



Public Works

919 Palm Street, San Luis Obispo, CA 93401-3218
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slocity.org

PUBLIC WORKS DEPARTMENT – TRANSPORTATION PLANNING/ENGINEERING DIVISION

Notice Requesting Proposals for DESIGN SERVICES FOR CALIFORNIA / FOOTHILL RAILROAD CROSSING UPGRADE SPECIFICATION NO. 91293

July 2021

The City of San Luis Obispo is requesting sealed proposals from interested consultants to provide for design services for California / Foothill railroad crossing upgrade, Specification No. 91293.

Qualification Submittal Deadline:

All qualification submittals must be received by the Public Works Department at 919 Palm Street, San Luis Obispo, CA 93401 by **2:00 P.M. on August 17th, 2021**.

Submittals received after said time will not be considered. To guard against premature opening, each proposal shall be submitted to the Public Works Department in a sealed envelope plainly marked with the RFQ title, specification number, consultant name, and time and date of the proposal opening. Proposals shall be submitted using the forms provided in the specification package.

Obtaining a Specification Package

Download from the City's Web site www.slocity.org - [Doing Business / Bids & Proposals page](#)

A list of companies that have requested a copy of the RFP is maintained on the web page.

Questions

Questions regarding this RFQ or project detail information should be directed to Bryan Wheeler at bwheeler@slocity.org

Disadvantaged Business Participation

DBE and other small businesses as defined in Title 49 CFR 26, are encouraged to participate in the performance of agreements.

A.	DESCRIPTION OF WORK	3
B.	GENERAL TERMS AND CONDITIONS	5
	PROPOSAL REQUIREMENTS	5
C.	CONTRACT AWARD AND EXECUTION	6
D.	CITY RIGHTS AND OPTIONS	7
E.	PROPOSAL CONTENT AND SELECTION PROCESS	9
	PROPOSAL CONTENT	9
	PROPOSAL EVALUATION AND CONSULTANT SELECTION	9
F.	FORM OF AGREEMENT	11
G.	PROPOSAL SUBMITTAL FORMS	11
	ACKNOWLEDGEMENT	18
	INSURANCE CERTIFICATE	18
	REFERENCES	19
	STATEMENT OF PAST CONTRACT DISQUALIFICATIONS	20
H.	INSURANCE REQUIREMENTS: Consultant Services	21
I.	APPENDICES	22
	Appendix 1 – Federally Funded Contract Forms	22

A. DESCRIPTION OF WORK

The purpose of this Request for Proposal (RFP) is to provide interested parties with sufficient information regarding the design services the City of San Luis Obispo Department of Public Works (City) is seeking for its California / Foothill Railroad Crossing Project (project). This information is intended to enable interested parties to prepare and submit proposals for a design team to prepare complete plans and specifications for this project.

Background:

The proposed scope is to provide design services to prepare the plans and special provisions for the project located in the City of San Luis Obispo. The project is funded by the Section 130 Federal At-Grade Rail Crossing program. The project includes the removal, rehabilitation, and replacement of all rail crossing equipment, sidewalks, and necessary roadway paving. New striping to comply with current MUTCD standards for at-grade rail crossings. Traffic signal equipment for the Foothill and California traffic signal shall be replaced as needed. California Blvd. and Foothill Blvd. are both major arterial streets. Foothill Blvd. will be closed to traffic at the crossing location, as necessary, to allow for these upgrades, and a traffic handling plan will be included in the plan set.

The project is planned to begin construction in Summer of 2022. The construction contract is planned to continue for approximately 3 months, plus contract close-out. Additional construction support will be necessary during the construction phase of the project and should be included in the scope of the proposal.

The federal lead agency for the project is the Federal Highway Administration with oversight from the California Department of Transportation (Caltrans) District 5 Division of Local Assistance. The project shall fully comply with Chapter 6 of the Local Assistance Programs Guidelines (LAPG) and the entire Local Assistance Procedures Manual (LAPM).

Workscope: DESIGN SERVICES FOR CALIFORNIA / FOOTHILL RAILROAD CROSSING UPGRADE

The consultant(s) selected will be responsible to perform the necessary work to deliver 50% draft, 95% final draft and 100% complete plans and specifications.

The design shall include the following components:

- Reconstruct and install sidewalk:
 - o Approximately 40 feet in the northeast quadrant
 - o Approximately 40 feet in the northwest quadrant
 - o Approximately 40 feet in the southeast quadrant
 - o Approximately 50 feet in the southwest quadrant
- Install pedestrian channelization in all quadrants.
- Install detectable warning (tactile strips) on all sidewalk approaches.
- Relocate the bicycle curb ramp in the southeast quadrant to the southwest quadrant.
- Underground the existing overhead utilities in the southeast and southwest quadrants.
- Refurbish the asphalt transition approximately ten feet on each approach following the crossing panel replacement.
- Refresh or replace all pavement markings and signage:
 - o From the track to the east to the intersection of California and Foothill.
 - o From the track to the west to the railroad RXR advanced pavement markings.
- Install four exit swing gates one in each quadrant adjacent to the pedestrian gate in that quadrant.
- Modify traffic signal to utilize preemption time.
- Modify traffic signal system to include a pre-signal for the eastbound Foothill Boulevard approach in advance of the railroad crossing.

All modifications shall be in accordance with the CAMUTCD, and CPUC General Orders.

The consultant shall be required to provide survey and electrical design work as part of this project.

The consultant shall be required to document compliance with applicable Regional Water Quality Control Board Post Construction Stormwater Requirements.

Deliverables: Consultant shall submit:

- 2 copies of the draft preliminary reports, technical studies and 50% plans and estimate
- 1 copy of the final preliminary reports, technical studies plus markups
- 2 copies of the 90% plans, specifications and estimate plus 50% markups
- 2 copy of the 100% plans, specifications and estimate plus 90% markups
- 1 copy of the final plans, specifications and estimates plus 100% markups
- 1 copy of the final record drawings after construction

The proposal shall include a work schedule, showing tentative dates for all deliverables indicated above. The proposal shall show standard billing rates and cost breakdown for all foreseeable costs associated with fulfilling the required scope of work for this project.

B. GENERAL TERMS AND CONDITIONS

PROPOSAL REQUIREMENTS

1. **Requirement to Meet All Provisions.** Each individual or firm submitting a proposal (Consultant) shall meet all of the terms, and conditions of the Request for Qualifications (RFP) specifications package. By virtue of its proposal submittal, the Consultant acknowledges agreement with and acceptance of all provisions of the RFP specifications.
2. **Proposal Submittal.** Each proposal must be submitted on the form(s) provided in the specifications and accompanied by any other required submittals or supplemental materials. Proposal documents shall be enclosed in an envelope that shall be sealed and addressed to the Public Works Department, City of San Luis Obispo, 919 Palm Street, San Luis Obispo, CA, 93401. Each proposal submittal shall include one electronic copy of the proposal, submitted in *Adobe Acrobat* format on CD or flash drive. In order to guard against premature opening, the proposal should be clearly labeled with the proposal title, specification number, name of Consultant, and date and time of proposal opening. No FAX submittals will be accepted.
3. **Insurance Certificate.** Each proposal must include a certificate of insurance showing:
 - a. The insurance carrier and its A.M. Best rating.
 - b. Scope of coverage and limits.
 - c. Deductibles and self-insured retention.

The purpose of this submittal is to generally assess the adequacy of the Consultant's insurance coverage during proposal evaluation; as discussed under paragraph 12 below, endorsements are not required until contract award. The City's insurance requirements are detailed in Section F.
4. **Submittal of References.** Each proposer shall submit a statement of qualifications and references on the form provided in the RFP package.
5. **Statement of Contract Disqualifications.** Each proposer shall submit a statement regarding any past government disqualifications on the form provided in the RFP package.
6. **Proposal Withdrawal and Opening.** A Consultant may withdraw its proposal, without prejudice prior to the time specified for the proposal opening, by submitting a written request to the City for its withdrawal, in which event the proposal will be returned to the Consultant unopened. No proposal received after the time specified or at any place other than that stated in the "Notice Requesting Qualifications" will be considered. All qualification proposals will be opened and declared publicly. Consultants or their representatives are invited to be present at the opening of the qualification proposals.
7. **Submittal of One Proposal Only.** No individual or business entity of any kind shall be allowed to make or file, or to be interested in more than one proposal, except an alternative proposal when specifically requested; however, an individual or business entity that has submitted a sub-proposal to a Consultant submitting a proposal, or who has quoted prices on materials to such Consultant, is not thereby disqualified from submitting a sub-proposal or from quoting prices to other Consultants submitting qualification proposals.
8. **Communications.** All timely requests for information submitted in writing will receive a written response from the City. Telephone communications with City staff are not encouraged, but will be permitted. However, any such oral communication shall not be binding on the City.
9. **Alternative Qualification Proposals.** When specifically requested, the proposer may submit an alternative qualification proposal (or proposals) that it believes will also meet the City's project objectives but in a different way. In this case, the proposer must provide an analysis of the advantages and disadvantages of each of the alternatives, and discuss under what circumstances the City would prefer one alternative to the other(s). If an alternative proposal is submitted, the maximum length of the proposal may be expanded proportionately by the number of alternatives submitted.

C. CONTRACT AWARD AND EXECUTION

1. **Proposal Retention and Award.** The City reserves the right to retain all qualification proposals for a period of 60 days for examination and comparison. The City also reserves the right to waive non substantial irregularities in any proposal, to reject any or all qualification proposals, to reject or delete one part of a proposal and accept the other, except to the extent that proposals are qualified by specific limitations. See the "Special Terms and Conditions" in Section C of these specifications for proposal evaluation and contract award criteria.
2. **Competency and Responsibility of Consultant.** The City reserves full discretion to determine the competence and responsibility, professionally and/or financially, of Consultants. Consultants will provide, in a timely manner, all information that the City deems necessary to make such a decision.
3. **Contract Requirement.** The Consultant to whom award is made (Consultant) shall execute a written contract with the City within ten (10) calendar days after notice of the award has been sent by mail to it at the address given in its proposal. The contract shall be made in the form adopted by the City and incorporated in these specifications.
4. **Insurance Requirements.** The Consultant shall provide proof of insurance in the form, coverages and amounts specified in Section F of these specifications within 10 (ten) calendar days after notice of contract award as a precondition to contract execution.
5. **Business License & Tax.** The Consultant must have a valid City of San Luis Obispo business license and tax certificate before execution of the contract. Additional information regarding the City's business license and tax program may be obtained by calling (805) 781-7134.
6. **Failure to Accept Contract.** The following will occur if the Consultant to whom the award is made (Consultant) fails to enter into the contract: the award will be annulled and an award may be made to the next highest ranked Consultant with whom a responsible compensation is negotiated, who shall fulfill every stipulation as if it were the party to whom the first award was made.

D. CITY RIGHTS AND OPTIONS

1. All proposals must be submitted to the City's Public Works Department, 919 Palm Street, in sealed envelopes no later than 2:00 p.m. on August 17th, 2021. Late proposals will not be considered.
2. All costs incurred in the preparation and submission of proposals and related documentation will be borne solely by the proposer.
3. An impartial Selection Committee will develop a ranking of consultant proposals and recommend the most qualified consultant for tentative selection and contract negotiations.
4. The cost proposal of the top ranked consultant will be reviewed and may be negotiated with the consultant. Upon successful contract negotiations, staff will recommend a contract be awarded.
5. Consultant fees may be negotiated with the selected firm and finalized prior to the award of contract.
6. This RFP does not constitute an offer of employment or to contract for services. In addition, this RFP does not commit the City to negotiate a contract. The issuance of this RFP does not constitute an agreement by the City that any subsequent selection processes will occur, or that any contract will be entered into by the City.
7. The City has the right to use any or all ideas or concepts presented in any proposal or interview without restriction, without conversation to all applicants.
8. The City reserves the option to accept or reject any or all proposals, wholly or in part, received by reason of this request, and make more than one award, or no award, as the best interests of the City may appear.
9. All documents submitted to the City in response to this RFP will become the exclusive property of the City.
10. The City reserves the right to award the contract to the firm that presents the proposal which, in the judgment of the City, best accomplishes the desired results.
11. Any contract awarded pursuant to this Request for Proposal will incorporate the requirements and specifications contained in this Request for Proposal. All information presented in a proposer's proposal will be considered binding upon selection of the successful proposer, unless otherwise modified and agreed to by the City during subsequent negotiations.
12. The City reserves the right to remedy technical errors, modify the published scope of services and approve or disapprove the use of all sub-consultants.
13. The term of the contract with the selected firm will be through the completion of the project, until project close-out is completed.
14. Any contract awarded pursuant to this RFP will incorporate the requirements and specifications contained in this RFP. All information presented in a proposer's proposal will be considered binding upon selection of the successful proposer, unless otherwise modified and agreed to by the City during subsequent negotiations.
15. Under the provisions of the California Public Records Act (the "Act"), Government Code section 6252 et seq., all "public records" (as defined in the Act) of a local agency, such as the City, must be available for inspection and copying upon the request of any person. Under the Act, the City may be obligated to provide a copy of any and all responses to this RFP, if such requests are made after the contract is awarded. One exception to this required disclosure is information which fits within the definition of a confidential trade secret [Government Code section 6254(k)] or contains other technical, financial or other data whose public disclosure could cause injury to the proposer's competitive position. If any proposer believes that information contained in its response to this RFP should be protected from disclosure, the proposer **MUST** specifically identify the pages of the response that contains the information by properly marking the applicable pages and inserting the following notice in the front of its response:

NOTICE: *The data on pages _ of this response identified by an asterisk (*) contain technical or financial information, which are trade secrets, or information for which disclosure would result in substantial injury to the proposer's competitive position. Proposer requests that such data be used only for the evaluation of the response but*

understands that the disclosure will be limited to the extent the City considers proper under the law. If an agreement is entered into with the proposer, the City shall have the right to use or disclose the data as provided in the agreement, unless otherwise obligated by law.

The City will not honor any attempt by proposer to designate its entire proposal as proprietary. If there is any dispute, lawsuit, claim or demand as to whether information within the response to the RFP is protected from disclosure under the Act, proposer shall indemnify, defend, and hold harmless, the City arising out of such dispute, lawsuit, claim or demand.

16. The proposing firm warrants that no official or employee of the City has an interest, has been employed or retained to solicit or aid in the procuring of a contract resulting from this RFP, if any, and further warrants that such person will not be employed in the performance of such contract without immediate written notice to the City.
17. Firms submitting a proposal shall warrant that their offer is made without any previous understanding, agreement, or connection with any person, firm, or corporation submitting a separate proposal for the same project and is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action. This condition will not apply to proposals which are submitted by firms who have partnered with others to submit a cooperative proposal that clearly identifies a primary contractor and the associated sub-contractors.
18. Unforeseen additional items and/or services may be required. The City therefore reserves the right to negotiate with the successful proposer for additional items and/or services beyond what is described in Appendix A to be added to the final contract.

E. PROPOSAL CONTENT AND SELECTION PROCESS

PROPOSAL CONTENT

1. Submittal Forms

- a. Acknowledgement
- b. Certificate of Insurance
- c. References
- d. Statement of Past Disqualifications

2. Qualifications

- a. Experience of your firm in performing Design Engineering work for at-grade railway crossings and associated civil engineering.
- b. Experience of your firm in the applicable AREMA and MUTCD standards regarding at-grade railway design.
- c. Experience of your firm in traffic signal design and railway preemption and coordination with railway crossings.
- d. Resumes of the individuals who would be assigned to this work.
- e. Statement and explanation of any instances where your firm has been removed from a project or disqualified from proposing on a project
- f. Standard hourly billing rates for consultant and sub-consultant staff

3. Work Program

- a. Description of your approach to working with City staff to achieve their goal of completing the project on schedule.
- b. Services or data anticipated to be provided by the City.
- c. Any other information that would assist us in making this contract award decision.

4. Proposal Length and Copies

- a. Qualification proposals should be the minimum length to provide the required information. Charts and other short form approaches to conveying information are encouraged.
- b. 3 copies of the proposal must be submitted.
- c. 1 pdf format electronic copy must be submitted on flash drive.

PROPOSAL EVALUATION AND CONSULTANT SELECTION

Qualification proposals will be evaluated by a review committee and contract award process as follows:

1. Written Proposal Review/Finalist Candidate Selection

Proposals will be reviewed by a selection committee and ranked in accordance with the responsiveness, qualifications and understanding of the Consultant relative to these specification requirements. A group of finalists (short list) may be selected for follow-up requests for information or interviews before a final ranking is determined.

Contract award will be based on a combination of factors that represent the best overall value for completing the work scope as determined by the City, including: the written proposal criteria; results of background and reference checks; and proposed compensation rates.

2. Proposal Review and Award Schedule

The following is an outline of the anticipated schedule for proposal review and contract award:

Issue RFQ	07/22/21
Receive qualification proposals.....	08/17/21
Complete proposal evaluation.....	08/31/21
Award contract.....	09/06/21
Execute contract.....	09/13/21

F. FORM OF AGREEMENT

AGREEMENT

THIS AGREEMENT is made and entered into in the City of San Luis Obispo on [day, date, year] by and between the CITY OF SAN LUIS OBISPO, a municipal corporation, hereinafter referred to as City, and [CONSULTANT'S NAME IN CAPITAL LETTERS], hereinafter referred to as Consultant.

WITNESSETH

WHEREAS, on [date], requested proposals for the Foothill / California Railroad Crossing Upgrade project, Specification# 91293,

WHEREAS, pursuant to said request, Consultant submitted a proposal that was accepted by City for said services.

NOW THEREFORE, in consideration of their mutual promises, obligations and covenants hereinafter contained, the parties hereto agree as follows:

1. **Term.** The term of this Agreement shall be from the date this Agreement is made and entered, as first written above, until acceptance or completion of said services.
2. **Work Delays.** Should the Consultant be obstructed or delayed in the work required to be done hereunder by changes in the work or by any default, act, or omission of the City, or by strikes, fire, earthquake, or any other Act of God, or by the inability to obtain materials, equipment, or labor due to federal government restrictions arising out of defense or war programs, then the time of completion may, at the City's sole option, be extended for such periods as may be agreed upon by the City and the Consultant. In the event that there is insufficient time to grant such extensions prior to the completion date of the contract, the City may, at the time of acceptance of the work, waive liquidated damages that may have accrued for failure to complete on time, due to any of the above, after hearing evidence as to the reasons for such delay, and making a finding as to the causes of same.
3. **Termination.** If, during the term of the contract, the City determines that the Consultant is not faithfully abiding by any term or condition contained herein, the City may notify the Consultant in writing of such defect or failure to perform. This notice must give the Consultant a 10 (ten) calendar day notice of time thereafter in which to perform said work or cure the deficiency.

If the Consultant has not performed the work or cured the deficiency within the ten days specified in the notice, such shall constitute a breach of the contract and the City may terminate the contract immediately by written notice to the Consultant to said effect. Thereafter, neither party shall have any further duties, obligations, responsibilities, or rights under the contract except, however, any and all obligations of the Consultant's surety shall remain in full force and effect, and shall not be extinguished, reduced, or in any manner waived by the termination thereof.

In said event, the Consultant shall be entitled to the reasonable value of its services performed from the beginning date in which the breach occurs up to the day it received the City's Notice of Termination, minus any offset from such payment representing the City's damages from such breach. "Reasonable value" includes fees or charges for goods or services as of the last milestone or task satisfactorily delivered or completed by the Consultant as may be set forth in the Agreement payment schedule; compensation for any other work, services or goods performed or provided by the Consultant shall be based solely on the City's assessment of the value of the work-in-progress in completing the overall workscope.

The City reserves the right to delay any such payment until completion or confirmed abandonment of the project, as may be determined in the City's sole discretion, so as to permit a full and complete accounting of costs. In no event, however, shall the Consultant be entitled to receive in excess of the compensation quoted in its proposal.

Termination for Convenience. The City also reserves the right to terminate the contract for convenience, providing a 30 (thirty) calendar day notice, at any time upon a determination by the Director that termination of

the contract is in the best interest of the City. Upon termination notice from the City, Consultant must, unless otherwise directed, cease work and follow the City's directions as to work in progress and finished goods. For termination of any services pursuant to this Agreement, the City's liability will be the lesser of a reasonable price for the services rendered prior to termination.

4. **Ability to Perform.** The Consultant warrants that it possesses, or has arranged through subcontracts, all capital and other equipment, labor, materials, and licenses necessary to carry out and complete the work hereunder in compliance with any and all applicable federal, state, county, city, and special district laws, ordinances, and regulations.
5. **Sub-contract Provisions.** No portion of the work pertinent to this contract shall be subcontracted without written authorization by the City, except that which is expressly identified in the Consultant's proposal. Any substitution of sub-consultants must be approved in writing by the City. For any sub-contract for services in excess of \$25,000, the subcontract shall contain all provisions of this agreement.
6. **Contract Assignment.** The Consultant shall not assign, transfer, convey or otherwise dispose of the contract, or its right, title or interest, or its power to execute such a contract to any individual or business entity of any kind without the previous written consent of the City.
7. **Inspection.** The Consultant shall furnish City with every reasonable opportunity for City to ascertain that the services of the Consultant are being performed in accordance with the requirements and intentions of this contract. All work done and all materials furnished, if any, shall be subject to the City's inspection and approval. The inspection of such work shall not relieve Consultant of any of its obligations to fulfill its contract requirements.
8. **Record Retention and Audit.** For the purpose of determining compliance with various laws and regulations as well as performance of the contract, the Consultant and sub-consultants shall maintain all books, documents, papers, accounting records and other evidence pertaining to the performance of the contract, including but not limited to the cost of administering the contract. Materials shall be made available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the contract. Authorized representatives of the City shall have the option of inspecting and/or auditing all records. For Federally funded projects, access to records shall also include authorized representatives of the State and Federal government. Copies shall be furnished if requested.
9. **Conflict of Interest.** The Consultant shall disclose any financial, business, or other relationship with the City that may have an impact upon the outcome of this contract, or any ensuing City construction project. The Consultant shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing City construction project which will follow. The Consultant staff shall provide a Conflict of Interest Statement where determined necessary by the City.

The Consultant covenants that it presently has no interest, and shall not acquire any interest—direct, indirect or otherwise—that would conflict in any manner or degree with the performance of the work hereunder. The Consultant further covenants that, in the performance of this work, no sub-consultant or person having such an interest shall be employed. The Consultant certifies that no one who has or will have any financial interest in performing this work is an officer or employee of the City. It is hereby expressly agreed that, in the performance of the work hereunder, the Consultant shall at all times be deemed an independent Consultant and not an agent or employee of the City.

10. **Rebates, Kickbacks or Other Unlawful Consideration.** The Consultant warrants that this contract was not obtained or secured through rebates, kickbacks or other unlawful consideration, either promised or paid to any City employee. For breach or violation of the warranty, the City shall have the right in its discretion; to terminate the contract without liability; to pay only for the value of the work actually performed; to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.
11. **Covenant Against Contingent Fees.** The Consultant warrants by execution of this contract that no person or selling 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 employees or 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 has the right to annul this contract without liability; pay only for the value of the work actually performed, or in its discretion, to deduct from the contract price or

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

- 12. Compliance with Laws and Wage Rates.** The Consultant shall keep itself fully informed of and shall observe and comply with all applicable state and federal laws and county and City of San Luis Obispo ordinances, regulations and adopted codes during its performance of the work. This includes compliance with prevailing wage rates and their payment in accordance with California Labor Code. For purposes of this paragraph, "construction" includes work performed during the design and preconstruction phases of construction, including but not limited to, inspection and land surveying work.
- 13. Payment of Taxes.** The contract prices shall include full compensation for all taxes that the Consultant is required to pay.
- 14. Permits, Licenses and Filing Fees.** The Consultant shall procure all permits and licenses, pay all charges and fees, and file all notices as they pertain to the completion of the Consultant's work. The City will pay all application fees for permits required for the completion of the project including building and regulatory permit application fees. Consultant will provide a 10 day notice for the City to issue a check.
- 15. Safety Provisions.** The Consultant shall conform to the rules and regulations pertaining to safety established by OSHA and the California Division of Industrial Safety.
- 16. Public and Employee Safety.** Whenever the Consultant's operations create a condition hazardous to the public or City employees, it shall, at its expense and without cost to the City, furnish, erect and maintain such fences, temporary railings, barricades, lights, signs and other devices and take such other protective measures as are necessary to prevent accidents or damage or injury to the public and employees.
- 17. Preservation of City Property.** The Consultant shall provide and install suitable safeguards, approved by the City, to protect City property from injury or damage. If City property is injured or damaged resulting from the Consultant's operations, it shall be replaced or restored at the Consultant's expense. The facilities shall be replaced or restored to a condition as good as when the Consultant began work.
- 18. Immigration Act of 1986.** The Consultant warrants on behalf of itself and all sub-consultants engaged for the performance of this work that only persons authorized to work in the United States pursuant to the Immigration Reform and Control Act of 1986 and other applicable laws shall be employed in the performance of the work hereunder.
- 19. Consultant Non-Discrimination.** In the award of subcontracts or in performance of this work, the Consultant agrees that it will not engage in, nor permit such sub-consultants as it may employ, to engage in discrimination in employment of persons on any basis prohibited by State or Federal law.
- 20. Accuracy of Specifications.** The specifications for this project are believed by the City to be accurate and to contain no affirmative misrepresentation or any concealment of fact. Consultants are cautioned to undertake an independent analysis of any test results in the specifications, as City does not guaranty the accuracy of its interpretation of test results contained in the specifications package. In preparing its proposal, the Consultant and all sub-consultants named in its proposal shall bear sole responsibility for proposal preparation errors resulting from any misstatements or omissions in the specifications that could easily have been ascertained by examining either the project site or accurate test data in the City's possession. Although the effect of ambiguities or defects in the specifications will be as determined by law, any patent ambiguity or defect shall give rise to a duty of Consultant to inquire prior to proposal submittal. Failure to so inquire shall cause any such ambiguity or defect to be construed against the Consultant. An ambiguity or defect shall be considered patent if it is of such a nature that the Consultant, assuming reasonable skill, ability and diligence on its part, knew or should have known of the existence of the ambiguity or defect. Furthermore, failure of the Consultant or sub-consultants to notify City in writing of specification defects or ambiguities prior to proposal submittal shall waive any right to assert said defects or ambiguities subsequent to submittal of the proposal.

To the extent that these specifications constitute performance specifications, the City shall not be liable for costs incurred by the successful Consultant to achieve the project's objective or standard beyond the amounts provided therefor in the proposal.

In the event that, after awarding the contract, any dispute arises as a result of any actual or alleged ambiguity or defect in the specifications, or any other matter whatsoever, Consultant shall immediately notify the City in writing, and the Consultant and all sub-consultants shall continue to perform, irrespective of whether or not the ambiguity or defect is major, material, minor or trivial, and irrespective of whether or not a change order, time extension, or additional compensation has been granted by City. Failure to provide the hereinbefore described written notice within one (1) working day of Consultant's becoming aware of the facts giving rise to the dispute shall constitute a waiver of the right to assert the causative role of the defect or ambiguity in the plans or specifications concerning the dispute.

- 21. Hold Harmless and Indemnification for Design Professional Services:** In the event Consultant is a "design professional", and the Scope of Services require Consultant to provide "design professional services" as those phrases are used in Civil Code Section 2782.8, this paragraph shall apply in place of paragraphs A or B. To the fullest extent permitted by law (including, but not limited to California Civil Code Sections 2782 and 2782.8) Consultant shall indemnify, defend and hold harmless the City and its elected officials, officers, employees, volunteers and agents ("City Indemnitees"), from and against all claims, damages, injuries, losses, and expenses including costs, attorney fees, expert consultant and expert witness fees arising out of, pertaining to or relating to, the negligence, recklessness or willful misconduct of Consultant, except to the extent caused by the sole negligence, active negligence or willful misconduct of the City. Negligence, recklessness or willful misconduct of any subcontractor employed by Consultant shall be conclusively deemed to be the negligence, recklessness or willful misconduct of Consultant unless adequately corrected by Consultant. In the event the City Indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from Consultant's performance of this Agreement, the Consultant shall provide a defense to the City Indemnitees or at the City's option, reimburse the City Indemnitees their costs of defense, including reasonable legal fees, incurred in defense of such claims. In no event shall the cost to defend charged to Consultant under this paragraph exceed Consultant's proportionate percentage of fault. However, notwithstanding the previous sentence, in the event one or more defendants is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, Consultant shall meet and confer with other parties regarding unpaid defense costs.

The review, acceptance or approval of the Consultant's work or work product by any indemnified party shall not affect, relieve or reduce the Consultant's indemnification or defense obligations. This Section survives completion of the services or the termination of this contract. The provisions of this Section are not limited by and do not affect the provisions of this contract relating to insurance.

- 22. Non-Exclusive Contract.** The City reserves the right to contract for the services listed in this proposal from other consultants during the contract term.
- 23. Standards.** Documents shall conform to City Standards and City furnished templates shall be used.
- 24. Consultant Endorsement.** Technical reports, plans and specifications shall be stamped and signed by the Consultant where required.
- 25. Required Deliverable Products and Revisions.** The Consultant will be required to provide documents addressing all elements of the workscope. Plans shall be prepared using City's standardized title blocks and coversheets. Draft plans may be submitted for review using either the full D (24x36) format or a reduced 11x17 format. Consultant shall ensure that drawings and notes are clearly legible if using the reduced format. Specifications and bid documents shall conform to standard City formats unless authorized. The City's current Standard Specifications and Engineering Standards must be incorporated where applicable.

City staff will review any documents or materials provided by the Consultant and, where necessary, the Consultant will respond to staff comments and make such changes as deemed appropriate. Submittals shall include the previous marked up submittal (returned to the Consultant) to assist in the second review. Changes shall be made as requested or a notation made as to why the change is not appropriate.

Consultant shall submit deliverables as identified in the City Request for Proposal Specification No. 91293 and Consultant's proposal dated X.

All Submittals must include one electronic copy submitted in *Adobe Acrobat* format.

Draft reports and plan submittals shall be submitted as paper copies. Final documents shall be submitted as camera-ready original, unbound, each page printed on only one side, including any original graphics in place and

scaled to size, ready for reproduction AND one electronic copy submitted in *Adobe Acrobat* format including all original stamps and signatures

In the event the City will be compiling the final specifications, incorporating the Consultant's work, the final specifications will also be required to be submitted in *Microsoft Word* format.

Final plans will also be required to be submitted in AutoCAD

Electronic files shall be submitted on a flash drive and all files must be compatible with the *Microsoft* operating system. Files may be emailed or link provided to a FTP sever in lieu of flash drive.

- 26. Ownership of Materials.** Upon completion of all work under this contract, ownership and title to all reports, documents, plans, specifications, and estimates produced as part of this contract will automatically be vested in the city and no further agreement will be necessary to transfer ownership to the City. The Consultant shall furnish the City all necessary copies of data needed to complete the review and approval process.

It is understood and agreed that all calculations, drawings and specifications, whether in hard copy or machine readable form, are intended for one-time use in the construction of the project for which this contract has been entered into.

The Consultant is not liable for claims, liabilities, or losses arising out of, or connected with the modification, or misuse by the City of the machine-readable information and data provided by the Consultant under this agreement. Further, the Consultant is not liable for claims, liabilities, or losses arising out of, or connected with any use by City of the project documentation on other projects, except such use as may be authorized in writing by the Consultant.

- 27. Release of Reports and Information.** Any reports, information, data, or other material given to, prepared by or assembled by the Consultant as part of the work or services under these specifications shall be the property of City and shall not be made available to any individual or organization by the Consultant without the prior written approval of the City.

The Consultant shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this contract without prior review of the contents thereof by the City and receipt of the City's written permission.

- 28. Copies of Reports and Information.** If the City requests additional copies of reports, drawings, specifications, or any other material in addition to what the Consultant is required to furnish in limited quantities as part of the work or services under these specifications, the Consultant shall provide such additional copies as are requested, and City shall compensate the Consultant for the costs of duplicating of such copies at the Consultant's direct expense.

- 29. Attendance at Meetings And Hearings.** Consultant shall attend as many "working" meetings with staff as necessary to accomplish the workscope tasks. The consultant is responsible to attend on-site meetings as required by Union Pacific Railroad, Caltrans, or California Public Utilities Commission, as needed.

- 30. Requests for Review.** The Consultant shall respond to all requests for submittal review or contractor RFI's within two weeks of receipt of the information from the City.

- 31. Permit and Filing Fees.** The Consultant shall procure all permits, and licenses, pay all charges and fees and file all notices necessary as they pertain to the completion of the Consultant's work. The City will pay all application fees for permits required for the completion of the project work. The City requires a 10 day notice to issue a check.

- 32. Consultant Invoices.** The Consultant shall deliver a monthly invoice to the City, itemized by project work phase or, in the case of on-call contracts, by project title. Invoice must include a breakdown of hours billed and miscellaneous charges and any sub-consultant invoices, similarly broken down, as supporting detail.

- 33. Payment.** For providing services as specified in this Agreement, City will pay and Consultant shall receive therefore compensation in a total sum not to exceed the individual agreed upon project fee. Should the

Consultant's designs, drawings or specifications contain errors or deficiencies, the Consultant shall be required to correct them at no increase in cost to the City.

The Consultant shall be reimbursed for hours worked at the hourly rates attached to this agreement. Hourly rates include direct salary costs, employee benefits, overhead and fee. In addition, the Consultant shall be reimbursed for direct costs other than salary and vehicle cost that have been identified and are attached to this agreement. The Consultant's personnel shall be reimbursed for per diem expenses at a rate not to exceed that currently authorized for State employees under State Department of Personnel Administration rules.

34. Payment Terms. The City's payment terms are 30 days from the receipt and approval of an original invoice and acceptance by the City of the materials, supplies, equipment or services provided by the Consultant (Net 30).

35. Resolution of Disputes. Any dispute, other than audit, concerning a question of fact arising under this contract that is not disposed of by agreement shall be decided by a committee consisting of the City's Project Manager and the City Director of Public Works, who may consider written or verbal information submitted by the Consultant. Not later than thirty days after completion of all deliverables necessary to complete the plans, specifications and estimate, the Consultant may request review by the City Council of unresolved claims or disputes, other than audit, in accordance with Chapter 1.20 Appeals Procedure of the Municipal Code.

Any dispute concerning a question of fact arising under an audit of this contract that is not disposed of by agreement, shall be reviewed by the City's Chief Fiscal Officer. Not later than 30 days after issuance of the final audit report, the Consultant may request a review by the City's Chief Fiscal Officer of unresolved audit issues. The request for review must be submitted in writing.

Neither the pendency of a dispute, nor its consideration by the City will excuse the consultant from full and timely performance in accordance with the terms of this contract.

36. Agreement Parties.

City: Bryan Wheeler
City of San Luis Obispo
919 Palm Street
San Luis Obispo, CA 93401

Consultant:

All written notices to the parties hereto shall be sent by United States mail, postage prepaid by registered or certified mail addressed as shown above.

37. Incorporation by Reference. City Request for Proposal Specification No. 91293 and Consultant's proposal dated X, are hereby incorporated in and made a part of this Agreement. Should there be any conflict between terms set forth in the City Request for Proposals Specification No. 91293 and Consultant's proposal dated [DATE], the terms in this agreement and City Request for Proposals Specification No. 91293 will govern.

38. Amendments. Any amendment, modification or variation from the terms of this Agreement shall be in writing and shall be effective only upon approval by the Traffic Manager.

39. Working Out of Scope. If, at any time during the project, the consultant is directed to do work by persons other than the City Project Manager and the Consultant believes that the work is outside of the scope of the original contract, the Consultant shall inform the Project Manager immediately. If the Project Manager and Consultant both agree that the work is outside of the project scope and is necessary to the successful completion of the project, then a fee will be established for such work based on Consultant's hourly billing rates or a lump sum price agreed upon between the City and the Consultant. Any extra work performed by Consultant without prior written approval from the City Project Manager shall be at Consultant's own expense.

40. Complete Agreement. This written agreement, including all writings specifically incorporated herein by reference, shall constitute the complete agreement between the parties hereto. No oral agreement, understanding or representation not reduced to writing and specifically incorporated herein shall be of any force or effect, nor shall any such oral agreement, understanding or representation be binding upon the parties hereto. For and in consideration of the payments and agreements hereinbefore mentioned to be made and performed by City, Consultant agrees with City to do everything required by this Agreement, the said specification and incorporated documents.

Authority to Execute Agreement. Both City and Consultant do covenant that each individual executing this agreement on behalf of each party is a person duly authorized and empowered to execute Agreements for such party.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed the day and year first above written.

CITY OF SAN LUIS OBISPO:

CONSULTANT:
Name of Company

Derek Johnson, City Manager

By:
Name of CAO/President
Its: CAO/President

APPROVED AS TO FORM:

Christine Dietrick, City Attorney

G. PROPOSAL SUBMITTAL FORMS

(Note: These forms are available in Word format – Request via email)

ACKNOWLEDGEMENT

The undersigned declares that she or he:

- Has carefully examined Specification No. 91293 RFP
- Is thoroughly familiar with its content
- Is authorized to represent the proposing firm; and
- Agrees to perform the work as set forth in the specification and this proposal.

Firm Name and Address:		
Contact Name:		
Email:	Fax:	Phone:

Signature of Authorized Representative:	Date:
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INSURANCE CERTIFICATE

_____ Insurance Company's A.M. Best Rating

☐ Certificate of insurance attached

REFERENCES

Number of years engaged in providing the services included within the scope of the specifications under the present business name: _____

Describe fully the last three contracts performed by your firm that demonstrate your ability to provide the services included with the scope of the specifications. Attach additional pages if required. The City reserves the right to contact each of the references listed for additional information regarding your firm's qualifications.

Reference No. 1

Customer Name	
Contact Individual	
Telephone & Email	
Street Address	
City, State, Zip Code	
Date of Services	
Contract Amount	
Description of Services	
Project Outcome	

Reference No. 2

Customer Name	
Contact Individual	
Telephone & Email	
Street Address	
City, State, Zip Code	
Date of Services	
Contract Amount	
Description of Services	
Project Outcome	

Reference No. 3

Customer Name	
Contact Individual	
Telephone & Email	
Street Address	
City, State, Zip Code	
Date of Services	
Contract Amount	
Description of Services	
Project Outcome	

STATEMENT OF PAST CONTRACT DISQUALIFICATIONS

The Consultant shall state whether it or any of its officers or employees who have a proprietary interest in it, has ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of the violation of law, a safety regulation, or for any other reason, including but not limited to financial difficulties, project delays, or disputes regarding work or product quality, and if so to explain the circumstances.

Do you have any disqualification as described in the above paragraph to declare?

☐

Yes

☐

No

If yes, explain the circumstances.

Executed on _____ at _____ under penalty of perjury of the laws of the State of California, that the foregoing is true and correct.

Signature of Authorized Consultant Representative

H. INSURANCE REQUIREMENTS: Consultant Services

The Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, employees or sub-consultants.

Minimum Scope of Insurance. Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 20 10 Prior to 1993 or CG 20 10 07 04 with CG 20 37 10 01 or the exact equivalent as determined by the City).
2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Errors and Omissions Liability insurance as appropriate to the consultant's profession.

Minimum Limits of Insurance. Consultant shall maintain limits no less than:

1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.
4. Errors and Omissions Liability: \$1,000,000 per occurrence.

Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City, its officers, officials, employees, agents and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, official, employees, agents or volunteers.
2. For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
3. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
4. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City. The Consultant agrees to notify the City in the event that the policy is suspended, voided or reduced in coverage or limits. A minimum of 30 days prior written notice by certified mail, return receipt requested, will be provided.

Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

Verification of Coverage. Consultant shall furnish the City with a certificate of insurance showing maintenance of the required insurance coverage. Original endorsements effecting general liability and automobile liability coverage required by this clause must also be provided. 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 and approved by the City before work commences.

I. APPENDICES

Appendix 1 – Federally Funded Contract Forms

The following forms are for federally funded projects and shall be completed and submitted upon selection by the review committee. This project will require all LAPM forms for federally-funded projects.

Local Assistance Procedures Manual forms may be obtained from the Caltrans website:

<http://www.dot.ca.gov/hq/LocalPrograms/lam/forms/lapmforms.htm>

Required forms include:

1. Exhibit 10-A: A&E Consultant Audit Request Letter and Checklist
2. Exhibit 10-B: Suggested Consultant Evaluation Sheet
3. Exhibit 10-C: Consultant Contract Reviewers Checklist
4. Exhibit 10-H: Sample Cost Proposal
5. Exhibit 10-I: Notice to Proposers DBE Information
6. Exhibit 10-K: Consultant Certification of Costs and Financial Management System
7. Exhibit 10-O1: Consultant Proposal DBE Commitment
8. Exhibit 10-O2: Consultant Contract DBE Information (Word version)
9. Exhibit 10-Q: Disclosure of Lobbying Activities
10. Exhibit 17-F: Final Utilization Report (to be completed at Project Completion)