposal or subsequent contract. No claim for additional compensation will be considered due to a lack of knowledge of the requirements of this solicitation.

By submitting a proposal, the proposer expressly agrees to all terms, conditions, and requirements of this RFP, unless exceptions are clearly and specifically identified in their submission. The City reserves the right to reject any exceptions or qualifications to the RFP content at its sole discretion.

X. ATTACHMENTS

ATTACHMENT 1 - City of Farmersville – Pedestrian Crossing at E. Visalia Road and N. Magnolia Road



ATTACHMENT 2 - City of Farmersville – Pedestrian Crossing at S. Farmersville Boulevard and Oakland Avenue



ATTACHMENT 3

SAMPLE PROFESSIONAL SERVICES AGREEMENT

City of Farmersville Pedestrian Improvements Project

This Professional Services Agreement (“Agreement”), made and entered into this _____ day of _____, 20____, by and between the CITY OF FARMERSVILLE, a municipal corporation, hereinafter referred to as the “CITY”, and _____, a [ENTITY TYPE], hereinafter referred to as the “CONSULTANT”. For the purposes of this Agreement, CITY and CONSULTANT may be referred to collectively by the capitalized term “Parties,” The capitalized term “Party” may refer to CITY or CONSULTANT interchangeably.

W I T N E S S E T H

WHEREAS, the CITY is authorized and empowered to employ consultants and specialists in the performance of its duties and functions; and

WHEREAS, the CITY has the desire to secure certain technical and professional services to assist in the preparation and completion of the items of work described as “Scope of Work” in RFP No. **XX-XX-XX** which is attached as Exhibit “A”, and hereinafter referred to as the “PROJECT”; and

WHEREAS, the CONSULTANT represents it is licensed, qualified and willing to provide such services pursuant to terms and conditions of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, CITY and CONSULTANT agree as follows:

I. SERVICES TO BE PERFORMED BY THE CONSULTANT

- A. Authorized Scope of Work: Subject to the terms and conditions set forth in this Agreement and all exhibits attached and incorporated hereto, CONSULTANT agrees to perform all work necessary to complete in a manner satisfactory to the CITY those tasks described in Exhibit “A” - Scope of Work, which shall be the Scope of Work for the project as described in RFP No. **XX-XX-XX**, unless the Parties agree in writing to modify the Scope of Work as stated in the RFP, for the cost identified in Exhibit “B” - Project Fee. CONSULTANT further agrees to furnish to CITY all labor, materials, tools, supplies, equipment, services, and takes and incidental and customary work necessary to competently perform and timely complete the tasks described in Exhibit “A”.
- B. Additional Services: Incidental work related to the PROJECT and not provided for in Exhibit “A” may be needed during the performance of this Agreement. The CONSULTANT agrees to provide any and all additional services at the rates identified in attached Exhibit “C” – Consultant Schedule of Fees for Professional Services. Such additional services shall not be performed by CONSULTANT without the prior written consent of CITY.

II. TIME OF PERFORMANCE

The CONSULTANT shall commence performance of this Agreement within ten (10) days of the effective date on CONSULTANT's written Notice to Proceed and shall complete the work within the timeframes outlined in Exhibit "B", unless otherwise extended in writing by CITY, in its sole discretion.

If the CONSULTANT fails to complete the PROJECT within the time specified, plus any extensions of time which may be granted, the CITY shall determine the percent of each work item completed and shall pay the CONSULTANT on that basis.

CONSULTANT shall not be responsible for delays which are due to causes beyond the CONSULTANT's reasonable control. In the case of any such delay, the time of completion shall be extended accordingly in a writing signed by the Parties.

III. COMPENSATION

- A. Total Compensation: For services performed pursuant to this Agreement, the CITY agrees to pay and the CONSULTANT agrees to accept, a lump sum amount of _____ dollars (\$) as shown in Exhibit "B". This amount shall constitute complete compensation, including document production and out-of-pocket expenses for all services for the work and PROJECT identified in Exhibits "A" and "B". CONSULTANT agrees these amounts, as authorized, will constitute complete compensation, including document production and out-of-pocket expenses, for services authorized by CITY for the PROJECT per the Scope of Work, Project Fees, and Schedule identified in Exhibit "A", "B", and "C", respectively. No other compensation is authorized by this Agreement without separate written amendment.
- B. Payment of Compensation: Following the conclusion of each calendar month, CONSULTANT shall submit to CITY an itemized invoice indicating that the services and tasks performed during the recently concluded calendar month, including services and tasks performed and the reimbursable out-of-pocket expenses incurred. If the amount of CONSULTANT's monthly compensation is a function of hours worked by CONSULTANT's personnel, the invoice shall indicate the number of hours worked in the recently concluded calendar month, the persons responsible for performing the work, the rate of compensation at which such tasks were performed, the subtotal for each task performed and a grand total for all services performed. CONSULTANT shall be compensated no more than monthly, based on the percentage of work of each noted phase completed to date. CONSULTANT shall be paid no later than thirty (30) days' following submission of an itemized invoice to the CITY. Said billing shall include the percentage of each task completed to date and since the date of the preceding billing, if any.
- C. Accounting Records: CONSULTANT shall maintain complete and accurate records with respect to all matters covered under this Agreement for a period of three (3) years after the expiration or termination of this Agreement. CITY shall have the right to access and examine such records, without charge, during normal business hours. CITY shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.
- D. Abandonment by Consultant: In the event CONSULTANT ceases to perform the Scope of Work agreed to under this Agreement or otherwise abandons the undertaking contemplated herein prior to the expiration of this Agreement or prior to completion of any or all tasks set

forth in the Scope of Work, CONSULTANT shall deliver to CITY immediately and without delay, all materials, records and other work product prepared or obtained by CONSULTANT in the performance of this Agreement. Furthermore, CONSULTANT shall only be compensated for the reasonable value of the tasks and other work performed up to the time of cessation or abandonment, less a deduction for any damages, costs or additional expenses which CITY may incur as a result of CONSULTANT's cessation or abandonment.

IV. PERFORMANCE OF AGREEMENT

- A. CITY's Representative: The City Engineer shall represent the CITY in all matters pertaining to the services to be rendered under this Agreement, except where approval of the City Council of the City of Farmersville is specifically required. The City Engineer or their designee shall act on behalf of the CITY for all purposes under this Agreement. CONSULTANT shall not accept directions or orders from any person other than the City Engineer or their designee.
- B. CONSULTANT's Representative: _____ shall represent and act as principal for CONSULTANT in all matters pertaining to the services to be rendered by it under this Agreement. CONSULTANT representative or their designee shall supervise and direct the performance of the Scope of Work, using their best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures for the satisfactory coordination of all portions of the Scope of Work under this Agreement.
- C. Coordination of Service; Conformance with Requirements: CONSULTANT agrees to work closely with CITY staff in the performance of the Scope of Work and this Agreement and shall be available to CITY staff and the CITY at all reasonable times. All work prepared by CONSULTANT shall be subject to inspection and approval by CITY.
- D. Standard of Care; Performance of Employees: CONSULTANT represents, acknowledges, and agrees to the following:
 - 1. CONSULTANT shall perform the SCOPE OF WORK skillfully, competently, and to the highest standards of CONSULTANT's profession;
 - 2. CONSULTANT shall perform the SCOPE OF WORK in a manner reasonably satisfactory to the CITY;
 - 3. CONSULTANT shall comply with all applicable federal, state, and local laws and regulations, including the conflict of interest provisions of Government Code Section 1090 and the Political Reform Act;
 - 4. CONSULTANT understands the nature and the Scope of Work to be performed under this Agreement as well as any and all schedules of performance;
 - 5. All of CONSULTANT's employees and agents possess sufficient skill, knowledge, training and experience to perform those services and tasks assigned to them by CONSULTANT;
 - 6. All of CONSULTANT's employees and agents (including, but not limited to, subcontractors and subconsultants) possess all licenses, permits, certificates, qualifications, and approvals of whatever nature that are legally required to perform the

tasks and services contemplated under this Agreement and all such licenses, permits, certificates, qualifications and approvals shall be maintained throughout the term of this Agreement and made available to CITY for copying and inspection.

V. TERMINATION

The right to terminate this Agreement, with or without cause, may be exercised without prejudice to any other right or remedy to which the terminating party may be entitled at law or under this Agreement.

- A. Termination Without Cause: The CITY or CONSULTANT may terminate this Agreement at any time by giving written notice to the other of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination.
- B. Termination for Cause: In the event either Party fails to perform any duty, obligation, service, or task set forth under this Agreement (or fails to timely perform or properly perform any such duty, obligation, service or task set forth under this Agreement), an event of default (hereinafter, "Event of Default") shall occur. For all Events of Default, the Party alleging an Event of Default shall give written notice to the defaulting Party (hereinafter referred to as a "Default Notice") which shall specify: (i) the nature of the Event of Default; (ii) the action required to cure the Event of Default; (iii) a date by which the Event of Default shall be cured, which shall not be less than thirty (30) days or if a cure is not reasonably possible within thirty (30) days, to begin such cure and diligently prosecute such cure to completion. The Event of Default shall constitute a breach of this Agreement if the defaulting Party fails to cure the Event of Default within the applicable cure period or any extended cure period.
- C. CONSULTANT shall cure the following Events of Default within the following time periods:
 1. Within three (3) business days of CITY's issuance of a Default Notice for any failure of CONSULTANT to timely provide CITY or CITY's employees or agents with any information and/or written reports, documentation or work product which CONSULTANT is obligated to provide to CITY or CITY's employees or agents under this Agreement. Prior to the expiration of the 3-day cure period, CONSULTANT may submit a written request for additional time to cure the Event of Default upon a showing that CONSULTANT has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 3-day cure period. The foregoing notwithstanding, CITY shall be under no obligation to grant additional time for the cure of an Event of Default that exceeds seven (7) calendar days from the end of the initial 3-day cure period; or
 2. Within fourteen (14) calendar days of CITY's issuance of a Default Notice for any other Event of Default under this Agreement. Prior to the expiration of the 14-day cure period, CONSULTANT may submit a written request for additional time to cure the Event of Default upon a showing that CONSULTANT has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 14-day cure period. The foregoing notwithstanding, CITY shall be under no obligation to grant additional time for the cure of an Event of Default that exceeds thirty (30) days from the initial end of the 14-day cure period.

In addition to any other failure on the part of CONSULTANT to perform any duty, obligation, service or task set forth under this Agreement (or the failure to timely perform or properly perform any such duty,

obligation, service or task), an Event of Default on the part of CONSULTANT shall include, but shall not be limited to the following: (i) CONSULTANT's refusal or failure to perform any of the services or tasks called for under the Scope of Work; (ii) CONSULTANT's failure to fulfill or perform its obligations under this Agreement within the specified time or if no time is specified, within a reasonable time; (iii) CONSULTANT's and/or its employees' disregard or violation of any federal, state, or local law or regulation; (iv) the initiation of proceedings under any bankruptcy, insolvency, receivership, reorganization, or similar legislation as relates to CONSULTANT, whether voluntary or involuntary; (v) CONSULTANT's refusal or failure to perform or observe any covenant, condition, obligation or provision of this Agreement; and/or (vii) CITY's discovery that a statement or warranty by CONSULTANT relating to this Agreement is false, misleading or erroneous in any material respect.

- D. CITY shall cure any Event of Default asserted by CONSULTANT within forty-five (45) calendar days of CONSULTANT's issuance of a Default Notice, unless the event of Default cannot be reasonably cured within the 45-day cure period. Prior to the expiration of the 45-day cure period, CITY may submit a written request for additional time to cure the Event of Default upon a showing that CITY has commenced its efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 45-day cure period. The foregoing notwithstanding, an Event of Default dealing with CITY's failure to timely pay any disputed claims to CONSULTANT shall be cured within five (5) calendar days from the date of CONSULTANT's Default Notice to CITY.
- E. CITY, in its sole and absolute discretion, may also immediately suspend CONSULTANT'S performance under this Agreement pending CONSULTANT's cure of any Event of Default by giving CONSULTANT written notice of CITY's intent to suspend CONSULTANT's performance (hereinafter, a "Suspension Notice"). CITY may issue the Suspension Notice at any time upon the occurrence of an Event of Default. Upon such suspension, CONSULTANT shall be compensated only for those services and tasks which have been rendered by CONSULTANT to the reasonable satisfaction of CITY up to the effective date of the suspension. No actual or asserted breach of this Agreement on the part of CITY shall operate to prohibit or otherwise restrict CITY's ability to suspend this Agreement as provided herein.
- F. No waiver of any Event of Default or breach under this Agreement shall constitute a waiver of any other or subsequent Event of Default or breach. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
- G. The duties and obligations imposed under this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. In addition to any other remedies available to CITY at law or under this Agreement in the event of any breach of this Agreement, CITY, in its sole and absolute discretion, may also pursue any one or more of the following remedies:
 - 1. Upon written notice to CONSULTANT, CITY may immediately terminate this Agreement in whole or in part;
 - 2. Upon written notice to CONSULTANT, CITY may extend the time of performance;
 - 3. CITY may proceed by appropriate court action to enforce the terms of this Agreement to recover damages for CONSULTANT's breach of the Agreement or to terminate the Agreement; or

4. CITY may exercise any other available and lawful right or remedy.
- H. In the event CITY is in breach of this Agreement, CONSULTANT's sole remedy shall be the suspension or termination of this Agreement and/or the recovery of any unpaid sums lawfully owed to CONSULTANT under this Agreement for completed tasks.
- I. Post-Termination:
1. In the event the CITY terminates this Agreement with or without cause, the CITY may procure, upon such terms and such manner as it may determine appropriate, services similar to those terminated.
 2. Except with respect to defaults of subcontractors or subconsultants, the CONSULTANT shall not be liable for any excess costs if the failure to perform this Agreement arises out of causes beyond the control and without the fault or negligence of the CONSULTANT. Such causes include, but are not limited to, acts of God or of the public enemy, floods, epidemics, quarantine restrictions, strikes, and unusually severe weather; but in the event the failure to perform is caused by the default of a sub-consultant, the CONSULTANT shall not be liable for failure to perform, unless the services to be furnished by the sub-consultant were obtainable from other sources in sufficient time and within budgeted resources to permit the CONSULTANT to meet the required delivery schedule or other performance requirements.
 3. Should the Agreement be terminated with or without cause, the CONSULTANT shall provide the CITY with all finished and unfinished documents, data, studies, services, drawings, maps, models, photographs, reports, etc., prepared by the CONSULTANT pursuant to this Agreement within fifteen (15) calendar days of CITY's written request.
 4. Upon termination, with or without cause, CONSULTANT will be compensated for the services satisfactorily completed to the date of termination according to compensation provisions contained herein. In no event, shall the total compensation paid CONSULTANT exceed the total compensation agreed to herein.
 5. If, after notice of termination of this Agreement, as provided for in this article, it is determined for any reason that the CONSULTANT was not in default under the provisions of this article, then the rights and obligations of the parties shall be the same as if the Agreement was terminated without cause.
 6. Termination of this Agreement shall not terminate any obligation to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination activities.

VI. INTEREST OF OFFICIALS AND THE CONSULTANT

- A. No officer, member, or employee of the CITY who exercises any functions or responsibilities in the review or approval of this Agreement shall:

1. Participate in any decision relating to this Agreement which effects his personal interest or the interest of any corporation, partnership, or association in which he has, directly or indirectly, any interest; or
 2. Have any interest, direct or indirect, in this Agreement or the proceeds thereof during his tenure or for one year thereafter.
- B. The CONSULTANT hereby covenants that it has at the time of the execution of this Agreement, no interest, and that it shall not acquire any interest in the future, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed pursuant to this Agreement. The CONSULTANT further covenants that in the performance of this work, no person having any such interest shall be employed.

VII. DEPARTMENT OF INDUSTRIAL RELATIONS REQUIREMENTS, CONSTRUCTION MANAGEMENT/RESIDENT ENGINEER CONTRACTOR REGISTRATION PROGRAM AND PROJECT LABOR AGREEMENTS

Notice is hereby given that this is a Construction Management/Resident Engineer Services Contract. All Consultants, subcontractors, and subconsultants bidding and performing work on Construction Management/Resident Engineer Services who employ or subcontract workers to perform any trade that has a prevailing wage designation, such as a surveyor, must:

- A. Register on an annual basis with the California Department of Industrial Relations (DIR); and
- B. Furnish electronic payroll records for new projects to the Labor Commissioner. All consultants are to be registered at time of bid/proposal submittal and remain registered with the California Department of Industrial Relations (DIR) throughout the duration of this Agreement.

If a project labor agreement (the term “project labor agreement” is defined in Public Contract Code section 2500(b)(1) as a pre-hire collective bargaining agreement that establishes terms and conditions of employment for a specific construction project or projects and is an agreement described in Section 158(f) of Title 29 of the United States Code) is used, then it must comply with the taxpayer protection provisions set forth in Public Contract Code section 2500(a). CITY has no ordinances requiring or prohibiting such agreements.

VIII. NO PERSONNEL, AGENCY OR COMMISSION

The CONSULTANT warrants, by execution of this Agreement, that no personnel agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide established commercial or selling agencies maintained by the CONSULTANT for the purpose of securing business. For breach or violation of this warranty, the CITY shall have the right to annul this Agreement without liability or, in its discretion, to deduct from this Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

IX. SUBCONTRACTING

- A. The CONSULTANT shall not subcontract or otherwise assign any portion of the work to be performed under this Agreement without the prior written approval of the CITY.

- B. In no event shall the CONSULTANT subcontract work in excess of fifty percent (50%) of the contract amount, excluding specialized services. Specialized services are those items not ordinarily furnished by a consultant performing the particular type of project.

X. INDEPENDENT CONTRACTOR

In the performance of the services herein provided for, the Parties acknowledge, understand, and agree that CONSULTANT shall be, and is, an independent consultant, and not an agent or employee of the CITY. The CONSULTANT shall determine the means, methods and details of performing the Scope of Work subject to the requirements of this Agreement. The CONSULTANT reserves the right to perform similar or different services for other principals during the term of this Agreement, provided such work does not unduly interfere with CONSULTANT's competent and timely performance of the Scope of Work contemplated under this Agreement and provided the performance of such services does not result in the unauthorized disclosure of CITY's confidential or proprietary information. The CONSULTANT has and shall retain the right to exercise full control and supervision of all persons assisting the CONSULTANT in the performance of said services hereunder. The CONSULTANT shall be solely responsible for all matters relating to the payment of its employees including compliance with social security and income tax withholding and all other regulations governing such matters.

XI. SPECIFICATIONS

All specifications, manuals, standards, etc., either attached to this Agreement or incorporated by reference, are binding as to the performance of the work specified in this Agreement unless they are changed by written amendment to this Agreement modified in writing and signed by the Parties to incorporate such changes.

XII. DOCUMENTS/DATA

- A. Ownership of Documents: All original papers and documents, produced as a result of this Agreement, shall become the property of the CITY. In addition, CITY shall be provided with access and use of any other papers and documents consistent with the purpose and scope of services covered by this Agreement. Any additional copies, not otherwise provided for herein, shall be the responsibility of the CITY. For purposes of this Agreement, the term "Documents and Data" means and includes all reports, analyses, correspondence, plans, drawings, designs, renderings, specifications, notes, summaries, strategies, charts, schedules, spreadsheets, calculations, list, data compilations, documents or other materials developed and/or assembled by or on behalf of CONSULTANT in the performance of this Agreement and fixed in any tangible medium of expression, including but not limited to, Documents and Data stored digitally, magnetically and/or electronically. CONSULTANT shall require all subcontractors and subconsultants working on behalf of CONSULTANT in the performance of this Agreement to agree in writing that CITY shall be granted the same right to copy, use, reuse, disseminate and retain Documents and Data prepared or assembled by any subcontractor or subconsultant applies to Documents and Data prepared by CONSULTANT in the performance of this Agreement.

Documents and Data, including drawings and specifications, prepared by CONSULTANT pursuant to this Agreement, are not intended or represented to be suitable for reuse by CITY or others on extensions of the PROJECT or on any other project. Any use of the completed documents for other projects and any use of incomplete documents without the specific written authorization from CONSULTANT will be at CITY's sole risk and without liability to CONSULTANT. Further, any and all liability arising out of changes made to CONSULTANT's deliverables under this Agreement by CITY or persons other than CONSULTANT is waived as against CONSULTANT, and the CITY assumes full responsibility for such changes unless the CITY has given CONSULTANT prior notice and has received from CONSULTANT written consent for such changes.

- B. Publication: No report, information, or other data given or prepared or assembled by the CONSULTANT pursuant to this Agreement, shall be made available to any individual or organization by the CONSULTANT without the prior written approval of the CITY. Notwithstanding the foregoing, however, the CONSULTANT shall not be required to protect or hold in confidence and confidential information which (1) is or becomes available to the public with the prior written consent of the CITY; (2) must be disclosed to comply with law; or (3) must be disclosed in connection with any legal proceedings.
- C. Copyrights: The CONSULTANT shall be free to copyright material developed under this Agreement with the provision that the CITY be given a nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use the material for government or public purposes. Should CONSULTANT place a copyright notice on documents it must state, "City of Farmersville holds a nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use the material for government or public purposes."

XIII. INDEMNIFICATION AND INSURANCE

The Parties agree that CITY and CITY's elected and appointed officials, officers, employees, agents and volunteers (the "CITY Indemnitees") should, to the fullest extent permitted by law, be protected from any and all loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, or any other cost arising out of or in any way related to the performance of this Agreement. Accordingly, the provisions of this indemnity provision are intended by the Parties to be interpreted and construed to provide the CITY Indemnitees with the fullest protection possible under the law. CONSULTANT acknowledges that CITY would not enter into this Agreement in the absence of CONSULTANT's commitment to indemnify, defend, and protect CITY as set forth herein.

- A. To the fullest extent permitted by law, CONSULTANT shall indemnify, hold harmless and defend the CITY Indemnitees from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorneys' fees, expert fees, and all other costs and fees of litigation) of every nature arising out of or in connection with CONSULTANT's performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which is caused by the sole negligence or willful misconduct of the CITY.
- B. CITY shall have the right to offset against the amount of any compensation due CONSULTANT under this Agreement any amount due CITY from CONSULTANT as a result

of CONSULTANT's failure to pay CITY promptly any indemnification arising under this Agreement and related to CONSULTANT's failure to either (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.

- C. CONSULTANT agrees to obtain executed indemnity agreements with provisions identical to those set forth herein this Agreement from each and every subcontractor, subconsultant or any other person or entity involved by, for, with or on behalf of CONSULTANT in the performance of this Agreement. In the event CONSULTANT fails to obtain such indemnity obligations from others as required herein, CONSULTANT agrees to be fully responsible and indemnify, hold harmless and defend CITY and CITY's elected and appointed officials, officers, employees, agents and volunteers from and against any and all claims and losses, costs or expenses from any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent or otherwise wrongful acts, errors or omissions of CONSULTANT's subcontractors, subconsultants or any other person or entity involved by, for, with or on behalf of CONSULTANT in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of CITY's choice.
- D. CITY does not, and shall not, waive any rights that it may possess against CONSULTANT because of the acceptance by CITY, or the deposit with CITY, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.
- E. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the CITY nor the CONSULTANT, their respective officers, directors, partners, employees, consultants or subconsultants shall be liable to the other or shall make any claim for any remote or speculative breach of contract damages that the breaching party could not have reasonably foreseen when entering into this Agreement. To the extent this Agreement is considered a "Construction Contract" as defined by California Civil Code section 2783, CONSULTANT's duty to indemnify CITY under this or any other provision of the Agreement shall not apply when to do so would be prohibited by California Civil Code section 2782.
- F. These Indemnification provisions contained herein (including but not limited to the duty to indemnify, defend, and hold free and harmless) shall survive the termination or normal expiration of this Agreement and is in addition to any other rights or remedies which CITY may have at law or in equity.
- G. Without limiting CITY's right to indemnification, it is agreed that CONSULTANT shall secure prior to commencing any activities under this Agreement, and maintain during the term of this Agreement, at its own expense, insurance coverage as follows:
 - 1. Workers' compensation insurance as required by California law.
 - 2. Commercial general liability insurance as broad as Insurance Services Office Commercial General Liability coverage (occurrence Form CG 0001) or its equivalent with a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000.00) in the general aggregate. Such insurance shall include coverage for Premises and Operations, Contractual Liability, Personal Injury Liability, Products and Completed Operations Liability, Broad Form Property Damage (if applicable), Independent Consultant's Liability (if applicable).

3. Professional liability insurance coverage (Errors and Omissions) for the term of this Agreement and for a period of three (3) years thereafter, in an amount not less than One Million Dollars (\$1,000,000) per occurrence and shall be endorsed to include contractual liability.
 4. Comprehensive Automobile Liability coverage as broad as Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto) with a combined single limit of not less than One Million Dollars (\$1,000,000) per accident for bodily injury and property damage. Such insurance shall include coverage for owned, hired, and non-owned automobiles and shall be provided by a business automobile policy.
- H. CITY'S Risk Manager is hereby authorized to reduce the requirements set forth above in the event he/she determines that such reduction is in the CITY'S best interest.
- I. CONSULTANT agrees to provide thirty (30) days written notice of any policy cancellation, limitation in scope or coverage, or non-renewal. Such notice shall be provided to the, City of Farmersville, 909 W. Visalia Rd, Farmersville, CA 93223.

In addition, the commercial general liability and comprehensive automobile liability policies required by this Agreement shall contain the following clauses:

“It is agreed that any insurance maintained by the City of Farmersville shall apply in excess of and not contribute with insurance provided by this policy.”

“The City of Farmersville, its officers, agents, employees, representatives and volunteers are added as additional insureds as respects operations and activities of, or on behalf of the named insured, performed under contract with the City of Farmersville.”

- J. All varieties of insurance required under this Agreement shall be procured from insurers admitted in the State of California and authorized to issue policies directly to California insureds. All required insurance shall be procured from insurers who, according to the latest edition of the Best's Insurance Guide, have an A.M. Best's rating of no less than A:VII.
- K. Prior to commencing any work under this Agreement, CONSULTANT shall deliver to CITY insurance certificates confirming the existence of the insurance required by this Agreement, and including the applicable clauses referenced above. Within thirty (30) days of the execution date of this Agreement, CONSULTANT shall provide to CITY endorsements to the above-required policies, which add to these policies the applicable clauses referenced above. Said endorsements shall be signed by an authorized representative of the insurance company and shall include the signatory's company affiliation and title. Should it be deemed necessary by CITY, it shall be CONSULTANT's responsibility to see that CITY receives documentation acceptable to CITY which sustains that the individual signing said endorsements is indeed authorized to do so by the insurance company. CITY has the right to demand, and to receive within a reasonable time period, copies of any insurance policies required under this Agreement.
- L. All insurance coverage provided pursuant to this Agreement shall not prohibit CONSULTANT or CONSULTANT's officers, employees, agents, subcontractors or subconsultants from waiving the right of subrogation prior to a loss. CONSULTANT hereby waives all rights of subrogation against CITY.

- M. In addition to any other remedies CITY may have if CONSULTANT fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, CITY may, at its sole option:
1. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement; or
 2. Order CONSULTANT to stop work under this Agreement and/or withhold any payment(s) which become due to CONSULTANT hereunder until CONSULTANT demonstrates compliance with the requirements hereof; or
 3. Terminate this Agreement.

Exercise of any of the above remedies, however, is an alternative to other remedies CITY may have and is not the exclusive remedy for CONSULTANT's failure to maintain insurance or secure appropriate endorsements.

Nothing herein contained shall be construed as limiting in any way the extent to which CONSULTANT may be held responsible for payments of damages to persons or property resulting from CONSULTANT's or its subconsultant's performance of the work covered under this Agreement.

XIV. NON-DISCRIMINATION

CONSULTANT and all subconsultants shall not discriminate against any employee or applicant for employment on the basis race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability, or medical condition in the performance of this Agreement. The CONSULTANT shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement.

XV. MISCELLANEOUS PROVISIONS

- A. Compliance with Laws: CONSULTANT shall keep itself informed of and in compliance with all applicable federal, state, and local laws and regulations to the extent such laws control or otherwise govern the performance of the Scope of Work. CONSULTANT's compliance with applicable laws and regulations shall include, without limitation, compliance with all applicable Cal/OSHA requirements.
- B. Firearms Prohibited: Firearms may not be carried by CONSULTANT's employees or agents while working on CITY-owned premises without the express written approval of CITY. If CONSULTANT'S employees or agents possess a firearm while on CITY-owned premises, without CITY's prior express written approval, this Agreement may be terminated.
- C. Asbestos and Hazardous Materials: In providing its services hereunder, CONSULTANT shall not be responsible for identification, handling, containment, abatement, or in any other respect, for any asbestos or hazardous material if such is present in connection with the PROJECT. In the event the CITY becomes aware of the presence of asbestos or hazardous material at the jobsite, CITY shall be responsible for complying with all applicable federal and state rules and regulations, and shall immediately notify CONSULTANT, who shall then be entitled to cease

any of its services that may be affected by such presence, without liability to CONSULTANT arising therefrom.

- D. Successors and Assigns: This Agreement shall be binding upon and shall inure to the benefit of any successors to or assigns of the parties.
- E. Prohibition of Assignment: The skills, training, knowledge and experience of CONSULTANT are material to CITY's willingness to enter into this Agreement. Accordingly, CITY has an interest in the qualification and capabilities of the person(s) or entity(ies) who will perform the services and tasks to be undertaken by CONSULTANT or on behalf of CONSULTANT in the performance of this Agreement. In recognition of this interest, CONSULTANT agrees that it shall not assign or transfer, either directly or indirectly or by operation of law, this Agreement or the performance of any of CONSULTANT's duties or obligations under this Agreement without the prior written consent of the CITY. In the absence of CITY's prior written consent, any attempted assignment or transfer shall be ineffective, null and void and shall constitute a material breach of this Agreement.
- F. Dispute/Governing Law: Any dispute not resolvable by informal arbitration between the parties to this Agreement shall be adjudicated in a Court of Law under the laws of the State of California.
- G. Notices: Notice shall be sufficient hereunder if personally served upon the City Clerk of the CITY or an officer or principal of the CONSULTANT, or if sent via the United States Postal Service, postage prepaid, addressed as follow:

CITY OF FARMERSVILLE

909 W. Visalia Rd.

Farmersville, CA 93223

Attention: City Clerk

CONSULTANT

Attention: _____

Phone: _____

Email: _____

- H. Jurisdiction/Venue/Waiver of Removal: This Agreement shall be administered and interpreted under the laws of the State of California. Any action brought to interpret or enforce this Agreement, or any of the terms or conditions hereof, shall be brought in Tulare County, California. The CONSULTANT hereby expressly waives any right to remove any action to a county other than Tulare County as permitted pursuant to Section 394 of the California Code of Civil Procedure.
- I. Integration/Modification: This Agreement and each of the exhibits referenced herein, which are incorporated by reference, represents the entire understanding of the CITY and the CONSULTANT as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing signed by the CITY and the CONSULTANT.
- J. Conflict With Law: If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said law, but the remainder of the Agreement shall be in full force and effect.
- K. Attorneys' Fees: In the event either party commences any action, arbitration or legal proceedings for the enforcement of this Agreement, the prevailing party, as determined by the court or arbitrator, shall be entitled to recovery of its attorneys' fees and court costs incurred in the action brought thereon.
- L. Construction: This Agreement is the product of negotiation and compromise on the part of each party and the parties agree, notwithstanding Civil Code Section 1654, that in the event of uncertainty the language will not be construed against the party causing the uncertainty to exist.
- M. Authority: Each signatory to this Agreement represents that it is authorized to enter into this Agreement and to bind the party to which its signature represents.
- N. Headings: Section headings are provided for organizational purposes only and do not in any manner affect the scope or intent of the provisions thereunder.
- O. Executive Order N-6-22 – Russia Sanctions On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. “Economic Sanctions” refers to sanctions imposed by the U.S. government in response to Russia’s actions in Ukraine, as well as any sanctions imposed under state law. The EO directs state agencies to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should the State determine Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this agreement. The State shall provide Contractor advance written notice of such termination, allowing Contractor at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the State.
- P. Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as is reasonably necessary, appropriate or convenient to achieve the purposes of this Agreement.
- Q. Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

- R. Inconsistencies or Conflicts. In the event of any conflict or inconsistency between the provisions of this Agreement and any of the exhibits attached hereto, the provisions of this Agreement shall control.
- S. Entire Agreement. This Agreement including the attached exhibits is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed herein and supersedes all other agreements or understandings, whether oral or written, or entered into between CITY and CONSULTANT prior to the execution of this Agreement.

IN WITNESS WHEREOF, this Agreement is executed on the day and year first above written.

CITY OF FARMERSVILLE

CONSULTANT

_____ **City Manager**

Approved as to Form

City Attorney

Attachments:

Exhibit "A": Scope of Work as presented in RFP No. **XX-XX-XX**

Exhibit "B": Project Schedule and Fee as submitted by Consultant

Exhibit "C": Consultant Schedule of Fees