

REVISED RECOMMENDED ACTION

To: Olin Woods, Chair and
Members of the Local Agency Formation Commission

From: Elizabeth Castro Kemper, Executive Officer
Elisa Carvalho, Analyst

Date: February 25, 2008

Subject: Approve the selection of Winzler and Kelly Consulting Engineers to prepare the City of West Sacramento Municipal Service Review and Sphere of Influence Study, authorize the Chair to sign a contract for \$29,500 upon completion of the contract arrangements.

RECOMMENDED ACTION

1. Approve the selection of Winzler and Kelly Consulting Engineers to prepare and present the City of West Sacramento Municipal Service Review and Sphere of Influence study at a cost of \$29,500.
2. ~~Authorize the Chair to sign the final contract upon completion of final contract arrangements.~~
2. **Approve and authorize the Chairman to sign the Agreement, on file with the Commission Clerk, with Winzler and Kelly Consulting Engineers to prepare the City of West Sacramento Municipal Service Review and Sphere of Influence Study**

FISCAL IMPACT

Sufficient funds have been budgeted in the 2007-08 LAFCO budget for this agreement.

REASON FOR RECOMMENDED ACTION

The Yolo County LAFCO is required to update spheres of influence and create municipal service reviews for districts and cities in the County. In December 2007, the Commission authorized staff to circulate a Request for Proposal (RFP) for the City of West Sacramento Municipal Service Review and Sphere of Influence studies. Six

COMMISSIONERS

★Public Member Olin Woods, CHAIR★

★County Member Matt Rexroad, Vice Chair★

★City Members William Kristoff, Tom McMasters-Stone★ County Member Helen M. Thomson★

ALTERNATE COMMISSIONERS

★Public Member Robert Ramming★City Member Stephen Souza★County Member Mariko Yamada★

STAFF

★Executive Officer Elizabeth Castro Kemper★ Commission Clerk Terri Tuck★

★Sr. Management Analyst Elisa Carvalho★ Commission Counsel Stephen Nocita★

responses were received; however, only two candidates were selected for interviews. The Winzler and Kelly Consulting Engineers had good references and were deemed to have the most experience with municipal service reviews and sphere of influence studies; whereas the competing candidate did not have experience with sphere studies.

BACKGROUND

Winzler and Kelly Consulting Engineers responded to the LAFCO RFP in addition to five other firms: PFM Group, Quad Knopf, Mid-Valley Engineers, Inc., Christy Leighton, AICP, and Wood Rodgers.

Interviews were held with two of the firms by the LAFCO selection committee composed of LAFCO Commission Chair Olin Woods, LAFCO Executive Officer Elizabeth Kemper, West Sacramento Public Works and Community Development Director Steve Patek, and West Sacramento Development Services Manager Charline Hamilton. The committee was unanimous in its selection of Winzler and Kelly Consulting Engineers as the best suited for this project. A check of references for Winzler and Kelly also proved positive for their quality of work.

OTHER AGENCY INVOLVEMENT

As mentioned, Steve Patek and Charline Hamilton from the City of West Sacramento Community Development Department, as well as Commission Chair Woods and the Yolo LAFCO Executive Officer participated in the selection process.

AGREEMENT No. 2008-01

(Agreement for a Municipal Services Review and Sphere of Influence Study
for the City of West Sacramento)

This Agreement is made and entered into this February 25, 2008 by and between the Yolo County Local Agency Formation Commission, a local agency formation commission duly organized in accordance with the law of the State of California (“Commission”), and Winzler & Kelly, Consulting Engineers, a California corporation (“Consultant”).

W I T N E S S E T H

WHEREAS, the Commission is required to provide municipal services reviews/sphere of influence studies for all local governmental agencies within the County of Yolo; and

WHEREAS, the Commission is authorized by Government Code Section 56375(k) to enter into contracts to carry out and effect the functions of the Commission; and

WHEREAS, the Commission issued a request for proposals to provide professional expertise and services as necessary to prepare a municipal services review and sphere of influence study for the City of West Sacramento; and

WHEREAS, Consultant submitted a proposal to provide such services; and

WHEREAS, the parties have developed a Scope of Work describing the services to be provided by Consultant, a copy of which is attached as Exhibit A; and

WHEREAS, Consultant has represented and warrants to the Commission that it has the necessary training, experience, expertise and competency to provide the municipal services review and sphere of influence study for the City of West Sacramento, at a cost to the Commission as herein specified, that it will be able to perform the herein described services at acceptable cost to the Commission by virtue of its current and specialized knowledge of relevant data, issues, and conditions, and that it will do so in a manner consistent with Commission policies and procedures and the law as set out in Government Code Sections 56000 et seq. and all other applicable laws and regulations; and

WHEREAS, Consultant understands that the Commission is relying on the above representations by Consultant entering this Agreement.

NOW, THEREFORE, in consideration of the mutual promises set forth below the Commission and Consultant hereby agree as follows:

I. BASIC SERVICES

- A. Consultant shall prepare and provide a municipal services review and sphere of influence study of the City of West Sacramento in a manner satisfactory to the Commission’s Executive Officer (“Executive Officer”). More specifically, Consultant

shall perform the work set forth in Exhibit A in a manner satisfactory to the Executive Officer, in accordance with all applicable Federal, State and Local laws and regulations, and all terms and conditions set forth in this Agreement. These services include the following tasks:

Task 1: Prepare and submit administrative draft of the City of West Sacramento Municipal Service Review and Sphere of Influence Study, including content, and format, including data collection and updating information and discussions with interested parties.

Payment of \$18,000

Task 2: Prepare and present Draft Municipal Services Review/Sphere of Influence Study for receipt by Commission at public meeting.

Payment of \$6,500

Task 3: Prepare and present Final Municipal Services Review/Sphere of Influence Study at public meeting/hearing.

Payment of \$5,000

- B. Consultant will provide all facilities, equipment, personnel, labor and materials necessary to provide the foregoing services in accordance with this Agreement.
- C. Consultant shall perform all services required hereunder in a satisfactory and professional manner and shall conform to the standards of quality, practice and competence normally displayed by a person in the Consultant's business or profession in this area. The Consultant shall devote such time and effort to the performance of the services required pursuant to this Agreement as may be necessary for the satisfactory performance of the Consultant's obligations hereunder.
- D. This Agreement includes the following exhibits, which are attached to this Agreement and are incorporated herein by this reference:

Exhibit A: Scope of Work

Exhibit B Hourly Rates (for Additional Services)

In the event of any conflict between any of the provisions of this Agreement (including Exhibits), the provision that requires the highest level of performance from Consultant for the Commission's benefit shall prevail.

II. ADDITIONAL SERVICES

Consultant shall furnish and perform any additional services related to the Project but beyond the scope of services described above (including but not limited to Exhibit A) as are

mutually agreed to by Contractor and the Executive Officer; insofar as they do not fall within the scope of the basic services required of Consultant under Section I hereinabove and cause the Consultant extra expenses, and if authorized in advance in writing by the Executive Officer and the Consultant, and subject to the maximum compensation limits set forth in subSection IIIB, below. Consultant shall provide such services in a manner satisfactory to the Executive Officer and in accordance with, and generally accepted industry standards.

III. COMPENSATION AND REIMBURSEMENT OF SERVICES

- A. For the services required by Section I of this Agreement, and as each specified task described in Section I above is completed, and subject to the condition that the specified task has been completed in a manner satisfactory to the Executive Officer, Consultant shall be compensated the amount set forth in Section I for each task; provided, however, that the total amount of compensation to be paid Consultant for the services described in Section I shall not exceed \$ 29,500
- B. Insofar as they do not fall within the scope of the basic services required of Consultant under Section I and cause the Consultant extra expenses, and if authorized in advance in writing by the Executive Officer, for the services described in Section II above, and subject to the condition that the services to date have been completed in a manner satisfactory to the Executive Officer, Consultant shall be compensated at the rates set forth in Exhibit B; provided however, that the total compensation payable to Consultant for such services shall not exceed Two Thousand Dollars (\$2,000) for all services required of Consultant pursuant to Section II above without a written amendment to this Agreement approved by the Commission and the Consultant.
- C. All reimbursement for expenses incurred by Consultant in the performance of this Agreement is included in the foregoing amounts.

IV. METHOD OF PAYMENT

- A. Within thirty (30) days of the completion of each task identified in Section I in a manner that is satisfactory to the Executive Officer, the Consultant shall submit an invoice for that task; if the invoice is for Additional Services, it shall also detail the services provided and the person(s) providing the service, and include the amount of time spent providing the services calculated to one-quarter of an hour, the rate per hour charged, and an itemization of the actual expenses for which reimbursement is requested. If requested by the Executive Officer, Consultant shall provide any further documentation to verify the compensation and reimbursement sought by Consultant. All claims are subject to audit verification.
- B. Within fifteen (15) calendar days of the receipt of Consultant's detailed invoice, the Executive Officer shall either authorize payment or advise Consultant in writing of any concerns that the Executive Officer has with the invoice or any need for further documentation.

C. Within thirty (30) calendar days of authorization by the Executive Officer for payment of an invoice, the County Auditor-Controller shall either authorize payment of the compensation sought and/or payment of the reimbursement of expenses sought or advises Consultant in writing of any concerns that the County Auditor-Controller has with the request or any need for further documentation.

V. REPORTS

Consultant shall be responsible for submitting appropriate drafts and updates to the Commission staff as specified in the Scope of Work or as otherwise reasonably requested by the Commission or the Executive Officer. Consultant shall submit project progress reports as reasonably requested by the Commission or Executive Officer. Final report shall be provided in Word format on a computer disc, or e-mailed as a Word attachment, to the Yolo County LAFCO. All payments to the Consultant are contingent upon timely receipt and completion of the required components.

VI. RECORDS RETENTION

Consultant will maintain all records pertaining to this Agreement, including but not limited to service delivery, fiscal and administrative controls, for four (4) years after final payment has been made under the terms of this Contract. Upon request, the Consultant shall promptly make these records available to the Commission at any reasonable time. At the end of said four (4) year retention period, Consultant shall forward the records (or copies thereof, at Consultant's option) to the Commission for further retention.

VII. DISPUTES

Any dispute arising under this Agreement shall be decided by the Commission Chair, who shall put his or her decision in writing and mail a copy thereof to the address for the notice to Consultant. The decision of the Chair shall be final unless, within thirty (30) days from the date such copy is mailed to Consultant, Consultant appeals the decision in writing to the full Commission. Any such written appeal shall detail the reasons for the appeal and contain copies of all documentation supporting Consultant's position. In connection with any appeal proceeding under this paragraph, Consultant shall be afforded the opportunity to be heard and offer evidence in support of its appeal to the Commission at a regular Commission meeting. Pending a final decision of the dispute, Consultant shall proceed diligently with the performance of this Agreement and in accordance with the Chair's decision. The decision of the Commission on the appeal shall be final for purposes of exhaustion of administrative remedies.

VIII. TERM AND TERMINATION

A. The term of this Agreement shall be from February 25, 2008 to August 30, 2008, or until completion of all services required of Consultant, whichever is later. The Consultant shall commence performance under this Contract on the date of its execution.

- B. Should either party fail to substantially perform its obligations in accordance with this Agreement, the other party may notify the defaulting party of such default in writing and provide not less than fifteen (15) days to cure the default. Such notice shall describe the default, and shall not be deemed a forfeiture or termination of this Agreement. If such default is not cured within said fifteen-day period (or such longer period as is specified in the notice or agreed to by the parties), the party that gave notice of default may terminate this Agreement upon not less than fifteen (15) days advance written notice. The foregoing notwithstanding, neither party waives the right to recover damages against the other for breach of this Agreement. Upon termination Consultant shall be paid for services provided in accordance with this agreement up to the date of termination.
- C. This Agreement is subject to the Commission appropriating and approving sufficient funds for the activities required of the Consultant pursuant to this Agreement. If the Commission's adopted budget does not contain sufficient funds for this Agreement, the Commission may terminate this Agreement by giving notice ten (10) days thereof to the Consultant, in which event the Commission shall have no obligation to pay the Consultant any further funds or provide other consideration and the Consultant shall have no obligation to provide any further services under this Agreement.

IX. APPLICABLE LAWS; REQUIRED LICENSES

- A. Consultant shall observe and comply with all applicable laws, ordinances, codes and regulations of all governmental agencies having jurisdiction over the scope of services or any part hereof. All services performed by the Consultant must be in accordance with these laws, ordinances, codes and regulations. Consultant shall indemnify and save the Commission harmless from any and all liability, liens, penalties and consequences from any non-compliance or violations of such laws, ordinances, codes and regulations.
- B. Consultant shall secure and maintain throughout the term of this Agreement all licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for Consultant to provide the services required in this Agreement.

X. NON-DISCRIMINATION IN SERVICES AND BENEFITS

- A. Consultant certifies that any service provided pursuant to this Agreement shall be without discrimination based on color, race, creed, national origin, religion, sex, age, or physical or mental handicap in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. Section 2000d, rules and regulations promulgated pursuant thereto, or as otherwise provided by State and federal law; nor on the basis of sexual preferences as determined by federal, State, or local regulations; except as may be required by federal, State or local regulations or other administrative directives established by the Commission. For the purpose of this Agreement, distinctions on the grounds of race, color, creed, or national origin include but are not limited to the following: denying a participant any service or benefit to a participant which is

different, or is provided in a different manner or at a different time from that provided to other participants under this Agreement; subjecting a participant to segregation or separate treatment in any way in the enjoyment or any advantage or privilege enjoyed by others receiving any service or benefit; treating a participant differently from others in determining whether the participant has satisfied any admission, enrollment quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any service or benefit; and the assignment of times or places for the provision of services on the basis of race, color, creed, or national origin of the participants to be served.

- B. If Consultant has 50 or more employees, Consultant shall develop a written Affirmative Action Compliance Program. If Consultant has fewer than 50 employees, it shall comply with Section 202 of Part II of Executive Order 11346, as amended by Executive Order 11375.

XI. CONSULTANT'S RESPONSIBILITIES

Consultant shall exercise all of the care and judgment consistent with good practices in the performance of the services required by this Agreement. In addition, Consultant shall indemnify, defend and hold harmless the Commission, its officers, agents, and employees from and against any and all claims, demands, losses, defense costs, expenses (including attorney fees) or liability of any kind or nature, for personal injury or property damage arising out of or, as a result of litigation or administrative proceeding(s), alleged to arise out of:

- (1) Any negligent act, error or omission of Consultant, its officers, agents or employees, in performing the services, responsibilities or duties required of Consultant by this Agreement; or
- (2) Any breach of any statutory, regulatory, contractual or legal duty of any kind related, directly or indirectly, to the services, responsibilities or duties required of Consultant by this Agreement.

In providing any defense under this Paragraph, Consultant shall use counsel reasonably acceptable to the Commission Counsel and Consultant's insurance carrier. The provisions of this Paragraph shall survive the termination or expiration of this Agreement.

XII. PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE

- A. During the term of this Agreement, Consultant shall at all times maintain, at its expense, comprehensive general liability insurance, Workers' Compensation and Employers' Liability insurance as required by the State of California, professional liability insurance and automobile liability insurance. The comprehensive general liability insurance shall include broad form property damage insurance.

1. Minimum Coverage (as applicable) - Insurance coverage shall be with limits not less than the following:
 - a. **Comprehensive General Liability** - \$1,000,000 per occurrence and \$2,000,000 aggregate
 - b. **Automobile Liability** - \$1,000,000 per occurrence (general) and \$500,000 per occurrence (property) [include coverage for Hired and Non-owned vehicles.]
 - c. **Professional Liability/Malpractice/Errors and Omissions** - \$1,000,000 per occurrence (if any engineer, architect, attorney, accountant, medical professional, psychologist, or other licensed professional performs work under a contract, the consultant must provide this insurance. If not, then this requirement automatically does not apply.)
 - d. **Workers' Compensation – Statutory Limits/Employers' Liability** - \$1,000,000 per accident for bodily injury or disease (If there are no employees, this requirement automatically does not apply.)
 2. The Commission, its officers, agents, employees and volunteers shall be named as additional insured on all but the professional liability insurance.
 3. Any deductibles or self-insured retentions must be declared to and are subject to the approval of the Executive Officer.
 4. Each insurance policy shall be endorsed to state that coverage shall not be changed in any way, including cancellation, except after thirty (30) days' prior written notice (10 days for non-payment of premium) by certified mail, return receipt requested, has been given to the Executive Officer by the insurance company.
 5. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise approved by the Executive Officer.
 6. Any insurance maintained by the Commission shall apply in excess of, and not contribute with, insurance provided by Consultant's liability insurance policy.
- B. Prior to commencing services pursuant to this Agreement, Consultant shall furnish the Executive Officer with original endorsements reflecting coverage required by this Agreement. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received by, and are subject to the approval of, the Executive Officer before work commences. Consultant may use forms provided by the Executive Officer or, as an alternative, may provide complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications.
- C. During the term of this Agreement, Consultant shall furnish the Executive Officer with original endorsements reflecting renewals, changes in insurance companies and any other documents reflecting the maintenance of the required coverage throughout

the entire term of this Agreement. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. Consultant may use forms provided by the Executive Officer or, as an alternative, may provide complete certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications.

XIII. WORKERS' COMPENSATION

Consultant shall provide workers' compensation coverage as required by State law, and prior to commencing services pursuant to this Agreement shall file the following statement with the Executive Officer in a form substantially as set forth below.

"WORKERS' COMPENSATION CERTIFICATE"

I am aware of the provisions of Section 3700 of the Labor Code which require 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 any services required by this Agreement.

The person executing this certificate on behalf of Consultant affirmatively represents that she/he has the requisite legal authority to do so on behalf of Consultant, both the person executing this Agreement on behalf of Consultant and Consultant understand that the Commission is relying on this representation in entering into this Agreement."

XIV. NOTICE

A. All notices shall be deemed to have been given when made in writing and delivered or mailed to the respective representatives of Commission and Consultant at their respective addresses as follows:

CONSULTANT: Winzler & Kelly
George Wentz, Managing Principal
3531 E. Miraloma Ave.
Anaheim, CA 92806

COMMISSION: Yolo County Local Agency Formation Commission
625 Court Street, Suite 107
Woodland, CA 95695

In lieu of written notice to the above addresses, any party may provide notices through the use of facsimile machines provided confirmation of delivery is obtained at the time of transmission of the notices and provided the following facsimile telephone numbers are used:

CONSULTANT: (714) 854 - 1895
COMMISSION: (530) 662 - 7383

C. Notices may also be provided by electronic mail as follows:

CONSULTANT: georgewentz@w-and-k.com
COMMISSION: elizabeth.kemper@yolocounty.org

D. Any party may change the mailing address, electronic mail address or facsimile number to which such communications are to be given by providing the other parties with written notice of such change at least fifteen (15) calendar days prior to the effective date of the change.

E. All notices shall be effective upon receipt and shall be deemed received through delivery if personally served or served using facsimile machines, or on the fifth (5th) day following deposit in the mail if sent by first class mail.

XV. CONFLICT OF INTEREST

A. Consultant shall comply with the laws and regulations of the State of California and Commission regarding conflicts of interest, including, but not limited to, Article 4 of Chapter 1, Division 4, Title 1 of the California Government Code, commencing with Section 1090, and Chapter 7 of Title 9 of said Code, commencing with Section 87100 including regulations promulgated by the California Fair Political Practices Commission.

B. Consultant covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of Consultant's obligations and responsibilities hereunder. Consultant further covenants that, no person having any such interest shall be employed by Consultant in the performance of this Agreement. This covenant shall remain in force until Consultant completes performance of the services required of it under this Agreement.

C. Consultant agrees that if any fact comes to its attention which raises any question as to the applicability of any conflict of interest law or regulation, Consultant will immediately inform the Commission and provide all information needed for resolution of the question.

XVI. COVENANT AGAINST CONTINGENT FEES

Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working for Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this agreement. For breach or violation of this warranty, the Commission shall have the right to annul this Agreement without liability, or in its discretion to deduct from the agreement price or

consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

XVII. ASSIGNMENT AND SUBCONTRACTS

The services and obligations required of Consultant under this Agreement are not assignable in whole or in part. In addition, Consultant shall not subcontract any portion of the services required of Consultant by this Agreement without the express written consent of the Commission or Executive Officer. If any portion of the services required of Consultant is subcontracted, the sub-Consultant(s) shall maintain the same insurance as required of Consultant by this Agreement, and Consultant shall be fully responsible to the Commission for all work undertaken by Consultant.

XVIII. AUDIT

Consultant agrees that the Commission or its designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Consultant agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records.

XIX. STATUS OF CONSULTANT

- A. It is understood and agreed by all the parties hereto that Consultant is an independent contractor and that no relationship of employer-employee exists between the Commission and Consultant. Neither Consultant nor Consultant's assigned personnel shall be entitled to any benefits payable to employees of the Commission. Consultant hereby indemnifies and holds the Commission harmless from any and all claims that may be made against the Commission based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.
- B. It is further understood and agreed by all the parties hereto that neither Consultant nor Consultant's assigned personnel shall have any right to act on behalf of the Commission in any capacity whatsoever as an agent or to bind the Commission to any obligation whatsoever.
- C. It is further understood and agreed by all the parties hereto that Consultant must issue any and all forms required by Federal and State laws for income and employment tax purposes, including W-2 and 941 forms, for all of Consultant's assigned personnel.

XX. AMENDMENT

- A. This Agreement may be amended only by written instrument signed by the Commission and Consultant.
- B. Consultant shall submit, in writing in a form required by the Commission, a request for

program revision to the Commission prior to the implementation of any proposed changes or modifications to the scope of work set forth in Exhibit A. Such requests must be received by the Commission to allow sufficient time for Commission staff to review, comment and obtain joint State and Commission approval. Failure to comply with this requirement could result in expenditure disallowances, suspension of further funding, or the termination of this Agreement.

XXI. WAIVER

The waiver by the Commission or any of its officers, agents or employees or the failure of the Commission or its officers, agents or employees to take action with respect to any right conferred by, or any breach of any obligation or responsibility of this Agreement shall not be deemed to be a waiver of such obligation or responsibility, or subsequent breach of same, or of any terms, covenants or conditions of this Agreement.

XXII. AUTHORIZED REPRESENTATIVE

The person executing this Agreement on behalf of Consultant affirmatively represents that she/he has the requisite legal authority to enter into this Agreement on behalf of Consultant and to bind Consultant to the terms and conditions of this Agreement. The person executing this Agreement on behalf of Consultant understands that the Commission is relying on this representation in entering into this Agreement.

XXIII. PUBLIC RECORDS ACT

Upon its execution, this Agreement (including all Exhibits) shall be subject to disclosure pursuant to the California Public Records Act.

XXIV. ADDITIONAL PROVISIONS

- A. Where there is a doubt as to whether a provision of this document is a covenant or a condition, the provision shall carry the legal effect of both. Should the Commission choose to excuse any given failure of Consultant to meet any given condition, covenant or obligation (whether precedent or subsequent), that decision will not be, or have the legal effect of, a waiver of the legal effect in subsequent circumstances of either that condition, covenant or obligation or any other found in this document. All conditions, covenants and obligations continue to apply no matter how often Commission may choose to excuse a failure to perform them.
- B. Except where specifically stated otherwise in this document, the promises in this document benefit the Commission and Consultant only. They are not intended to, nor shall they be interpreted or applied to, give any enforcement rights to any other persons (including corporate) which might be affected by the performance or non-performance of this Agreement, nor do the parties hereto intend to convey to anyone any "legitimate claim of entitlement" with the meaning and rights that phrase has been given by case law.

XXV. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the Commission and Consultant and supersedes all prior negotiations, representations, or agreements, whether written or oral. In the event of a dispute between the parties as to the language of this Agreement or the construction or meaning of any term hereof, this Agreement shall be deemed to have been drafted by the parties in equal parts so that no presumptions or inferences concerning its terms or interpretation may be construed against any party to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first written above by affixing their signature hereafter.

YOLO COUNTY LAFCO

CONSULTANT

By _____
Olin Woods, Chairman

By _____
George Wentz, Managing Principal

Attest:

By _____
Elizabeth Castro Kemper, Executive Officer

Approved as to Form

Stephen Nocita, Commission Counsel

EXHIBIT A

SCOPE OF WORK

Performance of professional and technical services as described and detailed in Consultant's proposal dated January 18, 2008 is included herein as part of this Agreement. The services included in the scope of work are described in greater detail below.

I. SERVICES

Task A. Administrative Draft Municipal Service Review and Sphere of Influence

Consultant will prepare and submit an Administrative Draft combined City of West Sacramento MSR/SOI study, including content, format, data collection, interpretation and analysis, to be reviewed by staff and interested parties.

1. Initial Meeting

Consultant will meet with LAFCO and City staff to coordinate between the two agencies, identifying all services to be addressed in the MSR and agreeing upon a timeline for updating the MSR. This coordination will ensure that any data needed for the MSR is identified and collected in an efficient manner. After this first meeting, Consultant will create a detailed outline of the proposed contents of the MSR and submit the outline to LAFCO for approval.

2. Preparation of Administrative Draft MSR and SOI

Yolo County LAFCO anticipates that the City and Consultant will use existing studies and existing data from interviews, surveys and engineering, planning and other documents to meet the State requirements for MSRs as outlined in Governor's Office of Planning and Research, LAFCO Municipal Service Review Guidelines.

The existing studies and data will be used to establish the nature, location and extent of any functions or classes of services provided by the existing agency, as well as inform the establishment of ten-year and twenty-year SOI boundaries for growth. Local LAFCO policies, such as those regarding agricultural conservation, affordable housing, and water, will be taken into consideration. Population projections will also inform the MSR and SOI studies.

For the SOI study, Consultant will prepare a written statement of determination for each of the following sections:

- ◆ Present and planned land uses in the area, particularly agricultural lands.
- ◆ Present and probable need for public facilities and services in the area.
- ◆ Present capacity of public facilities and adequacy of public services.
- ◆ Existence of any social or economic communities of interest in the area.

Using the data collected and the MSR outline approved by LAFCO, Consultant will prepare an Administrative Draft MSR. The Administrative Draft MSR will include a

written determination for each of the following nine factors, as required by State law:

- ◆ Infrastructure needs and deficiencies
- ◆ Growth and population projections for the affected areas
- ◆ Financing constraints and opportunities
- ◆ Cost avoidance opportunities
- ◆ Opportunities for rate restructuring
- ◆ Opportunities for shared facilities
- ◆ Government structure options
- ◆ Evaluation of management efficiencies
- ◆ Local accountability and governance

Given that overlap may occur in the analysis of these nine factors, Consultant recognizes that some of these factors can be combined in order to better organize the MSR analysis and will incorporate opportunities to do so into the preparation of the MSR while ensuring the recommended determinations still indicate the required element to which they apply.

The MSR will focus on the following services provided by the City:

- ◆ Police Protection
- ◆ Fire Protection
- ◆ Water Supply and Treatment
- ◆ Wastewater Collection and Treatment
- ◆ Stormwater Drainage
- ◆ Parks and Recreation

Specifically, Consultant will ensure that the MSR and SOI review County Service Area #9 (Garcia Bend) in reference to it's own MSR and SOI. In addition, research and recommendations should be made concerning Reclamation Districts 537, 811 and 900, which overlap the city limits.

Prior to submittal of the Administrative Draft Task 1 MSR and SOI, a Preliminary Draft of the MSR and SOI will be provided to Yolo County LAFCO staff for internal review and comment. Once the Administrative Draft MSR and SOI are completed, copies will be provided to Yolo County LAFCO staff for review and distribution to the City of West Sacramento for its review.

Task B. Draft MSR/SOI

In this task, Consultant will incorporate edits to the Administrative Draft into the Draft MSR and SOI and attend a public meeting on the draft document.

1. Preparation of Draft MSR and SOI

Based on comments from LAFCO staff and the City, Consultant will revise the MSR

and SOI to create a draft document for public review. Consultant will provide ten (10) hardcopies of the Draft MSR and SOI to Yolo LAFCO staff, for distribution to the City, LAFCO commissioners and other interested parties in advance of the public meeting for the Commission's receipt of that document.

2. Review of Draft MSR and SOI

Comments on the draft document will be accepted at a Yolo County LAFCO public meeting. A four-week public review period will follow the public hearing for comments from Yolo County LAFCO, the City of West Sacramento and other interested parties. At the end of the review period, Consultant will attend the public hearing in which the LAFCO reviews comments and recommended changes to the document, in anticipation of preparation of the final version.

Task C. Final Draft MSR and SOI

Consultant will revise the Draft MSR and SOI to reflect and respond to, as necessary, comments to the Draft and to generate the Final Draft MSR and SOI.

1. Preparation of Final Draft MSR and SOI

Based on comments received during the public review period from Yolo County LAFCO, City staff, and other interested parties, Consultant will revise the Draft MSR/SOI to produce the Final Draft MSR and SOI. Consultant will provide ten (10) hardcopies of that document to LAFCO staff for distribution in advance of the public hearing for the Commissions' consideration of that document. Also an electronic version of the study will be provided by the consultant to the LAFCO office for the Yolo LAFCO website.

2. Final Report to Commission at Public Hearing

Consultant will present the Final Draft MSR and SOI to the LAFCO Commission at a public hearing. Yolo County LAFCO and the City will coordinate adoption of the final report by all responsible parties.

Consultant will provide an electronic version of the Final MSR and SOI LAFCO and City staff use. Consultant will provide twenty hardcopies of the final report, and will change the number of copies produced according to the needs of Yolo County LAFCO. An electronic version of the final MSR/SOI will also be provided to the LAFCO office, in Word & PDF formats.

II. SCHEDULE

Consultant will complete Tasks A through C based on the following schedule:

- ◆ Task A.: Administrative Draft MSR/SOI – 12 weeks from start-up meeting
- ◆ Task B.: Second Administrative Draft MSR/SOI – 3 weeks from receipt of consolidated set of comments from LAFCO and the City of West Sacramento
- ◆ Screencheck Draft MSR/SOI – 2 weeks from receipt of consolidated set of

comments from LAFCO and the City of West Sacramento

- ◆ Task C.: Final MSR/SOI – 2 weeks from public review of draft MSR/SOI (if desired by LAFCO)
 - Adoption of Final Draft MSR/SOI – to be set by LAFCO

III. COST ESTIMATE AND ASSUMPTIONS

The estimated cost to complete the scope of work described in this proposal is \$ 29,500. Consultant will complete this scope of work for a fixed fee not to exceed this amount.

Consultant will complete the scope of work set forth in Section I of the Agreement for the amounts set forth in Sections I and IIIA of the Agreement. Any in-contract cost overruns are absorbed by the firm and are not passed on to the client

For Additional Services, Consultant bills for its work on a time-and materials-basis with monthly invoices in accordance with Sections II and IIIB of the Agreement.

Cost Assumptions

- ◆ Our cost estimate includes attendance at three (3) meetings during Tasks A - C. The Yolo County LAFCO Executive Officer may designate which three (3) meetings the Consultant will attend. Additional meetings would be billed on a time and materials basis as Additional Services in accordance with Sections II and IIIB of the Agreement.
- ◆ There will be two rounds of review and revision to the administrative and draft product prior to the screencheck draft, and that Consultant will make changes as requested or approved by the Executive Officer and to the Executive Officer's satisfaction. If Consultant makes all changes as requested or approved by the Executive Officer to the Executive Officer's satisfaction, but LAFCO staff feels that a third administrative draft is nevertheless needed, a contract amendment allowing additional work will be necessary.
- ◆ Revisions to screencheck drafts will focus on typographical errors, formatting and other minor edits. Such revisions will not include content changes.
- ◆ All products will be submitted to the LAFCO and the City of West Sacramento in electronic PDF and Word formats, plus any printed copies that are specifically identified in Tasks A - C. If additional printing is required, costs will be billed at Consultant's actual cost.

EXHIBIT B
HOURLY RATES
(Additional Services)

Requested through June 30, 2008

Principal in Charge- \$236 per hour
Project Manager- \$137 per hour
Sr. Planning Advisor- \$137 per hour
Sr. Planner- \$115 per hour
Sr. Project Engineer- \$158 per hour
Staff Engineer- \$95 per hour
Administrative Staff Support- \$74 per hour

Requested July 1, 2008 or later:

Principal in Charge- \$245 per hour
Project Manager- \$143 per hour
Sr. Planning Advisor- \$143 per hour
Sr. Planner- \$120 per hour
Sr. Project Engineer- \$164 per hour
Staff Engineer- \$100 per hour
Administrative Staff Support- \$77 per hour