

COUNCIL AGENDA: DECEMBER 2, 2014

SUBJECT: AUTHORIZATION TO AWARD CONSULTANT AGREEMENT – ANALYSIS OF EDISON STREET LIGHT PURCHASE PROGRAM

SOURCE: Public Works Department - Engineering Division

COMMENT: In October 2013, the City Council approved and directed the Public Works Director to move forward with preliminary steps to purchase Edison owned street lights (LS-1). To move the project forward, Edison required payment in the amount of \$10,000 to perform an appraisal of their street lights. Edison completed their appraisal effort and met with City staff on November 14, 2014. Edison appraised the value of 2,754 street lights at \$2,065,000 or \$750 per street light.

The cities of Visalia, Tulare and Porterville interviewed and selected the firm of Utility Cost Management, LLC (UCM) of Fresno to perform a variety of analytical tasks to determine if it is good business sense to consummate the purchase of Edison street lights. Visalia and Tulare have already awarded a Consultant Service Agreement to UCM and a copy of that agreement is included in Council's packet for reference. Specifically, UCM will:

1. Review and analyze Edison's appraisal report, calculations and methodology.
2. Review past sales to provide comparable data that may help reduce SCE's price.
3. Forecast utility bill savings and ongoing cost of maintenance.
4. Financing options and financial risks.
5. Retrofit options, i.e., change out existing lights to LED lighting.

UCM's fee to accomplish all tasks is \$7,100. If the City Council feels it is in the City's best interest to continue exploring the purchase of the street lights, it is staff's recommendation that the Council award a Consultant Service Agreement to UCM in an amount not to exceed \$8,500 which includes a 20% contingency to cover, as of this writing, unforeseen events that may arise in our dealings with Edison.

Dir BS Appropriated/Funded MM CM J

Item No. 4

RECOMMENDATION: That the City Council:

1. Award a Consultant Service Agreement to Utilities Cost Management (UCM) in the not to exceed amount \$8,500; and
2. Direct the Public Works Director to bring to a future Council meeting a complete and thorough Financial Feasibility Analysis Report (FFAR) with recommendations on whether to purchase or not purchase the street lights offered by Southern California Edison.

ATTACHMENT: City of Visalia Service Agreement with Utility Cost Management, LLV

**PROFESSIONAL SERVICES AGREEMENT
SOUTHERN CALIFORNIA EDISON (SCE) STREET LIGHT PURCHASE
FEASIBILITY ANALYSIS**

This Agreement, entered into this 20th day of March, 2014, by and between the City of Visalia, hereinafter referred to as the "CITY", and **Utility Cost Management, LLC** hereinafter referred to as the "CONSULTANT".

W I T N E S S E I H

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

WHEREAS, the CITY has the desire to secure certain technical and professional services to assist in the preparation and completion of the items of work described as "Scope of Work" in Exhibit "A", and hereinafter referred to as the "PROJECT"; and

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

NOW, THEREFORE, CITY and CONSULTANT agree as follows:

I. SERVICES TO BE PERFORMED BY THE CONSULTANT

- A. Authorized Scope of Work: The CONSULTANT agrees to perform all work necessary to complete in a manner satisfactory to the CITY those tasks described in Exhibit "A" - Scope of Work, for the cost identified in Exhibit "B": Project Fees/Progress Payment Schedule.
- B. Additional Services: Incidental work related to the PROJECT and not provided for in Exhibit "A" may be needed during the performance of this Agreement. The CONSULTANT agrees to provide any and all additional services at the rates identified in attached Exhibit "C" - Schedule of Fees for Professional Services. Such additional services shall not be performed by CONSULTANT without the written consent of CITY.

II. TIME OF PERFORMANCE

The CONSULTANT shall commence performance of this Agreement within ten (10) days of Consultant's Notice to Proceed following City Council approval of this Agreement and shall complete the work within the timeframes outlined in Exhibit "A", unless otherwise extended in writing by CITY, in its sole discretion.

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

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

III. COMPENSATION

- A. Total Compensation: For services performed pursuant to this Agreement, the CITY agrees to pay and the CONSULTANT agrees to accept, as payment in full, a sum not to exceed **Eleven Thousand Nine Hundred Dollars (\$11,900.00)**. This amount shall constitute complete compensation,

including document production and out-of-pocket expenses for all services for the work and PROJECT identified in Exhibits "A" and "B".

- B. Payment of Compensation: The CONSULTANT shall be compensated according to the progress payment schedule set forth in Exhibit "B" upon completion of percentage of each noted phase. The CONSULTANT shall be paid no later than thirty (30) days following submission of a written, verified billing to the CITY. Said billing shall include the percentage of each task completed to date and since the date of the preceding billing, if any.

IV. AUTHORIZED REPRESENTATIVE

- A. CITY: The Project Manager shall represent the CITY in all matters pertaining to the services to be rendered under this Agreement, except where approval of the City Council of the City of Visalia is specifically required.
- B. CONSULTANT: Michael Kerkorian shall represent and act as principle for CONSULTANT in all matters pertaining to the services to be rendered by it under this Agreement.

V. TERMINATION

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

- A. Termination By Either Party Without Cause: The CITY or CONSULTANT may terminate this Agreement at any time by giving written notice to the other of such termination and specifying the effective date thereof, at least fifteen (15) days before the effective date of such termination.
- B. Termination of Agreement for Cause: The CITY may by written notice to the CONSULTANT specifying the effective date thereof, at least fifteen (15) days before the effective date of such termination, terminate the whole or any part of this Agreement in any of the following circumstances:
1. If the CONSULTANT fails to perform the services called for by this Agreement within time(s) specified herein or any extension thereof; or
 2. If the CONSULTANT fails to make progress under this Agreement as to endanger performance of this Agreement in accordance with its terms, and does not correct such failure within a period of ten (10) days (or longer period as the CITY may authorize in writing) after receipt of notice from the CITY specifying such failure.
- C. Post-Termination:
1. In the event the CITY terminates this Agreement with or without cause, the CITY may procure, upon such terms and such manner as it may determine appropriate, services similar to those terminated.
 2. Except with respect to defaults of subconsultants, the CONSULTANT shall not be liable for any excess costs if the failure to perform this Agreement arises out of causes beyond the control and without the fault or negligence of the CONSULTANT. Such causes include, but are not limited to, acts of God or of the public enemy, floods, epidemics, quarantine restrictions, strikes, and unusually severe weather; but in the event the failure to perform is caused by the default of a subconsultant, the CONSULTANT shall not be liable for failure to perform, unless the services to be furnished by the subconsultant were obtainable from

other sources in sufficient time and within budgeted resources to permit the CONSULTANT to meet the required delivery schedule or other performance requirements.

3. Should the Agreement be terminated with or without cause, the CONSULTANT shall provide the CITY with all finished and unfinished documents, data, studies, services, drawings, maps, models, photographs, reports, etc., prepared by the CONSULTANT pursuant to this Agreement.
4. Upon termination, with or without cause, CONSULTANT will be compensated for the services satisfactorily completed to the date of termination according to compensation provisions contained herein. In no event, shall the total compensation paid CONSULTANT exceed the total compensation agreed to herein.
5. If, after notice of termination of this Agreement, as provided for in this article, it is determined for any reason that the CONSULTANT was not in default under the provisions of this article, then the rights and obligations of the parties shall be the same as if the Agreement was terminated without cause.
6. Termination of this Agreement shall not terminate any obligation to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination activities.

VI. INTEREST OF OFFICIALS AND THE CONSULTANT

- A. No officer, member, or employee of the CITY who exercises any functions or responsibilities in the review or approval of this Agreement shall:
 1. Participate in any decision relating to this Agreement which effects their personal interest or the interest of any corporation, partnership, or association in which they have, directly or indirectly, any interest; or
 2. Have any interest, direct or indirect, in this Agreement or the proceeds thereof during his/her tenure or for one year thereafter.
- B. The CONSULTANT hereby covenants that they have, at the time of the execution of this Agreement, no interest, and that they shall not acquire any interest in the future, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed pursuant to this Agreement. The CONSULTANT further covenants that in the performance of this work, no person having any such interest shall be employed.

VII. NO PERSONNEL, AGENCY OR COMMISSION

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

VIII. SUBCONTRACTING

- A. The CONSULTANT shall not subcontract or otherwise assign any portion of the work to be

performed under this Agreement without the prior written approval of the CITY.

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

IX. INDEPENDENT CONTRACTOR

In the performance of the services herein provided for, the CONSULTANT shall be, and is, an independent contractor and is not an agent or employee of the CITY. The CONSULTANT has and shall retain the right to exercise full control and supervision of all persons assisting the CONSULTANT in the performance of said services hereunder. The CONSULTANT shall be solely responsible for all matters relating to the payment of its employees including compliance with social security and income tax withholding and all other regulations governing such matters.

X. SPECIFICATIONS

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

XI. DOCUMENTS/DATA

- A. Ownership of Documents: All original papers and documents, produced as a result of this Agreement, shall become the property of the CITY. In addition, CITY shall be provided with access and use of any other papers and documents consistent with the purpose and scope of services covered by this Agreement. Any additional copies, not otherwise provided for herein, shall be the responsibility of the CITY.

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

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

XII. INDEMNIFICATION AND INSURANCE

The CONSULTANT agrees to comply with all of the Indemnification and Insurance requirements identified in Exhibit "E" - Indemnification and Insurance.

XIII. NON-DISCRIMINATION

CONSULTANT and all subcontractors shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, or sex in the performance of this Agreement. The CONSULTANT shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement.

XIV. MISCELLANEOUS PROVISIONS

- A. Successors and Assigns: This Agreement shall be binding upon and shall inure to the benefit of any successors to or assigns of the parties.
- B. Prohibition of Assignment: Neither the CITY nor CONSULTANT shall assign, delegate or transfer their rights and duties in this Agreement without the written consent of the other party.
- C. Dispute/Governing Law: Any dispute not resolvable by informal arbitration between the parties to this Agreement shall be adjudicated in a Court of Law under the laws of the State of California.
- D. Notices: Notice shall be sufficient hereunder if personally served upon the City Clerk of the CITY or an officer or principal of the CONSULTANT, or if sent via the United States Postal Service, postage prepaid, addressed as follows:
- | | |
|---|---|
| CITY OF VISALIA
707 W. Acequia Ave
Visalia, CA 93291
Attention: City Clerk | Utility Cost Management, LLC
6475 N. Palm Avenue, Suite 105
Fresno, CA 93704
Attn: Michael Kerkorian |
|---|---|
- E. Jurisdiction/Venue/Waiver Of Removal: This Agreement shall be administered and interpreted under the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be in that State. Any action brought to interpret or enforce this Agreement, or any of the terms or conditions hereof, shall be brought in Tulare County, California. The CONSULTANT hereby expressly waives any right to remove any action to a county other than Tulare County as permitted pursuant to Section 394 of the California Code of Civil Procedure.
- F. Integration/Modification: This Agreement and each of the exhibits referenced herein, which are incorporated by reference, represents the entire understanding of the CITY and the CONSULTANT as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing signed by the CITY and the CONSULTANT.
- G. Conflict With Law: If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said law, but the remainder of the Agreement shall be in full force and effect.
- H. Attorney's Fees: In the event either party commences any action, arbitration or legal proceedings for the enforcement of this Agreement, the prevailing party, as determined by the court or

arbitrator, shall be entitled to recovery of its attorney's fees and court costs incurred in the action brought thereon.

- I. Construction: This Agreement is the product of negotiation and compromise on the part of each party and the parties agree, notwithstanding Civil Code Section 1654, that in the event of uncertainty the language will not be construed against the party causing the uncertainty to exist.
- J. Authority: Each signatory to this Agreement represents that it is authorized to enter into this Agreement and to bind the party to which its signature represents.
- K. Headings: Section headings are provided for organizational purposes only and do not in any manner affect the scope or intent of the provisions thereunder.

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

CITY OF VISALIA

City Manager

CONSULTANT

Approved as to Form

City Attorney

Risk Manager

Project Manager

Attachments:

- Exhibit "A": Scope of Work
- Exhibit "B": Project Fees/Progress Payment Schedule
- Exhibit "C": Schedule of Fees for Professional Services
- Exhibit "D": Indemnification and Insurance Requirements¹

Exhibit "A": Scope of Work

B. Proposed Project Approach

Municipalities interested in purchasing street lights from their electricity provider face an unusual type of sales negotiation. There is only one possible seller of the street lights, the utility, and only one possible buyer, the city. So the transaction is in no way a market-based process in which price is determined by supply and demand.

In some ways, for cities like Visalia, Tulare and Porterville ("Cities") that are evaluating a purchase, the lack of alternative sellers can be problematic. The seller, SCE, understands that it is the "only game in town" and that the Cities would like to avoid the cost of taking the street lights through eminent domain, and therefore has less incentive to compromise on price and other transaction terms.

Fortunately, California municipal street light purchases have occurred often enough during the past twenty years to offer a template on appropriate valuation methodology. The California Public Utilities Commission (CPUC) has made clear that it endorses "Replacement Cost New Less Depreciation" (RCNLD), and this technique provides a starting point for negotiations with SCE.

In approaching this project, Utility Cost Management LLC (UCM) will focus on RCNLD to arrive at a reasonable initial offer from SCE. From there, we will work to reduce the initial offer by scrutinizing SCE's figures, calculations, and assumptions in light of its testimony and workpapers in past CPUC proceedings. UCM also will analyze CPUC filings from other street light sales to provide comparable data that may help to reduce SCE's price.

Of course, the purchase price is only one of the factors that Cities will evaluate for potential street light purchases. UCM's written report will include analysis of other important considerations, such as transaction costs, forecasted utility bill savings, ongoing maintenance and other costs of ownership, financing options, retrofit options, and financial risks.

In addition to a written report, UCM will prepare an Excel-based financial model that will calculate 20-year discounted cash flows, return on investment, net present value, and simple payback of the street light purchase under various assumptions. This model will allow UCM to perform sensitivity analyses to assess "best-case", "worst-case" and "likely-case" scenarios, which will provide Cities with an understanding of the possible range of outcomes and the uncertainties that are inherent in any long-term financial projections.

The specific approach that UCM will take is described more fully below:

1. Obtain SCE's Initial Offer

UCM will contact SCE to request a written offer, along with supporting calculations and documentation. The supporting information is essential to in order to establish a reasonable

valuation methodology, so that as negotiations proceed SCE will not be inclined to alter its price without proper justification.

2. Evaluate SCE's Initial Offer

SCE's initial offer will be broken down in various ways to identify opportunities to lower the proposed price or otherwise secure more favorable terms for Cities:

- UCM will ensure that SCE's calculations are consistent with workpapers, testimony and CPUC rulings from Phase 2 of the utility's 2012 General Rate Case (GRC). These documents contain detailed cost accounting data for every type of SCE street light, and therefore provide an excellent basis for reviewing RCNLD calculations. For example, SCE's testimony explains its approach to deriving street light "replacement cost", its depreciation methodology, and its detailed street light operations and maintenance costs.
- UCM will review workpapers, testimony and CPUC rulings from GRC's of PG&E and SDG&E, so that it can assess whether SCE's cost assumptions are reasonable. For example, if SCE claims the total installed cost of a 30-foot concrete pole is \$2,000, but PG&E claims it is only \$1,500, then that discrepancy should be explained. Similarly, if SDG&E depreciates its street lights over a useful life of 32 years, but SCE uses 40 years, that difference will have a significant impact on RCNLD figures, and should be investigated.
- UCM has in its files over 1,200 pages of archived CPUC documents from Section 851 street light sales that have occurred since 1998. These documents were obtained in 2012 as part of an internal UCM analysis of street light purchase opportunities, and contain a wealth of information, including purchase price and terms, agreements, and detailed inventories of the assets being purchased. While none of the sales were with SCE, the information will nonetheless be useful as an additional source of comparable data.
- UCM will review SCE's mapping and inventory data to ensure that it is a reasonably accurate representation of the actual number, location, type and wattage of Cities' street lights. Rather than verify every individual street light, which would be time-consuming and costly, UCM will utilize statistical sampling to establish the accuracy of the SCE data within prescribed confidence intervals. (While this effort will require some in-field site visits, it will not include an independent appraisal of the condition of the street light system, which UCM views as outside the scope of this RFP. Cities may wish to undertake such an appraisal prior to completing any street light purchase, but UCM believes that such an appraisal is unnecessary to evaluate the feasibility of the purchases.)

3. Negotiate with SCE to Arrive at “True Price”

While analyses of utility company and CPUC data will certainly enable UCM to minimize the RCNLD price, the final price and terms of Cities’ street light purchases will require more than RCNLD calculations. It may be difficult to arrive at SCE’s final, “true” price as part of this feasibility analysis, because UCM will not be negotiating the actual deal. However, we believe that UCM’s lengthy track record of successful negotiations with California’s major utilities, its reputation as an able customer advocate at the CPUC, and its familiarity with GRC cost accounting will help us to obtain SCE’s lowest possible offer as part of this feasibility analysis. (See Tab “C” on UCM’s Experience.)

4. Transaction Process and Associated Costs

UCM’s analysis will include a description of the anticipated steps involved in the purchase transaction. Some of these steps may require out-of-pocket costs (e.g., SCE administrative fees, retaining consultants and other professional services), while others may require time from Cities’ staffs (e.g., obtaining city council approval, preparing RFPs). In either case, if Cities have a clear understanding of the process, they can make more informed decisions on whether or not to proceed with the purchases.

UCM’s explanation of the transaction process will include a discussion of Cities’ right to take the street lights through condemnation if negotiations fail. While we would not expect condemnation to be necessary because of SCE’s apparent willingness to sell its street light assets, nonetheless it is important for Cities to be aware of this option. (Please note, UCM is not an attorney or a law firm and cannot provide legal advice or services.)

UCM also will discuss the process of obtaining an independent appraisal of the street light system. As mentioned above, we do not believe this is necessary as part of the feasibility analysis, but prior to the sale, the city will want to ascertain the condition of the system and the potential costs associated with deteriorating poles and other deferred maintenance. Because the cost of this appraisal could be significant, that cost must be included as part of the Cities’ feasibility evaluation.

5. Utility Bill Savings

The main benefit associated with the Cities’ street light purchases is the resulting reduction in SCE electricity charges. While it is relatively straightforward to quantify the savings under currently applicable SCE rates, it is more difficult to project savings over the next 10, 15 or 20 years. Over longer time periods, even a seemingly modest adjustment to the escalation rate used to forecast savings – say from 2% to 3% – can have a material effect on Cities’ savings.

UCM will review SCE street light rates over the past 20 years to determine how the relationship between LS1 and LS2 charges has fluctuated. This information will be combined with utility

testimony, utility workpaper calculations, and CPUC decisions in recent years to help determine whether the future differential between LS1 and LS2 charges is likely to increase, decrease or remain the same. UCM's analysis will also include calculations of expected utility bill savings if the street lights are retrofitted to more energy efficient fixtures.

6. Retrofit Opportunities

Street light ownership will offer Cities the opportunity to retrofit their systems with more energy efficient technologies. UCM's analysis will include a discussion of retrofit options, including costs, benefits, financing alternatives and risks. UCM will include case studies of recently completed LED and induction retrofits that it has gathered as an advisor to various California cities.

7. Costs of Ownership

Through its review of GRC testimony and workpapers, UCM will obtain SCE's average maintenance costs for various types of street lights. In addition, UCM will seek SCE's historical maintenance data specifically for Cities. This will include data on routine maintenance, such as fixture replacements and reflector cleanings, as well as event-driven repairs such as pole knock-downs and copper wire theft. UCM also will survey other California cities – both those that perform street light maintenance in-house and those that contract with third-party vendors – to provide comparable information on expected maintenance costs.

UCM will also gather information on ancillary costs and benefits of street light ownership, such as insurance, lost property tax revenue, and opportunities to generate revenue by leasing street light space to companies for placement of wireless communication devices.

8. Analysis of Potential Risks

As mentioned in the above discussion of "Utility Bill Savings", it is difficult to forecast electricity rates over 10, 15 or 20 years, and this represents one of the risks associated with street light purchases. However, there are other future events that could impact financial results, and the likelihood of these events should be assessed. For example, the application of dimming and solar technologies would reduce street light electricity usage and therefore could benefit Cities, but could also result in rate changes that could lengthen the purchase payback period. Similarly, if SCE upgrades utility-owned street lights to more efficient technologies in the next several years, the benefits of ownership could be reduced significantly.

9. Creation of Excel-Based Financial Model to Calculate Impact of Purchase Under Various Assumptions and Scenarios

Even with the best information, it is likely that one or more of the assumptions that are critical to Cities' analysis of the street light purchases will have to be modified as the purchases move forward. In addition, from the outset, Cities should have a clear understanding of how their

financial results will be impacted if anticipated situations do not materialize. For this reason, UCM will create an Excel-based financial model that will quickly allow the evaluation of the purchases under various scenarios. This model will be part of the work product that will be provided to Cities upon project completion.

10. Timeline

We estimate the following timeline for this project. Please note, this is only an *estimated* timeline, and the project could take longer if SCE does not provide requested information timely.

Time from contract signing...	Task to be completed...
1 week	1. Notify SCE of Cities' desire to obtain written offer.
1 week to 2 weeks	2. Project kickoff meeting with participating cities.
2 weeks to 6 weeks	3. Obtain written offers from SCE.
5 weeks to 9 weeks	4. Complete initial analysis of SCE offer, and notify SCE of requested changes.
7 weeks to 11 weeks	5. Ongoing discussions with SCE, analysis of data, drafting of report, and creation of financial model.
9 weeks to 13 weeks	6. Submittal of completed report and financial model to participating cities.
10 weeks to 14 weeks	7. Meetings with participating cities to review UCM's findings, and to discuss potential next steps.

11. Schedule of Deliverables

The deliverables for this project are:

- a. A written report, which will include a summary of UCM's findings and recommendations, as well as more detailed explanations and supporting documentation for each recommendation.
- b. An Excel-based financial model that will enable Cities to perform calculations based on various assumptions associated with the street light purchases.

As indicated in the above timeline, we would expect to submit the deliverables to participating cities within 8 to 12 weeks of contract signing.

Exhibit "B": Project Fees [City of Visalia Only]

E. Proposed Fee Structure and Schedules

UCM is proposing to provide the services described in this RFP response for a fixed fee. Assuming all three cities sign agreements with UCM within 30 days of RFP award, then the proposed fee for each of the participating cities is: 90 days

City of Visalia	\$11,900
City of Tulare	\$8,800
City of Porterville	\$7,100

UCM will be responsible for travel costs and other out-of-pocket costs necessary to complete the project.

UCM will invoice Cities for 30% of the total fee amount upon contract award. UCM will invoice for the remaining 70% after all work product has been delivered to Cities. UCM's invoices are due within 30 days, and past due amounts will accrue interest charges at a rate of 1% per month.

UCM believes that working with all three cities at the same time is an important way to minimize the cost of the feasibility analysis, because there are significant economies of scale available. The data that UCM will obtain from SCE and the CPUC in order to evaluate SCE's offers will be similar for each city. The information that UCM obtains from other California cities and UCM's other fact-finding efforts will enhance UCM's findings for all three cities. Certain sections of each written report will be similar for each city. The computer model that UCM will create will be useful to all three cities.

Because of these economies of scale, the above figures must increase if all three cities do not retain UCM. If only two of the three cities sign agreements with UCM within 30 days of RFP award, then UCM proposes that the above figures be increased by 15%. If only one of the three cities signs an agreement with UCM within 30 days of RFP award, then UCM proposes that the above figures be increased by 35%. 90 days

UCM's Fresno location will allow it to conduct separate meetings with each of the participating cities, in order to ensure that each city's specific concerns are addressed in UCM's findings. UCM envisions kickoff meetings with each participating city shortly after contract execution, as well as meetings with each participating city after UCM has completed its work.

The approximate breakdown of the above fees by type of service is as follows:

Obtain, Evaluate and Negotiate SCE's Initial Offer (See Sections 1-3 of "Proposed Project Approach".)	20%
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Fact-Finding and Analysis of Transaction Process, Utility Bill Savings,

Retrofit Opportunities, Costs of Ownership, and Risks (See Sections 4-8 of "Proposed Project Approach".)	30%
Creation of Excel-based Financial Model (See Section 9 of "Proposed Project Approach".)	15%
Preparation of Written Report with Supporting Documentation	30%
Preparation for and Attendance at Client Meetings	5%

Exhibit "C": Schedule of Fees for Professional Services

All additional service shall be performed as the following rate:

Michael Kerkorian	\$175 per hour
All other UCM staff	\$ 90 per hour

EXHIBIT D Indemnification and Insurance Requirements

City of Visalia Indemnification and Insurance Requirements

- A. As respects acts, errors, or omissions in the performance of services, CONSULTANT agrees to indemnify and hold harmless CITY, its elected and appointed officers, employees, and CITY designated volunteers from and against any and all claims, demands, losses, defense costs, liability or consequential damages arising directly out of CONSULTANT's negligent acts, errors or omissions in the performance of his/her services under the terms of this Agreement, except to the extent those arise out of the negligence of CITY.
- B. CITY agrees to indemnify and hold harmless CONSULTANT, its officers, employees, and designated volunteers from and against any and all losses, defense costs, liability or consequential damages to the extent arising out of CITY'S negligent acts, errors or omissions in the performance of this Agreement.
- C. As respects all acts or omissions which do not arise directly out of the performance of services, including but not limited to those acts or omissions normally covered by general and automobile liability insurance, CONSULTANT agrees to indemnify, defend (at CITY's option), and hold harmless CITY, its elected and appointed officers, agents, employees, representatives, and volunteers from and against any and all claims, demands, defense costs, liability, or consequential damages of any kind or nature arising out of or in connection with CONSULTANT's (or CONSULTANT's subcontractors, if any) performance or failure to perform, under the terms of this Agreement; except to the extent those which arise out of the negligence of CITY.
- D. Without limiting CITY's right to indemnification, it is agreed that CONSULTANT shall obtain and submit within ten (10) calendar days of the Notice of Award for this Agreement, and maintain during the term of this Agreement, insurance coverage as follows:
1. Workers' compensation insurance as required by California statutes.
 2. Commercial general liability insurance with a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence. Such insurance shall include coverage for Premises and Operations, Contractual Liability, Personal Injury Liability, Products and Completed Operations Liability, Broad Form Property Damage (if applicable), Independent Contractor's Liability (if applicable).
 3. Professional liability insurance coverage, in an amount not less than One Million Dollars (\$1,000,000).
 4. Comprehensive Automobile Liability coverage with a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence. Such insurance shall include coverage for owned, hired, and non-owned automobiles and shall be provided by a business automobile policy.
- E. CITY'S Risk Manager is hereby authorized to reduce the requirements set forth above in the event he/she determines that such reduction is in the CITY'S best interest.
- F. Each insurance policy required by this Agreement shall contain the following clause:

"This insurance shall not be canceled, limited in scope or coverage, or non-renewed until after thirty (30) days prior written notice has been given to the City Clerk, City of Visalia, 707 W. Acequia, Visalia, CA 93291."

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

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

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

- G. Within ten (10) calendar days of the Notice of Award for this Agreement, CONSULTANT shall deliver to CITY insurance certificates confirming the existence of the insurance required by this Agreement, and including the applicable clauses referenced above. Within thirty (30) days of the execution date of this Agreement, CONSULTANT shall provide to CITY endorsements to the above-required policies, which add to these policies the applicable clauses referenced above. Said endorsements shall be signed by an authorized representative of the insurance company and shall include the signatory's company affiliation and title. Should it be deemed necessary by CITY, it shall be CONSULTANT's responsibility to see that CITY receives documentation acceptable to CITY which sustains that the individual signing said endorsements is indeed authorized to do so by the insurance company. CITY has the right to demand, and to receive within a reasonable time period, copies of any insurance policies required under this Agreement.
- H. In addition to any other remedies CITY may have if CONSULTANT fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, CITY may, at its sole option:
1. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement; or
 2. Order CONSULTANT to stop work under this Agreement and/or withhold any payment(s) which become due to CONSULTANT hereunder until CONSULTANT demonstrates compliance with the requirements hereof; or
 3. Terminate this Agreement.

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

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