

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: Chief Executive Office

BOARD AGENDA # \*B-6

Urgent

Routine

AGENDA DATE September 29, 2009

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Authorize the Chief Executive Office to Amend the Request for Proposals for Design and Engineering Services for the Improvements at the Stanislaus County Honor Farm Waste Water Treatment Facility

STAFF RECOMMENDATIONS:

1. Authorize the Chief Executive Office to amend the request for proposals (RFP) for design and engineering services for improvements at the Stanislaus County Honor Farm Waste Water Treatment Facility (HFWWTF) on July, 2009.
2. Authorize the Project Manager to accept and open proposals on October 29, 2009, immediately after 2:00 p.m., and return to the Board to recommend an award.
3. Authorize the Auditor-Controller to establish a project budget.
4. Authorize the Project Manager to negotiate Contracts and Work Authorizations for Professional Services needed for the project consistent with the approved project budget.

FISCAL IMPACT:

On July 21, 2009, the Board authorized the Chief Executive Office to issue a request for proposals (RFP) for design and engineering services for the repairs and upgrades for the Stanislaus County Honor Farm Waste Water Treatment Facility (HFWWTF) and authorized the Project Manager to accept and open proposals on August 26, 2009, immediately after 4:00 p.m., and return to the Board to recommend an award.

(Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2009-652

On motion of Supervisor Monteith, Seconded by Supervisor Grover  
and approved by the following vote,  
Ayes: Supervisors: O'Brien, Chiesa, Grover, Monteith, and Chairman DeMartini  
Noes: Supervisors: None  
Excused or Absent: Supervisors: None  
Abstaining: Supervisor: None

- 1)  Approved as recommended
- 2)  Denied
- 3)  Approved as amended
- 4)  Other:

MOTION:

ATTEST:

  
CHRISTINE FERRARO TALLMAN, Clerk

File No.

**FISCAL IMPACT (Continued):**

Further review of the original Request for Proposals (RFP) has resulted in a recommendation that the original RFP be amended to include provisions for the development of a Master Plan for the improvements at the HFWWTF. The original RFP focused primarily on mitigating current known exposures at the site; however, the RFP didn't factor in potential long term exposures which may occur as a result of extending the useful life of the HFWWTF out an additional 15 years.

At this time, the Chief Executive Office is requesting Board approval to amend the original RFP for design and engineering services to include provisions for the development of a Master Plan for the improvements at the Stanislaus County HFWWTF.

The total project budget for the improvements at the Stanislaus County HFWWTF were originally estimated not to exceed \$362,791. Of the total amount, \$235,000 was allocated in the 2008-2009 the Chief Executive Office Plant Acquisition budget for the deferred maintenance of county facilities, and \$127,791 was allocated in the 2009-2010 Chief Executive Office Plant Acquisition budget for the deferred maintenance of county facilities. Once proposals have been received and the final construction cost is known, staff will return to the Board to approve the final project funding plan. The Design Phase will be funded out of existing appropriations in the Chief Executive Office Plant Acquisition budget previously approved by the Board.

Because the Honor Farm may be in use by the County for some time into the future, the wastewater treatment plan may require both immediate and long term improvements and a phased approach based on available funding during the current economic crisis will provide a more comprehensive approach and solution.

**DISCUSSION:**

The Stanislaus County Honor Farm is located at 8224 West Grayson Road, in Modesto California. The HFWWTF is located just east of the main entrance to the Honor Farm. The HFWWTF was originally planned for operation beginning in the mid 1950s.

The major objective of the project is to ensure the HFWWTF operates within regulatory requirements.

The HFWWTF is operating under a permit with the State of California Regional Water Quality Control Board (RWQCB) and processes all of the raw sewage for the Stanislaus County Honor Farm. Currently, significant improvements are needed at the HFWWTF.

Previously, the Stanislaus County Sheriff's Department entered into a professional services agreement with Jared Steeley Wastewater/Water Consulting and Operations to identify and evaluate deficiencies associated with the WWTP, its collection, holding and

Authorize the Chief Executive Office to Amend the Request for Proposals for Design and Engineering Services for the Improvements at the Stanislaus County Honor Farm Waste Water Treatment Facility

Page 3

discharge facilities. Pursuant to the scope of work (SOW), the evaluation would also recommend options to mitigate the deficiencies identified at the HFWWTF.

On August 31, 2008, Jared Steeley Wastewater/Water Consulting and Operations submitted a Final Assessment Report which identified the following major deficiencies and repair recommendations at the HFWWTF:

<b>Major Finding</b>	<b>Repair Recommendation</b>
Unsafe Electrical System	Replace electrical distribution systems used in the HFWWTF. Replace electrical conduits, wiring, switches and controls. Add additional site lighting for safety after hours
Accumulation of Sludge in Aeration Pond	Remove sludge that has built up on the bottom of the aeration pond. Identify best method to remove and dispose of sludge design engineering phase
Erosion of Aeration Pond Banks	Repair the erosion of the aeration pond banks and line banks
Mechanical System Upgrades	Replace aerator and mixer tie-down points on banks that are exposed and near failure due to bank erosion. Replace existing aerators and mixers
Out of Safety Compliance	Install signage around the perimeter of site and aeration pond. Install life jackets along the perimeter fence as required by OSHA and the RWQCB

The project design engineer will be expected to perform engineering functions and prepare a Master Plan for improvements at the HFWWTF. The Master Plan will include developing a program for repairing the facility to operate efficiently for the next 15 years and to comply with all regulatory requirements. The Master Plan will also include a master schedule to include phases of repair if appropriate, estimates of the probable cost of construction by phase, and provide assistance to the County to obtain reviews from appropriate Governmental Agencies.

Once proposals are received and evaluated, the Chief Executive Office will return to the Board to recommend and award a contract for Master Plan Engineering services and to approve the final project funding plan.

**POLICY ISSUES:**

The Board should consider if approval of the project supports the Board's stated priorities of *Efficient delivery of public services* and *A safe community*.

**STAFFING IMPACT:**

Existing Chief Executive Office Capital Projects, Public Works and General Services Agency staff will assist with project management and coordination of the project in partnership with the Sheriff's Honor Farm staff.

# County of Stanislaus: Auditor-Controller

## Legal Budget Journal

Database  
Set of Books

FMSDBPRD.CO.STANISLAUS.CA.US.PROD  
County of Stanislaus

<b>Balance Type</b>		<b>Budget</b>
<b>Category</b>	* List - Text	<b>Budget - Upload</b>
<b>Source</b>	* List - Text	<b>AC GL TCF</b>
<b>Currency</b>	* List - Text	<b>USD</b>
<b>Budget Name</b>	List - Text	<b>LEGAL BUDGET</b>
<b>Batch Name</b>	Text	
<b>Journal Name</b>	Text	
<b>Journal Description</b>	Text	<b>Honor Farm Waste Water Treatment Facility</b>
<b>Journal Reference</b>	Text	<b>Design and Engineering Services</b>
<b>Organization</b>	List - Text	<b>Stanislaus Budget Org</b>

Upl	Fund	Org	Acc't	GL Proj	Loc	Misc	Other	Debit		Credit		Period	Line Description
								incr appropriations	decr appropriations	decr est revenue	incr est revenue		
								(format > number > general)				Upper case	Text
												MMM-YY	
												List - Text	
Rb			62400	0000000	000000	000000	000000		10,541.00			SEP-09	
Rb			62600	0000000	000000	000000	000000		50.00			SEP-09	
Rb			62630	0000000	000000	000000	000000		2,500.00			SEP-09	
Rb			62730	0000000	000000	000000	000000		500.00			SEP-09	
Rb			63400	0000000	000000	000000	000000		2,500.00			SEP-09	
Rb			63430	0000000	000000	000000	000000		2,468.40			SEP-09	
Rb			63640	0000000	000000	000000	000000		5,000.00			SEP-09	
Rb			64150	0000000	000000	000000	000000		4,936.80			SEP-09	
Rb			64210	0000000	000000	000000	000000		4,936.80			SEP-09	
Rb			64220	0000000	000000	000000	000000		37,026.00			SEP-09	
Rb			64600	0000000	000000	000000	000000		12,342.00			SEP-09	
Rb			64631	0000000	000000	000000	000000		15,000.00			SEP-09	
Rb			65000	0000000	000000	000000	000000		5,000.00			SEP-09	
Rb			66210	0000000	000000	000000	000000		2,500.00			SEP-09	
Rb			73511	0000000	000000	000000	000000		250.00			SEP-09	
Rb			73512	0000000	000000	000000	000000		350.00			SEP-09	
Rb			73580	0000000	000000	000000	000000		10,000.00			SEP-09	
Rb			74100	0000000	000000	000000	000000		50.00			SEP-09	
Rb			80300	0000000	000000	000000	000000		220,000.00			SEP-09	
Rb			80570	0000000	000000	000000	000000		22,000.00			SEP-09	
Rb			80670	0000000	000000	000000	000000		4,840.00			SEP-09	
Rb			46600	0000000	000000	000000	000000			362,791.00		SEP-09	

**Totals:** 362791      362791

**Explanation:**

<b>Requesting Department</b>	<b>CEO</b>	<b>Data Entry</b>	<b>Auditors Office Only</b>
Signature	<i>Patricia Adams</i> Signature	Keyed by	<i>John A. ...</i> Approved By
Date	9/25/09 Date	Date	9/24/09 Date

# County of Stanislaus: Auditor-Controller

## Standard Journal

Balance Type  
Database  
Set of Books

Actual  
FMSDBPRD.CO.STANISLAUS.CA.US.PROD  
County of Stanislaus

Category	* List - Text	<b>Transfer</b>
Source	* List - Text	<b>AC GL TCF</b>
Currency	* List - Text	<b>USD</b>
Accounting Date	* List - Date	<b>9/24/2009</b>
Batch Name	Text	
Journal Name	Text	
Journal Description	Text	<b>Honor Farm Waste Water Facility</b>
Journal Reference	Text	<b>Transfer Funds from CEO Plant Acquisition</b>

Upl	Fund	Org	Acc't	GL Proj	Loc	Misc	Other	Debit	Credit	Line Desc	
4	7	5	7	6	6	5					
FD	0100	0016031	85850	0000000	000000	000000	000000	362,791.00		Trfr Out	
FD			46600	0000000	000000	000000	000000		362,791.00	Trfr In	
<b>Totals:</b>									362,791.00	362,791.00	

Explanation:

Departments Outside Auditors' Office		Data Entry	Auditors Office Only	
Prepared by	<i>Patricia M.</i>	Keyed by	Prepared By	<i>John F.</i>
Date	9/25/09	Date	Date	9/25/09
Supervisor's Approval		Approved By		

REQUEST FOR PROPOSALS  
MASTER PLANNING AND  
ENGINEERING SERVICES FOR THE  
HONOR FARM WASTEWATER TREATMENT FACILITY  
MODESTO, CALIFORNIA



**Issue Date: September 30, 2009**

**Proposal Due Date: October 28, 2009  
No Later Than: 2:00 PM**

---

Stanislaus County Capital Projects  
825 12th Street  
Modesto, CA 95354  
Phone 1.209.525.4380  
Fax 1.209.525.4385

## **TABLE OF CONTENTS**

### **SECTION 1 INTRODUCTION**

- 1.1 Background
- 1.2 Project Manager
- 1.3 Definitions of Terms
- 1.4 Schedule

### **SECTION 2 PROJECT AND SCOPE OF SERVICES**

### **SECTION 3 PROFESSIONAL SERVICES AGREEMENT AND RELATED MATTERS**

- 3.1 Professional Services Agreement
- 3.2 County's Right to Amend
- 3.3 Selected Respondent's Refusal to Execute

### **SECTION 4 PROPOSAL PRE-SUBMITTAL INSTRUCTIONS**

- 4.1 Distribution List
- 4.2 Deadline for Submittal of Written Questions
- 4.3 Addendum/Addenda to this RFP
- 4.4 Acknowledgment of Receipt of Addendum

### **SECTION 5 PROPOSAL PREPARATION AND SUBMITTAL INSTRUCTIONS**

- 5.1 Proposal Format
  - 5.1.1 Proposal Organization
  - 5.1.2 Title Page
  - 5.1.3 Proposal Organization Checklist
  - 5.1.4 Transmittal Letter
  - 5.1.5 Table of Contents
  - 5.1.6 Executive Summary
  - 5.1.7 Engineer Qualifications and Experience
  - 5.1.8 Engineer Client References
  - 5.1.9 Sub-Consultants
  - 5.1.10 Proposed Approach
  - 5.1.11 Performance Criteria
  - 5.1.12 Financial and Related Information
  - 5.1.13 Prior Litigation / Claims
  - 5.1.14 Proposal Authorization
  - 5.1.15 Discretionary Supplemental Materials
  - 5.1.16 Miscellaneous Procedures
  - 5.1.17 Pricing Proposal
- 5.2 Proposal Submittal
  - 5.2.1 Proposal Due Date
  - 5.2.2 Proposal Delivery
  - 5.2.3 Proposal Submission
- 5.3 Proposal Withdrawal

- 5.4 Irregular Proposals
- 5.5 County's Right to Reject or Terminate RFP

## **SECTION 6 PROPOSAL EVALUATION AND SELECTION PROCESS**

- 6.1 Selection Committee
- 6.2 Evaluation Process
- 6.3 Selection Process
- 6.4 Right to Protest
- 6.5 Post Approval Procedures

## **SECTION 7 CONDITIONS GOVERNING THIS RFP**

- 7.1 Confidentiality
- 7.2 Insurance
- 7.3 Applicable Laws/Miscellaneous

### **Attachments**

- Exhibit A Project History / Scope Description
- Exhibit B Form of Professional Services Agreement
- Exhibit C Acceptance of Form of Professional Services Agreement
- Exhibit D Acknowledgement of Receipt of RFP Form
- Exhibit E Proposal Organization Checklist
- Exhibit F Proposal Authorization
- Exhibit G Acknowledgment of Addendum



## **SECTION 1. INTRODUCTION**

### **1.1 Background**

The County of Stanislaus (“**County**”) is seeking a highly qualified Engineering Services Consultant (“**Consultant**”) to serve as the County’s Engineer of Record for the County’s MASTER PLAN OF THE WASTEWATER TREATMENT FACILITY AT THE STANISLAUS COUNTY HONOR FARM in Modesto, California (the “**Project**”). The work will include developing a Master Plan with recommending phasing, preparing a master schedule of the necessary improvements, and estimating probable cost of the repairs,

The due date for proposal submittals to the County is October 28, 2009 no later than 2:00 PM.

### **1.2 Project Manager**

All written inquiries and requests for additional information pertaining to this RFP, any Addendum, or any matter relating to the Engineer selection process, must, unless otherwise identified in an Addendum, be directed to the following:

Charles Vasquez  
County of Stanislaus  
1010 10<sup>th</sup> Street  
Modesto, California 95354

Email: Vasquezc@Stanco.COM  
Telephone: (209) \_525.7562

A complete RFP package may be obtained from —Teresa Vanderveen Monday through Friday between the hours of **8:00** a.m. and **5:00** p.m. at 209.525.4380, fax 209.525.4385 or Vandrvnt@Stanco.com.

### **1.3 Definitions of Terms**

This section contains definitions that are used throughout this RFP, including appropriate abbreviations as indicated.

“**Addendum/Addenda**” is any and all amendments to this RFP and any and all responses to written questions regarding this RFP issued by County in a written format and incorporated by reference into this RFP.

“**Board**” is the County’s Board of Supervisors.

“**County**” is the County of Stanislaus.

“**Consultant**” or “**Engineer**” is an individual, firm, partnership, corporation, consortium, joint venture, or other entity that is a potential Respondent to this RFP.

“**Distribution List**” is the list of interested parties to be used for the distribution of any and all Addenda prepared by County.

**“Professional Services Agreement”** or **“PSA”** is the Professional Services Agreement, including Appendices, initially in form attached hereto as Exhibit B, to be executed by County and the Selected Respondent.

**“Project”** is the Repair of the Wastewater Treatment Facility at the Stanislaus County Honor Farm, more particularly described in Section 2.1 below.

**“Project Manager”** is any person authorized by the County to manage or administer the RFP process and to whom all communications, both written and oral, shall be directed during the RFP issuance, evaluation and selection process.

**“Proposal”** is a written response to this RFP, including all exhibits, supplementary materials, and attachments thereto, pursuant to the requirements set forth in this RFP.

**“Request for Proposal”** or **“RFP”** is any and all documents comprising this RFP package, including those documents and attachments hereto and any and all Addendum/Addenda which County may issue.

**“Respondent”** is an individual, firm, partnership, corporation, consortium, joint venture, or other entity that chooses to submit a Proposal in response to this RFP.

**“Selected Respondent”** is a Respondent selected and approved by the Board to execute the Professional Services Agreement.

**“Services”** are the work, services, equipment and materials to be furnished by Engineer under the Professional Services Agreement.

#### **1.4 Schedule**

County anticipates following the following schedule for certain activities in relation to this RFP.

<u>Action</u>	<u>Responsibility</u>	<u>Date</u>
Issuance of RFP	County	September 30, 2009
Submittal of Written Questions Deadline	Potential Respondents	October 18, 2009
Addendum response to Distribution List/RFP amendments	County	October 23, 2009
Proposals Due	Potential Respondents	October 28, 2009 no later than 2:00 PM
Respondent recommendation	County	TBD
Selected Respondent approval	Board	TBD

Commencement of Services  
Under PSA

County/Selected Consultant TBD

County reserves the right to modify this schedule at any time at its sole discretion.

## **SECTION 2. PROJECT AND SCOPE OF SERVICES**

2.1. The Project will be located on property owned by the County of Stanislaus at the Stanislaus County Honor Farm in Modesto, CA. The Project budget will be determined during the development of the Master Plan. Because the Honor Farm may be in use by the County for another 15 years, the wastewater treatment plan may require both immediate and long term improvements. The enclosed Final Assessment Report entitled Waste Facility Evaluation by Jared Steeley Wastewater Consulting describes the current situation at the Waste Facility.

2.2 The Project Description is attached in Exhibit A, Final Assessment Report by Jared Steeley Waste Water Consulting. The Draft Project Professional Services Agreement is in Exhibit B.

2.3 All work shall comply with all applicable laws and regulations, including, where applicable, laws requiring the payment of prevailing wages as set forth in Labor Code Section 1770 et seq.

2.4 The successful Engineer will be expected to perform Engineering functions including, but not limited to:

2.4.1 MASTER PLAN. Prepare a Master Plan for the improvement of the Wastewater Treatment Plant. The Master Plan shall include: a program for repairing the facility to operate efficiently for the next 15 years and to comply with all Regulatory Requirements, a master schedule to include phases of repair if appropriate, estimates of the probable cost of construction by phase, and assistance to the County to obtain reviews from appropriate Governmental Agencies.

2.4.3 GATHER AND VERIFY PROJECT AND SITE INFORMATION. The Engineer will examine the existing location. The Engineer will include cost for any survey work needed to document existing facilities

2.4.4 BUDGET. The Engineer will estimate the probable cost of construction for each phase of repair.

2.4.5 PROJECT SCHEDULE. Prepare a schedule of the Engineering services. Advise the County on Phasing of the repairs and a Master Schedule.

2.4.6

2.4.7 MEETINGS. The Engineer team shall attend as a minimum

2.4.7.1 Kick off meeting in Modesto, CA.

2.4.7.2 Program Review meeting in Modesto, CA.

2.4.7.3 Weekly team meetings with the County, Construction Manager, Public Works, Users, and other parties shall to review and discuss progress, problems, and activities planned for the next interval. Weekly meetings may be conducted by telephone conferences with interactive computer displays. At least monthly meetings will be attended in Modesto, CA.

2.4.7.4 Contract Closeout Meeting in Modesto, CA.

2.4.7.5 Other meetings as necessary.

2.4.8 COST. The Engineer will prepare a statement of probable construction cost at the completion of the design phase based on the documents and other available data, and will compare it to the approved program budget. The statement of probable construction cost must not exceed the approved budget.

2.4.9 COUNTY APPROVAL. At the completion of the Master Plan the complete drawings, specifications, probable cost estimate, and other documents will be presented to the County for written approval. The Engineer may also be required to obtain initial approvals from the State Regional Water Quality Control Board (RWQCB), code compliance reviewers, and/or other County departments.

2.4.10 Prepare one draft for review, and one final biddable set of plans and specifications.

2.4.11 Provide a schedule of the Engineer's work.

2.4.12 Revise design as necessary.

2.4.13 Attend meetings as appropriate.

2.4.14 All work shall comply with applicable laws, regulations and building codes.

### **SECTION 3. PROFESSIONAL SERVICES AGREEMENT AND RELATED MATTERS**

This RFP and attached form of Professional Services Agreement define the County's basic requirements and serve as the basis for submittal of all Proposals in response to this RFP.

#### **3.1 Professional Services Agreement**

County will expect the Selected Respondent to execute the attached form of Professional Services Agreement, with only such changes as County may approve in its sole discretion. Respondents are expected to indicate any objections or requested changes to the form in their Proposals.

Each Respondent shall sign the Acceptance of Form of Professional Services Agreement ("**Acceptance**") in form attached hereto as Exhibit C, with the fixed price otherwise indicated in the Respondent's Proposal. Any requested modifications to the form of Professional Services Agreement

must be indicated by checking the appropriate box in Exhibit D and attaching the addendum referenced therein clearly identifying Respondent's proposed modifications. Respondents' proposed modifications to the form of Professional Services Agreement must be made in a "Strikeout" or "Underline" format.

### **3.2 County's Right to Amend**

County reserves the right to make such modifications or additions to the form of Professional Services Agreement attached as Exhibit B to this RFP, as County may elect in its sole discretion prior to award, and thereafter as otherwise permitted by the Professional Services Agreement. Otherwise, County reserves the right to make modifications or additions with the mutual consent of the Selected Respondent.

### **3.3 Selected Respondent's Refusal to Execute**

If the Selected Respondent refuses to execute the form of Professional Services Agreement in substantially the form attached as Exhibit B to this RFP, as modified by its Proposal, County may begin negotiations with the Respondent whose Proposal is determined to be the best alternative Proposal, determine that no such alternative exists or exercise any other available right.

## **SECTION 4. PROPOSAL PRE-SUBMITTAL INSTRUCTIONS**

To submit questions and receive answers to questions in a timely manner and to be placed on the Distribution List for any and all Addendum/Addenda issued by County, potential Respondents must follow guidelines specified in this section. Only information supplied by County in writing through this RFP and Addendum/Addenda, if any, may be used as the basis for preparation of Respondents' Proposals. The standard format for submission of Proposals to be used by Respondents is described in Section 5.

### **4.1 Distribution List**

Potential respondents should hand deliver or return mail or other courier service Acknowledgment of Receipt of RFP Form ("**Acknowledgment of RFP**") attached as Exhibit D to this RFP to have their names placed on the Distribution List for this RFP, which will be used for the distribution of any and all Addendum/Addenda issued by County. Potential respondents are therefore encouraged to return the Acknowledgment of RFP as soon as possible. Failure to return this form shall constitute a presumption of receipt and election to not respond to this RFP, and the party's name will not appear on the Distribution List.

### **4.2 Deadline for Submittal of Written Questions**

Potential Respondents may submit only written inquiries or requests regarding the intent and clarity of this RFP. Written questions should be submitted by fax or email. The identity of the person/organization submitting the questions will not be revealed by County at the meeting. Additional inquiries may be addressed at the meeting at County's sole discretion. All questions must be submitted by August 14, 2009.

### **4.3 Addendum/Addenda to this RFP**

County reserves the right to interpret or change any provisions of this RFP at any time prior to August 22, 2009. Such amendments, if any, shall be issued as written Addendum/Addenda to this RFP.

Additionally, County may prepare answers, in the form of an Addendum to this RFP, to questions addressed by County and as County otherwise deems appropriate. Written responses, in the form of an Addendum and amendments, if any, to this RFP will be sent via facsimile and/or U.S. mail no later than August 21, 2009 to all parties on the Distribution List. Any Addendum issued by County may also be obtained in person from the office of the Project Manager.

#### **4.4 Acknowledgment of Receipt of Addendum**

Each Respondent is responsible to inquire as to the Addendum/Addenda issued by County. All Addenda shall become part of this RFP, and all Respondents shall be bound by such Addenda, whether or not received by Respondent. Each Respondent must sign any Acknowledgment of Addendum Form (“**Acknowledgment**”) included as Exhibit G, and return the Acknowledgment with their Proposal Form. Failure to return the Acknowledgment shall constitute a presumption of withdrawal from the proposal process and the potential Respondent’s name shall be removed from the Distribution List.

### **SECTION 5. PROPOSAL PREPARATION AND SUBMITTAL INSTRUCTIONS**

This RFP and attached form of Professional Services Agreement define the County’s basic requirements and serve as the basis for submittal of all Proposals in response to this RFP.

#### **5.1 Proposal Format**

The Proposal shall be clear and concise to enable County to make a thorough evaluation as to whether the Proposal meets County’s requirements. Proposals must include a detailed Table of Contents that is consistent with Section 5.1.1 of this RFP. All forms attached to and supplementary materials requested in the Exhibits to this RFP must be thoroughly completed, clearly labeled, and included in the appropriate section of the Proposal, pursuant to Section 5.1.1.

Each Respondent may only submit one Proposal in response to this RFP.

##### **5.1.1 Proposal Organization**

Each Proposal must be organized and indexed in the following format and must contain, at a minimum, all listed items in the sequence indicated. Any Proposal that does not conform to these minimum requirements may be deemed non-responsive and rejected on that basis, in County’s sole discretion.

#### **Section 1: Proposal Summary**

- Title Page
- Proposal Organization Checklist, Exhibit F
- Transmittal Letter
- Executive Summary
- Consultant Qualifications and Experience
- Consultant Client References
- Subconsultants
- Proposed Approach
- Performance Criteria

## Section 2: Financial Information

Financial Statements

Claims and litigation history

Letter from insurance broker

## Section 3: Response Forms

Proposal Authorization, Exhibit F

Acknowledgment of Addendum Form (if necessary), Exhibit G

Acceptance of Form of Professional Services Agreement, including any proposed modifications, Exhibit B

## Section 4: Discretionary Supplemental Materials

Explanation of relevancy of discretionary supplementary materials

Any desired materials

## Pricing Proposal

Pricing Proposal in separate, sealed envelope

### **5.1.2 Title Page**

In a one page cover identify the Project and Services, the date of Proposal submittal, the name of the Engineer and its principal place of business, and the name, title, telephone and facsimile numbers and e-mail address of the person to be contacted for clarification.

### **5.1.3 Proposal Organization Checklist**

Complete the Proposal Organization Checklist attached as Exhibit E to this RFP to help ensure that all of the requested information is included in the prescribed format.

### **5.1.4 Transmittal Letter**

Include a Transmittal Letter clearly stating the Respondent's intent to enter into a Professional Services Agreement with County for the Services as defined in this RFP and any and all Addendum/Addenda hereto. The Transmittal Letter must, as a minimum:

- Identify the date of the Proposal.
- Identify the Engineer by proposed organizational team members and/or individuals, and the legal structure of each, and the principals of each firm/organization. Include, as a minimum, the following: Engineer, engineer, consultants.
- Identify the name, title, telephone and facsimile numbers and e-mail address of the person authorized to negotiate for and contractually obligate the Engineer pursuant to all terms and conditions stated in the Proposal.
- Identify the name, title, telephone and facsimile numbers and e-mail address of the person to be contacted for clarification, if different from above.

- Indicate that it is being signed by the person(s) authorized to obligate the Engineer contractually.

### **5.1.5 Table of Contents**

Each Proposal must provide in Section 1 a detailed Table of Contents for the entire Proposal submittal package.

### **5.1.6 Executive Summary**

The Executive Summary provides an overview of Respondent's Proposal.

The Executive Summary should identify, at a minimum, the proposed fixed price, a summary of Respondent's explanation of why Respondent believes Respondent's firm is most qualified to be selected for this Project, and anything else Respondent deems particularly important.

### **5.1.7 Engineer Qualifications and Experience**

County is seeking an Engineer with a team composed of experienced and highly regarded professionals who have demonstrated a capacity to perform services similar to the Services on a cost-effective basis. The team should include, as a minimum, a California licensed Engineer, and other specialized consultants as needed to augment the team's capacity to address professionally the County's needs for the Project. Respondents must propose staff who will perform day-to-day Project Services, not senior personnel who have other, substantial responsibilities.

Respondent shall provide a detailed resume for each of the key staff who will be responsible for each of the various components of the scope of services for this Project. The resumes shall include the individual's name, address, telephone, facsimile, their professional qualifications, and number of years in business as well as previous firm names during the past ten years, and education, years of relevant experience, professional registrations including evidence of valid applicable licensure, and at least three examples of services within the past three years pertinent to determining qualifications for the Engineer.

Each Respondent shall include a statement identifying the proposed Engineer firm, its legal structure (i.e. corporation, partnership, limited partnership, or joint venture), and its managerial personnel. If the proposed Engineer is a partnership, limited partnership, or other association, the Respondent must provide a listing of all of the partners, general partners, or association members known at the time of Proposal submission who will participate in the Services. Respondent shall identify the most recent experience for the various team members with emphasis on team collective experience. The Proposal should focus on primary and related experience including, but not limited to, the following:

The Proposal must describe the relevance and importance of each project in relation to the Services, disciplines, and team members' key individuals available for this Project. Respondent shall describe how this experience qualifies these parties to accomplish their proposed roles in the Project.

Substitution of personnel named in the Proposal during the proposal process or during performance of the Services shall require the County's written approval. Respondents and Engineers shall submit a written request for the substitution, including the reason for the requested substitution and a detailed resume for the new proposed person demonstrating that he or she meets the minimum requirements for



the position. The substituted personnel must, in the County's opinion, meet the minimum qualifications for the position being filled. Failure to obtain the County's approval of substituted personnel within 15 days of the effective date of the substitution will result in financial penalties to be specified in the Professional Services Agreement.

#### **5.1.8 Engineer Client References**

Provide references for three recent projects in which Engineer performed services similar to the Services for the proposed Project. List projects which have been completed, or as a minimum, are substantially completed. For each project, (a) provide a description of project and services performed, to support the claim it is similar to the proposed Project; (b) provide a client/owner contact person, title, address and telephone number; and (c) identify key staff on the project, including Engineer and other key personnel.

#### **5.1.9 Sub-Consultants**

Provide information on sub-consultants, including a description of the services to be performed by each sub-consultant.

#### **5.1.10 Proposed Approach**

Provide a description of your technical approach to providing services to the County for this Project.

#### **5.1.11 Performance Criteria**

Describe how your team is organized to provide the services to perform this Project.

Describe the major strengths of your team.

Describe the major difficulties that you might expect to encounter in conducting and coordinating this Project to ensure that the County receives high quality design and construction. Describe the methods you would use to overcome these difficulties.

Describe your firm's ability to perform the work within the schedule outlined herein.

#### **5.1.12 Financial and Related Information**

Respondent is required to demonstrate that it is financially qualified to undertake the Services defined by this RFP. To be considered qualified, Respondent must provide, for itself and any team member of any proposed consortium or joint venture, audited and/or reviewed financial statements for the most recently completed three fiscal years.

Respondent must also provide a list of all claims and litigation, including threatened, if any, within the past five years, on any projects for which Engineer or any team member failed to complete any work awarded, with explanation of circumstances.

Respondents must also provide a letter from its insurance broker attesting to the willingness to provide the required insurance coverages described in the Professional Services Agreement.

#### **5.1.13 Prior Litigation / Claims**

Provide a description of any litigation or claims against your firm in the past five years.

#### **5.1.14 Proposal Authorization**

Prepare and sign the Proposal Authorization in form attached to this RFP as Exhibit F (“**Authorization**”). Signature of the Authorization shall constitute acceptance of the Conditions Governing this RFP pursuant to Section 7.

#### **5.1.15 Discretionary Supplemental Materials**

Respondent may include in its Proposal submittal, on a discretionary basis, other materials that it believes may improve the quality of its Proposal. Respondent must include an explanation of the relevancy of the other materials to the Proposal.

#### **5.1.16 Miscellaneous Procedures**

Each copy of the transmittal letter and Acceptance must contain an original signature. Proposals submitted by partnerships must be signed with the partnership name, followed by the signature and designation of the partner signing. Proposals submitted by corporations must be signed with the legal name of the corporation followed by the name of the state of incorporation. Two signatures are required for corporations, as follows: the signature of the president, the chair of the board or any vice president AND the signature of the secretary, any assistant secretary, the chief financial officer or any assistant treasurer of the corporation. The name of each signatory must be typed below the signature names.

County may interview any or all of the client references provided by Respondent. Submittal of a Proposal constitutes Respondent’s consent for County to conduct reference checks and reasonable investigation of all information provided by Respondent.

All Proposals and accompanying documentation submitted by Respondents become the property of County and, except as otherwise provided in this RFP, will not be returned.

#### **5.1.17 Pricing Proposal**

This RFP requests that the Respondents provide, in a separate envelope, a not-to-exceed price for all work. The Pricing Proposals shall comply with the following requirements:

- 5.1.17.1 REIMBURSEABLE EXPENSES. All Reimbursable expenses must be included in the not-to-exceed proposal price.
- 5.1.17.2 ADDITIONAL SERVICES. Billing rates for additional services.

- 5.1.17.3 OVERTIME. Overtime must be included in the not-to-exceed proposal price.
- 5.1.17.4 TRAVEL. Travel time must be included in the not-to-exceed price.
- 5.1.17.5 SIGNATURE. The handwritten signature of the Respondent.

## **5.2 Proposal Submittal**

### **5.2.1 Proposal Due Date**

Respondents must submit four (4) identical numbered copies of each Proposal, including all attachments (except that there need be only 1 copy of the financial statements), each with original signatures, in a sealed envelope marked "Proposal for Stanislaus County Honor Farm Wastewater Treatment Project." Sealed Proposals will be received at the Project Manager until the hour of 4:00 p.m. as determined by the clock on the wall of the Capital Projects office, on August 26, 2009.

### **5.2.2 Proposal Delivery**

Proposals shall be submitted by hand delivery, U.S. Mail or other courier service. Facsimile transmissions will not be accepted. The Project Manager or its delegate will be responsible for determination if a Proposal is received on time. That decision will be final and no further consideration of late Proposals will be given. Any late Proposals will be returned unopened to the Respondent only upon request.

Respondent may also provide an electronic response via e-mail in addition to the written Proposal submittal. The written Proposal shall be considered the legal response. County may consider but is not obligated to provide an electronic copy version of this RFP.

Proposals may not be amended after submission.

### **5.2.3 Proposal Submission**

- 5.2.3.1 It is the sole responsibility of Respondent to see that its proposal is received in proper time.
- 5.2.3.2 Respondent shall carefully examine the instructions contained herein and satisfy itself as to the conditions with which it must comply prior to submitting its proposal, and to the conditions affecting the award of contract.
- 5.2.3.3 If more than one proposal is offered by any individual, firm, partnership, corporation, association, or any combination thereof, under the same or different names, all such proposals may be rejected.
- 5.2.3.4 All Respondents are hereby notified that any collusive agreement fixing prices so as to control or affects the awarding of this contract is in violation of the competitive bid requirements of State law and may render void any contract let under such circumstances.

5.2.3.5 Proposed prices shall be in effect for ninety (90) days from the date of submission.

### **5.3 Proposal Withdrawal**

Any Respondent to this RFP may withdraw a Proposal by written notice delivered to the Project Manager prior to the due date and time specified in Section 5.2.1 for receipt of Proposals.

### **5.4 Irregular Proposals**

A Proposal may be rejected if it shows any alteration of form, additions not called for, conditional proposals, incomplete proposals, erasures, or irregularities of any kind. If the proposal amount is changed after the amount is originally inserted, the change should be initialed.

### **5.5 County's Right To Reject or Terminate RFP**

County expressly reserves the right to further consider, accept or reject any or all Proposals submitted in response to this RFP; to request additional information or clarification of information submitted; to cancel or modify, in part or in its entirety, this RFP, or to request new proposals or pursue any other means for obtaining the services contemplated by this RFP and/or the Professional Services Agreement.

## **SECTION 6. PROPOSAL EVALUATION AND SELECTION PROCESS**

### **6.1 Selection Committee**

County will appoint a Selection Committee to review and evaluate all Proposals; contact Respondents as required; request a Respondent to modify its proposed modifications to the Professional Services Agreement; and make recommendations regarding the selection of a Selected Respondent. The Selection Committee may consist of County staff and others designated by County.

County reserves the right, in its sole discretion, to waive minor irregularities, and to waive mandatory requirements provided that all of the otherwise responsive Proposals fail to meet the same mandatory requirements and the failure to do so does not otherwise materially affect this RFP and selection process.

County reserves the right to modify or suspend any and all aspects of the selection process indicated in this RFP, to waive any defects as to form or content of this RFP, or to reject any or all Proposals.

### **6.2 Evaluation Process**

Proposals will be evaluated on a comparative, competitive, best value basis, based upon the RFP's submittal requirements, including the experience, organization and qualifications of the firm and individuals proposed, and the offered price. Specific evaluation criteria will include:

- The ability, capacity, and skill of the Respondent to perform the contract and effectuate the work;
- The type of work needed by the County in light of the nature of the project and budgetary issues;

- The ability of the Respondent to effectuate the work within the time specified, without delay;
- The character, integrity, reputation, judgment, experience, and efficiency of the Respondent;
- Whether the Respondent has satisfactorily performed similar work on similar projects;
- Price;
- Any other factor deemed to be relevant, in the County's sole discretion.

All evaluation criteria are given the same weight for scoring.

During the evaluation process the Selection Committee may conduct independent research, request additional relevant information specific to the evaluation process, and seek assistance from reliable sources to clarify, explain, or otherwise participate in the evaluation process without issuing an Addendum. Proposals will not be ranked based solely on cost. The Selection Committee shall make its decision based on committee members' analysis and assessment of each Proposal's positive, neutral, and negative attributes.

County reserves the right to conduct its own due diligence of the Respondents prior to selection of a Selected Respondent

### **6.3 Selection Process**

Based on the results of the evaluation process, the Selection Committee will select a Selected Respondent to be recommended to the Board. County staff will identify the Selected Respondent to be recommended to the Board, and will use reasonable efforts to deliver a copy to each Respondent who submitted Proposals no later than the business day after posting, although any delay or failure to do so will not extend the Proposal protest period described below.

The Board, in its sole discretion, may either approve, reject, or approve or reject with conditions, the Selection Committee's recommendations. County reserves the right to modify the qualification criteria outlined in this RFP.

Respondents to this RFP are instructed not to contact elected officials, County staff or members of the Selection Committee regarding the selection process. Efforts to lobby or influence individuals involved in this selection process may, at County's sole discretion, result in dismissal from further consideration.

### **6.4 Right to Protest**

Any protest to this RFP process or selection of the Selected Respondent must be delivered to the Capital Projects office by 4:00 pm of the 7<sup>th</sup> calendar day following County staff's identification of the Selected Respondent to be recommended to the Board, and satisfy the following requirements:

- a. The initial protest must contain a complete statement of the basis for the protest.

- b. The protest must refer to the specific portion of the document that forms the basis for the protest.
- c. The protest must include the name, address, and telephone number of the person representing the protesting party.
- d. Only Respondents who the County otherwise determines are responsive and responsible are eligible to protest a Proposal; protests from any other Respondent will not be considered.
- e. The party filing the protest must concurrently transmit a copy of the initial protest document and any attached documentation to all other parties with a direct financial interest that may be adversely affected by the outcome of the protest. Such parties shall include all other Respondents who appear to have a reasonable prospect of receiving an award depending upon the outcome of the protest.
- f. The procedure and time limits set forth in this paragraph are mandatory and are a Respondent's sole and exclusive remedy in the event of a Proposal protest. Respondent's failure to comply with these procedures shall constitute a waiver of any right to further pursue the Proposal protest, including filing a Government Code Claim or legal proceedings. A Respondent may not rely on a protest submitted by another Respondent, but must timely pursue its own protest.

## **6.5 Post Approval Procedures**

The Professional Services Agreement will be finalized promptly following Board approval of a final Selected Consultant. In the event that the approved Selected Consultant fails or refuses to sign a Professional Services Agreement acceptable to the County, County reserves the right to finalize a Professional Services Agreement with another qualified Respondent without undertaking a new RFP process, or exercise any other available right. The time for awarding the contract may be extended by the County.

## **SECTION 7. CONDITIONS GOVERNING THIS RFP**

### **7.1 Confidentiality**

County has made a determination in accordance with Government Code Section 6255 that all Proposals submitted in response to this RFP shall not be made public by County until after County has executed and adopted by resolution a Professional Services Agreement with the Selected Consultant. In the event a Respondent wishes to claim portions of its Proposal exempt from disclosure under the Public Records Act, it is incumbent upon Respondent to clearly identify those portions with the word "confidential" printed on the lower right-hand corner of the page, along with a written justification as to why such information should be exempt from disclosure. However, County will make a decision based upon applicable laws.

County shall notify Respondent of any materials or information that County does not believe are entitled to exemption from the Public Records Act, and Respondent shall have five (5) business days from such notice to:

- withdraw its Proposal;
- withdraw such information from its Proposal; or
- withdraw such information and replace it with substituted information for which Respondent does not claim an exemptions.

Proprietary or confidential data must be readily separable from the Proposal in order to facilitate eventual public inspection of the nonconfidential portion of the Proposal. Confidential data is normally restricted to confidential financial information. The cost of Services shall not be designated as proprietary or confidential information.

## **7.2 Insurance**

Insurance coverage shall be at least as broad as:

- 7.2.1 General Liability: ONE MILLION DOLLARS (\$1,000,000.00) combined single limit per occurrence for bodily injury, personal injury, and property damage.
- 7.2.2 Auto Liability: Owned/Non-owned automobile liability insurance providing combined single limits covering bodily injury liability with limits of no less than ONE MILLION DOLLARS (\$1,000,000.00) per accident and providing property damage liability of no less the ONE MILLION DOLLARS (\$1,000,000.00) per accident.
- 7.2.3 Workers' Compensation Insurance: Workers' Compensation Insurance as required by the Labor Code of the State of California. For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County its Board, officers, officials and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement by the Engineer.
- 7.2.4 Professional Liability Insurance: Professional Liability Insurance with a minimum limit of \$1,000,000.00 per claim and in the aggregate.
- 7.2.5 Additional Insured Endorsements: The Engineer shall name the County, its Board, officers, and employees as additional insureds on their commercial general liability and automobile insurance policies.
- 7.2.6 Each insurance policy required by this section shall be endorsed to state that coverage shall not be canceled by either party except after thirty (30) days' prior written notice has been given to County. The Engineer shall promptly notify, or cause the insurance carrier to promptly notify, the County of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies.
- 7.2.7 Insurance shall be placed with California-admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide of no less than A-VII; provided, however, that if no California-admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United

States domiciled carrier that meets the required Best's rating and that is listed on the current List of Eligible Surplus Line Insurers maintained by the California Department of Insurance. Lesser ratings must be approved in writing by the County prior to the commencement of work under this Agreement.

### **7.3 Applicable Laws/Miscellaneous**

Respondents are required to sign and submit the Authorization, stating their agreement to comply with the following terms and conditions of this RFP:

- a. The Selected Consultant, its employees, agents, contractors, and subcontractors shall maintain professional licenses required by the laws of the State of California at all times while performing Services for the Project.
- b. The Selected Consultant shall comply with the laws of the State of California requiring employers to insure against liability for Worker's Compensation while performing Services for this Project.
- c. All Consultant Services shall comply with all statutes, ordinances, regulations, codes, and requirements of all governmental entities, including federal, state, County, and municipal entities, relating to the Project.
- d. This RFP and any resultant Professional Services Agreement shall be governed by the laws of the State of California. The parties agree to the jurisdiction and venue of the appropriate courts in the County of Stanislaus and the State of California.
- e. All data and information provided by County or referred to in this RFP is furnished for the convenience of interested parties in preparing a Proposal. The Respondent shall defend, indemnify and hold harmless County from any and all liability, claims, or expenses whatsoever, incurred by, or on behalf of, the Respondent's response to this RFP. County expressly disclaims any and all liability for representation or warranties, express or implied, contained in the RFP or any other written or oral communication transmitted or made available to interested parties, including any errors of omission.



## **LIST OF ATTACHMENTS**

- Exhibit A      Project Description, Final Assessment Report by Jared Steeley Wastewater Consulting
- Exhibit B      Form of Professional Services Agreement
- Exhibit C      Acceptance of Form of Professional Services Agreement
- Exhibit D      Acknowledgement of Receipt of RFP Form
- Exhibit E      Proposal Organization Checklist
- Exhibit F      Proposal Authorization
- Exhibit G      Acknowledgment of Addendum

**Exhibit B**

**FORM OF PROFESSIONAL SERVICES AGREEMENT**

This Agreement For **Professional Services** is made and entered into by and between the **County of Stanislaus** ("County") and [      Name of Firm      ], whose address is [      Address      ]  
[      ]("Consultant"), on [      Date      ].

**Introduction**

WHEREAS, the County has a need for professional services relating to the Master Planning And Engineering Design for the **Repair of the Wastewater Treatment Facility at the Stanislaus County Honor Farm in Modesto, CA;** and

WHEREAS, the Consultant is specially trained, experienced and competent to perform and has agreed to provide such services;

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

**Terms and Conditions**

**1. Scope of Work**

1.1 The Consultant shall furnish to the County upon execution of this Agreement or receipt of the County's written authorization to proceed, those services and work set forth in **Exhibit A (Scope of Work)** which is attached hereto and, by this reference, made a part hereof.

1.2 All documents, drawings and written work product prepared or produced by the Consultant under this Agreement, including without limitation electronic data files, are the property of the Consultant; provided, however, the County shall have the right to reproduce, publish and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Consultant may copyright the same, except that, as to any work which is copyrighted by the Consultant, the County reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so, provided that any use of such work for any purposes other than those provided in this Agreement shall be without risk or liability to Consultant.

1.3 Services and work provided by the Consultant under this Agreement will be performed in a timely manner in accordance with a schedule of work set forth in **Exhibit B (Schedule)**.

1.4 The Consultant shall provide services and work under this Agreement consistent with the requirements and standards established by applicable federal, state and County laws, ordinances, regulations and resolutions. The Consultant represents and warrants that it will perform its work in accordance with generally accepted industry standards and practices for the profession or professions that are used in performance of this Agreement and that are in effect at the time of performance of this Agreement.

1.5 If the Consultant deems it appropriate to employ a subconsultant in connection with the performance of the services under this Agreement, the Consultant will so advise the County and seek the County's prior approval of such employment.

## **2. Compensation**

2.1 The Consultant shall be compensated on a **LUMP SUM Amount of [Amount Spelled Out in Words]** (\$ [\_\_\_\_\_]) for services as provided in **Exhibit C (Rate Schedule)** attached hereto. Consultant's costs, which are normally considered to be "reimbursable expenses," such as copying charges, travel and hotel expenses are included within the hourly rate charged by Consultant and Consultant shall not be entitled to separate or additional reimbursement of any reimbursable expenses.

2.2 Except as expressly provided in this Agreement, Consultant shall not be entitled to nor receive from County any additional consideration, compensation, salary, wages or other type of remuneration for services rendered under this Agreement, including, but not limited to, meals, lodging, transportation, drawings, renderings or mockups. Specifically, Consultant shall not be entitled by virtue of this Agreement to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays or other paid leaves of absence of any type or kind whatsoever.

2.3 The Consultant shall provide the County with a monthly or a quarterly statement, as services warrant, of fees earned and costs incurred for services provided during the billing period, which the County shall pay in full within 30 days of the date each invoice is approved by the County. The statement will generally describe the services performed, the applicable rate or rates, the basis for the calculation of fees, and a reasonable itemization of costs.

2.4 County will not withhold any Federal or State income taxes or Social Security tax from any payments made by County to Consultant under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Consultant. County has no responsibility or liability for payment of Consultant's taxes or assessments.

## **3. Term**

3.1 The term of this Agreement shall be from the date of this Agreement until completion of the agreed upon services unless sooner terminated as provided below.

3.2 Should either party default in the performance of this Agreement or materially breach any of its provisions, the other party, at that party's option, may terminate this Agreement by giving written notification to the other party.

3.3 The County may terminate this agreement upon 15 days prior written notice. Termination of this Agreement shall not affect the County's obligation to pay for all fees earned and reasonable costs necessarily incurred by the Consultant, subject to any applicable setoffs.

3.4 At the option of the County, this Agreement may terminate on the occurrence of (a) bankruptcy or insolvency of Consultant, or (b) sale of Consultant's business.

#### 4. **Representatives.**

Each party shall designate a representative, authorized to act on the party's behalf with respect to this Agreement. Consultant hereby designates \_\_\_\_\_, **Project Manager**. Owner hereby designates \_\_\_\_\_. The parties or such authorized representatives shall render required decisions promptly, to avoid unreasonable delay in the progress of Consultant's services. Each party may delegate all or some of its representative's role and function to some other representative.

#### 5. **Required Licenses, Certificates and Permits**

Any licenses, certificates or permits required by the federal, state, county or municipal governments for Consultant to provide the services and work described in Exhibit A must be procured by Consultant and be valid at the time Consultant enters into this Agreement. Further, during the term of this Agreement, Consultant must maintain such licenses, certificates and permits in full force and effect. Licenses, certificates and permits may include but are not limited to driver's licenses, professional licenses or certificates and business licenses. Such licenses, certificates and permits will be procured and maintained in force by Consultant at no expense to the County.

#### 6. **Office Space, Supplies, Equipment, Etc.**

Unless otherwise provided in this Agreement, Consultant shall provide such office space, supplies, equipment, vehicles, reference materials and telephone service as is necessary for Consultant to provide the services under this Agreement. The Consultant - not the County - has the sole responsibility for payment of the costs and expenses incurred by Consultant in providing and maintaining such items.

#### 7. **Insurance**

7.1 Consultant shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:

7.1.1 **General Liability.** Commercial general liability insurance covering bodily injury, personal injury, property damage, products and completed operations with limits of **no less than One Million Dollars (\$1,000,000)** per incident or occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to any act or omission by Consultant under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

7.1.2 **Professional Liability Insurance.** Professional errors and omissions (malpractice) liability insurance with limits of **no less than One Million Dollars (\$1,000,000) aggregate**. Such professional liability insurance shall be continued for a period of no less than one year following completion of the Consultant's work under this Agreement.

7.1.3 **Automobile Liability Insurance.** If the Consultant or the Consultant's Board, officers, employees, agents or representatives utilize a motor vehicle in performing any of the work or services under this Agreement, owned/non-owned

automobile liability insurance providing combined single limits covering bodily injury and property damage liability with limits of **no less than One Million Dollars (\$1,000,000) per incident or occurrence.**

7.1.4 **Workers' Compensation Insurance.** Workers' Compensation insurance as required by the California Labor Code. In signing this contract, the Consultant certifies under section 1861 of the Labor Code that the Consultant is aware of the provisions of section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and that the Consultant will comply with such provisions before commencing the performance of the work of this Agreement.

7.2 Any deductibles, self-insured retention's or named insureds must be declared in writing and approved by County. At the option of the County, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retention's or named insureds, or (b) the Consultant shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to the County guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related investigations, claim administration and defense expenses. The County, in its sole discretion, may waive the requirement to reduce or eliminate deductibles or self-insured retention's, in which case, the Consultant agrees that it will be responsible for and pay any self-insured retention or deductible and will pay any and all costs, losses, related investigations, claim administration and defense expenses related to or arising out of the Consultant's defense and indemnification obligations as set forth in this Agreement.

7.3 The Consultant shall obtain a specific endorsement to all required insurance policies, except Workers' Compensation insurance and Professional Liability insurance, naming the County and its Board, officers, officials and employees as additional insureds regarding: (a) liability arising from or in connection with the performance or omission to perform any term or condition of this Agreement by or on behalf of the Consultant, including the insured's general supervision of its subcontractors; (b) services, products and completed operations of the Consultant; (c) premises owned, occupied or used by the Consultant; and (d) automobiles owned, leased, hired or borrowed by the Consultant. For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County its Board, officers, officials and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement by the Consultant.

7.4 The Consultant's insurance coverage shall be primary insurance regarding the County and County's Board, officers, officials, agents, and employees. Any insurance or self-insurance maintained by the County or County's Board, officers, officials and employees shall be excess of the Consultant's insurance and shall not contribute with Consultant's insurance.

7.5 Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its Board, officers, officials and employees.

7.6 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.

7.7 Each insurance policy required by this section shall be endorsed to state that coverage shall not be canceled by either party except after thirty (30) days' prior written notice has been given to County. The Consultant shall promptly notify, or cause the insurance carrier to promptly notify, the

County of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies.

7.8 Insurance shall be placed with California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide of no less than B+VII; except as otherwise expressly approved by the County.

7.9 Consultant shall require that all of its subcontractors are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional insureds under its insurance policies.

7.10 At least ten (10) days prior to the date the Contractor begins performance of its obligations under this Agreement, Contractor shall furnish County with certificates of insurance, and with original endorsements, showing coverage required by this Agreement, including, without limitation, those that verify coverage for subcontractors of the Contractor. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in County's sole and absolute discretion, approved by County. County reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

7.11 The limits of insurance described herein shall not limit the liability of the Consultant and Consultant's officers, employees, agents, representatives or subcontractors.

## **8. INDEMNIFICATION**

8.1. Indemnification: To the fullest extent allowed by law, Consultant shall defend, indemnify, and hold harmless the County and its officers, agents, employees and representatives from and against any and all claims, suits, actions, losses, injuries, damages or expenses of every name, kind, and description, including litigation costs and reasonable attorney's fees incurred, which are founded upon, arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, the alleged negligence, recklessness, or willful misconduct of Consultant, its officers, agents, employees, volunteers, representatives, contractors and subcontractors, excluding, however, such liabilities caused in part by the sole negligence, active negligence or willful misconduct of the County, its agents, employees, and representatives.

8.2. Duty to Defend: The duty of Consultant to indemnify and save harmless as set forth herein, shall include both the duty to indemnify and at Consultant's own cost and expense the duty to defend as set forth in Section 2778 of the California Civil Code. This duty to defend arises when such claim is made and shall be independent of any finding of the County's negligence. Consultant shall provide legal counsel reasonably acceptable to the County.

8.3. Duty to Cooperate: Each party shall notify the other party immediately in writing of any claim or damage related to activities performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement. Specifically, Consultant shall take all steps necessary to assist the County in the defense of any claim brought by a contractor hired to construct the Project regarding any errors, flaws, and/or omissions in the plans or specifications of the Project.

8.4. Patent Rights: Consultant represents that professional services provided by Consultant

pursuant to this Agreement does not infringe on any other copyrighted work. Consultant shall defend, indemnify and hold harmless the County from all loss, cost, damage, expense, liability or claims, including attorneys' fees, court costs, litigation expenses and expert consultant or witness fees, that may at any time arise for any infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark or any other proprietary right of any person or persons in consequence of the use by the County of any articles or services supplied under this agreement.

**9. Status of Consultant**

9.1 All acts of Consultant and its officers, employees, agents, representatives, subcontractors and all others acting on behalf of Consultant relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers or employees of County. Consultant, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Exhibit A, Consultant has no authority or responsibility to exercise any rights or power vested in the County. It is understood by both Consultant and County that this Agreement shall not be construed or considered under any circumstances, to create an employer—employee relationship, partnership, or a joint venture.

9.2 At all times during the term of this Agreement, the Consultant and its officers, employees, agents, representatives or subcontractors are, and shall represent and conduct themselves as, independent contractors and not employees of County.

9.3 Consultant shall determine the method, details and means of performing the work and services to be provided by Consultant under this Agreement. Consultant shall be responsible to County only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Consultant in fulfillment of this Agreement. Consultant has control over the manner and means of performing the services under this Agreement. If necessary, Consultant has the responsibility for employing other persons or firms to assist Consultant in fulfilling the terms and obligations under this Agreement.

9.4 If in the performance of this Agreement any third persons are employed by Consultant, such persons shall be entirely and exclusively under the direction, supervision and control of Consultant. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging, or any other term of employment or requirements of law, shall be determined by the Consultant.

9.5 Consultant is permitted to provide services to others during the same period service is provided to County under this Agreement; provided, however, such services do not conflict directly or indirectly with the performance of the Consultant's obligations under this Agreement.

9.6 It is further understood and agreed that Consultant must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Consultant's assigned personnel under the terms and conditions of this Agreement.

9.7 As an independent contractor, Consultant hereby indemnifies and holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

**10. Records and Audit**

10.1 Consultant shall prepare and maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four (4) years from the termination or completion of this Agreement. This includes any handwriting, typewriting, printing, photo static, photographing and every other means of recording upon any tangible thing, any form of communication or representation including letters, words, pictures, sounds or symbols or any combination thereof.

10.2 Any authorized representative of County shall have access to any writings as defined above for the purposes of making audit, evaluation, examination, excerpts and transcripts during the period such records are to be maintained by Consultant. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the work performed or being performed under this Agreement.

**11. Nondiscrimination**

During the performance of this Agreement, Consultant and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental handicap, medical condition (including genetic characteristics), marital status, age, political affiliation, sexual orientation, or sex. Consultant and its officers, employees, agents, representatives or subcontractors shall comply with all applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the County's nondiscrimination policy; the Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; and all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations.

**12. Assignment**

This is an agreement for the services of Consultant. County has relied upon the skills, knowledge, experience and training of Consultant and the Consultant's firm, associates and employees as an inducement to enter into this Agreement. Consultant shall not assign or subcontract this Agreement without the express written consent of County. Further, Consultant shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

**13. Waiver of Default**

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.

**14. Notice**

Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which Consultant or County shall



be required or may desire to make shall be in writing and may be personally served or, alternatively, sent by prepaid first class mail to the respective parties as follows:

**To County:**                   **County of Stanislaus**  
   **1010 10<sup>th</sup> Street, Suite 6800**  
   **Modesto, CA 95354**  
   **(209) 525-6333 (phone)**

**To Consultant:**           **[Firm Name]**  
   **[Address]**  
   **[City, State, Zip Code]**  
   **[Telephone Number]**  
   **[Fax Number]**

**15.    Conflicts**

Consultant represents and warrants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this Agreement. Without limitation, Consultant represents to and agrees with County that Consultant has no present, and will have no future conflict of interest between providing County services hereunder and any interest Consultant may presently have, or will have in the future, with respect to any other person or entity which has any interest adverse or potentially adverse to County, as determined in the reasonable judgment of County.

**16.    Confidentiality**

Any information, whether proprietary or not, made known to or discovered by Consultant during the performance of or in connection with this Agreement for County, will be kept confidential and not be disclosed to any other person. Consultant will immediately notify County in writing if it is requested to disclose any information made known to or discovered by during the performance of or in connection with this Agreement. These conflict of interest, confidentiality and future service provisions and limitations shall remain fully effective indefinitely after termination of services to County hereunder.

**17.    Severability**

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal, state or county statute, ordinance or regulation the remaining provisions of this Agreement or the application thereof shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

**18.    Amendment**

This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the parties hereto if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to the original Agreement to maintain continuity.

**19. Entire Agreement**

This Agreement supersedes any and all other agreements, either oral or in writing, between any of the parties herein with respect to the subject matter hereof and contains all the agreements between the parties with respect to such matter. Each party acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.

**20. Construction**

Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.

**21. Governing Law and Venue**

This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the laws of the State of California. Any action brought to enforce the terms or provisions of this Agreement shall have venue in the County of Stanislaus, State of California.

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

<b>COUNTY OF STANISLAUS</b>	<b>[FIRM NAME]</b>
By: _____ "County"	By: _____ "Consultant"
<b>APPROVED AS TO FORM:</b>	
By: _____ County Counsel	

**ACCEPTANCE OF FORM OF PROFESSIONAL SERVICES AGREEMENT**

NAME OF RESPONDENT \_\_\_\_\_

The above Respondent hereby agrees to sign Professional Services Agreement substantially similar to the form of Professional Services Agreement attached to the RFP as Exhibit D, or has attached proposed modifications to the form of Professional Services Agreement as an Addendum to this signed Acceptance.

Respondent's Guaranteed Maximum Price and Guaranteed Maximum Reimbursables Expense Cost for the Basic Services described in the Professional Services Agreement are \$\_\_\_\_\_ and \$\_\_\_\_\_, respectively, for a total of \$\_\_\_\_\_. Respondent's Billing Rates for Additional Services are attached hereto.

**[Respondent must check one of the following boxes, and complete if applicable]**

- Respondent's proposed modifications to the Professional Services Agreement are attached as Attachment[s]\_\_\_\_\_ **[complete as applicable]** to this signed Acceptance, pursuant to the "Strikeout" or "Underline" format described in RFP Section 3.1.
- Respondent has no proposed modifications to the Professional Services Agreement.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Exhibit D**

**ACKNOWLEDGMENT OF RECEIPT OF RFP FORM**

In acknowledgment of receipt of this Request for Proposal of the County of Stanislaus for \_\_\_\_\_ Services (“RFP”), the undersigned Respondent agrees that he/she/it has received a complete copy, beginning with the Title Page and Table of Contents and ending with Exhibit I.

This Acknowledgment of Receipt of RFP Form must be signed and returned to the Project Manager indicated below no later than (time/date) pursuant to Section 4.1 of the RFP. Only interested parties who elect to return this Acknowledgment of Receipt of RFP Form completed with the indicated intention of submitting a proposal will be placed on the distribution list for any and all Addendum/Addenda to this RFP. The name and address provided below will be used for all written correspondence related to this RFP.

Firm: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

E-mail: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

This entity does /does not  intend to respond to this RFP [check appropriate box].

Respondent must return this signed form to the Project Manager identified in RFP Section 1.2.

**PROPOSAL ORGANIZATION CHECKLIST**

All forms are to be completed and any materials submitted with the proposal are to conform to the following specified format, pursuant to Section 5.1.1 of the RFP.

**PROPOSAL ORGANIZATION CHECKLIST**

All forms are to be completed and any materials submitted with the proposal are to conform to the following specified format, pursuant to Section 5.1.1 of the RFP.

**SECTION 1 Proposal Summary**

- Title Page
- Proposal Organization Checklist, Exhibit G
- Transmittal Letter
- Executive Summary
- Consultant Qualifications and Experience
- Consultant Client References
- Subconsultants
- Proposed Approach
- Performance Criteria

**SECTION 2 Financial Information**

- Financial Statements
- Claims and litigation history
- Letter from insurance broker

**SECTION 3 Response Forms**

- Proposal Authorization, Exhibit H
- Acknowledgment of Addendum Form(s)
- Acceptance of Form of Professional Services Agreement, including any proposed modifications, Exhibit E

**SECTION 4 Discretionary Supplemental Materials**

- Explanation of relevancy of discretionary supplementary materials
- Supplementary materials

**PRICING PROPOSAL**

- Pricing Proposal in separate, sealed envelope

**PROPOSAL AUTHORIZATION**

NAME OF RESPONDENT \_\_\_\_\_

1. The above-named Respondent is a Respondent to the Request for Proposals of the County of Stanislaus for \_\_\_\_\_ Services (“**RFP**”) and possesses the legal authority to submit this Proposal.

2. The undersigned is authorized to conduct all negotiations for and legally bind the respondent in all matters relating to this proposal submittal.

3. The undersigned has reviewed, understands, is able to comply with and agrees to be bound by the General Conditions Governing this RFP described in Section 7 of the RFP.

4. The undersigned grants the County a right to County to conduct reference checks and reasonable investigation of all information provided by Respondent.

5. The undersigned certifies that this Proposal is irrevocable until 120 days after its submission date.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

