

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

DEPT: Chief Executive Office

BOARD AGENDA # B-13

Urgent

Routine

AGENDA DATE October 27, 2009

CEO Concurs with Recommendation YES NO

4/5 Vote Required YES NO

(Information Attached)

SUBJECT:

Approval to Authorize the Chief Executive Officer to Execute and Implement the Joint Powers Agency Agreement between the County and the Cities of Modesto, Ceres, Hughson, Patterson and Waterford; Approval to Execute an Agreement with SAVED, Inc. for a Low-Income, Low-Cost Spay/Neuter Program; and Approval to Award a Design Build Construction Contract for the new Animal Services Facility at Crows Landing Road and Cornucopia Way to Diede Construction, Inc. for the Construction of the new Animal Services Facility and Related Actions

STAFF RECOMMENDATIONS:

1. Approval to authorize the Chief Executive Officer to execute and implement the recommended Joint Powers Agency agreement between the County and the Cities of Ceres, Hughson, Modesto, Patterson and Waterford for the provision of animal services.
2. Authorize the Chief Executive Officer to negotiate and execute a Memorandum of Understanding with the City of Modesto and the County relating to Animal Services Facility costs and the disposition of the Finch Road Animal Shelter.

(Continued on Page 2)

FISCAL IMPACT:

Joint Powers Agency Agreement

The 2009-2010 Adopted Budget for Animal Services totaled \$3,281,875, with offsetting revenue of \$1,771,438, for a net general fund cost of \$1,510,437. This represents shelter and field costs for the County and its partner cities. In addition, City of Modesto provides its own field service. The recommended JPA will become responsible for the on-going operation, debt and facility costs for Animal Services provided in the unincorporated areas and partner cities.

(Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2009-726

On motion of Supervisor see below, Seconded by Supervisor see below and approved by the following vote,

Ayes: Supervisors: _____

Noes: Supervisors: _____

Excused or Absent: Supervisors: _____

Abstaining: Supervisor: _____

1) _____ Approved as recommended

2) _____ Denied

3) X Approved as amended

4) _____ Other:

MOTION: Amended item to take two votes:

First Vote: Grover/O'Brien (4-1)(De Martini opposed) - Recommendation #3 approved execution of an agreement with Stanislaus Area Veterinarians for the Economically Disadvantaged (SAVED) for the Low-income, Low-cost, Spay/Neuter Program **C-2-B-8**

Second Vote: Grover/Monteith unan - Recommendations #1-2 and 4-13 approved as recommended **C-4-A-14**

C-6-I-14

C-8-A-8

ATTEST: Christine Ferraro
CHRISTINE FERRARO TALLMAN, Clerk

File No. **C-9-A-2**
J-07-1

Approval to Authorize the Chief Executive Officer to Execute and Implement the Joint Powers Agency Agreement between the County and the Cities of Modesto, Ceres, Hughson, Patterson and Waterford; Approval to Execute an Agreement with SAVED, Inc. for a Low-Income, Low-Cost Spay/Neuter Program; and Approval to Award a Design Build Construction Contract for the new Animal Services Facility at Crows Landing Road and Cornucopia Way to Diede Construction, Inc. for the Construction of the new Animal Services Facility and Related Actions
Page 2

STAFFING RECOMMENDATIONS: (Continued)

3. Approval to execute an agreement with Stanislaus Area Veterinarians for the Economically Disadvantaged (SAVED) for the Low-income, Low-cost, Spay/Neuter Program.
4. Approval to award a Design-Build construction contract to Diede Construction, Inc. of Lodi, California for the Design-Build construction of the new Animal Services Facility at Crows Landing Road and Cornucopia Way for the contract amount not to exceed \$4,989,568.
5. Authorize the Chief Executive Officer to plan and conduct a public ground breaking ceremony to coincide with the commencement of construction.
6. Authorize the Project Manager to issue a Notice to Proceed with the Design-Build Contractor contingent upon receipt of proper insurance and bonds.
7. Authorize the Project Manager to negotiate and sign contracts and work authorizations necessary to manage the design and construction phases including construction management, professional services, and other related costs as long as the costs are within the project budget approved by the Board of Supervisors.
8. Approval to award a contract for Specialty Inspection Services for the design-build construction of the new Animal Services Facility to Krazan and Associates as a result of the Request for Proposals process for Special Inspector Services.
9. Approval to award a contract for the required Labor Compliance Program for the design-build construction of the new Animal Services Facility to Diversified Contract Management of Oakland, California recommended as a result of the Request for Proposal process for Labor Compliance Services.
10. Approval to issue a Request for Proposals (RFP) for animal cage equipment, issue a notice inviting submittal of qualifications and proposals on October 28, 2009; authorize the Project Manager to modify the issuance date if necessary; and to accept and open, the proposals on December 3, 2009, immediately after 2:00 p.m. and return to the Board of Supervisors to recommend an award.
11. Approval to issue a Request for Proposals (RFP) for veterinary services equipment vendors, issue a notice inviting qualifications and proposals on October 28, 2009; authorize the Project Manager to modify the issuance date if necessary; and to accept the proposals for this equipment on December 3, 2009, immediately after 2:00 p.m. and return to the Board of Supervisors to recommend an award.

Approval to Authorize the Chief Executive Officer to Execute and Implement the Joint Powers Agency Agreement between the County and the Cities of Modesto, Ceres, Hughson, Patterson and Waterford; Approval to Execute an Agreement with SAVED, Inc. for a Low-Income, Low-Cost Spay/Neuter Program; and Approval to Award a Design Build Construction Contract for the new Animal Services Facility at Crows Landing Road and Cornucopia Way to Diede Construction, Inc. for the Construction of the new Animal Services Facility and Related Actions
Page 3

12. Authorize the Project Manager implement Section 4.2 of Appendix B of the previously approved agreement with Rauhaus Freedendfeld and Associates for limited support as planned in the original architectural agreement for the final design and construction of the Animal Services Facility within the previously approved budget for this expense. Also recommended is the release of retention held from RFA as the bridging documents phase has been successfully completed.
13. Approve actions necessary to implement a reduced project budget by directing the Auditor-Controller, through an operating transfer, to increase appropriations of \$8,228,691 for the Animal Services Facility Capital Project budget as outlined in the attached budget journal form.

FISCAL IMPACT: (Continued)

Separate from the construction costs, the new Animal Services Facility is projected to have increased ongoing operational costs. These costs have previously been projected for five additional Animal Care Specialists at an annual cost of \$350,000 and an increase in utility costs of \$57,006 per year.

Facility Construction

This agenda report recommends a project budget reduction of \$2,254,281 from the original project budget of \$10,998,809 as a result of the recommended design build construction proposal.

Background

On August 4, 2009, the Board of Supervisors approved the final design bridging documents and authorized staff to issue a Request for Proposal (RFP) for the design-build construction, pricing and alternate pricing of the new Animal Services Facility in the buffer of the Stanislaus County Public Safety Center at Crows Landing Road and Cornucopia Way to the 16 pre-qualified construction contractors: Blach Construction of Stockton, California; Rising Sun Company of Exeter, California; Diede Construction, Inc. of Lodi, California; Menghetti Construction of Modesto, California; Zumwalt Construction of Fresno, California; Architerra Macrae Architects of Sebastopol, California; Flintco, Inc. of Folsom, California; BCM Construction Company, Inc. of Chico, California; Reeve-Knight Construction, Inc. of Roseville, California; Devcon Construction, Inc. of Stockton, California; Hilbers, Inc. of Yuba City, California; Integrated Builders Group, Inc. of El Dorado Hills, California; W.E. Lyons Construction of Oakland, California; J.L. Bray & Son, Inc. of Salida, California; Applegate Johnston, Inc. of Modesto, California; and Simile Construction Services, Inc. of Modesto, California .

Approval to Authorize the Chief Executive Officer to Execute and Implement the Joint Powers Agency Agreement between the County and the Cities of Modesto, Ceres, Hughson, Patterson and Waterford; Approval to Execute an Agreement with SAVED, Inc. for a Low-Income, Low-Cost Spay/Neuter Program; and Approval to Award a Design Build Construction Contract for the new Animal Services Facility at Crows Landing Road and Cornucopia Way to Diede Construction, Inc. for the Construction of the new Animal Services Facility and Related Actions
Page 4

Proposals

On September 17, 2009 a total of seven design-build proposals were received from the following companies: Applegate Johnston, Inc. of Modesto, California; Diede Construction, Inc of Lodi, California; GCCI, Inc. of Santa Rosa, California; J.L. Bray & Son, Inc. of Salida, California; Menghetti Construction of Modesto, California; Reeve-Knight Construction, Inc. of Roseville, California; and Simile Construction Services, Inc. of Modesto, California. All proposals received were below the estimated construction cost and the previously approved project budget. The base proposals prices ranged from \$4.9 million to \$6.8 million.

At this time, the Chief Executive Office recommends award of the design build construction contract for the new Animal Services Facility to Diede Construction, Inc. of Lodi, California, proposal, whose proposal was determined to provide the best value.

The base proposal included two deductive alternates: (1) 1,635 square feet of interior finishes of the low-income, low-cost spay/neuter clinic; and (2) 2,000 square feet of animal holding area that were priced as deductive alternates. Neither deductive alternate is recommended for selection. This would allow for the low-income, low-cost spay/neuter clinic to be constructed as part of the project and the 2,000 square feet be constructed at this time as well. The contract does allow the County to exercise the option to delete the low-income, low-cost spay/neuter improvements within 90 days of the Notice to Proceed (\$95,704) should the Board chose.

Additionally, on August 4, 2009, the Board authorized the Chief Executive Officer to finalize the project financing plan with funding from the County's 2006 Tobacco endowment fund over a 25-year period, to be repaid by the County and the five partner cities, Modesto, Ceres, Hughson, Waterford and Patterson.

It is recommended that the capital investment be financed using funds from the County's 2006 Tobacco endowment fund, and repaid by a consortium of agencies participating in a Joint Powers Agreement (JPA). Overall, this financing plan presents the lowest cost financing option. The County and its JPA partner cities of Modesto, Ceres, Patterson, Hughson and Waterford will repay this debt over a 25-year period at the cost of lost interest earnings to this fund. Member Agencies will start to pay their proportionate share of the capitalized costs beginning the date of actual occupancy of the new Animal Services Facility. Each Member Agency's proportion of capitalized costs are fixed and based upon the average annual animal intake at the shelter for Fiscal Year 2007-2008, 2008-2009 and 2009-2010. The following debt schedule shows the estimated annual debt cost for each Member Agency as well as the cumulative debt service cost for the 25-year period.

Approval to Authorize the Chief Executive Officer to Execute and Implement the Joint Powers Agency Agreement between the County and the Cities of Modesto, Ceres, Hughson, Patterson and Waterford; Approval to Execute an Agreement with SAVED, Inc. for a Low-Income, Low-Cost Spay/Neuter Program; and Approval to Award a Design Build Construction Contract for the new Animal Services Facility at Crows Landing Road and Cornucopia Way to Dieder Construction, Inc. for the Construction of the new Animal Services Facility and Related Actions
 Page 5

Debt Schedule A: All Partners Finance

Animal Services Facility Project Estimated Annual Debt Service Shedule						
Total Annual Net Debt Services	City of Modesto	City of Ceres	City of Patterson	City of Waterford	City of Hughson	Stanislaus County
	44.42 %	11.63%	2.70%	2.02%	1.06%	38.17%
\$548,764	\$243,761	\$63,821	\$14,817	\$11,085	\$5,817	\$209,463
Cumulative Debt Service	City of Modesto	City of Ceres	City of Patterson	City of Waterford	City of Hughson	Stanislaus County
	44.42 %	11.63%	2.07%	2.02%	1.06%	38.17%
\$13,224,369	\$5,874,265	\$1,537,994	\$357,058	\$267,132	\$140,178	\$5,047,742

The City of Patterson has requested the option to pay for their debt cost up-front. This would lower the cumulative Debt Service by \$120,957. The following debt schedule shows the estimated annual debt cost for each Member Agency with Patterson not having an annual net debt and paying their proportionate share up-front. The annual net debt and cumulative debt service remains the same for the other Member Agencies' proportion of capitalized costs.

Debt Schedule B: City of Patterson Funds Project Cost Upfront

Animal Services Facility Project Estimated Annual Debt Service Shedule City of Patterson Funds Project Upfront						
Total Annual Net Debt Services	City of Modesto	City of Ceres	City of Patterson	City of Waterford	City of Hughson	Stanislaus County
	45.65 %	11.95%	0.00%	2.70%	1.09%	39.23%
\$533,947	\$243,761	\$63,821	\$0	\$11,085	\$5,817	\$209,463
Cumulative Debt Service	City of Modesto	City of Ceres	City of Patterson	City of Waterford	City of Hughson	Stanislaus County
	45.65 %	11.95%	0.00%	2.08%	1.09%	39.23%
\$13,103,413	\$5,874,265	\$1,537,994	\$236,102	\$267,132	\$140,178	\$5,047,742

City of Patterson pays 100% of its share of the project cost up-front.

The recommended debt schedules are included as Attachment A.

Additionally, on February 10, 2009, the Board approved the reimbursement resolution related to the expenditures for the construction of the new Animal Shelter. This resolution will allow the County to be reimbursed for expenditures for the project as part of the borrowing. The reimbursement resolution is recommended to allow for the

Approval to Authorize the Chief Executive Officer to Execute and Implement the Joint Powers Agency Agreement between the County and the Cities of Modesto, Ceres, Hughson, Patterson and Waterford; Approval to Execute an Agreement with SAVED, Inc. for a Low-Income, Low-Cost Spay/Neuter Program; and Approval to Award a Design Build Construction Contract for the new Animal Services Facility at Crows Landing Road and Cornucopia Way to Diede Construction, Inc. for the Construction of the new Animal Services Facility and Related Actions
Page 6

reimbursement of any cash funds the County committed to the New Animal Services Facility Project from the bridging design phase, through construction, to full build-out of the facility, and through the project closeout phase.

Finally, as a result of the construction proposals received and the opportunity to substantially reduce the previous project budget, it is recommended that the project budget be reduced by \$2,254,281, from \$10,998,809 to \$8,744,528.

As a result, it is recommended that the Auditor-Controller be authorized to increase appropriations in the amount of \$8,228,691 for the Animal Services Facility Capital Project budget as outlined in the attached budget journal form (Attachment B) which will bring the project budget total to \$8,744,528. It is important to report, that the Project Team including partner cities representatives have reviewed the construction cost results and project budget and remaining exposures as a team to recommend a final project budget.

Project expenses to date through the Proposal and Award Phase reimbursable under the resolution total \$509,061.

The Request for Proposals for Design-build proposals called for contractor teams to submit cost savings ideas and project improvements and enhancements. The recommended construction proposal from Diede Construction, Inc. included \$85,389 in cost saving ideas. Staff has reviewed the cost saving proposals and recommends accepting \$77,839 of those ideas immediately as change order #1 to further reduce the cost of the project.

Staff is also reviewing project improvements suggested by Diede Construction, Inc. Also, several project elements that were not included in the bridging documents because of cost concern are worthy of reconsideration, in two primary areas: sound containment and disease control. The largest cost was previously estimated at approximately \$250,000 for recommended sound containment. During the final design process, these elements will be considered. The recommended project budget contingency will be used for any project improvement in accordance with the County's change order policy. These improvements would further control the spread of disease, make the facility more durable, and improve the operations of the facility.

Approval to Authorize the Chief Executive Officer to Execute and Implement the Joint Powers Agency Agreement between the County and the Cities of Modesto, Ceres, Hughson, Patterson and Waterford; Approval to Execute an Agreement with SAVED, Inc. for a Low-Income, Low-Cost Spay/Neuter Program; and Approval to Award a Design Build Construction Contract for the new Animal Services Facility at Crows Landing Road and Cornucopia Way to Dieder Construction, Inc. for the Construction of the new Animal Services Facility and Related Actions
Page 7

DISCUSSION:

Overview

The Board of Supervisors has approved proceeding with actions needed to replace the existing Animal Shelter for several years, starting with a Needs Assessment, Feasibility Study and other efforts. This report will focus on the culmination of three significant efforts:

- Finalization of the new Joint Powers Agency (JPA) agreement between the County and the cities of Modesto, Ceres, Hughson, Patterson and Waterford. This JPA will usher in a new era of collaboration in the governance and provision of Animal Services and result in the sharing of a new Animal Services Facility to be located in the buffer zone of the County's Public Safety Center.
- A recommended contract for a low-income, low-cost spay/neuter program recommended to be provided from the new Animal Services Facility.
- A recommended Design-Build Construction Contract for the design and construction of a new Animal Services Facility; and a project budget reduced by over \$2.25 million from original projections.

The following actions were approved by the Board of Supervisors on August 4, 2009:

- Approval of the final bridging design for design-build construction of the new Animal Services Facility;
- Authorized alternative pricing as deductive alternatives for two construction elements: (1) the interior finishes of a low-income, low-cost spay/neuter clinic; and (2) 2,000 square feet of animal holding areas;
- Authorized the Request For Proposals (RFP) for the design-build construction to prequalified contractors, and to return to the Board to recommend an award for a contractor for the project;
- Authorized staff to negotiate an agreement with SAVED for low-income, low-cost spay/neuter services to be returned to the Board for approval.
- Authorized staff to seek opportunities to partner with other local organizations to support spay neuter services to the community;

Approval to Authorize the Chief Executive Officer to Execute and Implement the Joint Powers Agency Agreement between the County and the Cities of Modesto, Ceres, Hughson, Patterson and Waterford; Approval to Execute an Agreement with SAVED, Inc. for a Low-Income, Low-Cost Spay/Neuter Program; and Approval to Award a Design Build Construction Contract for the new Animal Services Facility at Crows Landing Road and Cornucopia Way to Diede Construction, Inc. for the Construction of the new Animal Services Facility and Related Actions
Page 8

- Authorized the siting of the new facility in the buffer of the Public Safety Center;
- Adopted Mitigation Monitoring Plan pursuant to CEQA;
- Ordered the filing of a Notice of Determination;
- Authorized the project financing plan to be finalized; and
- Authorized the CEO to negotiate finalize and execute a Joint Powers Agreement between the County, Cities of Modesto, Ceres, Patterson, Waterford and Hughson;

Recommended Actions

There are three significant actions that are relevant to the future of Animal Services in our county: the execution of a Joint Powers Agreement between the County, Cities of Modesto, Ceres, Patterson, Waterford and Hughson; the execution of an agreement with SAVED, Inc. for low-income low-cost spay/neuter services in the community; and the Board's approval to award a contract for the design-build construction of the new Animal Services Facility with an estimated cost savings of over \$2.25 million from original estimates.

Joint Powers Agency Agreement

On May 19, 2009, the Board of Supervisors authorized the Chief Executive Office to finalize the Joint Powers Agreement (JPA) for the provision of Animal Services and to return to the Board for final approval of the agreement.

Since that time, the Chief Executive Officer, County Counsel and the member agencies have collaborated to develop a comprehensive agreement. JPA negotiations are nearing completion. The Patterson City Council approved the agreement on October 6, 2009, and the other City Councils are scheduled to consider approval of the JPA in the coming weeks.

The intent of the JPA is to create shared governance and a level playing field for all participating agencies where the joint operation, governance and the management of an animal services facility is for the mutual benefit of each member agency and their respective residents to provide efficiencies and economy through cooperation. The six participating public agencies will have an equal vote in the JPA and will serve as a framework for 25 year debt and facility ownership. A copy of the recommended JPA Agreement is Attachment C.

Approval to Authorize the Chief Executive Officer to Execute and Implement the Joint Powers Agency Agreement between the County and the Cities of Modesto, Ceres, Hughson, Patterson and Waterford; Approval to Execute an Agreement with SAVED, Inc. for a Low-Income, Low-Cost Spay/Neuter Program; and Approval to Award a Design Build Construction Contract for the new Animal Services Facility at Crows Landing Road and Cornucopia Way to Diede Construction, Inc. for the Construction of the new Animal Services Facility and Related Actions
Page 9

Under the proposed agreement, the JPA shall be composed of the County of Stanislaus and the Cities of Ceres, Hughson, Modesto, Patterson and Waterford as member agencies. The JPA will be governed by a board, the members of which shall be appointed by each member agency, to include the County Chief Executive Officer and the City Manager of each member agency with equal representation. The JPA shall have the common power of the member agencies to plan, establish and exercise all government functions necessary to provide animal services for the benefit of the member agencies.

A member agency may withdraw from the JPA at any time by giving notice to all other member agencies by resolution of intent to withdraw. Upon a member agency's withdrawal, the JPA will have the first right of refusal to purchase the withdrawing member's share. If the JPA does not purchase the exiting members percentage share, the existing member can sell it to another agency for current debt outstanding at the date of termination of membership in the JPA.

Under the proposed agreement, each of the member agencies will be required to begin paying their proportional share of operational costs effective January 1, 2009. Member agencies will also be required to pay their proportional share of capitalized costs on the date of actual occupancy, and member agencies may elect to pay capitalized costs in advance of the facility's completion. A separate Memorandum of Understanding is recommended to be developed between the County and the City of Modesto to address the future disposition of the existing Finch Road site as well as a phased in debt payment plan to address past contributions made by the City to the County's Shelter operations. It is recommended that the Chief Executive Officer be authorized to execute the Memorandum of Understanding.

Recently, legislative action eliminated the State reimbursement (SB90) for local animal shelters for holding periods during the 2009-2010 Fiscal Year for dogs and cats, by reducing the mandatory animal holding period from four/six days down to three days. Staff is currently evaluating the effect of this change on current shelter operations.

Low-Income, Low-Cost Spay and Neuter Services

The Animal Services Needs Assessment and Master Plan, adopted by the Board of Supervisors on March 20, 2007, identified the need to take measures to reduce the number of unwanted animals received at the shelter. The Master Plan identified a need to improve and update the shelter to accommodate the current capacity needs and to implement steps to reduce animal intake in the future, including promotion of animal adoptions, increasing spay and neuters, promoting public education in responsible pet ownership, increased reliance on animal foster care and other steps.

Approval to Authorize the Chief Executive Officer to Execute and Implement the Joint Powers Agency Agreement between the County and the Cities of Modesto, Ceres, Hughson, Patterson and Waterford; Approval to Execute an Agreement with SAVED, Inc. for a Low-Income, Low-Cost Spay/Neuter Program; and Approval to Award a Design Build Construction Contract for the new Animal Services Facility at Crows Landing Road and Cornucopia Way to Diede Construction, Inc. for the Construction of the new Animal Services Facility and Related Actions
Page 10

On May 19, 2009 the Board of Supervisors authorized staff to issue a Request for Proposal (RFP) for the operation of a Low-cost, Low-income Spay and Neuter Clinic. The RFP was issued on May 29, 2009 with a closing date of July 6, 2009. One proposal was received from Dr. Brooks and Dr. O'Brien, the two principal organizers of SAVED, Inc. Dr. Brooks and Dr. O'Brien met with the County several times and an agreement has been negotiated with SAVED, Inc.

The proposal submitted is for a Low-income, Low-cost Spay/Neuter Clinic to be targeted to the lowest income residents of Stanislaus County. The clinic would be operated with a non-profit status to the public. The goal is to perform 3,000 spay/neuter surgeries in the first year. SAVED, Inc. shall provide all necessary equipment and supplies. All property purchased, rented, or leased shall be the property of SAVED, Inc. who shall have the sole responsibility for any storage, maintenance, repair or replacement. It is also the sole responsibility of the contractor for fee collection.

The Low-income, Low-cost Spay/Neuter Clinic will provide low-cost spay/neuter services to the public. Three separate fee structures for the public include: 1) Ultra-Low Income, 2) Qualified Low-Income, and 3) Feral cats. The low-income fee schedules require documentation to verify low-income status.

Although it is recommended the Clinic be located in the new Animal Services Facility this clinic area will be separated completely from the Veterinarian's clinic area with its own separate entrance for the public. It is critical to note that it is not the County's intent to compete with the private veterinary community in the provision of veterinary services. The recommended Low-Income, Low-Cost Spay/Neuter Clinic is intended to provide increased access to low-cost services to reduce the number of unwanted animals. The clinic will not provide services not directly related to spay/neuter services; only core vaccinations will be provided with spay and neuter services. By offering low-cost spay and neuter services in the new Animal Services Facility, it is not the intention to compete with the private sector but rather partner and create programs to significantly reduce the extraordinarily high number of unwanted animals destroyed in our community.

The following highlights some of the major terms for the operation of the Low-income, Low-cost Spay/Neuter Clinic:

- Contractor shall operate the clinic as a non-profit operation, for low-income residents of Stanislaus County with no government subsidy other than the finished space and utilities. Evidence of income shall be a requirement. A fee schedule will include:
 - 1) Ultra-Low Income Fee Schedule: evidence of low income will include a Medi-Cal Benefit Identification Card or EBT card from Stanislaus County

Approval to Authorize the Chief Executive Officer to Execute and Implement the Joint Powers Agency Agreement between the County and the Cities of Modesto, Ceres, Hughson, Patterson and Waterford; Approval to Execute an Agreement with SAVED, Inc. for a Low-Income, Low-Cost Spay/Neuter Program; and Approval to Award a Design Build Construction Contract for the new Animal Services Facility at Crows Landing Road and Cornucopia Way to Diede Construction, Inc. for the Construction of the new Animal Services Facility and Related Actions
Page 11

CalWORKs, and/or proof of income less than the federal poverty level guidelines. In addition the customer must be a Stanislaus County resident.

- 2) Qualified Low-income Fee Schedule: documentation of low income will require a Medi-Cal Benefit Identification Card or Stanislaus County EBT Card. Must also be a resident of Stanislaus County.
- 3) Feral/Free Roaming Cats Fee Schedule; and
- 4) Stanislaus County Animal Services Fee schedule.

- Contractor shall not be obligated to pay rent or lease. The spay/neuter clinic will occupy 1,635 sq. feet within the shelter;
- Contractor is not obligated to pay for utilities, including gas, electric, water or sewer;
- Contractor shall provide for their own telephone and internet services. The facility shall provide the wiring infrastructure for telephones and computers and maintain the wiring infrastructure;
- Contractor shall maintain any and all licenses, permits or certifications as may be required for its employees to perform the services required;
- Provide at a minimum, quarterly reports on the on-going operations of the performance of the services required to include such detail as may reasonably be required.
- Contractor shall provide all necessary equipment, supplies and property purchased, rented, or leased shall be the property of the Contractor who shall have the sole responsibility for any storage, maintenance, repair or replacement;
- Maintain financial records, invoices and other evidence and accounting procedures to sufficiently and properly reflect all direct costs of any nature associated with the Low-income, Low-cost Spay/Neuter Clinic. Permit all records to be subject to inspection, review and audit by the Stanislaus County Auditor;
- Contractor shall complete a minimum of 3,000 spay/neuter surgeries the first year;
- The County intends to enter into an agreement for three years. The County reserves the right to extend this Agreement for an additional period or periods of time representing increments of two (2) additional (1) year periods provided that

Approval to Authorize the Chief Executive Officer to Execute and Implement the Joint Powers Agency Agreement between the County and the Cities of Modesto, Ceres, Hughson, Patterson and Waterford; Approval to Execute an Agreement with SAVED, Inc. for a Low-Income, Low-Cost Spay/Neuter Program; and Approval to Award a Design Build Construction Contract for the new Animal Services Facility at Crows Landing Road and Cornucopia Way to Diede Construction, Inc. for the Construction of the new Animal Services Facility and Related Actions
Page 12

the County notifies the contractor in writing of its intention to do so at least thirty (30) days prior to the agreement expiration date;

- The County may terminate this agreement for default in performance of this agreement;
- The contractor will collect a surcharge to county residents who live in nonparticipating cities of the JPA to cover a portion of facility costs not paid by those jurisdictions;
- The clinic will spay and neuter dogs and cats and provide core vaccinations only; and
- A Low-income, Low-cost Spay/Neuter Clinic Oversight Committee will be established

With the Board's approval to award a contract with SAVED, Inc. to operate a low-income low-cost spay/neuter clinic, the intent is to reduce the community's pet overpopulation and its negative impacts on safety, public health, and quality of life in the community.

The success of any plan will be dependent upon both private and public agencies doing their respective parts serving the residents of Stanislaus County to reduce pet overpopulation.

On October 12, 2009, a letter was received from Project X by the Board of Supervisors and a copy of that letter is Attachment D.

Project X's program and the veterinarians' willingness to assist with the pet over population problem in Stanislaus County is commendable and is urgently needed to ensure a broad, community based solution to the pet overpopulation problem. The county will continue to seek opportunities to partner with all community groups and work together. Other organizations such as Alley Cat Guardians and Rescue groups have also indicated their desire to support spay and neuters to reduce the number of unwanted cats and dogs in the community. Together, the County believes that there will be a difference made through all these efforts and the numbers of animals that come into the shelter will be reduced.

An independent study of the Stanislaus County Alternative to Euthanasia (SCATE) program was conducted by California State University, Stanislaus graduate students. At no cost to the county. Their study concluded:

Approval to Authorize the Chief Executive Officer to Execute and Implement the Joint Powers Agency Agreement between the County and the Cities of Modesto, Ceres, Hughson, Patterson and Waterford; Approval to Execute an Agreement with SAVED, Inc. for a Low-Income, Low-Cost Spay/Neuter Program; and Approval to Award a Design Build Construction Contract for the new Animal Services Facility at Crows Landing Road and Cornucopia Way to Diede Construction, Inc. for the Construction of the new Animal Services Facility and Related Actions
 Page 13

1. The County would need to perform 3,235 spay and neuters per year to prevent an increase in the pet population. This is to stabilize the pet population. The number of strays entering the shelter will lower as well.
2. Perform 9,274 spay and neuter operations each year for 5 years would drastically reduce the amount of strays entering the facility.

The broader community based solutions suggest the following level of spay-neuter results are achievable:

<u>Potential Spay and Neuters (Annual)</u>	
Department of Animal Services	2,600
Rescue Groups	700
Project X	2,000 ++
Alley Cat Guardians (one-time grant funds)	5,000
Contractor at Low-income, Low-cost Spay/Neuter Clinic	<u>3,000</u>
 Total Potential Spays & Neuters	 13,300

The recommended Design-Build Construction project includes a completely separate area, with separate entrance for the low-income, low-cost spay/neuter clinic to operate from. A deductive alternate of \$95,704 was submitted if the area was not to be finished. It is recommended that the deductive alternate not be selected and the area be finished for this purpose.

A copy of the recommended low-income, low-cost spay/neuter program contract is attached for your review, and is Attachment E.

Design-Build Construction Contract Evaluation Factors

On August 4, 2009, the Board of Supervisors approved the final design bridging documents and authorized staff to issue a Request for Proposal (RFP) for the Design-Build construction, pricing and alternate pricing of the new Animal Services Facility to be located in the buffer of the Stanislaus County Public Safety Center at Crows Landing Road and Cornucopia Way to the 16 pre-qualified construction contractors.

On September 17, 2009, seven proposals were received and opened from the following: Applegate Johnston, Inc. of Modesto, California; Diede Construction, Inc. of Lodi, California; GCCI, Inc. of Santa Rosa, California; J.L. Bray & Son, Inc. of Salida, California; Menghetti Construction of Modesto, California; Reeve-Knight Construction,

Approval to Authorize the Chief Executive Officer to Execute and Implement the Joint Powers Agency Agreement between the County and the Cities of Modesto, Ceres, Hughson, Patterson and Waterford; Approval to Execute an Agreement with SAVED, Inc. for a Low-Income, Low-Cost Spay/Neuter Program; and Approval to Award a Design Build Construction Contract for the new Animal Services Facility at Crows Landing Road and Cornucopia Way to Diede Construction, Inc. for the Construction of the new Animal Services Facility and Related Actions
Page 14

Inc. of Roseville, California; and Simile Construction Services, Inc. of Modesto, California.

Rules Governing Design-Build Proposal Process: Public Contract Code Section 20133

The California legislature enacted Public Contract Code section 20133 (the "Code") in the year 2000. The Code sets forth a specific design-build selection procedure for construction projects exceeding \$2.5 million. The procedure permits award of a project using either the "lowest responsible bidder" or by "best value." For the Animal Services Facility project, the Board approved using the "best value" approach. The Code defines "best value" as a value determined by objective criteria related to price, features, functions, and life-cycle costs.

The Code sets forth a four-step process for design-build projects:

1. Preparation of bridging documents that describe the scope of the project;
2. Establishment of a pre-qualification procedure for prospective design-build entities;
3. Preparation of a Request for Proposals; and
4. Final selection of the design-build entity.

This process was followed for the new Animal Services Facility.

The Code's best value competition contemplates evaluation of all proposers using a scoring system that assigns at least 10% of its total weight to each the following factors: price, technical design and construction expertise, life cycle costs over 15 years or more, skilled labor force availability, and acceptable safety record. The Code permits a discussion/interview process with responsive bidders as a part of the competition.

Once the evaluation process is complete, the top three are ranked sequentially from the most advantageous to the least and the award of the contract is made to the proposal which is determined to be the most advantageous.

The County's Proposal Process

The Request for Proposal process mirrored the process set forth in the Code.

County-retained architect Rauhaus Freedenfeld prepared the bridging documents that described the project's scope. The County conducted a pre-qualification process during which 16 potential design-bid firms were prequalified. The County published its

Approval to Authorize the Chief Executive Officer to Execute and Implement the Joint Powers Agency Agreement between the County and the Cities of Modesto, Ceres, Hughson, Patterson and Waterford; Approval to Execute an Agreement with SAVED, Inc. for a Low-Income, Low-Cost Spay/Neuter Program; and Approval to Award a Design Build Construction Contract for the new Animal Services Facility at Crows Landing Road and Cornucopia Way to Diede Construction, Inc. for the Construction of the new Animal Services Facility and Related Actions
Page 15

Request for Proposals (“RFP”) to those 16 pre-qualified proposers, as well as to the general construction community.

A selection team then evaluated the seven proposals that were received consistent with the procedure set forth in the RFP. The selection team was comprised of a wide-ranging group of project team members representing various County and City agencies including the City of Modesto, the City of Patterson, the Animal Advisory Board, the Animal Services Department and the County CEO representatives.

Each final design and construction proposal was evaluated upon the following factors that were included in the August 4, 2009 Board of Supervisors agenda report.

Evaluation Factor	Description	Total Possible Points
Basis of Award Price	10 points for Bid at Base Price; Up to 20 additional points for lowest Base Price below the Bid at Base Price	(10 points required by Code) 30 Maximum
Technical Design	Most qualified team; best schedule	10 (required by Code)
Life Cycle Costs	Least expensive life cycle costs over 15 years	10 (required by Code)
Skilled Labor Force	Existence of qualified apprenticeship program	10 (required by Code)
Safety Record	Experience modification rate for last 3 years or less and total recordable injury/illness rate for last 3 years within statistical standards	1.00 10 (required by Code)
Cost Savings Ideas / Enhancements	Best ideas from contractor team to enhance base design and provide cost savings; lowest price with best value	20
Facility Operations Cost Savings	Systems to reduce ongoing operating costs	10
TOTAL POSSIBLE POINTS		100

The evaluation team engaged in a very detailed evaluation and selection process that focused on the criteria outlined in the Public Contract Code, Section 20133 and in the RFP.

Evaluation Results

Contractors were required to submit base price proposals, deductive alternate cost proposals and cost savings proposals, project improvement enhancement proposals, life cycle costs and operating cost savings.

The base proposal prices submitted by the proposers ranged from \$4,900,000 to \$6,779,246.

On September 25, 2009 the seven contractors were notified of the short list selection. The evaluation team determined that the three firms with the best value proposals were

Approval to Authorize the Chief Executive Officer to Execute and Implement the Joint Powers Agency Agreement between the County and the Cities of Modesto, Ceres, Hughson, Patterson and Waterford; Approval to Execute an Agreement with SAVED, Inc. for a Low-Income, Low-Cost Spay/Neuter Program; and Approval to Award a Design Build Construction Contract for the new Animal Services Facility at Crows Landing Road and Cornucopia Way to Diede Construction, Inc. for the Construction of the new Animal Services Facility and Related Actions
Page 16

Diede Construction, Inc. of Lodi, California, Menghetti Construction, Inc. of Modesto, California, and Simile Construction Inc. of Modesto, California. The three contracting firms were short-listed based upon the evaluation factors and point criteria defined in the RFP. All three finalist proposals were strong, and provided cost savings suggestions as well as other improvement and enhancement suggestions, differing between these three proposals.

On October 1, 2009, the Evaluation Team interviewed the three remaining firms to determine which firm displayed the greatest competitive superiority for the design-build construction of the new Animal Services Facility. As a result, the proposal from Diede Construction, Inc. was ranked as the most advantageous proposal. As a result of the comprehensive evaluation process, it is recommended that the Design-Build Construction Contract be awarded to Diede Construction, Inc. of Lodi, California. The basis of the contract will be the base cost proposal submitted. Diede Construction, Inc. demonstrated the greatest Competitive Superiority in the areas of final design approach, cost savings proposals, schedule, warranties, depth of team and subcontractors and approach consistent with the evaluation criteria in the Request for Proposals based on the provisions of the Public Contract Code. Attachment F is the proposal from Diede Construction, Inc.

On October 8, 2009, all three finalists were contacted, thanked for their participation and were issued a Notice of Intent to Award the design build construction contract for the new Animal Services Facility to Diede Construction, Inc. of Lodi, California, whose proposal was determined to be the most advantageous and best value.

The recommended construction contract is included as Attachment H to this report. The proposal submitted by the design build contractor is incorporated into the contract to ensure that the County can achieve the opportunities proposed. The project team has already identified an immediate \$77,839 in cost savings that will be implemented as Change Order #1 to further reduce the cost of the project.

Cages and Equipment

Animal cages and veterinary equipment were not included in the design build construction documents. It is recommended that these items be purchased competitively and separately by the county for installation into the new facility. At this time, staff also recommends the Board approve the Issuance of an RFP for Animal Cages and for Veterinarian Equipment and to return to the Board to recommend an award.

Approval to Authorize the Chief Executive Officer to Execute and Implement the Joint Powers Agency Agreement between the County and the Cities of Modesto, Ceres, Hughson, Patterson and Waterford; Approval to Execute an Agreement with SAVED, Inc. for a Low-Income, Low-Cost Spay/Neuter Program; and Approval to Award a Design Build Construction Contract for the new Animal Services Facility at Crows Landing Road and Cornucopia Way to Diede Construction, Inc. for the Construction of the new Animal Services Facility and Related Actions
Page 17

Animal Services Facility Budget

As described earlier, the project budget can be reduced over \$2.25 million. The recommended project budget will provide for all project expenses including the contingency funds as well as certain improvements/enhancements that are primarily focused on sound containment and disease control. Some of these elements were value engineered out earlier due to budget concerns. Also planned is a monument sign and limited landscaping.

The Design-Build process allows for the final design to be completed by the Contractor/Design team selected, who will serve as the final Architect of Record. The advantage of this process is that it allows for the contractors cost savings ideas and construction experience to be considered. The important remaining project elements that need to be considered include opportunities for additional noise containment and disease control, and those would improve the durability and performance of the facility. Funds are included in the recommended budget.

The Diede Construction, Inc. proposal included an improved exterior façade, however the Project Team recommends only limited funds within the recommended budget be available as the final design is considered.

Finally, the recommended Project Budget now includes an allocation for \$229,000 in City of Ceres development fees, of which the costs will be shared by all partner agencies in accordance with their percent of animal intake. The recommended project budget is Attachment I.

Expert Services

On May 19, 2009, the Board authorized the Project Manager to issue Request for Proposals for Labor Compliance Program and Specialty Inspection Services and return to the Board to award the recommended contracts for these services concurrent with the future award of a design build construction contract.

On August 7, 2009, a Request for Proposals (RFP) for a Labor Compliance Program was issued. On September 3, 2009, three proposals were received and opened. Proposals were received from Davillier Sloan of Oakland, California, Parsons Brinkerhoff of Sacramento, California, and Diversified Contract Management Group, Inc. of Sacramento, California. The proposals ranged from \$19,999 to \$54,900.

An evaluation team reviewed and scored each respondent's proposal in accordance with the criteria set forth in the RFP. At this time, the Chief Executive Office is returning to the Board for approval to award a contract for a Labor Compliance Program operator

Approval to Authorize the Chief Executive Officer to Execute and Implement the Joint Powers Agency Agreement between the County and the Cities of Modesto, Ceres, Hughson, Patterson and Waterford; Approval to Execute an Agreement with SAVED, Inc. for a Low-Income, Low-Cost Spay/Neuter Program; and Approval to Award a Design Build Construction Contract for the new Animal Services Facility at Crows Landing Road and Cornucopia Way to Diede Construction, Inc. for the Construction of the new Animal Services Facility and Related Actions
Page 18

for the construction of the new Animal Services Facility to Diversified Contract Management of Sacramento, California for the lump sum amount not to exceed \$19,999. Diversified Contract Management Group, Inc. ranked as the firm that best fit the needs of the County for this project. Attachment J is the recommended Labor Compliance Agreement.

On August 10, 2009, a Request for Proposals (RFP) for Specialty Inspection Services was issued. On September 24, 2009, eight proposals were received and opened. Proposals were received from the following vendors: Berlogar Geotechnical Consultants of Salida, California; Construction Testing and Engineering of Tracy, California; Construction Testing Services of Pleasanton, California; Krazan and Associates, Inc. of Modesto, California; MatriScope Engineering Laboratories, Inc of West Sacramento, California; North American Technical Services of Modesto, California; and Wallace Kuhl and Associates of Stockton, California. The proposals ranged from \$40,265 to \$64,435.

An evaluation team reviewed and scored each respondent's proposal in accordance with the criteria set forth in the RFP. At this time, the Chief Executive Office is returning to the Board for approval to award a contract for Specialty Inspection Services for the construction of the new Animal Services Facility to Krazan and Associates of Modesto, California. Since the design is not yet fully complete and the scope of the specialty inspections services is not fully known, staff recommends the contract be a unit price contract and payment be made on the amount of work performed. If approved by the Board, the budget for specialty inspection services is \$40,265. Krazan and Associates ranked as the firm that best fit the needs of the County for this project. Attachment K is the recommended Specialty Inspection Agreement.

On August 26, 2008 the Board approved an agreement with Rauhaus Freedomfeld and Associates to prepare Bridging Documents for the project. Under the design build process, Diede Construction Inc. in association with LDA Architects will be responsible for the final design of the project and will become the Architect of Record.

The County contemplated additional services during the final design and construction of the project from Rauhaus Freedomfeld and Associates and included provisions within their contract to provide a level of service needed through final design and construction. It is recommended that this provision of the contract be implemented at this time within the original budget allocation for the architect. The extent of the additional services depends upon the experience and ability of the Architect of Record. Diede Construction, Inc. has included in its proposal a nationally recognized Animal Facility expert consultant, Connolly Architects, to advise on animal housing and care during final design. The retention of this expert will reduce the additional services required by the County of Rauhaus Freedomfeld and Associates, Inc. It is also recommended that

Approval to Authorize the Chief Executive Officer to Execute and Implement the Joint Powers Agency Agreement between the County and the Cities of Modesto, Ceres, Hughson, Patterson and Waterford; Approval to Execute an Agreement with SAVED, Inc. for a Low-Income, Low-Cost Spay/Neuter Program; and Approval to Award a Design Build Construction Contract for the new Animal Services Facility at Crows Landing Road and Cornucopia Way to Diede Construction, Inc. for the Construction of the new Animal Services Facility and Related Actions
Page 19

the retention withheld from RFA be released as a result of the successful completion of the Bridging Documents phase.

Design and Construction Schedule

Project staff outlined several key project deliverables to be completed during the Bridging Document Phase of the project which have been completed. The next step is the final design and construction of the new Animal Services Facility. Staff expects to break ground in Winter 2009, and for construction to be completed in late Fall 2010 and ready for the installation of furniture, cages and veterinarian equipment. The Diede proposal provided the shortest schedule duration of the proposals received.

It is recommended that the Board of Supervisors authorize a groundbreaking ceremony to include the County, and all five partner cities as well as the community we serve. It is likely the event can be held at the end of November or early in December, 2009.

The recommended actions have been reviewed in detail with the Board of Supervisors Capital Facilities Committee comprised of Supervisors Grover and Monteith on October 14, 2009.

POLICY ISSUE:

Meeting the needs of Animal Services in our community is consistent with the Board of Supervisors priorities of *A safe community, A healthy community, Effective partnerships and Efficient delivery of public services.*

STAFFING:

Staff from the Chief Executive Office, the Cities of Modesto, Ceres, Hughson, Patterson, Waterford, the Animal Services Department and members of the Animal Advisory Board will continue to work together on this effort in collaboration. Once the new Animal Services Facility is built, it is anticipated that five additional Animal Care Specialists are need for effective facility operations.

ATTACHMENTS AVAILABLE
FROM YOUR CLERK

PowerPoint presentation

Attachment A

Debt Schedule

Stanislaus County Animal Shelter Project

Preliminary Financing Term Sheet

Scenario 1: Six Member Loan Participation

Par Amount of Borrowing:	\$8,744,528
Participating Agencies:	City of Modesto (44.42% share of loan) City of Ceres (11.63% share of loan) City of Patterson (2.70% share of loan) City of Waterford (2.02% share of loan) City of Hughson (1.06% share of loan) Stanislaus County (38.17% share of loan)
Financing Structure:	County will construct the facility from loan proceeds from the 2006 Tobacco Endowment Fund. County will enter into leases with participating agencies.
Lease Terms:	County will enter into lease agreements with participating agencies, who will have tenancy-in-common interests in the facility through its useful life.
Land Ownership:	County retains ownership of land.
Term of Borrowing:	25 years of amortization
Estimated Date of Borrowing:	December 1, 2009
Payment Frequency:	Quarterly principal and interest.
Estimated Date of First Payment:	December 1, 2010 (12 months after closing)
Capitalized Interest:	1-year
Interest Rate Mode:	Variable, set annually based on previous year's tobacco endowment earnings rate; reconciliation made to actual on August 1 of each year.
Debt Service Structure:	Level debt service
Estimated Average Annual Payments: ¹	Level Debt Service: \$548,764

¹ Assumed \$8,744,528 million borrowing, amortization based upon 3.387%, the most recent 1-year average earnings rate of the 2006 Tobacco endowment.

Stanislaus County Animal Shelter Project

Estimated Annual Debt Service Schedule: Scenario 1, Six Member Loan Participation

Level Debt Service Structure							
Fiscal Year	Total	City of	City of	City of	City of	City of	Stanislaus
Ending	Annual Net	Modesto	Ceres	Patterson	Waterford	Hughson	County
	Debt Service¹	44.42%	11.63%	2.70%	2.02%	1.06%	38.17%
2010	0	0	0	0	0	0	0
2011	328,416	145,882	38,195	8,867	6,634	3,481	125,356
2012	548,764	243,761	63,821	14,817	11,085	5,817	209,463
2013	548,764	243,761	63,821	14,817	11,085	5,817	209,463
2014	548,764	243,761	63,821	14,817	11,085	5,817	209,463
2015	548,764	243,761	63,821	14,817	11,085	5,817	209,463
2016	548,764	243,761	63,821	14,817	11,085	5,817	209,463
2017	548,764	243,761	63,821	14,817	11,085	5,817	209,463
2018	548,764	243,761	63,821	14,817	11,085	5,817	209,463
2019	548,764	243,761	63,821	14,817	11,085	5,817	209,463
2020	548,764	243,761	63,821	14,817	11,085	5,817	209,463
2021	548,764	243,761	63,821	14,817	11,085	5,817	209,463
2022	548,764	243,761	63,821	14,817	11,085	5,817	209,463
2023	548,764	243,761	63,821	14,817	11,085	5,817	209,463
2024	548,764	243,761	63,821	14,817	11,085	5,817	209,463
2025	548,764	243,761	63,821	14,817	11,085	5,817	209,463
2026	548,764	243,761	63,821	14,817	11,085	5,817	209,463
2027	548,764	243,761	63,821	14,817	11,085	5,817	209,463
2028	548,764	243,761	63,821	14,817	11,085	5,817	209,463
2029	548,764	243,761	63,821	14,817	11,085	5,817	209,463
2030	548,764	243,761	63,821	14,817	11,085	5,817	209,463
2031	548,764	243,761	63,821	14,817	11,085	5,817	209,463
2032	548,764	243,761	63,821	14,817	11,085	5,817	209,463
2033	548,764	243,761	63,821	14,817	11,085	5,817	209,463
2034	548,764	243,761	63,821	14,817	11,085	5,817	209,463
2035	274,382	121,880	31,911	7,408	5,543	2,908	104,732
	\$13,224,370	\$5,874,265	\$1,537,994	\$357,058	\$267,132	\$140,178	\$5,047,742

¹ Net of one-year of capitalized interest. Interest rate based on most recent annual tobacco endowment earnings rate of 3.387%.

Stanislaus County Animal Shelter Project

Preliminary Financing Term Sheet

Scenario 2: Five Member Loan Participation

Par Amount of Borrowing:	\$8,508,426
Participating Agencies:	City of Modesto (45.65% share of loan) City of Ceres (11.95% share of loan) City of Patterson (0.00% share of loan, cost paid up-front) City of Waterford (2.08% share of loan) City of Hughson (1.09% share of loan) Stanislaus County (39.23% share of loan)
Financing Structure:	County will construct the facility from loan proceeds from the 2006 Tobacco Endowment Fund. County will enter into leases with participating agencies.
Lease Terms:	County will enter into lease agreements with participating agencies, who will have tenancy-in-common interests in the facility through its useful life.
Land Ownership:	County retains ownership of land.
Term of Borrowing:	25 years of amortization
Estimated Date of Borrowing:	December 1, 2009
Payment Frequency:	Quarterly principal and interest.
Estimated Date of First Payment:	December 1, 2010 (12 months after closing)
Capitalized Interest:	1-year
Interest Rate Mode:	Variable, set annually based on previous year's tobacco endowment earnings rate; reconciliation made to actual on August 1 of each year.
Debt Service Structure:	Level debt service
Estimated Average Annual Payments: ¹	Level Debt Service: \$533,947

¹ Assumed \$8,508,426 million borrowing, amortization based upon 3.387%, the most recent 1-year average earnings rate of the 2006 Tobacco endowment.

Stanislaus County Animal Shelter Project

Estimated Annual Debt Service Schedule: Scenario 2, Five Member Loan Participation ¹

Level Debt Service Structure							
Fiscal Year Ending	Total Annual Net Debt Service ²	City of Modesto 45.65%	City of Ceres 11.95%	City of Patterson 0.00%	City of Waterford 2.08%	City of Hughson 1.09%	Stanislaus County 39.23%
2010	0	0	0	236,102	0	0	0
2011	319,549	145,882	38,195	0	6,634	3,481	125,356
2012	533,947	243,761	63,821	0	11,085	5,817	209,463
2013	533,947	243,761	63,821	0	11,085	5,817	209,463
2014	533,947	243,761	63,821	0	11,085	5,817	209,463
2015	533,947	243,761	63,821	0	11,085	5,817	209,463
2016	533,947	243,761	63,821	0	11,085	5,817	209,463
2017	533,947	243,761	63,821	0	11,085	5,817	209,463
2018	533,947	243,761	63,821	0	11,085	5,817	209,463
2019	533,947	243,761	63,821	0	11,085	5,817	209,463
2020	533,947	243,761	63,821	0	11,085	5,817	209,463
2021	533,947	243,761	63,821	0	11,085	5,817	209,463
2022	533,947	243,761	63,821	0	11,085	5,817	209,463
2023	533,947	243,761	63,821	0	11,085	5,817	209,463
2024	533,947	243,761	63,821	0	11,085	5,817	209,463
2025	533,947	243,761	63,821	0	11,085	5,817	209,463
2026	533,947	243,761	63,821	0	11,085	5,817	209,463
2027	533,947	243,761	63,821	0	11,085	5,817	209,463
2028	533,947	243,761	63,821	0	11,085	5,817	209,463
2029	533,947	243,761	63,821	0	11,085	5,817	209,463
2030	533,947	243,761	63,821	0	11,085	5,817	209,463
2031	533,947	243,761	63,821	0	11,085	5,817	209,463
2032	533,947	243,761	63,821	0	11,085	5,817	209,463
2033	533,947	243,761	63,821	0	11,085	5,817	209,463
2034	533,947	243,761	63,821	0	11,085	5,817	209,463
2035	266,974	121,880	31,911	0	5,543	2,908	104,732
	\$12,867,312	\$5,874,265	\$1,537,994	\$236,102	\$267,132	\$140,178	\$5,047,742

¹ Assumes that the City of Patterson pays 100% of its share of the project cost up-front.

² Net of one-year of capitalized interest. Interest rate based on most recent annual tobacco endowment earnings rate of 3.387%.

Stanislaus County Animal Shelter Project

Project Cost Allocation

Scenario 1: Six Member Loan Participation

Original Project Cost: \$8,744,528.00

	Percentage Share of Project	Project Cost Allocation
City of Modesto	44.42%	\$3,884,319.34
City of Ceres	11.63%	\$1,016,988.61
City of Patterson	2.70%	\$236,102.26
City of Waterford	2.02%	\$176,639.47
City of Hughson	1.06%	\$92,692.00
Stanislaus County	38.17%	\$3,337,786.34
	100.00%	\$8,744,528.00

Scenario 2: Five Member Loan Participation, City of Patterson Up-Front Payment

Revised Project Cost:¹ \$8,508,425.74

	Original Percentage Share of Project	Project Cost Allocation	New Percentage Share of Project
City of Modesto	44.42%	\$3,884,319.34	45.65%
City of Ceres	11.63%	\$1,016,988.61	11.95%
City of Waterford	2.02%	\$176,639.47	2.08%
City of Hughson	1.06%	\$92,692.00	1.09%
Stanislaus County	38.17%	\$3,337,786.34	39.23%
	97.30%	\$8,508,425.74	100.00%

¹ Assumes the City of Patterson will pay for its share of the project cost (\$236,102.26) up-front.

Attachment B

Budget Journal

County of Stanislaus: Auditor-Controller

Legal Budget Journal

Database
Set of Books

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

Balance Type	Budget
Category	* List - Text Budget - Upload
Source	* List - Text
Currency	* List - Text USD
Budget Name	List - Text LEGAL BUDGET
Batch Name	Text
Journal Name	Text CP NB 10.15.09
Journal Description	Text ANIMAL SHELTER PROJECT
Journal Reference	Text BRING IN ADDITIONAL BUDGET FOR ANIMAL SHELTER PROJECT
Organization	List - Text Stanislaus Budget Org

Upl	Fund	Org	Acc't	GL Proj	Loc	Misc	Other	Debit		Credit		Period	Line Description
								incr. appropriations	decr. est. revenue	decr. appropriations	incr. est. revenue		
								(format > number > general)		Upper case MM-YY		List - Text Text	
4	7	5	7	6	6	5							
Fb	2058	0061129	62400	0000000	000000	000000	000000	124324.39				OCT-09	MISC EXPENSE
Fb	2058	0061129	62600	0000000	000000	000000	000000	14750				OCT-09	OFFICE SUPPLIES
Fb	2058	0061129	62630	0000000	000000	000000	000000	11550				OCT-09	OUTSIDE PRINTING
Fb	2058	0061129	62730	0000000	000000	000000	000000	6371				OCT-09	POSTAGE
Fb	2058	0061129	63256	0000000	000000	000000	000000	3000				OCT-09	CONTRACTS-CONSULT
Fb	2058	0061129	63256	0000000	000000	000000	000000	51000				OCT-09	LEGAL FEES
Fb	2058	0061129	64100	0000000	000000	000000	000000	456				OCT-09	ABATEMENT & DEMO
Fb	2058	0061129	64150	0000000	000000	000000	000000	75000				OCT-09	CODE REQ. TESTING
Fb	2058	0061129	64200	0000000	000000	000000	000000	25000				OCT-09	MOVING/RELOCATION
Fb	2058	0061129	64210	0000000	000000	000000	000000	187404.77				OCT-09	INSPECTORS
Fb	2058	0061129	64220	0000000	000000	000000	000000	63252				OCT-09	ARCH & ENGR FEES
Fb	2058	0061129	64600	0000000	000000	000000	000000	407186.57				OCT-09	CONSTR. MANAGER
Fb	2058	0061129	64631	0000000	000000	000000	000000	10500				OCT-09	GEOTECHNICAL SVC.
Fb	2058	0061129	64750	0000000	000000	000000	000000			21		OCT-09	MARKETING
Fb	2058	0061129	65000	0000000	000000	000000	000000	11971				OCT-09	PUB & LEGAL NOTICES
Fb	2058	0061129	66020	0000000	000000	000000	000000	5813				OCT-09	ENVIRONMENTAL IMPAC.
Fb	2058	0061129	66210	0000000	000000	000000	000000	10000				OCT-09	BUILDING PERMITS
Fb	2058	0061129	67200	0000000	000000	000000	000000	25000				OCT-09	INFRASTRUCTURE
Fb	2058	0061129	67230	0000000	000000	000000	000000	254000				OCT-09	UTILITY CONNECTIONS
Fb	2058	0061129	73511	0000000	000000	000000	000000	3623				OCT-09	GOVT FUND BILL AUDIT
Fb	2058	0061129	73512	0000000	000000	000000	000000	4900				OCT-09	GOVT FUND BILL PUR
Fb	2058	0061129	73518	0000000	000000	000000	000000	40000				OCT-09	GOVT FUND ADMIN
Fb	2058	0061129	73580	0000000	000000	000000	000000	750				OCT-09	PW ENGINEERING
Fb	2058	0061129	74080	0000000	000000	000000	000000	1500				OCT-09	CENTRAL SVC PRINTING
Fb	2058	0061129	74090	0000000	000000	000000	000000	450				OCT-09	QUICK COPY SVC.
Fb	2058	0061129	74100	0000000	000000	000000	000000	106.25				OCT-09	MAIL ROOM POSTAGE
Fb	2058	0061129	74110	0000000	000000	000000	000000	106.25				OCT-09	MAIL ROOM SVC.
Fb	2058	0061129	74190	0000000	000000	000000	000000	2000				OCT-09	PICKUP & DELIVERY
Fb	2058	0061129	80020	0000000	000000	000000	000000	25000				OCT-09	IRRIGATION WELL
Fb	2058	0061129	80300	0000000	000000	000000	000000	4989568				OCT-09	CONSTRUCTION
Fb	2058	0061129	80300	0000000	000000	000000	000000			77839		OCT-09	REC. CONTR. SAVINGS
Fb	2058	0061129	80300	0000000	000000	000000	000000	95919				OCT-09	REC. CONTR. IMPR.
Fb	2058	0061129	80300	0000000	000000	000000	000000	250000				OCT-09	OTHER IMPROVEMENTS
Fb	2058	0061129	80315	0000000	000000	000000	000000	6050				OCT-09	SURVEYS & INVESTIG.
Fb	2058	0061129	80355	0000000	000000	000000	000000	30000				OCT-09	SIGNAGE & GRAPHICS
Fb	2058	0061129	80570	0000000	000000	000000	000000	525764.8				OCT-09	DESIGN & CONSTR. CONT.
Fb	2058	0061129	80570	0000000	000000	000000	000000	100839.5				OCT-09	FF&E CONTINGENCY
Fb	2058	0061129	80610	0000000	000000	000000	000000	60000				OCT-09	DATA & COMMUNICAT.
Fb	2058	0061129	81000	0000000	000000	000000	000000	649900				OCT-09	CAGES
Fb	2058	0061129	82130	0000000	000000	000000	000000	105300				OCT-09	VETERNARIAN EQUIP.
Fb	2058	0061129	82130	0000000	000000	000000	000000	80000				OCT-09	FF&E
Fb	2058	0061129	82570	0000000	000000	000000	000000	18195				OCT-09	COMPUTER EQUIPMENT
Fb	2058	0061129	83990	0000000	000000	000000	000000	20000				OCT-09	ALARM/SECURITY
Fb	2058	0061129	84191	0000000	000000	000000	000000	10000				OCT-09	FENCES
Fb	2058	0061129	46600	0000000	000000	000000	000000			8228690.53		OCT-09	TRANSFER

Totals: 8306550.53 8306550.53

Explanation:
FUND ANIMAL SHELTER PROJECT BASED UPON PROPOSAL

Requesting Department	CEO	Data Entry	Auditors Office Org
Signature	Signature	Keyed by	Prepared By
10/21/09	10/21/09		10/21/09
Date	Date	Date	Date

Attachment C

JPA Agreement

**JOINT POWERS AGREEMENT ESTABLISHING THE
STANISLAUS ANIMAL SERVICES AGENCY**

This Joint Powers Agreement (the "Agreement") Establishing the Stanislaus Animal Services Agency is made and entered into by and among the cities of Ceres, Hughson, Modesto, Patterson and Waterford, and the County of Stanislaus on October, 27, 2009.

INTRODUCTION

A. Article 1 (commencing with section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code authorizes two or more public agencies, by a joint powers agreement entered into respectively by them and authorized by their legislative or governing bodies, to exercise jointly any power or powers common to the contracting agencies.

B. The Board of Supervisors of any county pursuant to Government Code section 25802 or the governing body of any city pursuant to Government Code section 38792, and both pursuant to Food and Agriculture Code section 30501, may take up and impound animals and establish animal control programs, including the authority to maintain, regulate, and govern public animal shelters.

C. The joint operation and management of an animal shelter for the mutual benefit of the parties and their respective residents provides efficiency and economy in government operations through the cooperation of member governments and the pooling of common resources.

BOARD OF SUPERVISORS
2009 JUN 28 P 4:48

D. The parties desire to form a regional agency to operate and manage an animal shelter and to provide animal services needed or requested by each participating member.

NOW, THEREFORE, the parties agree as follows:

1. Recitals.

The recitals set forth in the introduction to this Agreement are true and correct and are deemed to be part of the terms and conditions of this Agreement.

2. Purpose.

The purpose of this Agreement is to facilitate cooperation among the member agencies for specific purposes, interrelated actions, and for adoption of common policies with respect to issues and problems related to the operation and management of an animal shelter and provision of animal services within each member agency's jurisdiction.

3. Establishment of Stanislaus Animal Services Agency.

3.1 Separate Entity. Upon the effective date of this Agreement, the parties hereto establish the Stanislaus Animal Services Agency (the "Agency") as a public entity separate and distinct from its member entities, as the agent to exercise the common powers provided for in this Agreement, and to administer or otherwise execute this Agreement.

3.2 Member Agencies. The Agency shall be composed of the County of Stanislaus and the Cities of Ceres, Hughson, Modesto, Patterson and Waterford (the "Member Agencies"). In addition, any city within Stanislaus County that is not a named party or that may hereafter be incorporated, and which desires to participate in the activities of the Agency, may do so provided sufficient capacity will exist at the animal

shelter to accommodate the new participant's needs, and upon approval of two-thirds (2/3) of the Member Agencies, subject also to adoption of a resolution by the new party's governing body authorizing execution of this Agreement, and agreement to fully participate financially in the Agency.

3.3 Powers and Functions. The Agency shall have the common power of the Member Agencies to plan, establish and exercise all government functions necessary to provide animal services for the benefit of the Member Agencies. Pursuant to Government Code Section 6509, the Agency's manner of exercising such powers shall be subject to those restrictions applicable to the City of Modesto. The Agency Board is authorized to do the following in the name of the Agency:

- (a) Employ an Executive Director as the chief administrative officer of the Agency.
- (b) Employ agents and employees and contract for professional services and employee services from another public agency. The Agency Board may appoint sufficient personnel to act in a staff capacity for the Agency, which may include staff from Member Agencies and may hire and retain consultants, Personal Services Contractors, and others, as determined to be necessary to accomplish the purposes of this Agreement.
- (c) Make and enter into contracts authorized in the Agency budget.
- (d) Acquire, hold and convey real and personal property, including leasehold interests, and exercise the power to acquire real property by eminent domain.
- (e) Cooperate with other agencies, counties and other local public and non profit groups or private agencies and participate in joint projects as necessary.

- (f) Incur debts, obligations and liabilities, which shall be the sole responsibility of Agency and shall not be a debt, obligation or liability of Member Agencies.
- (g) Accept contributions, grants or loans from any public or private agency or individual, or the United States, the State of California or any department, instrumentality or agency thereof, for the purposes of financing its activities.
- (h) Sue and be sued, in its own name only, but not in the name or stead of any Member Agency.
- (i) Adopt Bylaws to govern or regulate the conduct of meetings, designate Agency officers, and other affairs of the Agency not otherwise specified in this Agreement.
- (j) Do all other acts reasonable and necessary to carry out the purposes of this Agreement.

3.4 Withdrawal of Member Agency. A Member Agency may withdraw from the Agency at any time by giving notice to all other Member Agencies by resolution of intent to withdraw adopted by the governing board of the withdrawing party. Upon the effective date of such withdrawal, the withdrawing party shall cease to be bound by the Agreement, except for any long-term financing obligations placed upon the withdrawing party under this Agreement. However, upon agreement between the Agency and the withdrawing party, the withdrawing party may sell and assign its equity interest in the animal shelter facility, first, to the Agency, then to another Member Agency, if additional animal capacity is needed by the Agency or another Member Agency.

4. Management Framework.

4.1 Board. The Agency shall be governed by a Board, the members of which shall be the City Manager of each member agency and the Chief Executive Officer of the County. Pursuant to Government Code section 6506, the Agency Board is designated as the administrator of this Agreement and of the Agency's affairs, and shall perform its duties and responsibilities in accordance with all provisions of this Agreement.

4.2 Alternate Representative. Each member agency shall designate at least one alternate representative. To be eligible to cast a vote, alternates must be designated, and notice of said designation given to the Executive Director of the Agency (or person acting in that capacity) at least 24-hours prior to the first meeting at which that alternate is to attend on behalf of the Member Agency's designated representative.

4.3 Voting. Each Member Agency shall have one vote on the Agency Governing Board.

4.4 Quorum and Majority Requirement. A quorum shall consist of one-half the total number of representatives entitled to vote, plus one. A simple majority of the representatives present shall be required for the Agency Board to take any action, except to adjourn a regular meeting where a quorum is not present. A two-thirds majority of Board Member representatives shall be required to approve all fiscal matters and any other action requiring, under existing law, a 2/3 majority. For purposes of this agreement, fiscal matters shall include approval of the Agency's budget and all amendments, adjustments or other changes to the approved budget.

4.5. Meeting Time and Place. The Agency Board shall establish a time and place for regular meetings, which shall occur at least once each year. All meetings shall be conducted in accordance with the Ralph M. Brown Act (Gov. Code Section 54950 et seq.).

4.6 Conflict of Interest. The Agency Board shall adopt and, thereafter, maintain a conflict of interest code in compliance with applicable provisions of the Political Reform Act (Gov. Code section 87300 et seq.) and the regulations adopted by the Fair Political Practices Commission (Cal. Code of Regs, tit. 2, section 1870 et seq.).

4.7 Operational Plan. The Agency Board shall, within six months of Agency establishment, create an operational plan to describe in detail the operation, reconciliation, budget process, schedule, and other operational, budgetary, and financial processes.

5. Fiscal Matters.

5.1 Ongoing Operation Expenses. The animal shelter operating expenses of the Agency shall be paid by the Member Agencies in proportion to the percentage of animals received from the Member Agency's jurisdiction to the total number of animals received at the animal shelter. Operational expenses shall include annual costs and expenses to provide animal shelter services including, without limitation, staff expenses, veterinary expenses, administration, utilities, insurance, maintenance, lease or rental payments, and other costs in the approved operating budget. Operational expenses shall not include capital financing costs. Member Agency's annual operating expenses will be based on the animal intake percentage from the fiscal year ending two years prior to the fiscal year to be applied.

5.2 Member Agency Payments. Member Agency payments shall be offset by and net of licenses and fee revenue generated to the agency by each jurisdiction. The actual method adopted by the Agency Board shall be incorporated into and made a part of the Agency operational plan.

5.3 Additional Animal Services. If any Member Agency elects to have the Agency provide additional animal services in its jurisdiction, including but not limited to field services and canvassing, the cost allocation methodology of the additional services

shall be determined by the Agency Board. The full costs of any additional services shall be born by the Member Agency requesting the additional service.

5.4 Additional Support. With prior approval of the Agency Board, any Member Agency may also provide resources in an amount determined by its governing body to be reasonable and appropriate for the purposes of the Agency, including staff and professional services of the Member Agency, provision of quarters, janitorial services and maintenance, supplies, printing and duplication, postage, telephone services, transportation services and professional and technical assistance. The Agency shall reimburse the Member Agency for the reasonable and necessary cost and expense of services or resources provided by the Member Agency as determined and approved by the Agency Board and in accordance with the approved budget.

5.5 Capital Improvements. The County shall cause to be constructed on County-owned land, an animal shelter of sufficient size and capacity to accommodate the current and projected needs of the Member Agencies. Subject to the reimbursement provisions set forth herein, upon completion of construction and acceptance by the County, the improvements shall automatically be owned by the Agency.

- a) The Agency will execute an agreement with the County to repay the County over 25 years for the cost of construction for the new animal shelter facility plus interest. The cost of construction will be the total capitalized costs, which will consist of those costs and expenses typically reflected in identifying total project costs, including without limitation, design, construction and construction management fees, equipment, furnishings, permits, fees, and all project costs in the adopted project budget. The repayment to the County will also include interest charges, including capitalized interest, calculated on the actual interest lost by the County from advancing County funds to construct the animal shelter facility.

- b) Total capitalized costs allocable to Agency shall be capped at \$11,000,000. Should total capitalized costs exceed \$11,000,000, Member Agency cities shall have the option to withdraw from Agency. If any Member Agency city elects to withdraw under the terms of this paragraph, that Agency City shall have no further financial responsibility to Agency.

- c) Each Member Agency's proportion of capitalized costs shall be fixed and shall be based upon the average of the total animal intake of Member Agencies in proportion to each Member Agency's annual percentage of animal intake at the shelter for fiscal years 2007-08, 2008-09, and 2009-10. Each Member Agency shall pay to the Agency its proportional share of the costs identified in paragraph 5.5(a). The first payment shall be due on the first day of the fiscal year following the date of the actual occupancy of the new animal shelter by the Agency. Member Agencies may elect to pay capitalized cost in advance upon facility completion

- d) Except as provided in Section 5.5 (b), the obligation of a Member Agency to reimburse the Agency for the cost of financing capital improvements as set forth in paragraph 5.5 (a) shall survive termination or rescission of this Agreement or the withdrawal of a Member Agency. In the event of a termination or rescission of this Agreement, Member Agencies shall make their payments directly to the County of Stanislaus or its designee. Should a Member Agency withdraw and the Agency does not elect to purchase the withdrawing Member Agency's percentage share and Member Agency does not sell its percentage to a public or government agency as provided in paragraph (f), the withdrawing Member Agency shall continue to make its payments under this Agreement to the Agency.

- e) Upon a Member Agency's withdrawal, Agency has first right of refusal to purchase, at a price as agreed by Agency and Member Agency, exiting Member Agency's percentage share.
- f) If the Agency does not purchase the exiting Member Agency's percentage share, the exiting Member Agency may transfer or sell, as appropriate, to a public or governmental agency, with the approval of a majority of the remaining Member Agencies.

5.6 Long-Term Ground Lease. The Agency shall enter into a 25-year, zero cost lease with the County for use of the County property on which the animal shelter is constructed. The lease may be extended, at Agency's discretion, for two additional 25 year terms, provided the Agency gives at least 60 days written notice of its intention to extend the lease for an additional 25 years prior to the expiration of the current lease, or any previous extension of its term. Improvements shall belong to the Agency, provided that upon expiration of the lease term, the improvements will revert to County ownership, upon payment by the County of the then reasonable value of the improvements.

5.7 Fiscal Year/Member Agency Payments. The Fiscal Year of the Agency shall commence on July 1 of each year and shall terminate on June 30 of the following year. Each Member Agency shall deposit an amount equal to the first quarterly payment of operational and debt service costs with the Treasurer of the Agency no later than July 1 of each year, the remaining three quarters will be due October 1, January 1, and April 1 of each year.

6. General Terms and Conditions.

6.1 Term of Agreement. This Agreement shall continue in force without a specific term until it is terminated or rescinded upon the mutual agreement of the parties.

6.2 Accountability. Pursuant to Government Code section 6505, the Agency shall be strictly accountable for all funds received by the Agency.

6.3 Agency Treasurer and Auditor-Controller. Treasurer and Auditor-Controller for Agency shall be selected by Agency upon a majority vote of Member Agencies. The Agency shall reimburse any other government agency or Department providing approved services.

6.4 Legal Counsel. Legal Counsel for Agency shall be selected by Agency upon a majority vote of Member Agencies. The Agency shall reimburse any other government agency or Department providing approved services.

6.5 Property of Agency. The Executive Director, or in his or her absence, the chairman of the Agency Board, shall be in charge of, handle, or have access to any property of the Agency and shall file with the Agency an official fidelity bond in a penal sum determined by the Agency as security for the safekeeping of the Agency's property entrusted to the person or employee. However, if the Executive Director or other persons designated are already bonded by another agency, and the existing bonding incorporates coverage levels and limits required by Agency, no additional bonding shall be required by this section. Premiums for any bonds required under this section shall be paid by the Agency.

6.6 Surplus Property. Pursuant to Government Code section 6511, upon termination of this Agreement, any surplus property shall be returned, pro rata, to the Federal, State, or local agency or the Member Agency that provided the property. The parties shall use good faith efforts and fair dealing in processing and dividing any surplus property that cannot be attributed to any single Member Agency.

6.7 Distribution of Assets. Pursuant to Government Code section 6512, any surplus money on hand after termination of the Agreement shall be returned to the funding source from which funds were furnished, or to the agency making the

contribution. The parties shall use good faith efforts and fair dealing in processing and dividing any surplus money that cannot be attributed to any single funding source or Member Agency, keeping in mind the position of the parties before they entered into this Agreement.

6.8 Indemnity. No Member Agency or any of its officers or employees shall be responsible for any damage or liability arising out of or relating to any obligation of a Member under the Agreement. The Member Agencies further agree, pursuant to Government Code section 895.4, that each Member Agency shall fully indemnify and hold harmless all other Member Agencies and its agents, officers, employees and contractors from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney fees, arising out of, resulting from, or in connection with any work delegated to or action taken or omitted to be taken by such party under this Agreement. Selection of insurance coverage and insurers shall be by majority vote of Member Agencies and shall include both those coverages required by law and as may be selected by a majority vote of Member Agencies.

6.9 Severability. Should any part, term, portion, or provision of this Agreement be finally decided to be in conflict with any law of United States or the State of California, or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portions, or provisions shall be deemed severable and shall not be affected thereby, provided such remaining portions or provisions can be construed in substance to constitute the Agreement which Member Agencies intended to enter into in the first instance.

6.10 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of any successors to or assigns of the parties.

6.11 Amendment. This Agreement may be modified, amended, changed, added to, or subtracted from by the mutual consent of a 2/3 majority of the parties to the Agreement provided the 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.

6.12 Effective Date. This Agreement shall become effective upon approval of this Agreement by resolution of two or more of the governing bodies for the Member Agencies, and shall have no binding force and effect on any Member Agency unless and until approved by its governing body.

6.13 Counterpart Execution. This Agreement, or any amendment to this Agreement, may be executed in counterparts, each of which shall be deemed to be an original and said counterparts shall constitute one in the same document which may be sufficiently evidenced by one counterpart.

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

- Signatures on Following Pages -


**JOINT POWERS AGREEMENT
(Stanislaus Animal Services Agency)**

Member Agency Approval


COUNTY OF STANISLAUS

By: 
Jim DeMartini, Chairman
Board of Supervisors

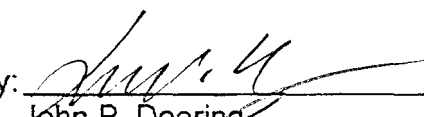
ATTEST: Christine Ferraro-Tallman
Clerk of the Board of Supervisors of the
County of Stanislaus, State of California

By: 
Deputy Clerk

APPROVED AS TO CONTENT:

By: 
Richard Robinson
Chief Executive Officer

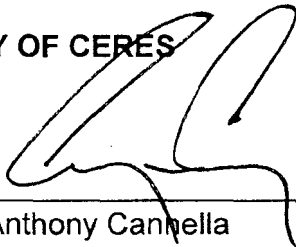
APPROVED AS TO FORM:

By: 
John P. Doering
County Counsel

**JOINT POWERS AGREEMENT
(Stanislaus Animal Services Agency)**

Member Agency Approval

CITY OF CERES

By: 

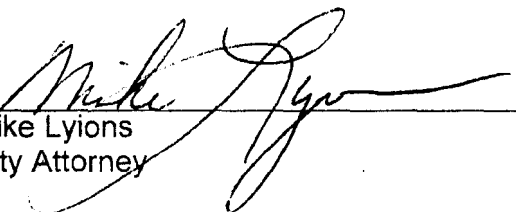
Anthony Cannella
Mayor

ATTEST:

By: 

Cindy Heidorn
City Clerk

APPROVED AS TO FORM:

By: 

Mike Lyons
City Attorney

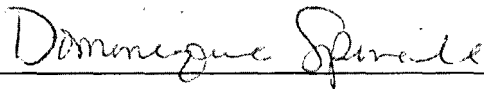
**JOINT POWERS AGREEMENT
(Stanislaus Animal Services Agency)**

Member Agency Approval

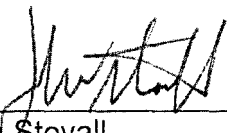
CITY OF HUGHSON

By: 
Ramon Bawanan
Mayor

ATTEST:

By: 
Dominique Spinale
Deputy City Clerk


APPROVED AS TO FORM:

By: 
John Stovall
City Attorney

**JOINT POWERS AGREEMENT
(Stanislaus Animal Services Agency)**

Member Agency Approval

CITY OF MODESTO

By: 

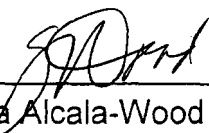
Jim Ridenour
Mayor

ATTEST:

By: 

Stephanie Lopez
City Clerk

APPROVED AS TO FORM:

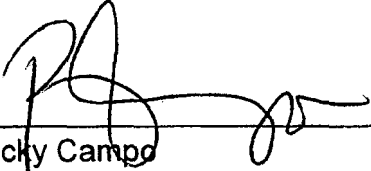
By: 

Susana Alcalá-Wood
City Attorney


**JOINT POWERS AGREEMENT
(Stanislaus Animal Services Agency)**

Member Agency Approval

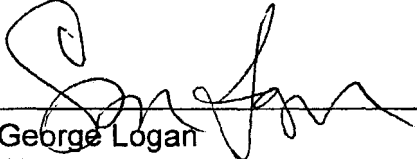
CITY OF PATTERSON

By: 
Becky Campo
Mayor

ATTEST:

By: 
Maricela Vela
City Clerk

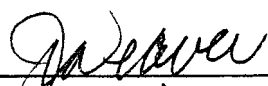
APPROVED AS TO FORM:

By: 
George Logan
City Attorney


**JOINT POWERS AGREEMENT
(Stanislaus Animal Services Agency)**

Member Agency Approval

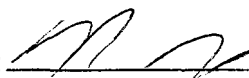
CITY OF WATERFORD

By: 
Charlie Goeken Jim Weaner
Mayor Vice-mayor

ATTEST:

By: 
Lori Martin
City Clerk

APPROVED AS TO FORM:

By: 
Corbett Browning Corbett J. Browning
City Attorney



Phone 209.847.2328

312 "E" Street
P.O. Box 199
Waterford, CA 95386

www.cityofwaterford.org

BOARD OF SUPERVISORS

2009 NOV 24 A 8:08

CHIEF EXECUTIVE OFFICE

2009 NOV 13 P 2:37

November 9, 2009

Charlie Goeken
Mayor

Jim Weaver
Vice-Mayor

Jose Aldaco
Council Member

Michael Van Winkle
Council Member

Ken Krause
Council Member

Sandra Regalo, Executive Assistant
Chief Executive Office
1010 Tenth St., Suite 6800
Modesto, CA 95354

Dear Sandra:

Enclosed is a fully executed Joint Powers Agreement Establishing the Stanislaus Animal Services Agency which was adopted by the Waterford City Council at a regular meeting held on November 5, 2009.

I would appreciate a copy of the signature pages from the other members in the Joint Powers once completed and executed for my files.

Thank you.

Sincerely,

Lori Martin
Lori Martin, CMC
City Clerk

Encl.

L.P.P.

**JOINT POWERS AGREEMENT ESTABLISHING THE
STANISLAUS ANIMAL SERVICES AGENCY**

This Joint Powers Agreement (the "Agreement") Establishing the Stanislaus Animal Services Agency is made and entered into by and among the cities of Ceres, Hughson, Modesto, Patterson and Waterford, and the County of Stanislaus on 11/05 2009.

INTRODUCTION

A. Article 1 (commencing with section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code authorizes two or more public agencies, by a joint powers agreement entered into respectively by them and authorized by their legislative or governing bodies, to exercise jointly any power or powers common to the contracting agencies.

B. The Board of Supervisors of any county pursuant to Government Code section 25802 or the governing body of any city pursuant to Government Code section 38792, and both pursuant to Food and Agriculture Code section 30501, may take up and impound animals and establish animal control programs, including the authority to maintain, regulate, and govern public animal shelters.

C. The joint operation and management of an animal shelter for the mutual benefit of the parties and their respective residents provides efficiency and economy in government operations through the cooperation of member governments and the pooling of common resources.

D. The parties desire to form a regional agency to operate and manage an animal shelter and to provide animal services needed or requested by each participating member.

NOW, THEREFORE, the parties agree as follows:

1. Recitals.

The recitals set forth in the introduction to this Agreement are true and correct and are deemed to be part of the terms and conditions of this Agreement.

2. Purpose.

The purpose of this Agreement is to facilitate cooperation among the member agencies for specific purposes, interrelated actions, and for adoption of common policies with respect to issues and problems related to the operation and management of an animal shelter and provision of animal services within each member agency's jurisdiction.

3. Establishment of Stanislaus Animal Services Agency.

3.1 Separate Entity. Upon the effective date of this Agreement, the parties hereto establish the Stanislaus Animal Services Agency (the "Agency") as a public entity separate and distinct from its member entities, as the agent to exercise the common powers provided for in this Agreement, and to administer or otherwise execute this Agreement.

3.2 Member Agencies. The Agency shall be composed of the County of Stanislaus and the Cities of Ceres, Hughson, Modesto, Patterson and Waterford (the "Member Agencies"). In addition, any city within Stanislaus County that is not a named party or that may hereafter be incorporated, and which desires to participate in the activities of the Agency, may do so provided sufficient capacity will exist at the animal

shelter to accommodate the new participant's needs, and upon approval of two-thirds (2/3) of the Member Agencies, subject also to adoption of a resolution by the new party's governing body authorizing execution of this Agreement, and agreement to fully participate financially in the Agency.

3.3 Powers and Functions. The Agency shall have the common power of the Member Agencies to plan, establish and exercise all government functions necessary to provide animal services for the benefit of the Member Agencies. Pursuant to Government Code Section 6509, the Agency's manner of exercising such powers shall be subject to those restrictions applicable to the City of Modesto. The Agency Board is authorized to do the following in the name of the Agency:

- (a) Employ an Executive Director as the chief administrative officer of the Agency.
- (b) Employ agents and employees and contract for professional services and employee services from another public agency. The Agency Board may appoint sufficient personnel to act in a staff capacity for the Agency, which may include staff from Member Agencies and may hire and retain consultants, Personal Services Contractors, and others, as determined to be necessary to accomplish the purposes of this Agreement.
- (c) Make and enter into contracts authorized in the Agency budget.
- (d) Acquire, hold and convey real and personal property, including leasehold interests, and exercise the power to acquire real property by eminent domain.
- (e) Cooperate with other agencies, counties and other local public and non profit groups or private agencies and participate in joint projects as necessary.

- (f) Incur debts, obligations and liabilities, which shall be the sole responsibility of Agency and shall not be a debt, obligation or liability of Member Agencies.
- (g) Accept contributions, grants or loans from any public or private agency or individual, or the United States, the State of California or any department, instrumentality or agency thereof, for the purposes of financing its activities.
- (h) Sue and be sued, in its own name only, but not in the name or stead of any Member Agency.
- (i) Adopt Bylaws to govern or regulate the conduct of meetings, designate Agency officers, and other affairs of the Agency not otherwise specified in this Agreement.
- (j) Do all other acts reasonable and necessary to carry out the purposes of this Agreement.

3.4 Withdrawal of Member Agency. A Member Agency may withdraw from the Agency at any time by giving notice to all other Member Agencies by resolution of intent to withdraw adopted by the governing board of the withdrawing party. Upon the effective date of such withdrawal, the withdrawing party shall cease to be bound by the Agreement, except for any long-term financing obligations placed upon the withdrawing party under this Agreement. However, upon agreement between the Agency and the withdrawing party, the withdrawing party may sell and assign its equity interest in the animal shelter facility, first, to the Agency, then to another Member Agency, if additional animal capacity is needed by the Agency or another Member Agency.

4. Management Framework.

4.1 Board. The Agency shall be governed by a Board, the members of which shall be the City Manager of each member agency and the Chief Executive Officer of the County. Pursuant to Government Code section 6506, the Agency Board is designated as the administrator of this Agreement and of the Agency's affairs, and shall perform its duties and responsibilities in accordance with all provisions of this Agreement.

4.2 Alternate Representative. Each member agency shall designate at least one alternate representative. To be eligible to cast a vote, alternates must be designated, and notice of said designation given to the Executive Director of the Agency (or person acting in that capacity) at least 24-hours prior to the first meeting at which that alternate is to attend on behalf of the Member Agency's designated representative.

4.3 Voting. Each Member Agency shall have one vote on the Agency Governing Board.

4.4 Quorum and Majority Requirement. A quorum shall consist of one-half the total number of representatives entitled to vote, plus one. A simple majority of the representatives present shall be required for the Agency Board to take any action, except to adjourn a regular meeting where a quorum is not present. A two-thirds majority of Board Member representatives shall be required to approve all fiscal matters and any other action requiring, under existing law, a 2/3 majority. For purposes of this agreement, fiscal matters shall include approval of the Agency's budget and all amendments, adjustments or other changes to the approved budget.

4.5. Meeting Time and Place. The Agency Board shall establish a time and place for regular meetings, which shall occur at least once each year. All meetings shall be conducted in accordance with the Ralph M. Brown Act (Gov. Code Section 54950 et seq.).

4.6 Conflict of Interest. The Agency Board shall adopt and, thereafter, maintain a conflict of interest code in compliance with applicable provisions of the Political Reform Act (Gov. Code section 87300 et seq.) and the regulations adopted by the Fair Political Practices Commission (Cal. Code of Regs, tit. 2, section 1870 et seq.).

4.7 Operational Plan. The Agency Board shall, within six months of Agency establishment, create an operational plan to describe in detail the operation, reconciliation, budget process, schedule, and other operational, budgetary, and financial processes.

5. Fiscal Matters.

5.1 Ongoing Operation Expenses. The animal shelter operating expenses of the Agency shall be paid by the Member Agencies in proportion to the percentage of animals received from the Member Agency's jurisdiction to the total number of animals received at the animal shelter. Operational expenses shall include annual costs and expenses to provide animal shelter services including, without limitation, staff expenses, veterinary expenses, administration, utilities, insurance, maintenance, lease or rental payments, and other costs in the approved operating budget. Operational expenses shall not include capital financing costs. Member Agency's annual operating expenses will be based on the animal intake percentage from the fiscal year ending two years prior to the fiscal year to be applied.

5.2 Member Agency Payments. Member Agency payments shall be offset by and net of licenses and fee revenue generated to the agency by each jurisdiction. The actual method adopted by the Agency Board shall be incorporated into and made a part of the Agency operational plan.

5.3 Additional Animal Services. If any Member Agency elects to have the Agency provide additional animal services in its jurisdiction, including but not limited to field services and canvassing, the cost allocation methodology of the additional services

shall be determined by the Agency Board. The full costs of any additional services shall be born by the Member Agency requesting the additional service.

5.4 Additional Support. With prior approval of the Agency Board, any Member Agency may also provide resources in an amount determined by its governing body to be reasonable and appropriate for the purposes of the Agency, including staff and professional services of the Member Agency, provision of quarters, janitorial services and maintenance, supplies, printing and duplication, postage, telephone services, transportation services and professional and technical assistance. The Agency shall reimburse the Member Agency for the reasonable and necessary cost and expense of services or resources provided by the Member Agency as determined and approved by the Agency Board and in accordance with the approved budget.

5.5 Capital Improvements. The County shall cause to be constructed on County-owned land, an animal shelter of sufficient size and capacity to accommodate the current and projected needs of the Member Agencies. Subject to the reimbursement provisions set forth herein, upon completion of construction and acceptance by the County, the improvements shall automatically be owned by the Agency.

- a) The Agency will execute an agreement with the County to repay the County over 25 years for the cost of construction for the new animal shelter facility plus interest. The cost of construction will be the total capitalized costs, which will consist of those costs and expenses typically reflected in identifying total project costs, including without limitation, design, construction and construction management fees, equipment, furnishings, permits, fees, and all project costs in the adopted project budget. The repayment to the County will also include interest charges, including capitalized interest, calculated on the actual interest lost by the County from advancing County funds to construct the animal shelter facility.

- b) Total capitalized costs allocable to Agency shall be capped at \$11,000,000. Should total capitalized costs exceed \$11,000,000, Member Agency cities shall have the option to withdraw from Agency. If any Member Agency city elects to withdraw under the terms of this paragraph, that Agency City shall have no further financial responsibility to Agency.
- c) Each Member Agency's proportion of capitalized costs shall be fixed and shall be based upon the average of the total animal intake of Member Agencies in proportion to each Member Agency's annual percentage of animal intake at the shelter for fiscal years 2007-08, 2008-09, and 2009-10. Each Member Agency shall pay to the Agency its proportional share of the costs identified in paragraph 5.5(a). The first payment shall be due on the first day of the fiscal year following the date of the actual occupancy of the new animal shelter by the Agency. Member Agencies may elect to pay capitalized cost in advance upon facility completion
- d) Except as provided in Section 5.5 (b), the obligation of a Member Agency to reimburse the Agency for the cost of financing capital improvements as set forth in paragraph 5.5 (a) shall survive termination or rescission of this Agreement or the withdrawal of a Member Agency. In the event of a termination or rescission of this Agreement, Member Agencies shall make their payments directly to the County of Stanislaus or its designee. Should a Member Agency withdraw and the Agency does not elect to purchase the withdrawing Member Agency's percentage share and Member Agency does not sell its percentage to a public or government agency as provided in paragraph (f), the withdrawing Member Agency shall continue to make its payments under this Agreement to the Agency.

- e) Upon a Member Agency's withdrawal, Agency has first right of refusal to purchase, at a price as agreed by Agency and Member Agency, exiting Member Agency's percentage share.
- f) If the Agency does not purchase the exiting Member Agency's percentage share, the exiting Member Agency may transfer or sell, as appropriate, to a public or governmental agency, with the approval of a majority of the remaining Member Agencies.

5.6 Long-Term Ground Lease. The Agency shall enter into a 25-year, zero cost lease with the County for use of the County property on which the animal shelter is constructed. The lease may be extended, at Agency's discretion, for two additional 25 year terms, provided the Agency gives at least 60 days written notice of its intention to extend the lease for an additional 25 years prior to the expiration of the current lease, or any previous extension of its term. Improvements shall belong to the Agency, provided that upon expiration of the lease term, the improvements will revert to County ownership, upon payment by the County of the then reasonable value of the improvements.

5.7 Fiscal Year/Member Agency Payments. The Fiscal Year of the Agency shall commence on July 1 of each year and shall terminate on June 30 of the following year. Each Member Agency shall deposit an amount equal to the first quarterly payment of operational and debt service costs with the Treasurer of the Agency no later than July 1 of each year, the remaining three quarters will be due October 1, January 1, and April 1 of each year.

6. General Terms and Conditions.

6.1 Term of Agreement. This Agreement shall continue in force without a specific term until it is terminated or rescinded upon the mutual agreement of the parties.

6.2 Accountability. Pursuant to Government Code section 6505, the Agency shall be strictly accountable for all funds received by the Agency.

6.3 Agency Treasurer and Auditor-Controller. Treasurer and Auditor-Controller for Agency shall be selected by Agency upon a majority vote of Member Agencies. The Agency shall reimburse any other government agency or Department providing approved services.

6.4 Legal Counsel. Legal Counsel for Agency shall be selected by Agency upon a majority vote of Member Agencies. The Agency shall reimburse any other government agency or Department providing approved services.

6.5 Property of Agency. The Executive Director, or in his or her absence, the chairman of the Agency Board, shall be in charge of, handle, or have access to any property of the Agency and shall file with the Agency an official fidelity bond in a penal sum determined by the Agency as security for the safekeeping of the Agency's property entrusted to the person or employee. However, if the Executive Director or other persons designated are already bonded by another agency, and the existing bonding incorporates coverage levels and limits required by Agency, no additional bonding shall be required by this section. Premiums for any bonds required under this section shall be paid by the Agency.

6.6 Surplus Property. Pursuant to Government Code section 6511, upon termination of this Agreement, any surplus property shall be returned, pro rata, to the Federal, State, or local agency or the Member Agency that provided the property. The parties shall use good faith efforts and fair dealing in processing and dividing any surplus property that cannot be attributed to any single Member Agency.

6.7 Distribution of Assets. Pursuant to Government Code section 6512, any surplus money on hand after termination of the Agreement shall be returned to the funding source from which funds were furnished, or to the agency making the

contribution. The parties shall use good faith efforts and fair dealing in processing and dividing any surplus money that cannot be attributed to any single funding source or Member Agency, keeping in mind the position of the parties before they entered into this Agreement.

6.8 Indemnity. No Member Agency or any of its officers or employees shall be responsible for any damage or liability arising out of or relating to any obligation of a Member under the Agreement. The Member Agencies further agree, pursuant to Government Code section 895.4, that each Member Agency shall fully indemnify and hold harmless all other Member Agencies and its agents, officers, employees and contractors from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney fees, arising out of, resulting from, or in connection with any work delegated to or action taken or omitted to be taken by such party under this Agreement. Selection of insurance coverage and insurers shall be by majority vote of Member Agencies and shall include both those coverages required by law and as may be selected by a majority vote of Member Agencies.

6.9 Severability. Should any part, term, portion, or provision of this Agreement be finally decided to be in conflict with any law of United States or the State of California, or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portions, or provisions shall be deemed severable and shall not be affected thereby, provided such remaining portions or provisions can be construed in substance to constitute the Agreement which Member Agencies intended to enter into in the first instance.

6.10 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of any successors to or assigns of the parties.

6.11 Amendment. This Agreement may be modified, amended, changed, added to, or subtracted from by the mutual consent of a 2/3 majority of the parties to the Agreement provided the 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.

6.12 Effective Date. This Agreement shall become effective upon approval of this Agreement by resolution of two or more of the governing bodies for the Member Agencies, and shall have no binding force and effect on any Member Agency unless and until approved by its governing body.

6.13 Counterpart Execution. This Agreement, or any amendment to this Agreement, may be executed in counterparts, each of which shall be deemed to be an original and said counterparts shall constitute one in the same document which may be sufficiently evidenced by one counterpart.

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

- Signatures on Following Pages -


**JOINT POWERS AGREEMENT
(Stanislaus Animal Services Agency)**

Member Agency Approval


COUNTY OF STANISLAUS

By: 
Jim DeMartini, Chairman
Board of Supervisors

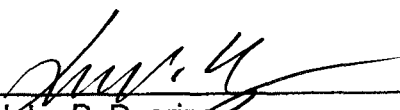
ATTEST: Christine Ferraro-Tallman
Clerk of the Board of Supervisors of the
County of Stanislaus, State of California

By: 
Deputy Clerk

APPROVED AS TO CONTENT:

By: 
Richard Robinson
Chief Executive Officer


APPROVED AS TO FORM:

By: 
John P. Doering
County Counsel


**JOINT POWERS AGREEMENT
(Stanislaus Animal Services Agency)**

Member Agency Approval

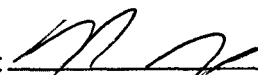
CITY OF WATERFORD

By: 
Charlie Goeken Jim Weaner
Mayor Vice-mayor

ATTEST:

By: 
Lori Martin
City Clerk

APPROVED AS TO FORM:

By: 
Corbett Browning Corbett J. Browning
City Attorney

MEMORANDUM OF UNDERSTANDING BETWEEN
THE COUNTY OF STANISLAUS AND THE CITY OF MODESTO
RELATING TO SHELTER CAPITAL COSTS AND THE
DISPOSITION OF THE FINCH ROAD ANIMAL SHELTER

The County of Stanislaus (County) and the City of Modesto (City) intend to work collaboratively in the delivery of Animal Services programs in their respective communities.

The City and the County wish to resolve differing interpretations relative to the appropriate method of calculating contract payments made to the County under the existing Animal Shelter Agreement.

The City and the County wish to resolve differing interpretations relative to the disposition of the property at Finch Road on which the current Animal Shelter sits once Animal Shelter services are relocated to the new Animal Shelter.

This Memorandum of Understanding ("MOU") outlines the commitment of each of the parties to resolve the issues outlined above.

THE CITY AND THE COUNTY AGREE:

- A. With reference to the appropriate method of calculating contract payments made to the County under the existing Animal Shelter Agreement, the City and County agree that it is in the interest of both parties to resolve this issue prior to the approval by the parties of an Animal Shelter Joint Powers Agreement. The Parties therefore agree as follows:
1. The City and County mutually agree that the charges that were made to the City under the existing Animal Shelter agreement through December 31, 2008 are reasonable and appropriate.
 2. The County will establish a 25 year debt service repayment schedule for the repayment to the County for the cost of construction of the Animal Shelter,

the specific terms of which are detailed in the Joint Powers Agreement entered by the parties.

- a) The County will pay 100% of the City's year one debt service costs as provided in the 25 year repayment schedule and the City will have no debt service payment obligation in year one.
- b) The County will pay 100% of the City's year two debt service costs as provided in the 25 year repayment schedule and the City will have no debt service payment obligation in year two.
- c) The County will pay 75% of the City's year three debt service costs as provided in the 25 year repayment schedule and the City will pay 25% of the debt service payment obligation in year 3.
- d) The County will pay 50% of the City's year four debt service costs as provided in the 25 year repayment schedule and the City will pay 50% of the debt service payment obligation in year 4.
- e) The County will pay 25% of the City's year five debt service costs as provided in the 25 year repayment schedule and the City will pay 75% of the debt service payment obligation in year 5.
- f) Beginning in year 6 and thereafter, the City will pay 100% of the City's debt service payment obligation.

B. With respect to the disposition of the property at Finch Road on which the current Animal Shelter is sited County and City mutually agree:

1. Should another city currently accessing animal shelter services at the Finch Road property wish to continue to use the Finch Road animal shelter exclusively as a shelter, and does in fact utilize the existing shelter for such purposes within six months after the date of this Agreement, City and County agree to postpone their respective rights in the land under the shelter until the continuing City has discontinued its animal shelter use for a period of 12 months, at which time the City and County shall cooperate in the immediate sale of the property.

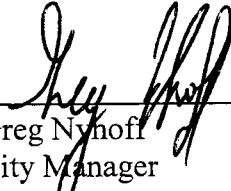
2. If no city acts in conformance with paragraph (1) above, City and County shall, within 12 months after discontinuation of the animal shelter use at the Finch Road property, allow a 501(c)(3) nonprofit agency to operate an animal rescue program, adoption center, or other program for the benefit of abandoned and unwanted animals at the existing Finch Road shelter. If such a nonprofit does not put the existing shelter to a use described above, or in the event that the nonprofit begins and abandons such use and another non-profit is not selected by City and County to occupy the property, City and County agree to proceed with the disposal of the Finch Road property as outlined in Section 3 of Paragraph B.
3. If the Finch Road Property is not used in the manner prescribed in either section 1 or section 2 of Paragraph B, the County shall dispose of the site, sharing any proceeds of the sale equally between the City and the County after the reasonable cost of sale and all site related clean-up costs are deducted from the sale price.
4. Section B of this Memorandum of Understanding is intended to supersede and replace Section 24 of the Agreement dated February 28, 1972, between the City and County related to consolidation of the animal control shelter, and the similar reversion provision in the Grant Deed dated October 25, 1972, recorded November 1, 1972, at page 36 of Volume 2508 of Stanislaus County Official Records.

MEMORANDUM OF UNDERSTANDING BETWEEN
THE COUNTY OF STANISLAUS AND THE CITY OF MODESTO
RELATING TO SHELTER CAPITAL COSTS AND THE
DISPOSITION OF THE FINCH ROAD ANIMAL SHELTER

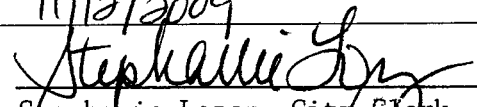
Resolution 2009-547

-Signature Page-


CITY OF MODESTO

By: 
Greg Nynoff
City Manager


Dated: 11/2/2009

ATTEST: 
Stephanie Lopez, City Clerk

APPROVED AS TO FORM:

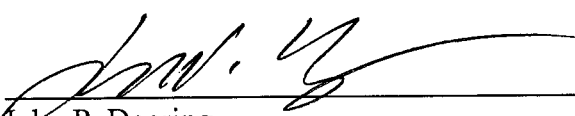
By: 
Susana Alcalá Wood
City Attorney

COUNTY OF STANISLAUS

By: 
Richard W. Robinson
Chief Executive Officer

Dated: 11/2/2009

APPROVED AS TO FORM:

By: 
John P. Doering
County Counsel

Attachment D

Project X Letter

10-11-09
From: CDFT
FYI: all BOS received

Village Oak Veterinary Hospital
3924 Oakdale Rd. • Modesto, CA 95357

BOARD OF SUPERVISORS 209-551-6200 Fax 209-551-1040
Oct 12, 2009

Jim De Martini, Chairman
Stanislaus County Board of Supervisors
1010 10th St. Place
Modesto, CA 95354

2009 OCT 13 P 4: 16

Website: www.ForPetCare.com

Chairman Jim De Martini and Members of the Board of Supervisors

Project X, the non-tax payer funded, low cost spay/neuter program has now completed four months, and I would like to give you an update.

The Project X phone is receiving an average of 10 to 15 calls a day, 7 days a week, 24 hours a day. We are able to schedule half of these pets for surgery that week at a practice close to their home. Some of these clients are referred to the Humane Society or Alley Cat Guardians if they still need further financial assistance.

Inquiries from outlying areas were slow to start. We have posted signs in remote areas of Stanislaus County, and now we are now getting calls from Hickman, Waterford, Empire and some of the more remote areas.

We are able to co-ordinate with the owners of feral cats to have them brought in any time they are trapped. Cats are admitted in their traps and picked up in traps to be re-released. Clients are not burdened with trying to trap cats to make a specific appointment.

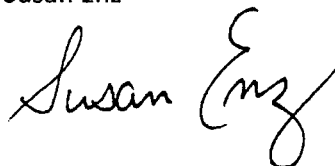
Currently Project X is approaching 2000 spay/neuters for both cats and dogs utilizing the participating private practices throughout the county. Monte Vista Veterinary Hospital has altered an additional 819. We continue to promote our program, and at current rates we are on target to hit our goal of 9000 the first year!

An unexpected consequence of our program has been a competitive reduction of spay/neuter prices at some of the hospitals not participating in Project X. This has been mainly noted in Modesto. We have also been contacted by one of the large animal practices in our county, hit hard by the current economy in the dairy industry, considering a low cost spay/neuter as a means to recover some of their lost income.

The local Veterinary Association has contributed \$5000 to Alley Cat Guardians to help them get up running. Project X participants have also been partnering with the local Humane Association to fund raise and provide ultra-low cost spay/neuter clinics for those with urgent need.

Our group is focused and determined to make a difference. Project X continues to be the model for a true collaboration of government and private sector to solve a social issue. We have made a difference, not just in the animals we have altered, but in how this problem is perceived and in who is participating towards finding a solution. We urge you to postpone your decision on the taxpayer subsidized spay/neuter clinic. With county providing enforcement, humane societies and private citizens facilitating education and fund raising for ultra-low income families and un-owned cats, and local veterinarians providing service, we can reduce the unwanted population of dogs and cats in our county without government funding.

Respectfully, Susan Enz



Attachment E

S.A.V.E.D Agreement

**AGREEMENT
FOR
PROFESSIONAL SERVICES**

This Agreement For Professional Services is made and entered into by and between the County of Stanislaus ("County") and Saved, Inc., a California corporation ("Contractor"), on October 20, 2009 (the "Agreement").

Introduction

WHEREAS, the County has a need for services involving the operation of a clinic to provide veterinary spay and neuter services for low income residents of Stanislaus County; and

WHEREAS, the Contractor 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 Contractor 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**, which is attached hereto and, by this reference, made a part hereof, and in accordance with RFP #09-17-SAS Spay Neuter Clinic, Addendum No. 1, Addendum No. 2, and the Contractor's proposal submitted in response to RFP #09-17-SAS, all of which are made part of this Agreement by this reference.

1.2 All documents, drawings and written work product prepared or produced by the Contractor under this Agreement, including without limitation electronic data files, are the property of the Contractor; 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 Contractor may copyright the same, except that, as to any work which is copyrighted by the Contractor, 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. The County shall defend, indemnify and hold harmless the Contractor and

its officers, employees, agents, representatives, subcontractors and consultants from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, arising out of or resulting from the County's reuse of the documents and drawings prepared by the Contractor under this Agreement.

1.3 Services and work provided by the Contractor under this Agreement will be performed in a timely manner in accordance with a schedule of work set forth in Exhibit A. If there is no schedule, the hours and times for completion of said services and work are to be set by the Contractor; provided, however, that such schedule is subject to review by and concurrence of the County.

1.4 The Contractor 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 Contractor 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. Except for that representation and any representations made or contained in any proposal submitted by the Contractor and any reports or opinions prepared or issued as part of the work performed by the Contractor under this Agreement, Contractor makes no other warranties, either express or implied, as part of this Agreement.

1.5 If the Contractor deems it appropriate to employ a consultant, expert or investigator in connection with the performance of the services under this Agreement, the Contractor will so advise the County and seek the County's prior approval of such employment. Any consultant, expert or investigator employed by the Contractor will be the agent of the Contractor not the County.

2. Consideration

2.1 The Contractor shall be compensated as provided in Exhibit A attached hereto.

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

3. Term

3.1 The initial term of this Agreement shall be three years effective on the date the County owned spay/neuter clinic is operational unless sooner terminated as provided below or unless some other method or time of termination is listed in Exhibit A.

3.2 The County reserves the right to extend this Agreement for two (2) additional one (1) year periods (each an "Extended Term") for a total term of no more than five (5) years, provided that the County notifies the Contractor in writing of its intention to do so at least thirty (30) days prior to the expiration of the then current term. An extension of the term of this Contract will be made through an amendment to the Contract as described in Section 17 of the body of this Agreement.

3.3 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.

3.4 The County may terminate this agreement upon 30 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 Contractor as provided in Paragraph 2 herein, subject to any applicable setoffs.

3.5 This Agreement shall terminate automatically on the occurrence of (a) bankruptcy or insolvency of either party; or (b) sale or transfer of Contractor's business or (c) Contractor's failure to obtain or the revocation of its veterinary premises license from the State of California Veterinary Medical Board; or (d) Contractor's violation of the Veterinary Medical Practices Act and regulations of the California Veterinary Medical Board and California State Law and OSHA.

4. Required Licenses, Certificates and Permits

Any licenses, certificates or permits required by the federal, state, county or municipal governments for Contractor to provide the services and work described in Exhibit A must be procured by Contractor and be valid at the time Contractor enters into this Agreement. Further, during the term of this Agreement, Contractor 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 Contractor at no expense to the County.

5. Office Space, Supplies, Equipment, Etc.

County shall provide Contractor with space necessary to operate a spay and neuter clinic as set forth in more detail in the attached Exhibit A. County shall provide all utilities, including water, sewer, gas, and electric. County shall also provide and maintain the wiring infrastructure for telephones and computers. Contractor shall be responsible for providing and maintaining at its sole cost and expense all supplies,

equipment, vehicles, reference materials, internet and telephone service as is necessary for Contractor to provide the services under this Agreement. The Contractor—not the County—has the sole responsibility for payment of the costs and expenses incurred by Contractor in providing and maintaining such items.

6. Insurance

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

6.1.1 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 Contractor under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

6.1.2 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 Contractor's work under this Agreement.

6.1.3 Automobile Liability Insurance. If the Contractor or the Contractor's 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.

6.1.4 Workers' Compensation Insurance. Workers' Compensation insurance as required by the California Labor Code. In signing this contract, the Contractor certifies under section 1861 of the Labor Code that the Contractor 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 Contractor will comply with such provisions before commencing the performance of the work of this Agreement.

6.2 Any deductibles, self-insured retentions 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 retentions or named insureds, or (b) the Contractor 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 retentions, in which case, the Contractor 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 Contractor's defense and indemnification obligations as set forth in this Agreement.

6.3 The Contractor shall obtain a specific endorsement to all required insurance policies, except Workers' Compensation insurance and Professional Liability insurance, naming the County and its 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 Contractor, including the insured's general supervision of its subcontractors; (b) services, products and completed operations of the Contractor; (c) premises owned, occupied or used by the Contractor; and (d) automobiles owned, leased, hired or borrowed by the Contractor. For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County and its 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 Contractor.

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

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

6.6 The Contractor'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.

6.7 Each insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party except after thirty (30) days' prior written notice has been given to County. The Contractor 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.

6.8 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 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.

6.9 Contractor 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.

6.10 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.

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

7. Defense and Indemnification

7.1 To the fullest extent permitted by law, Contractor shall indemnify, hold harmless and defend the County and its agents, officers and employees from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorneys' fees, arising out of, resulting from, or in connection with the performance of this Agreement by the Contractor or Contractor's officers, employees, agents, representatives or subcontractors and resulting in or attributable to personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use. Notwithstanding the foregoing, Contractor's obligation to indemnify the County and its agents, officers and employees for any judgment, decree or arbitration award shall extend only to the percentage of negligence or responsibility of the Contractor in contributing to such claim, damage, loss and expense.

7.2 Contractor's obligation to defend, indemnify and hold the County and its agents, officers and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Contractor to procure and maintain a policy of insurance.

7.3 To the fullest extent permitted by law, the County shall indemnify, hold harmless and defend the Contractor and its officers, employees, agents, representatives or subcontractors from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney's fees, arising out of or resulting from the negligence or wrongful acts of County and its officers or employees.

7.4 Subject to the limitations in 42 United States Code section 9607 (e), and unless otherwise provided in a Scope of Services approved by the parties:

(a) Contractor shall not be responsible for liability caused by the presence or release of hazardous substances or contaminants at the site, unless the release results from the negligence of Contractor or its subcontractors;

(b) No provision of this Agreement shall be interpreted to permit or obligate Contractor to assume the status of "generator," "owner," "operator," "arranger," or "transporter" under state or federal law; and

(c) At no time, shall title to hazardous substances, solid wastes, petroleum contaminated soils or other regulated substances pass to Contractor.

8. Status of Contractor

8.1 All acts of Contractor and its officers, employees, agents, representatives, subcontractors and all others acting on behalf of Contractor relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers or employees of County. Contractor, 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, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer or employee of the County is to be considered an employee of Contractor. It is understood by both Contractor and County that this Agreement shall not be construed or considered under any circumstances to create an employer-employee relationship or a joint venture.

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

8.3 Contractor shall determine the method, details and means of performing the work and services to be provided by Contractor under this Agreement. Contractor 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 Contractor in fulfillment of this Agreement. Contractor has control over the manner and means of performing the services under this Agreement. If necessary, Contractor has the responsibility for employing other persons or firms to assist Contractor in fulfilling the terms and obligations under this Agreement.

8.4 Contractor 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 Contractor's obligations under this Agreement.

8.5 If in the performance of this Agreement any third persons are employed by Contractor, such persons shall be entirely and exclusively under the direction, supervision and control of Contractor. 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 Contractor.

8.6 It is understood and agreed that as an independent contractor and not an employee of County, the Contractor and the Contractor's officers, employees, agents, representatives or subcontractors do not have any entitlement as a County employee, and, except as expressly provided for in any Scope of Services made a part hereof, do not have the right to act on behalf of the County in any capacity whatsoever as an agent, or to bind the County to any obligation whatsoever.

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

8.8 As an independent contractor, Contractor 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.

9. Records and Audit

9.1 Contractor 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, photostatic, 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.

9.2 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 Contractor. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the work performed or being performed under this Agreement.

10. Confidentiality

The Contractor agrees to keep confidential all information obtained or learned during the course of furnishing services under this Agreement and to not disclose or reveal such information for any purpose not directly connected with the matter for which services are provided.

11. Nondiscrimination

During the performance of this Agreement, Contractor 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 disability, medical condition (including genetic characteristics), marital status, age, political affiliation, sex, or sexual orientation. Contractor 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 Contractor. County has relied upon the skills, knowledge, experience and training of Contractor and the Contractor's firm, associates and employees as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement without the express written consent of County. Further, Contractor 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 Contractor 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: Monica Nino, Assistant Executive Officer
 County of Stanislaus
 Chief Executive Office
 1010 Tenth Street, Suite 6800
 Modesto, CA 95354

To Contractor: Saved, Inc.
 Attention: Michael O'Brien, DVM
 201 Maze Boulevard
 Modesto, CA 95351

15. Conflicts

Contractor agrees that it has no interest and shall not acquire any interest direct or indirect which would conflict in any manner or degree with the performance of the work and services under this Agreement.

16. 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.

17. 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.

18. 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.

19. Advice of Attorney

Each party warrants and represents that in executing this Agreement, it has received independent legal advice from its attorneys or the opportunity to seek such advice.

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

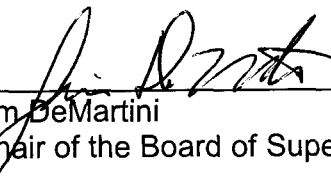
interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.

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.

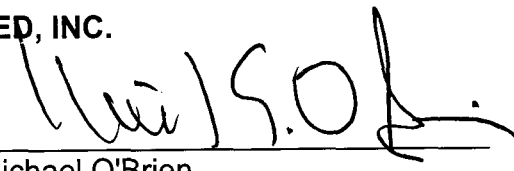
IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first hereinabove written.

COUNTY OF STANISLAUS

By: 
Jim DeMartini
Chair of the Board of Supervisors

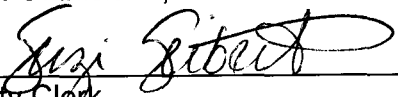
"County"

SAVED, INC.

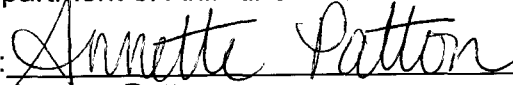
By: 
Michael O'Brien

"Contractor"

ATTEST: Christine Ferraro Tallman
Clerk of the Board of Supervisors of the
County of Stanislaus, State of California

By: 
Deputy Clerk

APPROVED AS TO CONTENT:
Department of Animal Services

By: 
Annette Patton
Director

APPROVED AS TO FORM:

By: 
John P. Doering
County Counsel

\\Stanfs1\vol1\DATA\CO\jpd\Documents\Animal Services\Agmt\Spay Neuter Clinic\Saved Inc Prof Serv Agmt final +1.wpd

EXHIBIT A

A. SCOPE OF WORK

1. The Contractor shall provide services under this Agreement for Professional Services between the County of Stanislaus and Saved, Inc. ("Contractor"), as set forth in Appendix A to Request for Proposal 09-17-SAS Spay Neuter Clinic, attached hereto and, by this reference, made a part hereof.

2. If Contractor is unable to schedule all requests for spay/neuter service within two weeks from the date services are requested, Contractor shall meet and confer with County representatives to develop a plan to avoid future delays, which plan may include adjusting work schedules or hiring additional employees to meet demand. It is understood that in the first three months of operation, schedule requests may take six to eight weeks from the date services are requested.

3. Contractor is expected to perform at least 3,000 spay/neuter procedures during the first year, 4,020 procedures during the second year, and 4,020 procedures during the third year of the contract term. If Contractor fails to meet the expected number of spay/neuter procedures, Contractor will meet and confer with County representatives to develop a plan for achieving expected numbers of spay/neuter procedures. Contractor shall include in the quarterly report to the Director of Animal Services information and statistics demonstrating progress toward meeting the expected number of spay/neuter procedures.

B. COMPENSATION

1. The County has no obligation to pay for spay/neuter services provided by the Contractor, except and only for spay/neuter services requested by the County on an "as needed" basis when the County veterinarian is unavailable, when the County workload requires extra help, or when other circumstances require assistance. The County will not schedule more than five animal spay/neuter services per day through the Contractor's regular scheduling procedure.

For services provided to the County on an "as needed" basis, the Contractor shall provide the County with a monthly or a quarterly statement, as services warrant, of fees earned for services provided during the billing period, which the County shall pay in full within 30 days of the date each invoice is received 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, if any. All invoices for services provided shall be forwarded in the same manner and to the same person and address that is provided for service of notices herein.

2. Contractor is authorized to charge low income or ultra low income customers a fee for spay/neuter services not to exceed the rates in the Low Income Spay/Neuter Fee Schedule set forth in the Contractor's proposal in response to

Request for Proposal 09-17-SAS Spay Neuter Clinic, a copy of which is attached hereto and, by this reference, made a part hereof. Annual rate increases in the Fee Schedule are allowed in accordance with a methodology for increasing fees that is approved by the County. Contractor may augment fees collected for services provided with donations or other fund raising efforts.

3. Contractor shall be solely responsible for all billing and collection of fees for services provided under this Agreement.

4. In addition to collecting fees for services, the Contractor will assess and collect for the benefit of the County a surcharge in an amount authorized by County ordinance or resolution to all customers who reside within the jurisdictional limits of the cities of Riverbank, Oakdale, Newman or Turlock, for the purpose of offsetting the capital cost of the spay/neuter clinic paid for by jurisdictions participating in a joint powers agency established to provide animal services for member agencies. Contractor will account for all surcharges collected, and shall periodically, but at least quarterly, pay to the County the amount of surcharge collected under this Agreement. In lieu of collecting a surcharge from customers residing in Riverbank, Oakdale, Newman or Turlock, the Contractor may collect the surcharge or service fee directly from the cities; provided, however, the amount collected equals the amount of surcharge or service fee authorized by the County, and the County or the Stanislaus Animal Services Agency may rescind the authority to directly collect from the cities if that process unreasonably interferes with or delays services provided to members of the Stanislaus Animal Services Agency.

C. SPECIAL CONDITIONS

1. Contractor shall provide only spay/neuter services, and when necessary and reasonable, the following veterinary medical procedures that are ancillary to and performed at the time of spay/neuter services:

- (a) Administration of anesthesia to perform surgery;
- (b) Core vaccinations per species;
- (c) Humane veterinary care concurrent with anesthesia and the spay/neuter surgery as deemed pertinent and necessary at the discretion of the on-site veterinarian. The County veterinarian has oversight authority to determine what humane veterinary services are pertinent and necessary.

2. Contractor shall establish procedures for verification that residents presenting animals for low income spay/neuter services qualify and meet established standards for low income and ultra low income status. The Contractor will implement procedures for verification of low income status in accordance with the procedures approved by the County.

3. Contractor and its employees shall cooperate at all times with County personnel and a Low Income Spay/Neuter Clinic Oversight Committee established by

the County or the Stanislaus Animal Services Agency for the purpose of evaluating Contractor's adherence to the limited scope of veterinary clinic services provided under this Agreement, and only for low income and ultra low income residents of Stanislaus County.

4. The County may, in its sole discretion, assign this Agreement to a joint powers agency established to provide animal services for member agencies.

5. The following clarifications are made with reference to Section 5 of the Agreement:

- (a) Exam tables will be built in and provided for the clinic.
- (b) Surgery tables are not considered built in and will be provided by the Contractor for the clinic.
- (c) The support mount for the lighting will be built in for the clinic. The Contractor will provide lighting for the surgery room in the clinic.
- (d) The medical systems are integral with the building constructions for walls and ceilings. It is the intent of Stanislaus County Animal Services to install the medical gases and evacuation equipment systems complete, including the tank manifolds, piping and outlets, etc. The Contractor will be billed for the medical gases used to operate the clinic.
- (e) Seating for the clinic lobby will be included and built in as millwork.

6. Within 30 days after the end of each quarter, the Contractor shall provide to the Animal Services Director a comprehensive report of operations during the reporting period in a Word and/or Excel document, including, but not limited to, the following topics and information:

- (a) Identify the number of spays and neuters completed per month, and
 - (i) Specify the number of low income, ultra low income, cats, dogs, male/female, and feral cats.
 - (ii) Identify any new processes to increase production.
- (b) Identify the number of days open to the public for each month, and identify and name the different days of the week open to the public.
- (c) Identify the number of animals that required transportation for surgery, and identify the name of each city and number of animals transported.
- (d) Provide the mortality rate for each month.
- (e) List and identify any problems as a result of the spay and neuter surgery.

- (f) Provide the number of requests for spay/neuter services received during the quarter, the average number of days between the date of a request and the scheduled appointment for the procedure, and the number of procedures scheduled more than two weeks from the date service is requested and any explanation for not scheduling within two weeks.
- (g) Share any new marketing strategies and/or educational campaigns.

In addition to the company and financial information referred to in Section 5; proposal submittal (pages 13-16), the proposer shall address each of these areas below as indicated and defined by number and sub-title.

A. Overview:

1. Selected proposal respondent shall be responsible for providing veterinary spay/neuter services to include, but not limited to, evaluating animals to determine suitability for sterilization procedure; performance of surgical procedures; post-operative care as well as any additional follow-up care due to surgical complications.
2. Use the space provided by Stanislaus County located at the Animal Services facility to perform spay and neuter surgery of cats and dogs in conformance with the Veterinary Medical Practices Act and regulations of the California Veterinary Medical Board and California State Law and OSHA.

B. Provide an operational and/or business plan that addresses these elements as indicated:

1. Contractor shall provide one low cost fee schedule for a customary spay and neuter. Reasonable charges can be included for in heat, obese or aggressive animals. Occasionally, Animal Services may require the need for contractor to provide, no more than five (5) spay and/or neuters per day, on an as needed basis. Include in the fee schedule, cost less than that charged to the general public for these occasions.
2. Contractor shall provide a 3-year fee schedule to include methodology for annual increase (See attached fee schedule).
3. Contractor shall provide all other necessary disposable materials and equipment such as surgical instruments, gowns, masks, suture, vaccines, clippers, heating pads, etc.
4. Contractor shall provide all pharmaceuticals used by the contractor. Provide an itemized list of pharmaceuticals and a plan for safeguarding controlled substances in accordance with state and federal law.
5. Provide an itemized list of equipment to be used in the clinic. Indicate for each item whether it is new or used.
6. A plan to track surgeries and other services.
7. Experience working with small to large domestic animals.
8. Provide an operational plan and any experience of performing spay/neuter surgeries in a fast paced, high volume environment. Surgeries must be performed in a manner consistent with or that exceeds the prevailing standard for veterinary care in California.
9. Provide a transportation plan to pick up from local rescue agencies and return animals post surgery.

C. Additional Terms and Conditions:

1. Inspections may also be done by the State Veterinary Medical Board or other State or Federal agencies that monitor or regulate veterinary medical clinics.
2. Obtain a Veterinary Premise License from the State of California Veterinary Medical Board in the name of the Contractor.
3. The only other veterinary medical procedures that can be performed besides spays and neuters are procedures associated with performing spays and neuters, such as:
 - a. The administration of anesthesia to perform the surgery
 - b. Rabies vaccinations.
 - c. Necessary humane veterinary care concurrent with anesthesia and the spay and neuter surgery.
 - d. Necessary humane procedures requiring anesthesia such as foxtail removal, ear flushing, deciduous teeth extraction or umbilical hernia repair.
4. The mortality rate should not be more than 0.2%. Mortality rates above 0.2% may result in revocation of the contract.
5. A problem identified as a result of the spay/neuter surgery such as seromas, infections or dehiscence should be handled by the contractor. If failure was determined to be by the contractor, then the contractor shall incur the costs.
6. Contractor will bill clients and accept payments according to standard business practices.
7. Contractor shall not be obligated to pay rent or lease.
8. Contractor is not obligated to pay for utilities, including, gas, electric, water or sewer.
9. Trained and licensed personnel to be provided by contractor.
10. Contractor shall provide all equipment and furnishings in the clinic and shall be responsible for the maintenance of the equipment and furnishings. The Contractor shall be responsible for the disposition of the furnishings and equipment if they cease to be the Contractor.
11. Contractor shall provide for their own oxygen and anesthesia.
12. Contractor may use the shelter's walk-in freezer for storage of bio-hazard waste. The bio-hazard waste will be disposed of by the County.
13. The contractor shall provide for their own telephone and internet services. The County shall provide the wiring infrastructure for telephones and computers and maintain the wiring infrastructure.
14. Provide a quarterly report to Animal Services Director.
15. All changes to the Contractor's operational policies and directives are subject to review by the County Veterinarian and Director of Animal Services.



General Services Agency
Purchasing Division
1010 10th Street, Suite 5400, Modesto, CA 95354
PO Box 3229, Modesto, CA 95353-3229
Phone: (209) 525-6319
Fax: (209) 525-7787

ADDENDUM NO. 1

RFP No. 09-17-SAS

To: All Prospective Proposers

June 12, 2009

Prospective Proposers for the **RFP #09-17-SAS Spay Neuter Clinic** are hereby notified of the following clarifications, questions and answers:

Clarifications:

1. See attached Attachment II additional fee schedule to be completed for Non-Stanislaus County residence. County residents fee to be less than the Non-County resident fee schedule.
2. See attached four page map.
3. Clearly mark on the outside of envelope or package: Name of person that represented respondent at the Mandatory Pre-Proposal Conference that was held June 5, 2009.
4. RFP 09-17-SAS, Appendix A, Page 1, Section B, Item 7: The word "large" refers to "large cats and dogs".
5. RFP 09-17-SAS, Appendix A, Page 1, Section B, Item 6: Regarding surgery/service tracking is hereby removed from the RFP requirements.
6. RFP 09-17-SAS, Appendix A, Page 2, Section C, Item 3d: Necessary humane procedures requiring anesthesia such as foxtail removal, ear flushing, deciduous teeth extraction or umbilical hernia repair is hereby removed from the RFP requirements.

Questions:

1. We are a newly formed or forming non-profit and do not have 5 years of financials. May we submit individual financial history from each board member of the non-profit?

Answer: Yes. The requests for financial reports, balance sheets, etc. are to prove the financial stability and capability of the entity submitting the proposal.

2. Regarding RFP Page 14, Part One, Item k: If 501c3 documentation of non-profit status is not complete by the time the RFP response is due, may we submit our application as proof of obtaining status?

Answer: Completed submitted application of 501c3 will be accepted in lieu of proof of status if documentation is in process.

3. Are customers from outside Stanislaus County to be serviced?

Answer: Yes, customers from outside Stanislaus County will be provided services.

4. Are customers from non-participating Stanislaus cities to receive a different fee then from those participating cities?

Answer: No, all Stanislaus County cities, irregardless of participation will be charged the same fee.

ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

THIS ADDENDUM MUST BE SIGNED AND SUBMITTED WITH RFP #RFP NO. 09-17-SAS.

Please submit further requests for clarification to: ShaferS@stancounty.com

Proposer Signature

Stephanie Shafer
Stephanie Shafer
Buyer

Vendor Name: _____

**Low Cost Spay/Neuter Clinic
Fee Schedule
(Non-County Residence*)**

Item	Basic Spay – Neuter Fees Charged:	Proposed Fees
A.	Male Cat Neuter	
B.	Female Cat Spay	
C.	Male Dog Neuter	
D.	Female Dog Spay	
	Extra Fees Charged:	
E.	Female Cat in Heat	
F.	Female Dog in Heat	
G.	Female Cat Pregnant	
H.	Female Dog Pregnant	
J.	Obese Cat	
K.	Obese Dog	
L.	Aggressive Cat	
M.	Aggressive Dog	
	Fees Charged to Stanislaus County Animal Services:	
N.	Male Cat Neuter	
O.	Female Cat Spay	
P.	Male Dog Neuter	
Q.	Female Dog Spay	

* County residents fee to be less than the Non-County resident fee schedule.

Animal Services Facility

Project Location

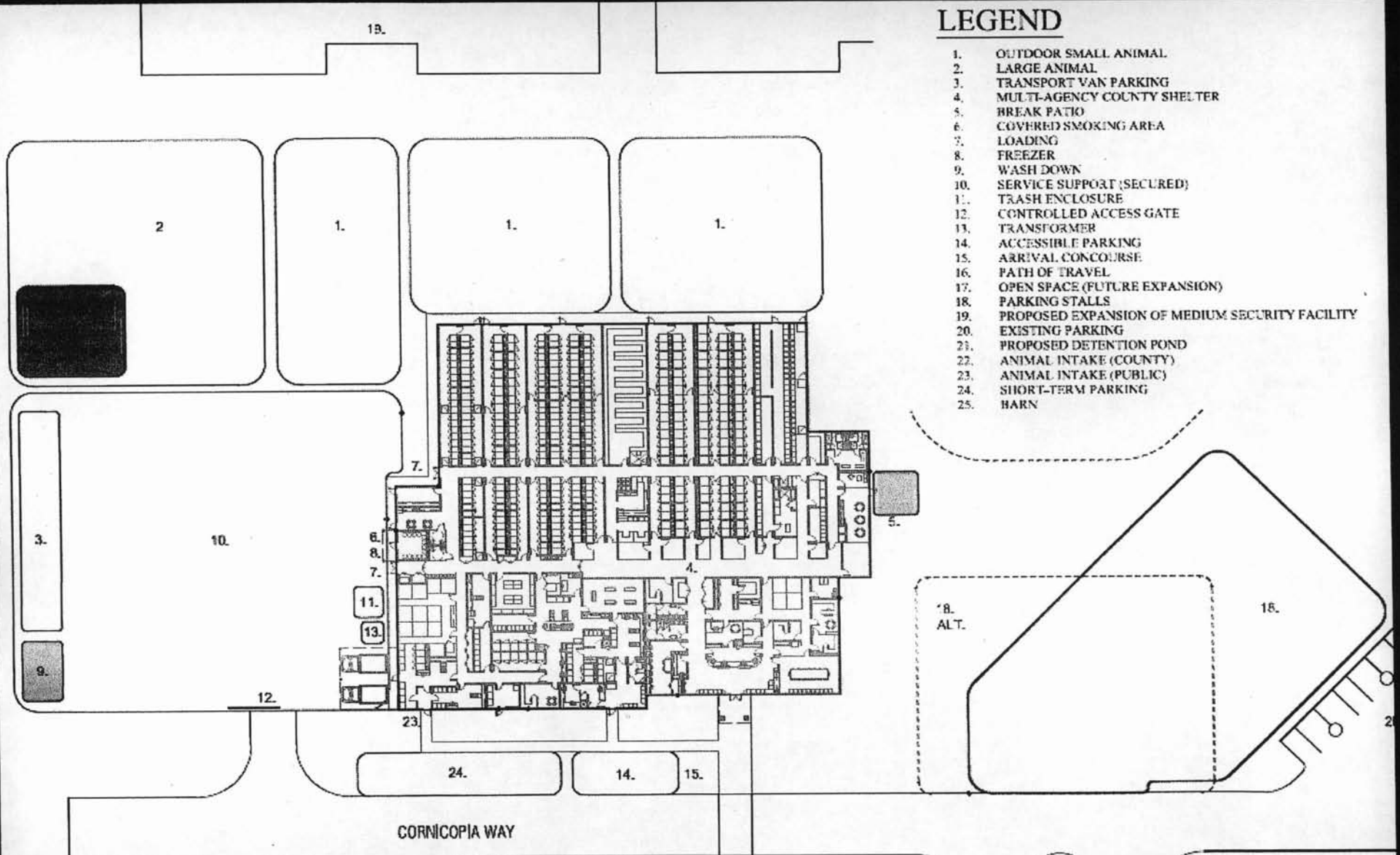


Animal Services Facility

Site Diagram

LEGEND

1. OUTDOOR SMALL ANIMAL
2. LARGE ANIMAL
3. TRANSPORT VAN PARKING
4. MULTI-AGENCY COUNTY SHELTER
5. BREAK PATIO
6. COVERED SMOKING AREA
7. LOADING
8. FREEZER
9. WASH DOWN
10. SERVICE SUPPORT (SECURED)
11. TRASH ENCLOSURE
12. CONTROLLED ACCESS GATE
13. TRANSFORMER
14. ACCESSIBLE PARKING
15. ARRIVAL CONCOURSE
16. PATH OF TRAVEL
17. OPEN SPACE (FUTURE EXPANSION)
18. PARKING STALLS
19. PROPOSED EXPANSION OF MEDIUM SECURITY FACILITY
20. EXISTING PARKING
21. PROPOSED DETENTION POND
22. ANIMAL INTAKE (COUNTY)
23. ANIMAL INTAKE (PUBLIC)
24. SHORT-TERM PARKING
25. BARN














SITE DIAGRAM



Animal Services Facility

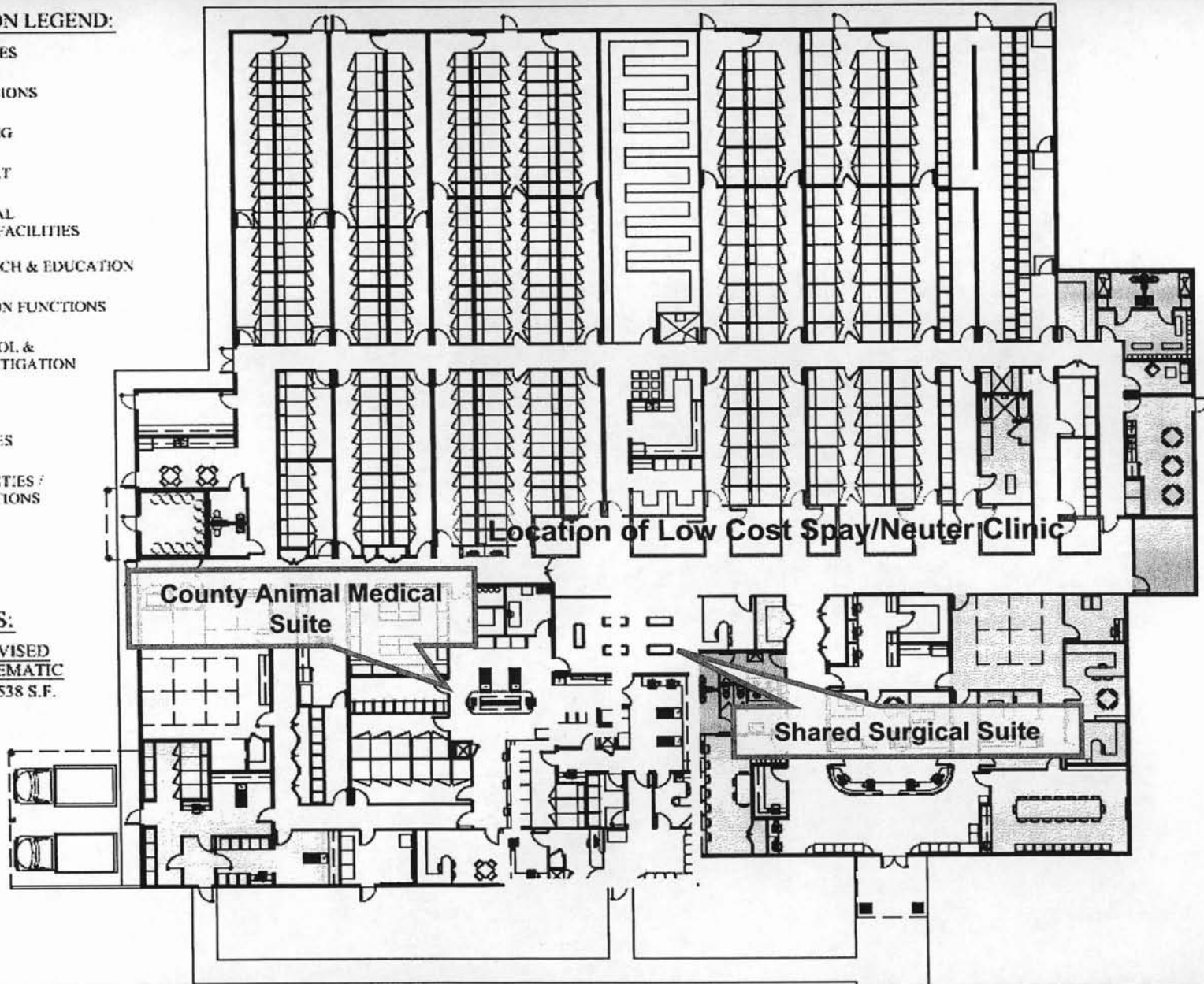
Overall Floorplan

SPACE ALLOCATION LEGEND:

-  PUBLIC FACILITIES
-  ANIMAL ADMISSIONS
-  ANIMAL HOUSING
-  ANIMAL SUPPORT
-  ANIMAL MEDICAL (VETERINARY) FACILITIES
-  PUBLIC OUTREACH & EDUCATION
-  ADMINISTRATION FUNCTIONS
-  ANIMAL CONTROL & CRUELTY INVESTIGATION
-  CIRCULATION
-  STAFF FACILITIES
-  VEHICLE FACILITIES / SUPPORT FUNCTIONS

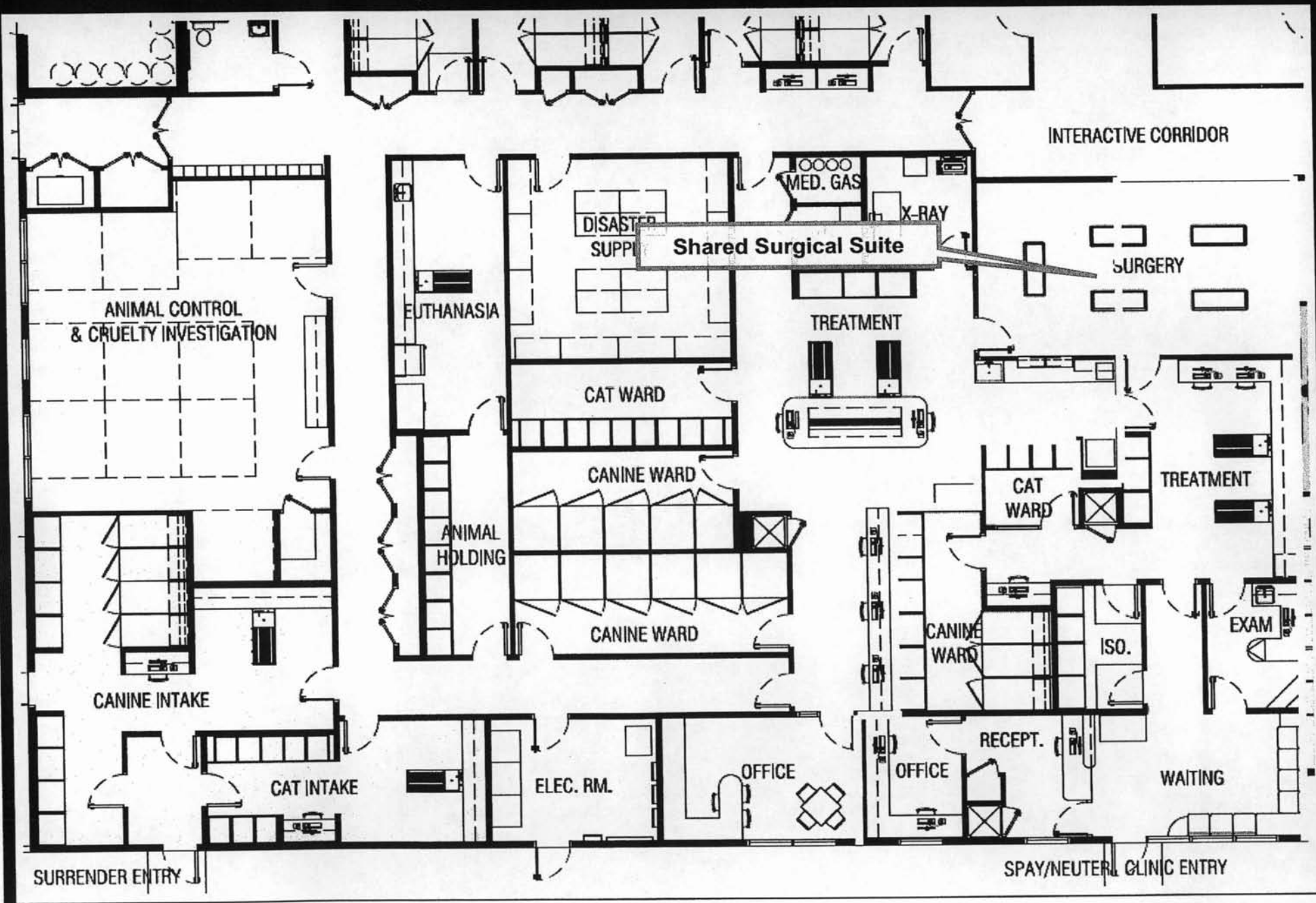
PROJECT AREAS:

<u>PROGRAM</u>	<u>REVISED SCHEMATIC</u>
34,926 S.F.	33,538 S.F.



Animal Services Facility

Low Cost Spay & Neuter Clinic





General Services Agency
Purchasing Division
1010 10th Street, Suite 5400, Modesto, CA 95354
PO Box 3229, Modesto, CA 95353-3229
Phone: (209) 525-6319
Fax: (209) 525-7787

ADDENDUM NO. 2

RFP No. 09-17-SAS

To: All Prospective Proposers

June 29, 2009

Prospective Proposers for the **RFP #09-17-SAS Spay Neuter Clinic** are hereby notified of the following clarifications, questions and answers:

Clarifications:

1. Exam tables will be built in and provided for the clinic.
2. Surgery tables are not considered built in and will need to be provided by the proposer for the clinic.
3. The support mount for the lighting will be built in for the clinic. The proposer will need to provide lighting for the surgery room in the clinic.
4. The medical systems are integral with the building constructions for walls and ceilings. It is the intent of Stanislaus County Animal Services to install the medical gases and evacuation equipment systems complete, including the tank manifolds, piping and outlets, etc. The clinic will be billed for the medical gases.
5. Seating for the clinic lobby will be included and built in as millwork.

ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

THIS ADDENDUM MUST BE SIGNED AND SUBMITTED WITH RFP #RFP NO. 09-17-SAS.

Please submit further requests for clarification to: ShaferS@stancounty.com

Proposer Signature

Stephanie Shafer
Stephanie Shafer
Buyer

Low Income Spay/Neuter Fee Schedule proposed by SAVED, Inc

Qualified Ultra Low Income

Basic Spay - Neuter Fees Charged	Proposed Fees
Male Cat Neuter	\$ 30
Female Cat Spay	\$ 40
Male Dog Neuter	\$ 50
Female Dog Spay <65 lbs	\$ 70
Female Dog Spay >65 lbs	\$ 85

* Fees include microchip and vaccines

** Medi-Cal or EBT and proof of income less than federal poverty level guidelines

Qualified Low Income

Basic Spay - Neuter Fees Charged	Proposed Fees
Male Cat Neuter	\$ 35
Female Cat Spay	\$ 50
Male Dog Neuter <50 lbs	\$ 65
Male Dog Neuter >50 lbs	\$ 90
Female Dog Spay <50 lbs	\$ 85
Female Dog Spay >50 lbs	\$ 120

* Fees include microchip and vaccines

** Medi-Cal or EBT

Stanislaus County Animal Services

Basic Spay - Neuter Fees Charged	Proposed Fees
Male Cat Neuter	\$ 30
Female Cat Spay	\$ 40
Male Dog Neuter	\$ 50
Female Dog Spay <65 lbs	\$ 70
Female Dog Spay >65 lbs	\$ 85

* Microchip and core vaccines not included

Feral/Free Roaming Cats

Basic Spay - Neuter Fees Charged	Proposed Fees
Male Cat Neuter	\$ 30
Female Cat Spay	\$ 40
Euthanasia/Disposal	\$ 30

* Fees include core vaccines, right ear tipped and testing for FeLV/FIV

Attachment G

Notice of Intent to Award

DOCUMENT 00505

NOTICE OF INTENT TO AWARD
See Document 140 Paragraph 21

DATE POSTED: October 8, 2009

PROJECT TITLE: ANIMAL SERVICES FACILITY PROJECT

The County of Stanislaus intends to recommend to the Board of Supervisors of the County of Stanislaus award of the above-referenced project to Diede Construction Co.

SIGNATURE Patricia Hill Thomas DATE 10.8.09
Patricia Hill Thomas
Project Manager

END OF DOCUMENT

Attachment H

Construction Contract

DOCUMENT 00520

AGREEMENT

FOR DESIGN/BUILD SERVICES

STANISLAUS COUNTY

ANIMAL SERVICES FACILITY PROJECT

THIS AGREEMENT, made this 27th day of October, 2009, by and between Diede Construction Co. whose place of business is located at 12393 N. Highway 99, Lodi, California 95240, hereinafter called "**Design-Build Entity**", and COUNTY OF STANISLAUS, hereinafter called "**County**," acting under and by virtue of the authority vested in the County by the laws of the State of California.

WHEREAS, County, by its Approved Board Item No. _____ adopted on the 27th day of October, 2009, awarded to Design-Build Entity the Contract for design and construction of the Animal Services Facility Project located at the Public Safety Center, in Ceres, California.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, Design-Build Entity and County agree as follows:

Article I. Work

- 1.1 Design-Build Entity shall provide, furnish, and perform all necessary planning, architectural, engineering, and all other design services of any type, procurement, permitting and support services, construction, landscaping, clean-up, and all other construction services of any type, provide and furnish all necessary supplies, materials and equipment (except those to be provided by County, if any) and all necessary supervision, labor, and services required for the complete engineering, design, procurement, quality assurance, construction and all necessary installation, start-up and testing (except that testing to be provided by the County) required for a complete, operational, and fully functional Project, as further described in Section 01100 Summary of Work and Section 01101 Summary of Work – Design Services (hereinafter, the all-inclusive obligations of the Design-Build Entity set forth in this sentence shall be referred to as the "Work"). Except with regard to any material to be provided and/or installed by County, Design-Build Entity shall fully commission and turn over a complete, operational, and fully functional Project to County as a "Turnkey" functional Animal Services Facility. Without limiting the generality of this Document 00520, Design-Build Entity shall provide the following work and Services:
- 1.2 Design-Build Entity shall prepare complete designs, engineering, working drawings, shop drawings and generate drawings and/or engineering analysis setting forth in detail the specifications and requirements for the purchasing and procurement of the services, materials and equipment and for the construction of the complete, operational, and fully functional Animal Services Facility, and shall furnish the services of all necessary supervisors, engineers, designers, draftsmen, and other personnel necessary for the preparation of those drawings and specifications required for the Work, including the pertinent information for natural gas, water supply, and any other utilities, as required.
- 1.3 Design-Build Entity shall provide, install and complete as specified and pay for all labor, materials and equipment, tools, supplies, construction equipment and machinery, construction, start-up and testing (except that testing to be provided by the County), utilities, transportation, and other facilities and services (including any temporary materials, equipment, supplies and facilities) necessary for the proper execution and completion of the complete, operational, and fully functional Animal Services Facility, including required permanent interconnection for electricity, and any other utilities and demonstration of fully satisfactory operation of all systems and equipment.

- 1.4 Design-Build Entity shall supervise and direct the Work, and shall furnish the services of all supervisors, forepersons, skilled and unskilled labor, and all other personnel necessary to design and construct the complete, operational, and fully functional Project. Design-Build Entity shall provide, manage and organize such personnel as necessary to complete the Work in accordance with all requirements of the Contract Documents.
- 1.5 Design-Build Entity shall obtain, at Design-Build Entity's expense, all governmental and private approvals, licenses, and permits required to complete the Work. Design-Build Entity shall design and construct complete, operational, a fully functional project in full compliance with all applicable laws, codes and standards (both public and private), including but not limited to, the standards included and warranties expressed in the Contract Documents and manufacturer's recommendations pertaining to individual items of equipment or systems.
- 1.6 Design-Build Entity shall provide a warranty of the length identified in the Contract for this Project.
- 1.7 No construction or alteration of any County facility under the Contract Documents shall commence prior to the receipt of the written approval of the plans and specifications therefore, as to the safety of design and construction, from the County's inspectors and the County Fire Marshall.

Article II. County's Project Manager and Representatives

- 2.1 County may assign all or part of its rights, responsibilities and duties to a County Project Manager or other representative. County shall inform Design-Build Entity in writing of such assignment and the extent of its representative's authority.
- 2.2 All notices or demands to County under the Contract Documents shall be to County's Representative at:

**County of Stanislaus
Attn: Patricia Hill Thomas
1010 Tenth Street, Suite 6800
Modesto, CA 95354**

or to such other person(s) and address(es) as County shall provide to Design-Build Entity.

Article III. Contract Time and Liquidated Damages

- 3.1 Contract Time. Design-Build Entity shall commence Work on the date established in the Notice to Proceed. County reserves the right to modify or alter the commencement date of the Work.

Design-Build Entity shall complete the Work within the Milestone Schedule in Appendix A, hereby made part of this Agreement.

- 3.2 Liquidated Damages.
County and Design-Build Entity recognize that time is of the essence of this Agreement and that County will suffer financial loss in the form of lost revenues, contract administration expenses (including project management and consultants' expenses), delay and loss of public use, if the Work is not completed within the time specified in paragraph 3.1 above plus any extensions thereof allowed in accordance with the Contract Documents. Consistent with Paragraph 1.15 of Document 00700 General Conditions, Design-Build Entity and County agree that because of the nature of the Project, it would be impractical or extremely difficult to fix the amount of actual damages incurred by County because of a delay in completion of the Work.

Accordingly, County and Design-Build Entity agree that Design-Build Entity shall pay County the following liquidated damages measures:

- 3.2.1 Design-Build Entity shall pay County Three Thousand Dollars (\$3,000.00) for each calendar Day that expires after the time specified in Appendix A of this Document 00520 for Substantial

Completion of Project until Substantial Completion of Project.

- 3.2.2 Design-Build Entity shall pay County Three Thousand Dollars (\$3,000.00) for each calendar Day that expires after the time specified in Appendix A of this Document 00520 for Final Completion of Project until Final Completion of Project.

These measures of liquidated damages shall apply cumulatively, if applicable, and shall be presumed to be, except as provided in Document 00700 (General Conditions), paragraph 15.E, the damages suffered by County resulting from delay in completion of the Project.

Liquidated damages for delay shall only cover administrative, overhead, interest on bonds, and general loss of public use damages suffered by County as a result of delay. Liquidated damages shall not cover the cost of completion of the Work, damages resulting from Defective Work, lost revenues or costs of substitute facilities, or damages suffered by others who then seek to recover their damages from County (i.e., delay claims of other contractors, subcontractors, tenants, or other third parties), and defense costs thereof.

Article IV. Contract Sum

- 4.1 County shall pay the Design-Build Entity Four Million, Nine Hundred Eighty Nine Five Hundred Sixty Eight (\$4,989,568.00) Dollars as the "Contract Sum" for completion of Work in accordance with the Contract Documents, the amount set forth in Design-Build Entity's Proposal, attached hereto.
- 4.2 The Contract Sum is all inclusive and includes all Work; all federal, state, and local taxes on materials and equipment, and labor furnished by Design-Build Entity, its subcontractors, subconsultants, architects, engineers, and vendors or otherwise arising out of Design-Build Entity's performance of the Work, including any increases in any such taxes during the term of this Agreement; and any duties, fees, and royalties imposed with respect to any materials and equipment, labor or services. The taxes covered hereby include (but are not limited to) occupational, sales, use, excise, unemployment, FICA, and income taxes, customs, duties, and any and all other taxes on any item or service that is part of the Work, whether such taxes are normally included in the price of such item or service or are normally stated separately. Notwithstanding the foregoing, each party shall bear such state or local inventory, real property, personal property or fixtures taxes as may be properly assessed against it by applicable taxing authorities.

Article V. Design-Build Entity's Representations and Warranties

In order to induce County to enter into this Agreement, Design-Build Entity makes the following representations and warranties:

- 5.1 Design-Build Entity has visited the Site and has observed the nature and extent of the Work, Site, locality, actual conditions, as built conditions, and all local conditions and federal, state and local laws and regulations that in any manner may affect cost, progress, performance or furnishing of Work or which relate to any aspect of the design and the means, methods, techniques, sequences or procedures of construction to be employed by Design-Build Entity and safety precautions and programs incident thereto.
- 5.2 Design-Build Entity has examined all reports of exploration and tests of subsurface conditions, as built drawings, drawings or reports, reasonably available for design and construction purposes, of physical conditions, including Underground Facilities, which are identified in the Request for Proposal, Geotechnical Data and Existing Conditions, or which may be apparent at the Site. The County has obtained and provided to the Design-Build Entity a Geotechnical Investigation of the proposed Project Site.
- 5.3 Design-Build Entity has obtained and reviewed all such examinations, investigations, explorations, tests, reports and studies referred to in Paragraph 5.2 of this Document 00520 that pertain to the subsurface conditions, as-built conditions, Underground Facilities and all other physical conditions at or contiguous to the Site or otherwise that may affect the cost, progress, performance or furnishing of Work, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of Document 00700 General Conditions.

- 5.4 Design-Build Entity has correlated its knowledge and the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.
- 5.5 Design-Build Entity has given County prompt written notice of all conflicts, errors, ambiguities, or discrepancies that it has discovered in or among the Contract Documents and as-built drawings and actual conditions and the written resolution thereof through Addenda issued by County is acceptable to Design-Build Entity.
- 5.6 Having performed all necessary pre-construction investigations, and having reviewed and analyzed all Contract Documents, and having conferred with and listed all Subcontractors performing Work, Design-Build Entity avers and confirms that it can and will perform the Work for the Contract Sum. Design-Build Entity further avers and confirms that in accordance with the requirements of the Request for Proposals, Design-Build Entity will perform such other and further work items proposed by Design-Build Entity in its Proposal upon acceptance of such items by the County for the price set forth in its Proposal.
- 5.7 Design-Build Entity is duly organized, existing and in good standing under applicable state law, and is duly qualified and licensed (at every tier) to conduct business in the State of California.
- 5.8 Design-Build Entity has duly authorized the execution, delivery and performance of this Agreement, the other Contract Documents and the Work to be performed herein. The Contract Documents do not violate or create a default under any instrument, agreement, order or decree binding on Design-Build Entity.
- 5.9 Design-Build Entity has listed all Subcontractors performing Work pursuant to the Subcontractor Listing requirements of California Public Contracting Code Section 4104 on Document 00430 Subcontractors List Form and has provided a copy thereof to County.

Article VI. Contract Documents

- 6.1 The Contract Documents consist of the following documents, including all changes, addenda and modifications thereto, which comprise the entire agreement between County and Design-Build Entity concerning the Work:

- Design-Build Entity's Proposal
- Document 00400 Proposal Form
- Document 00510 Notice of Award
- Document 00520 Agreement
- Document 00550 Notice to Proceed
- Document 00610 Construction Performance Bond
- Document 00620 Construction Labor and Material Payment Bond
- Document 00630 Guaranty
- Document 00650 Agreement and Release of Any and All Claims
- Document 00660 Substitution Request Form
- Document 00680 Escrow Agreement for Security Deposit in Lieu of Retention
- Document 00700 General Conditions
- Document 00801 Supplementary Conditions – Design-Build
- Document 00806 Labor Compliance Program
- Document 00821 Insurance
- Document 00822 Apprenticeship Program
- Document 00910 Addenda
- Bridging Documents
- Division One Specifications
- Final approved Construction Documents (as provided in Section 01101)

- 6.2 The documents submitted in the Proposal included proposed revisions to the scope of work, in the form of Exceptions to the RFP, Owner-Requested Alternates, and Voluntary Enhancements, Alternates and Clarifications. The County retains its rights to accept Alternates subsequent to executing the Agreement per the terms set forth in the Request for Proposal.
- 6.3 There are no Contract Documents other than those listed above in this Document 00520, Article VI. Document 00320 (Geotechnical Data and Existing Conditions) and the information supplied through these documents, are not Contract Documents. Contract Documents may only be amended, modified or supplemented as provided in Document 00700 General Conditions.
- 6.4 County and Design-Build Entity acknowledge that the final Contract Documents differ in some respects from items included within Design-Build Entity's proposal which were the basis of the parties' negotiations. County and Design-Build Entity expressly agree that of the two, Bridging Documents represent the final agreed Contract scope.
- 6.5 County and Design-Build Entity acknowledge that the Bridging Specifications contain certain terms and conditions that are also addressed in the General Conditions (Document 00700) and Division 1 Specifications (Sections 01100 to Section 01780) of these Contract Documents. In any cases where Bridging Specifications contradict, overlap or conflict with the General Conditions or Division 1 Specifications of the Contract Documents, then precedence shall be given to the more stringent of the two requirements that in County's judgment provides the County with the greater quality or scope of service.

Article VII. Miscellaneous

- 7.1 Terms used in this Agreement are defined in Document 00700 General Conditions, Document 00801 Supplementary Conditions – Design-Build, and Section 01420 References and Definitions, and will have the meaning indicated therein.
- 7.2 It is understood and agreed that in no instance is any person, signing this Agreement for or on behalf of County, or acting as an employee or representative of County, liable on this Contract, or upon any warranty of authority, or otherwise, and it is further understood and agreed that liability of County is limited and confined to such liability as authorized or imposed by the Contract Documents or applicable law.
- 7.3 Design-Build Entity shall not assign any portion of the Contract Documents, and may subcontract portions of the Contract Documents only in compliance with the to the Subcontractor Listing requirements of California Public Contracting Code Section 4107
- 7.4 The Contract Sum includes all allowances (if any).
- 7.5 In entering into a public contract or a subcontract to supply goods, services or materials pursuant to a public contract, the Design-Build Entity or subcontractor irrevocably offers and agrees to assign to the awarding body all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. § 15) or under the Cartwright Act, (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time County tenders final payment to the Design-Build Entity, without further acknowledgment by the parties.
- 7.6 Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are in the Contract Documents or on file at County's office, and shall be made available to any interested party on request. Pursuant to Section 1861 of the Labor Code, Design-Build Entity represents that it is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and Design-Build Entity shall comply with such provisions before commencing the performance of the Work of the Contract Documents.

- 7.7 Should any part, term or provision of this Agreement or any of the Contract Documents, or any document required herein or therein to be executed or delivered, be declared invalid, void or unenforceable, all remaining parts, terms and provisions shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby. If the provisions of any law causing such invalidity, illegality or unenforceability may be waived, they are hereby waived to the end that this Agreement and the Contract Documents may be deemed valid and binding agreements, enforceable in accordance with their terms to the greatest extent permitted by applicable law. In the event any provision not otherwise included in the Contract Documents is required to be included by any applicable law, that provision is deemed included herein by this reference (or, if such provision is required to be included in any particular portion of the Contract Documents, that provision is deemed included in that portion).
- 7.8 This Agreement and the Contract Documents shall be deemed to have been entered into in the City of Modesto, County of Stanislaus, State of California, and governed in all respects by California law (excluding choice of law rules). The exclusive venue for all disputes or litigation hereunder shall be in the Superior Court of the State of California for the County of Stanislaus. Contractor accepts the claims procedure in Document 00700, Article 12, as established under the California Government Code, Title 1, Division 3.6, Part 3, Chapter 5.
- 7.9 County shall have the right to review all phases of Design-Build Entity's design including, but not limited to, drawings, specifications, shop drawings, samples and submittals, as specified in the Contract Documents. Such review, approval and other action shall not relieve Design-Build Entity of its responsibility for a complete design complying with the requirements of the Contract Documents; but rather, such review shall be in furtherance of County's monitoring and accepting the design as developed and issued by the Design-Build Entity, consistent with these Contract Documents. Design-Build Entity's responsibility to design and construct the Project in conformance with the Contract Documents shall be absolute.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day first mentioned above.

CONTRACTOR: Diede Construction Co.

By: _____
(Signature)

By: _____
(Signature)

Its: _____
Title (If Corporation: Chairman, President
or Vice President)

Its: _____
Title (If Corporation: Secretary, Assistant
Secretary, Chief Financial Officer or
Assistant Treasurer)

COUNTY:

COUNTY OF STANISLAUS

By: _____
(Signature)

(Print Name)

(Title)

Attest: _____
Secretary

(Print Name)

APPROVED AS TO FORM AND LEGALITY
THIS ____ DAY OF _____, 2009

By: _____
John P. Doering, County Counsel

COUNTY RESOLUTION NO. _____

EXHIBIT A
MILESTONE SCHEDULE

Milestone Event

Substantial Completion of Building
Final Completion

Latest Date for Completion of Milestone

365 Calendar Days from Issuance Date of Notice to Proceed
425 Calendar Days from Issuance Date of Notice to Proceed

END OF DOCUMENT

Attachment I

Project Budget

October 15, 2009

Animal Services Facility

DESCRIPTION		BASED ON CURRENT ESTIMATE	BASED UPON PROPOSAL	THRU BRIDGING	Budget for 10.20.09
Services & Supplies					
62400	Misc Expenses	\$ 5,000.00	\$ 5,000.00	\$ -	\$ 5,000.00
62400	Owner Contingency	\$ 148,171.39	\$ 148,171.39	\$ 28,847.00	\$ 119,324.39
62600	Office Supplies	\$ 15,000.00	\$ 15,000.00	\$ 250.00	\$ 14,750.00
62630	Outside Printing Services	\$ 25,000.00	\$ 25,000.00	\$ 13,450.00	\$ 11,550.00
62730	Postage	\$ 2,000.00	\$ 8,000.00	\$ 1,629.00	\$ 6,371.00
63000	Professional & Special Services	\$ -	\$ -	\$ -	\$ -
63090	Accounting, & Finance	\$ -	\$ -	\$ -	\$ -
63110	Outside Auditing	\$ -	\$ -	\$ -	\$ -
63120	Programming	\$ -	\$ -	\$ -	\$ -
63256	Contracts - Consultants	\$ 5,000.00	\$ 5,000.00	\$ 2,000.00	\$ 3,000.00
63400	Engineering Services	\$ -	\$ -	\$ -	\$ -
63430	Other Design Consultants (Acoustics, Lighting, etc	\$ -	\$ -	\$ -	\$ -
63500	Security Services	\$ -	\$ -	\$ -	\$ -
63640	Legal Fees	\$ 15,000.00	\$ 75,000.00	\$ 24,000.00	\$ 51,000.00
64100	Abatement & Demo Consultant	\$ -	\$ 15,000.00	\$ 14,544.00	\$ 456.00
64150	Code Required Testing Firms	\$ 187,404.77	\$ 75,000.00	\$ -	\$ 75,000.00
64200	Moving / Relocation Expenses	\$ -	\$ 25,000.00	\$ -	\$ 25,000.00
64210	Inspectors	\$ 187,404.77	\$ 187,404.77	\$ -	\$ 187,404.77
64220	Arch & Engr Fees	\$ 367,791.23	\$ 367,191.00	\$ 303,939.00	\$ 63,252.00
64600	Construction Manager	\$ 515,363.11	\$ 515,363.11	\$ 108,176.54	\$ 407,186.57
64631	Geotechnical Services	\$ 15,000.00	\$ 15,000.00	\$ 4,500.00	\$ 10,500.00
64720	Consulting Services	\$ -	\$ -	\$ -	\$ -
64750	Marketing	\$ -	\$ -	\$ 21.00	\$ (21.00)
65000	Publications & Legal Notices	\$ 15,000.00	\$ 15,000.00	\$ 3,029.00	\$ 11,971.00
65300	Rents & Leases	\$ -	\$ -	\$ -	\$ -
65920	Meeting Allowance	\$ -	\$ -	\$ -	\$ -
66020	Environmental Impact Reports	\$ 50,000.00	\$ 10,000.00	\$ 4,187.00	\$ 5,813.00
66040	Abatement & Demolition	\$ -	\$ -	\$ -	\$ -
66210	Building Permits	\$ 10,000.00	\$ 10,000.00	\$ -	\$ 10,000.00
67040	Other Travel Expenses	\$ -	\$ -	\$ -	\$ -
67200	Infrastructure (Streets & Traffic, Utility Service)	\$ 25,000.00	\$ 25,000.00	\$ -	\$ 25,000.00
67230	Utility Connections (Fees Charged by Ceres)	\$ -	\$ 229,000.00	\$ -	\$ 229,000.00
67230	Utility Connections (Fees Charged by Utility Companies)	\$ 25,000.00	\$ 25,000.00	\$ -	\$ 25,000.00
	Subtotal Services And Supplies	\$ 1,613,135.27	\$ 1,795,130.27	\$ 508,572.54	\$ 1,286,557.73
					\$ -
					\$ -
					\$ -
73511	Govt Fund Bill Auditor	\$ 4,000.00	\$ 4,000.00	\$ 377.00	\$ 3,623.00
73512	Govt Fund Bill Purchasing	\$ 5,000.00	\$ 5,000.00	\$ 100.00	\$ 4,900.00
73518	Govt Fund Administration	\$ -	\$ 40,000.00	\$ -	\$ 40,000.00
73580	PW Engineering Services	\$ 3,500.00	\$ 3,500.00	\$ 2,750.00	\$ 750.00
74020	Long Distance Calls	\$ -	\$ -	\$ -	\$ -
74030	Non Systems Charges	\$ -	\$ -	\$ -	\$ -
74080	Central Services Printing	\$ 1,500.00	\$ 1,500.00	\$ -	\$ 1,500.00
74090	Quick Copy Services	\$ 500.00	\$ 500.00	\$ 50.00	\$ 450.00
74100	Mail Room Postage Meter	\$ 125.00	\$ 125.00	\$ 18.75	\$ 106.25
74110	Mail Room Services	\$ 125.00	\$ 125.00	\$ 18.75	\$ 106.25
74130	Data Processing Services	\$ -	\$ -	\$ -	\$ -
74190	Pickup & Delivery	\$ 2,000.00	\$ 2,000.00	\$ -	\$ 2,000.00
74370	Stores Office Supplies	\$ -	\$ -	\$ -	\$ -
74790	Centrex Calls Costing	\$ -	\$ -	\$ -	\$ -
	Subtotal	\$ 16,750.00	\$ 56,750.00	\$ 3,314.50	\$ 53,435.50
					\$ -
Structures and Improvements					
80000	Land Costs	\$ -	\$ -	\$ -	\$ -
80020	Irrigation Well	\$ 25,000.00	\$ 25,000.00	\$ -	\$ 25,000.00
80300	Construction	\$ 7,095,000.00	\$ 4,989,568.00	\$ -	\$ 4,989,568.00
80300	Low Cost Spay & Neuter Center	Incl	Incl in Constr	\$ -	\$ -
80300	Design Build A/E Services	\$ 381,072.45	Incl in Constr	\$ -	\$ -
80312	Barn	\$ 90,000.00	Incl in Constr	\$ -	\$ -
80300	Recommended Contractor Savings		\$ (77,839.00)	\$ -	\$ (77,839.00)

October 15, 2009

Animal Services Facility

	DESCRIPTION	BASED ON CURRENT ESTIMATE	BASED UPON PROPOSAL	THRU BRIDGING	Budget for 10.20.09
80300	Recommended Contractor Improvements		\$ 95,919.00	\$ -	\$ 95,919.00
80300	Recommended Other Improvements		\$ 250,000.00	\$ -	\$ 250,000.00
80315	Surveys	\$ 5,000.00	\$ 5,000.00	\$ 3,950.00	\$ 1,050.00
80315	Surveys & Investigations	\$ 5,000.00	\$ 5,000.00	\$ -	\$ 5,000.00
80355	Signage & Graphics	\$ 20,000.00	\$ 30,000.00	\$ -	\$ 30,000.00
80570	Design & Construction Contingency	\$ 874,456.75	\$ 525,764.80	\$ -	\$ 525,764.80
80570	Furniture Fixtures and Equipment Contingency	\$ -	\$ 100,839.50	\$ -	\$ 100,839.50
80610	Data & Communication	\$ 40,000.00	\$ 60,000.00	\$ -	\$ 60,000.00
81000	Cages	\$ 649,900.00	\$ 649,900.00		\$ 649,900.00
82130	Veterinarian Equipment	\$ 105,300.00	\$ 105,300.00		\$ 105,300.00
82130	FF&E	\$ 60,000.00	\$ 80,000.00		\$ 80,000.00
82570	Computer Equipment	\$ 8,195.00	\$ 18,195.00		\$ 18,195.00
83990	Alarm / Security Systems	\$ 10,000.00	\$ 20,000.00		\$ 20,000.00
84191	Fences	\$ -	\$ 10,000.00	\$ -	\$ 10,000.00
	Subtotal Structures and Improvements	\$ 9,368,924.20	\$ 6,892,647.30	\$ 3,950.00	\$ 6,888,697.30
	Land Acquisition				\$ -
	Site Selection	\$ -	\$ -		\$ -
	Real Estate Assessment & Legal Fees	\$ -	\$ -		\$ -
	Subtotal Land Acquisition	\$ -	\$ -		\$ -
	TOTAL EXPENDITURES	\$ 10,998,809.46	\$ 8,744,527.57	\$ 515,837.04	\$ 8,228,690.53

Stanislaus Capital Projects
825 12th Street, Modesto, CA 95354
Phone: (209) 525-4380 Fax: (209) 525-4385

TRANSMITTAL

TO: Diversified Contract Management Group, Inc.
2386 Fair Oaks Boulevard
Sacramento, CA 95812

SUBJECT: ANIMAL SERVICES SHELTER

DATE: 2/05/10

We are sending you *attached* *under separate cover* the following material:

<input type="checkbox"/> Shop Drawings	<input type="checkbox"/> Change Order	<input type="checkbox"/> Specifications
<input type="checkbox"/> Copy of Letter	<input type="checkbox"/> Plans	<input type="checkbox"/> Computer Printout
<input type="checkbox"/> Prints	<input type="checkbox"/> Samples	<input type="checkbox"/> Updates

COPIES	DATE	DESCRIPTION
1	10/20/09	Fully Executed Agreement for Labor Compliance Service.

REMARKS:

For your files.

BOARD OF SUPERVISORS
2010 FEB - 5 P 1:0

COPIES:

Patricia Hill Thomas
Tom Flores, Auditor
Liz King, Clerk of the Board
File AR 2.1.1(594)
File AR 5.6.12

SIGNED:

Norma Baker
Norma Baker

**AGREEMENT
FOR
PROFESSIONAL SERVICES**

This Agreement For Professional Services is made and entered into by and between the County of Stanislaus ("County") and Diversified Contract Management Group, Inc. ("Consultant"), on October 20, 2009.

Introduction

WHEREAS, the County has a need for professional services relating to the Labor Compliance for the Animal Services Facility; 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 **Lump Sum Amount of Nineteen Thousand Nine Hundred Ninety Nine (\$19,999)** for services. Consultant's costs, which are normally considered to be "reimbursable expenses," such as copying charges, travel and hotel expenses are included within Lump Sum amount 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 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 **Victoria Castañeda**, Project Manager. Owner hereby designates **Patricia Hill Thomas**. 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 A-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
Capital Projects
825 12th Street
Modesto, CA 95354
(209) 525-4380 (phone)
(209) 525-4385 (fax)

To Consultant: Diversified Contract Management Group, Inc.
2386 Fair Oaks Boulevard
Sacramento, CA 95825
(916) 971-4929 (phone)
(916) 973-0723 (fax)

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.

<p>COUNTY OF STANISLAUS</p> <p>By: <u>Patricia Johnson</u> "County"</p>	<p>Diversified Contract Management Group, Inc.</p> <p>By: <u>[Signature]</u> "Consultant"</p>
<p>APPROVED AS TO FORM:</p> <p>By: <u>[Signature]</u> John P. Doering, County Counsel</p>	

EXHIBIT A

SCOPE OF WORK

Labor Code Section 1771. 5.

(a) Notwithstanding Section 1771, an awarding body may not require the payment of the general prevailing rate of per diem wages or the general prevailing rate of per diem wages for holiday and overtime work for any public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction work, or for any public works project of fifteen thousand dollars (\$15,000) or less when the project is for alteration, demolition, repair, or maintenance work, if the awarding body elects to initiate and enforce a labor compliance program pursuant to subdivision (b) for every public works project under the authority of the awarding body.

(b) For the purposes of this section, a labor compliance program shall include, but not be limited to, the following requirements:

(1) All bid invitations and public works contracts shall contain appropriate language concerning the requirements of this chapter.

(2) A prejob conference shall be conducted with the contractor and subcontractors to discuss federal and state labor law requirements applicable to the contract.

(3) Project contractors and subcontractors shall maintain and furnish, at a designated time, a certified copy of each weekly payroll containing a statement of compliance signed under penalty of perjury.

(4) The awarding body shall review, and, if appropriate, audit payroll records to verify compliance with this chapter.

(5) The awarding body shall withhold contract payments when payroll records are delinquent or inadequate.

(6) The awarding body shall withhold contract payments equal to the amount of underpayment and applicable penalties when, after investigation, it is established that underpayment has occurred.

(c) For purposes of this chapter, "labor compliance program" means a labor compliance program that is approved, as specified in state regulations, by the Director of the Department of Industrial Relations.

(d) For purposes of this chapter, the Director of the Department of Industrial Relations may revoke the approval of a labor compliance program in the manner specified in state regulations.

EXHIBIT B
DRAFT PROJECT SCHEDULE

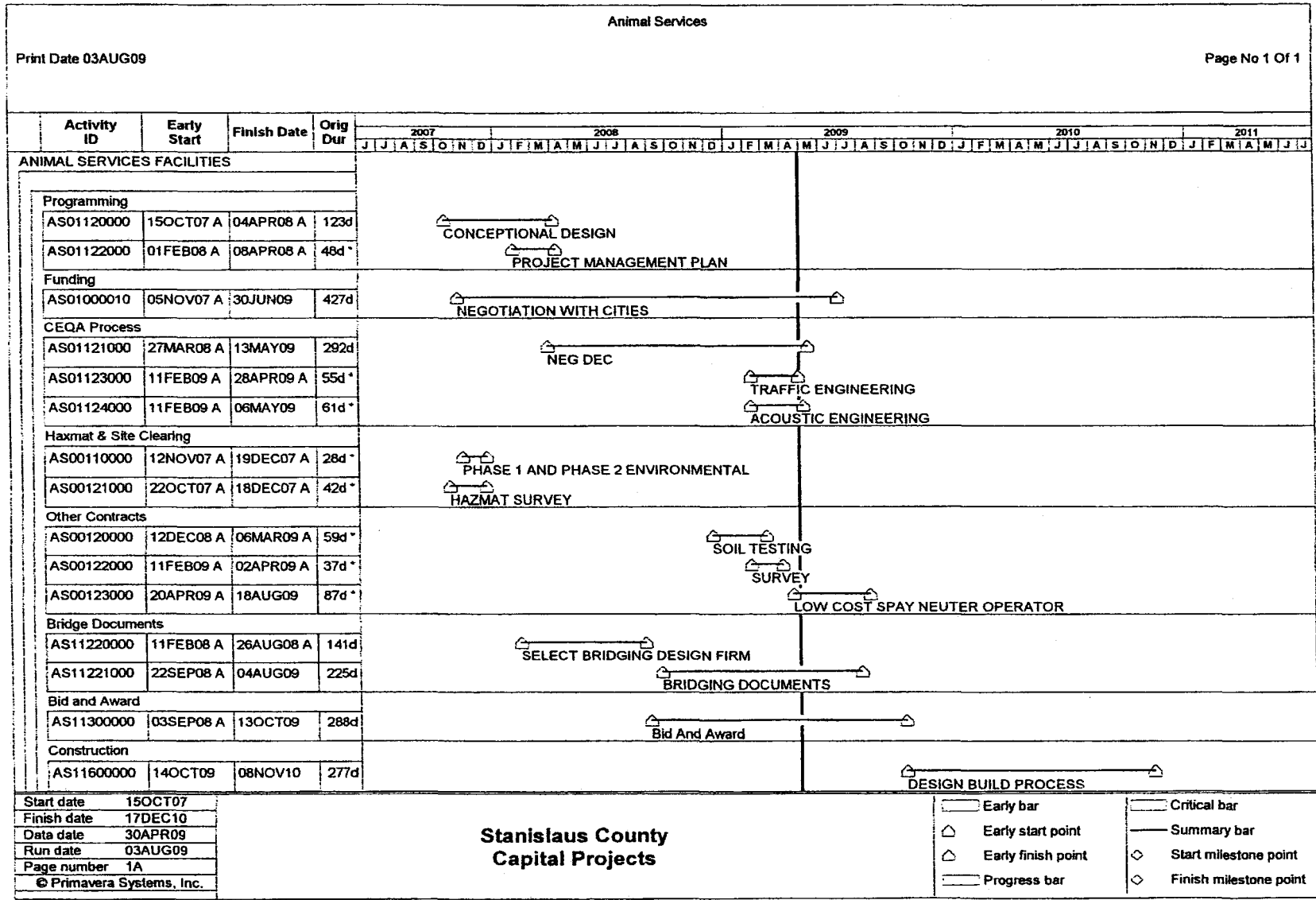


EXHIBIT C

RATE SCHEDULE FOR CHANGE NEGOTIATION

Project Manager	\$99 Per Hour
Senior Labor Compliance Officer	\$81 Per Hour
Labor Compliance Site Monitor	\$75 Per Hour
Administrative Assistant	\$48 Per Hour

Rates include the following:

REIMBURSEABLE EXPENSES. Reimbursable expenses must be included in the not-to-exceed proposed price. (Reimbursable expenses will not be separately reimbursed.)

OVERTIME. Overtime must be included in the not-to-exceed proposed price.

TRAVEL. Travel time must be included in the not-to-exceed proposed price.

Stanislaus County Capital Projects
825 12th Street, Modesto, CA 95354
Phone: (209) 525-4380 Fax: (209) 525-4385

BOARD OF SUPERVISORS

TRANSMITTAL

2010 JAN 12 A 11: 16

TO: Shawn Baker
Krazan & Associates
448 Mitchell Avenue, Suite C
Modesto, CA 95354
(209) 572-2200

SUBJECT: ANIMAL SERVICES SHELTER

DATE: 1/11/10

We are sending you X attached under separate cover the following material:

- | | | |
|-----------------------------------------|---------------------------------------|--------------------------------------------|
| <input type="checkbox"/> Shop Drawings | <input type="checkbox"/> Change Order | <input type="checkbox"/> Specifications |
| <input type="checkbox"/> Copy of Letter | <input type="checkbox"/> Plans | <input type="checkbox"/> Computer Printout |
| <input type="checkbox"/> Prints | <input type="checkbox"/> Samples | <input type="checkbox"/> Updates |

COPIES	DATE	DESCRIPTION
1		Fully-executed Agreement for Specialty Inspection Services.

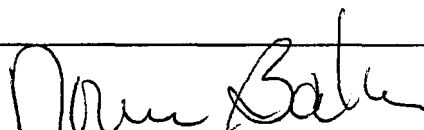
REMARKS:

For your files.

COPIES:

Tom Flores, Auditor/Purchasing
Liz King, BOS
Patricia Hill Thomas
File AR 2.1.1(539)
File AR 5.6.13

SIGNED:


Norma Baker

**AGREEMENT
FOR
PROFESSIONAL SERVICES**

This Agreement For **Professional Services** is made and entered into by and between the **County of Stanislaus** ("County") and **Krazan & Associates** ("Consultant"), on **October 20, 2009**.

Introduction

WHEREAS, the County has a need for professional services relating to the **Specialty Inspection Services** for the **Animal Services Facility**; 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 C (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 **Unit Price NOT TO EXCEED Amount of Forty Thousand Two Hundred Sixty-Five Dollars (\$40,265.00)** for services as provided in **Exhibit D (Pricing Proposal)** 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 units completed 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 units completed, the applicable unit rate, and the amount due.

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 **Shawn Baker**, Project Manager. Owner hereby designates **Patricia Hill Thomas**. 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

Professional Services Agreement for Specialty Inspection Services
On the Animal Services Facility between the County of Stanislaus and Krazan & Associates

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, 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 A-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 Professional Services Agreement for Specialty Inspection Services

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
Capital Projects
825 12th Street
Modesto, CA 95354
(209) 525-4380 (phone)
(209) 525-4385 (fax)

To Consultant: Krazan & Associates
448 Mitchell Avenue, Suite C
Modesto, CA 95354
(209) 572-2200 (phone)
(209) 572-2206 (fax)

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 Professional Services Agreement for Specialty Inspection Services
On the Animal Services Facility between the County of Stanislaus and Krazan & Associates

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.

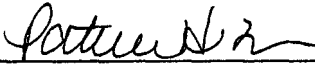

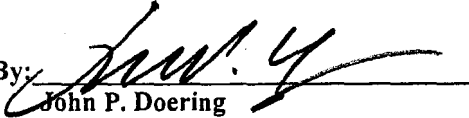
<p>COUNTY OF STANISLAUS</p> <p>By: <u></u> "County"</p>	<p>KRAZAN & ASSOCIATES</p> <p>By: <u></u> "Consultant"</p>
<p>APPROVED AS TO FORM:</p> <p>By: <u></u> John P. Doering County Counsel</p>	

EXHIBIT A

SCOPE OF WORK

A. GENERAL REQUIREMENTS

1. Consultant to be a fully-qualified testing laboratory meeting the requirements of ASTM E-329, Sections 3 through 8, and Section 11, and recognized by the ICBO Joint Committee on Special Inspection.
2. Consultant shall attend all meetings and conferences as requested by the County or its agent.
3. Cost considerations are not to be considered as justification for breach of sound principles of quality assurance, inspection, and testing.
4. Consultant shall establish and maintain procedures to ensure that persons performing work are skilled in methods and practices needed to assure required quality levels. Remove and replace (at no additional cost to the County) personnel who do not possess the required skills or who are not efficiently and effectively performing their assignments. Consultant should provide the Construction Manager with resumes of all personnel proposed to the project for approval. Consultant shall not reassign or replace approved personnel without the prior written approval of the Construction Manager.
5. Consultant shall be responsible for the quality of the services provided, and shall maintain the necessary facilities and equipment required to satisfy the testing specifications.
6. Consultant shall request a clarification from the Project Manager for missing or ambiguous information or requirements. In the case of conflict in the plans, specifications, and/or codes, the more stringent inspection or testing requirement shall apply.
7. Consultant may need to subcontract for certain specialized testing or inspection services. The use of such subconsultant will require prior County approval.
8. Section 01440 of the Design Build Project Manual (Exhibit B) will form a part of this contract.

B. SCOPE

1. The scope of tests and inspections is based on the requirements of UBC Section 305, other referenced code requirements, and the various project plans and specifications. The services to be provided will be as directed by the County's representative. The Consultant will meet or communicate with the representative and/or construction contractor periodically to plan and schedule testing and inspection services.
2. The authorization to provide specific services will be issued by the Construction Manager using an Inspection Request Form. These requests will be issued by the County's representative periodically throughout the construction period, as construction activities dictate. The contractor will not be authorized to place orders directly with the testing firm. The County will not pay for the services requested by the contractor.

The Inspection Request Form describes the required test, location, and date required. It will be requested by the Contractor and forwarded to the County's representative for approval. Upon completion of the testing/inspection, the consultant will sign and date the forms which will be verified by the County's representative. The consultant will make a copy of the completed form which will be attached to the consultant's billing each month.

3. The consultant will maintain a monthly status report of the budget quantities and costs, quantities and cost expended through previous report period, quantities and cost this report period, and total quantities and cost to date. The status report will be submitted with the monthly billing.

C. TIME

Services shall start upon execution of the agreement and issuance of the first request.

The duration of the consultant contract will be for a period of 500 calendar days (approximately 16.5 months) at the established item prices. If the total contract amount for all items exceeds the agreement award amount by greater than 25%, the County has the right to re-advertise or negotiate with the consultant new item rates to fulfill the contract period.

The County has the option to extend services at the item prices for an additional 120 Days.

D. NOTICE

The consultant will be given one working day's notice prior to starting any new inspection/ testing service.

E. CONFLICT OF INTEREST

The consultant cannot contract directly with the construction contractor or any subcontractors for any testing services.

F. ITEM PRICES

Stanislaus County is not limited to the use of funds as estimated per item. Unused funds from one item price may roll-up to other items as required so long as the total contract award does not exceed 25% of the total proposal price.

G. REIMBURSEMENT

1. **WORK HOURS:** The consultant will only be paid for actual hours worked except for a one-hour minimum for show-up time.
2. **MILEAGE:** The cost of mileage to and from the project are included in the item prices (sample pick up and delivery to the lab excepted).
3. **OVERTIME:** A premium differential of no more than time and a half for overtime requires prior approval of the County or its designated representative appointed by the County. Any work performed in excess of eight (8) hours without prior approval will be recommended for payment at the listed unit cost rate.
4. **TRAVEL:** Travel time will be reimbursed for traveling beyond a 50 mile radius from the job site, but must have prior approval by the County. Travel time will be paid for no more than eight (8) hours a day at a field technician rate. No overtime will be paid on travel time.

When travel time is at a distance well beyond the 50 mile radius and air fare may be more practical, the consultant shall provide documentation of mileage versus air fare costs; whichever is the most cost effective will be reimbursed by the County.

5. **OUT OF TOWN INSPECTION:** Must have prior approval by the County.

H. SUBCONSULTANTS

Consultant's subconsultants' time shall be paid at consultant's cost which should be included as part of the item prices.

EXHIBIT B

SECTION 01440 TESTING

PART 1 - GENERAL

1.1 GENERAL

- A. Summarizes which tests and inspections will be performed by the Contractor, and which will be performed by the Owner's representatives. The detailed tests and inspections required to be performed by the Contractor may be found in the individual Sections of Divisions 2 through 16 of these Specifications.

1.2 COUNTY'S TESTING AGENCY

- A. The Owner will employ and pay a testing agency, identified in the various Specification Sections as "the Testing Agency" to perform tests, inspections, and sampling of the work, including but not limited to:
1. Concrete reinforcement, ingredients, and quality control.
 2. Structural steel.
 3. Metal decking and shear stud connectors.
 4. Roofing and waterproofing.
 5. Load bearing masonry.
 6. Sprayed fireproofing.
 7. Additional tests, inspections, and sampling required by the Specifications, the Owner, or the Architect.
- B. The Owner's employment of the testing agency shall in no way relieve the Contractor of his obligations to perform the work in accordance with Contract requirements.
- C. The Owner will back charge the Contractor for costs incurred in the event the Contractor's poor quality control of any material requires excessive repeated testing by the Owner's Testing Agency. The Owner may also back charge the Contractor for extraordinary inspection caused by the Contractor's failure to prosecute the work in a timely or orderly fashion. Back charges will be in the form of a deductive change order.
- D. The Contractor shall employ and pay for an approved Testing Laboratory to make tests demonstrating material compliance with the specifications and to prepare mix designs for concrete.

1.3 QUALITY ASSURANCE

- A. Qualifications of Testing Agents: Agencies, bureaus, or laboratories shall be acceptable to the Architect.
- B. Failure of Materials and Equipment Tested or Inspected:
1. The Contractor shall be charged for retesting and reinspection resulting from the Contractor's noncompliance with the Contract as evidenced by tests and inspections by the Owner's Testing Agency.
 2. Previous acceptance may be withdrawn and material of which tested samples are representative or equipment may be subject to removal and replacement by the Contractor at his expense with material or equipment meeting specification requirements.

3. The County may refuse consideration of further samples of same brand or make for testing.
4. At the Owner's discretion, defective material and equipment may be permitted to remain in place subject to adjustment of Contract price.

1.4 TESTING AGENCY'S DUTIES

- A. Cooperate with Construction Manager and the Contractor. Provide qualified personnel promptly upon notice.
- B. Perform required inspecting, sampling, and testing of materials and methods of construction.
 1. Comply with specified standards, other recognized authorities, and as specified.
 2. Check for compliance with Contract Documents.
- C. Promptly notify the Construction Manager and the Contractor of observed irregularities or deficiencies in the work.
- D. Promptly submit reports to the following:
 1. Copies to building authorities
 2. Three copies each to the Contractor's office and the Construction Manager.
 3. One copy to the Contractor's site office.
- E. Reports shall include the date issued and date of test, Project title and number, testing agency's name and address, name and signature of inspector, date of inspection or sampling, record of temperature and weather, identification of product and Specification Section, location in Project, type of inspection or test, and observation regarding compliance with Contract Documents.
- F. Perform additional services as required by the County.
- G. The testing agency is not authorized to release, revoke, alter, or enlarge on the requirements of the Contract Documents, approve or accept any portion of the work, and perform any of the Contractor's duties.

1.5 CONTRACTOR'S RESPONSIBILITIES

- A. Initiate and coordinate tests and inspections required by Contract Documents and public authorities having jurisdiction of the work.
- B. Notify the Testing Laboratory through the Construction Manager a sufficient time in advance (but no less than 48 hours) of the manufacture of materials to be supplied which, by requirements of the Contract Documents, must be tested at the source of supply so that the Laboratory may arrange for testing.
- C. When changes of construction schedule are necessary during construction, coordinate all such changes with the Testing Laboratory required.
- D. When the Testing Laboratory is ready to test according to the established schedule, but is prevented from testing or taking specimens due to incompleteness of the work, all extra charges for testing attributable to the delay may be back-charged to the Contractor and shall not be borne by the Owner.
- E. Provide access, facilities, tools, and labor necessary for duties to be performed at the site by Testing Laboratory and Inspector including furnishing ladders, hoisting, lighting, water supply, and like services.

- F. Provide and maintain, for the sole use of the Testing Laboratory, adequate facilities for the safe storage and proper curing of concrete test cylinders on the Project site as required by ASTM C31.
- G. Furnish and deliver samples of materials to be tested at no extra cost to County. Test samples will be selected by the Inspector or Testing Laboratory and not by the Contractor.
- H. Reports:
1. Furnish copies of each test and inspection report, signed and certified by the Testing Laboratory supervising engineer as follows:
 - a. Construction Manager: Two copies.
 - b. Architect: One copy.
 - c. Structural Engineer (structural tests only): One copy.
 - d. Contractor: Two copies.
 2. Promptly process and distribute required copies of test reports and related instructions to assure necessary retesting and replacement of materials with the least possible delay in progress of the work.
 3. The reports shall include detailed information relative to progress and condition of work including variances from the Contract Documents, and stipulating dates, hours, and locations of the tests and inspections, as applicable.
- I. Records:
1. Maintain correct records on an appropriate form for all inspections and tests performed, instructions received from the County or testing agency, and actions taken as a result of those instructions.
 2. These records shall include evidence that the required inspections or tests have been performed (including type and number of inspections or tests, nature of defects, causes for rejection, etc.), proposed or directed remedial action, and corrective action taken.
 3. Document inspections and tests as required by each Section of the Specifications.
- J. If laws, ordinances, rules, regulations, or orders of public agency having jurisdiction require work to be inspected, tested, or approved by some authority other than the County, or Contractor, the Contractor shall give required notices and make arrangements, deliver to the Owner the certificates of inspection, test, or approval of such public agency, and pay costs therefore unless otherwise provided in the Contract Documents.
- K. Completed Work: Should the Owner require tests and inspections for work completed before final acceptance of entire work, furnish necessary facilities, labor, and materials to uncover or remove work in question to extent necessary.
1. If such work is found defective due to fault of the Contractor, the Contractor shall defray expense of removal, test, and inspections, and satisfactory reconstruction. Time extension may not be granted.
 2. If such work is found to conform to requirements of the Contract, the Contractor shall be reimbursed by the Owner for facilities, labor, and materials required for removal, and costs of satisfactory reconstruction in accordance with Contract amounts for extra work. Reasonable time extension shall be granted.

1.6 TEST PROCEDURES

A. Testing:

1. Testing Laboratory will perform tests according to method(s) of test specified in these Specifications.
2. If no procedure or test method is specified, testing shall conform to material specification references unless otherwise directed by the County.
3. The Testing Laboratory will tag, seal, label, record, or otherwise suitably identify the materials for testing. No materials shall be used in the work until the test reports are submitted and approved, excepting only the materials specified to be placed or installed prior to testing.

B. Re-testing:

1. Repeat applicable tests at specified intervals, when:
 - a. The source of supply is changed.
 - b. The characteristics of the materials change or vary.
 - c. Unsatisfactory test results are received.
2. Quantity and nature of additional testing, if required, will be determined by the County.
3. Additional tests shall be taken in the presence of the Construction Manager.
4. Proof of noncompliance will make the Contractor liable for any corrective action which the County feels is prudent, including complete removal and replacement of defective materials.
5. Nothing contained herein is intended to imply that the Contractor does not have the right to have tests performed on any material at any time for his own information and job control so long as the County does not assume responsibility for costs or for giving them consideration when appraising quality of materials.

1.7 PAYMENT FOR TESTING

A. Initial Services:

1. The Owner will pay for initial testing services requested by the County.
2. When initial tests indicate non-compliance with the Contract Documents, the costs of initial tests associated with that non-compliance will be deducted by the Owner from the Contract Sum.

B. When initial tests indicate non-compliance with the Contract Documents, subsequent retesting occasioned by the non-compliance shall be performed by the same testing agency.

C. Reimburse the County all or any part, as the County may deem just and proper, of the inspection costs incurred by the County due to:

1. Failure of materials to pass initial tests.
2. Contractor's failure to complete the work within the Contract time, and any previously authorized extensions thereof.
3. Claims between separate contractors.

4. Covering of work before the required inspections or tests are performed.
5. Additional inspections required for Contractor's correction of defective work.
6. Overtime costs for acceleration of work done for Contractor's convenience.

1.8 CODE COMPLIANCE TESTING

- A. Inspections and tests required by codes or ordinances, or by a plan approval authority, and which are made by a legally constituted authority, shall be the responsibility of and shall be paid for by the Contractor, unless otherwise provided in the Contract Documents.

1.9 CONTRACTOR'S CONVENIENCE TESTING

- A. Inspecting and testing performed exclusively for the Contractor's convenience shall be the sole responsibility of the Contractor.

1.10 REQUEST FOR TESTING PROCEDURES

- A. Testing will be performed as ordered by the Construction Manager. The Contractor will follow the Construction Manager's procedures for requests for tests and inspections. The procedure will be as follows:
 - 1 The Contractor will fill out the request for testing form provided by the Construction Manager.
 - 2 The request for test will be made the Contractor at least 48 hours in advance of the needed date for the test.
 - 3 Contractor shall describe the test and the date the test is required. The request will be given to the Construction Manager for approval.
 - 4 The Construction Manager shall request the services from the testing agency.
 - 5 The testing agency will be provided a copy of the testing request which will be completed by the testing firm indicating the services provided.
 - 6 The Contractor will provide a testing schedule which will be reviewed each week for the following week's work.

PART 2 - PRODUCTS

Not used.

PART 3 - EXECUTION

Not used

END OF SECTION

**EXHIBIT C
DRAFT SCHEDULE**

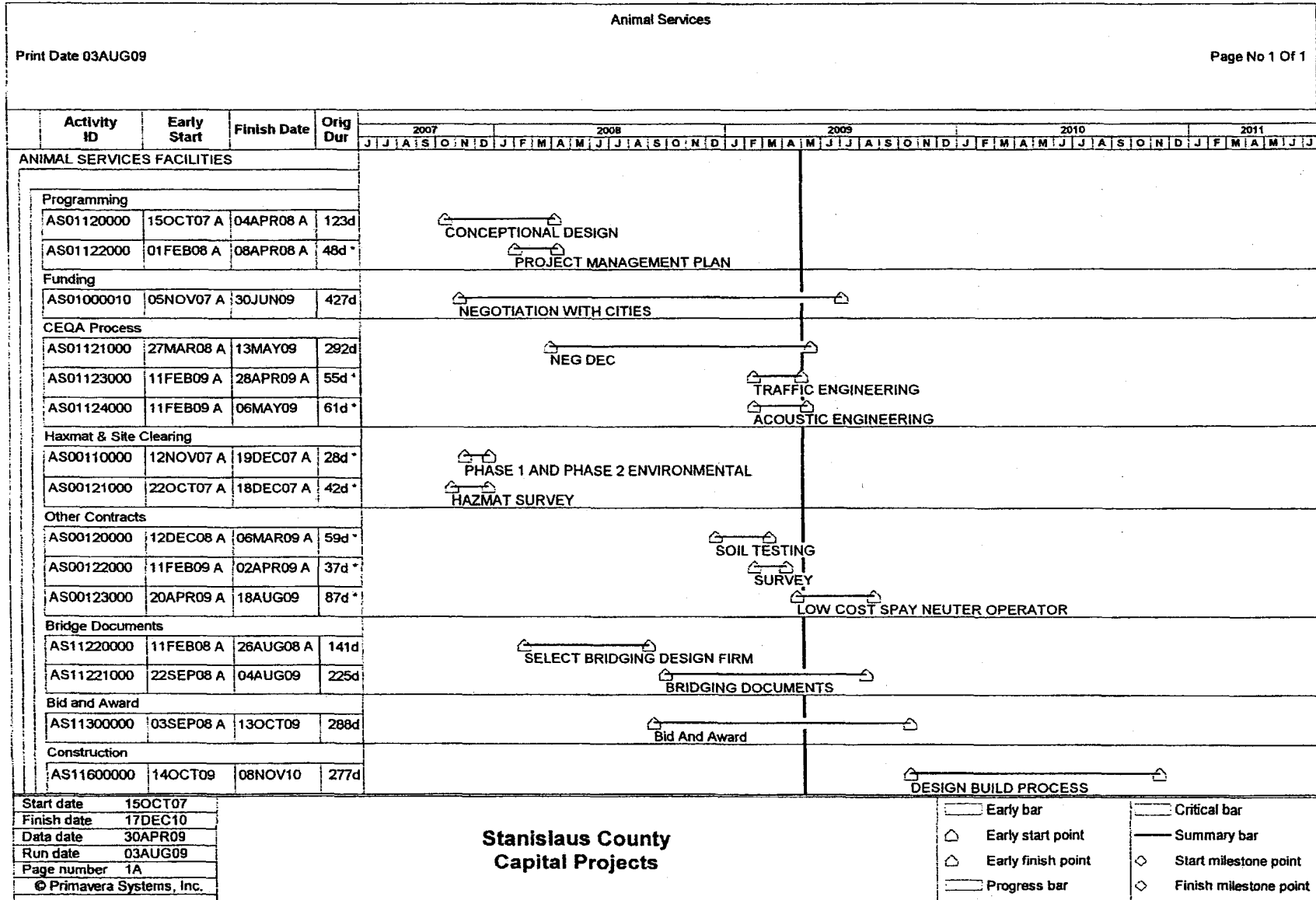


EXHIBIT D
PRICING PROPOSAL

DIV	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL COST
3	CAST-IN-PLACE AND PRECAST CONCRETE				
	Aggregate Test	2	EA	0	No charge
	Reinforcing Tests	2	EA	25.00	50.00
	Mix Designs	4	EA	0	No charge
	Reinforcing Placement	120	HRS	65.00	7,800.00
	Batch Plant Inspection	4	HRS	0	No charge
	Inspect Placing of Concrete	120	HRS	65.00	7,800.00
	Compression Tests	50	EA	5.00	250.00
4	MASONRY				
	Grout/Mortar Samples	5	EA	5.00	25.00
	CMU Compression Test (Set of 3)	4	SETS	30.00	120.00
	CMU Absorption & Moisture Content (Set of 3)	4	SETS	30.00	120.00
	Inspect Placing of Units	200	HRS	65.00	13,000.00
	Grout Compression Test	20	EA	5.00	100.00
	Prisms (Set of 3)	10	SETS	50.00	500.00
	SUBTOTAL				13,865.00
5	STRUCTURAL STEEL				
	Shop Material Identification	8	HRS	20.00	160.00
	Shop Welding Inspection	40	HRS	37.00	1,480.00
	Field Welding Inspection	40	HRS	65.00	2,600.00
	Mill Certs	20	HRS	10.00	200.00
	Field Bolting (Torque) Inspection w/Reports	20	HRS	65.00	1,300.00
	SUBTOTAL				5,740.00

DIV	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL COST
7	ROOFING/FIREPROOFING				
	Roofing / Fireproofing Inspection	24	HRS	65.00	1,560.00
	Fireproofing Density Tests	2	EA	10.00	20.00
	SUBTOTAL				1,580.00
	PROFESSIONAL SERVICES				
	REGISTERED PROFESSIONAL ENGINEER	16	HRS	0	No charge
	SUBTOTAL				0
	MISCELLANEOUS				
	Ceiling Grid Wire Pull-Out Test	6	EA	70.00	420.00
	Inspection Of Glu Lam Fabrication	40	HRS	69.00	2,760.00
	SUBTOTAL				3,180.00
	GRAND TOTAL				40,265.00

SPECIAL NOTE: Attach any rate schedules for tests or manpower not reflected on this list. Identify any test your firm may deem necessary after review of the Construction Documents.