

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

DEPT: Public Works *MM*

BOARD AGENDA # *C-1

Urgent Routine

AGENDA DATE March 1, 2011

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval of Agreements with NorthStar Engineering Group, Inc., DeLamare-Fultz Engineering and Surveying, BKF Engineering / Surveyors / Planners, Hawkins & Associates Engineering, Inc., and Aspen Survey Company to provide On-Call Professional Surveying Services for various Public Works Department Projects through March 2013

STAFF RECOMMENDATIONS:

1. Approve agreements with NorthStar Engineering Group, Inc., DeLamare-Fultz Engineering and Surveying, BKF Engineering/Surveyors/Planners, Hawkins & Associates Engineering, Inc., and Aspen Survey Company to provide on-call professional surveying services for various Public Works Department projects through March 2013 at an amount not to exceed \$100,000 annually for each individual agreement.
2. Authorize the Public Works Director to sign the agreements.
3. Authorize the Public Works Director to extend the term of the agreements, upon mutual agreement, for up to an additional year at an amount not to exceed \$100,000 annually for each agreement.

FISCAL IMPACT:

The fiscal amounts assigned to these agreements with NorthStar Engineering Group, Inc., DeLamare-Fultz Engineering and Surveying, BKF Engineering / Surveyors / Planners, Hawkins & Associates Engineering, Inc., and Aspen Survey Company for professional surveying services will depend upon the individual project and its specific requirements. Each separate project will individually fund their share of surveying services. These funds shall not exceed a maximum of \$100,000 annually for each individual agreement through March 2013.

Continued on Page 2

BOARD ACTION AS FOLLOWS:

No. 2011-129

On motion of Supervisor O'Brien, Seconded by Supervisor Chiesa
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Withrow, DeMartini, and Chairman Monteith

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval of Agreements with NorthStar Engineering Group, Inc., DeLamare-Fultz Engineering and Surveying, BKF Engineering / Surveyors / Planners, Hawkins & Associates Engineering, Inc., and Aspen Survey Company to provide On-Call Professional Surveying Services for various Public Works Department Projects through March 2013

This will not result in a change in the process of budgeting for road projects. Appropriations and associated revenues are established during the annual budget process. The cost of survey services is included in those projections.

DISCUSSION:

Surveying is an integral part of the design process. It ensures that designers have current, accurate, and reliable information about existing conditions in which they can base their designs. Professional surveying services include, but are not limited to, performing boundary surveys, right-of-way surveys, topographic surveys, construction staking, setting of monument wells, and preparation of legal descriptions, plat maps, and record of surveys.

In the past, survey services were contracted on an individual project basis. Approving agreements in advance and establishing an on-call list will reduce the time and costs required to obtain these services by eliminating the advertising and proposal review/ranking portion of the process. This saves approximately four to five weeks from the project schedule and eliminates costs associated with this portion of work.

In anticipation of the upcoming design projects in Fiscal Year 2011-2012 and the need for on-call professional surveying services for current projects, the Public Works Department sent Request for Proposals to all firms on the County's consultant list. The Request for Proposal was also posted on the Valley Reprographics Website.

Consultants were required to include in their proposals the following:

- list and description of all surveying services available for on-call services
- list of key personnel assigned to the contract
- list of survey equipment, vehicles, and tools
- list of recently completed projects showing past performances and abilities of the proposed team
- an hourly rate schedule in a separate and sealed envelope

On December 15, 2010, the Public Works Department received eleven proposals. The proposals were evaluated and scored by the Public Works Department, and the top five highest ranked firms were selected to the on-call list. The five firms are:

1. Aspen Survey Company
2. BKF Engineering/Surveyors/Planners
3. DeLamare-Fultz Engineering and Surveying
4. Hawkins & Associates Engineering, Inc.
5. Northstar Engineering Group, Inc.

Approval of Agreements with NorthStar Engineering Group, Inc., DeLamare-Fultz Engineering and Surveying, BKF Engineering / Surveyors / Planners, Hawkins & Associates Engineering, Inc., and Aspen Survey Company to provide On-Call Professional Surveying Services for various Public Works Department Projects through March 2013

Public Works will ensure that survey projects will be shared among all firms with the following criteria as a guide: project size and complexity to best match a firm's capability and capacity, cost, schedule, and equitable share of county contracts. These criteria are in order of importance, with the equity of county contracts being considered if the other criteria are generally equal for the given project.

POLICY ISSUES:

The recommended actions are consistent with the Board's priorities of providing A Safe Community, A Healthy Community and A Well Planned Infrastructure System by providing the Public Works Department with access to professional surveying services to assist with the development and delivery of various transportation projects in Stanislaus County. Furthermore, this action also supports the priority of the Efficient Delivery of Public Services through the economies of scales and efficiencies anticipated to be provided through the execution of these multi-year agreements.

STAFFING IMPACT:

There is no staffing impact associated with this item.

CONTACT PERSON:

Matt Machado, Public Works Director. Telephone: (209) 525-4130.

PS: jg
L:\Design\RFP\On-Call Surveying Services\BOS\Approval of Agreements_On-Call Surveying Services

STANISLAUS COUNTY
PROFESSIONAL DESIGN SERVICES MASTER AGREEMENT
March 1, 2011 to March 1, 2013

This Agreement is made and entered into by and between the County of Stanislaus, a political subdivision of the State of California, hereinafter referred to as "County" and NorthStar Engineering Group, Inc., hereinafter referred to as "Consultant".

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0 PROFESSIONAL SERVICES TO BE PROVIDED BY CONSULTANT

1.1. Scope of Services: Consultant shall provide the professional services described in the County's Request for Proposal ("RFP") attached hereto as Exhibit "A" and incorporated herein by reference and Consultant's Response to County's RFP (the "Response"). A copy of said Response is attached hereto as Exhibit "B" and incorporated herein by this reference. Each project added to and to be performed under this Agreement shall be separately approved by the parties. Each project where the cost of services does not exceed \$100,000 shall be approved by purchase order issued by the County Purchasing Agent or designee; projects greater than \$100,000 shall be approved by resolution of the Board of Supervisors for the County.

1.2. Professional Practices: All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also represents that it is familiar with all laws that may affect its performance of this Agreement and shall advise County of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Representations: Consultant represents that it has reviewed the RFP and that in its professional judgment the services to be performed under this Agreement can be performed within the maximum fee set forth herein below and within the time specified in the Project Schedule attached hereto. Consultant represents that it is qualified to perform the professional services required by this Agreement and possesses the necessary licenses and permits required to perform said services. Consultant represents that it has no interest and shall not acquire any interest direct or indirect which conflicts, or has the appearance of conflicting, in any manner or degree with the performance of the work and services under this Agreement.

1.4. Compliance with Laws. Consultant agrees that it shall perform the services required by this Agreement in compliance with all applicable Federal and California laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable

to the services required under this Agreement.

1.5. Non-Discrimination. 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 disability, medical condition (including genetic characteristics), marital status, age, political affiliation, sex or sexual orientation. 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.

1.6. Non-Exclusive Agreement. Consultant acknowledges that County may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of County. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

1.8. Covenant Against Contingent Fees. Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the consultant; to solicit or secure this agreement; and that he/she has not paid or agreed to pay any company or person other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award, or formation of this agreement. For breach or violation of this warranty, the local agency shall have the right to annul this agreement without liability, or at its discretion; to deduct from the agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

2.0 COMPENSATION AND BILLING

2.1. Compensation. For each task or project let under this Agreement Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "C", attached hereto and made a part of this Agreement (the "Fee Schedule"). Consultant will be compensated on a time and materials basis, based on the hours worked by the Consultant's employees or subcontractors at

the hourly rates specified in the Fee Schedule. Fee Schedule rates shall include direct salary costs, employee benefits, and overhead. The rates stated in the Fee Schedule are not adjustable during the term of this Agreement. Consultant's compensation under this Master Agreement shall in no case exceed Two Hundred Thousand Dollars (\$200,000). The County may retain ten percent of all periodic or progress payments made to the Consultant until completion and acceptance of all work tasks and County shall have right to withhold payment from Consultant for any unsatisfactory service until such time service is performed satisfactorily.

2.2. Reimbursements. In addition to the aforementioned fees, Consultant will be reimbursed for any expenses specifically set forth in a Project Scope of Work. All such reimbursement amounts are limited to those costs and expenses that are reasonable, necessary and actually incurred by the Consultant in connection with the services provided. The County shall not pay a mark up on any item of reimbursement. The County shall not pay for any item of overhead such as telephone, facsimile, postage, etc. All requests for reimbursement shall be accompanied by a copy of the original invoice.

2.3. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in Exhibits A and B and specified in each Project Scope of Work unless the County or the Project Manager for the Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.4. Method of Billing. Consultant may submit invoices to County's Project Manager for approval on a progress basis, but no more often than once each calendar month. Said invoice shall be based on the total of all Consultants' services that have been completed to County's sole satisfaction. County shall pay Consultant's invoice within forty-five (45) days from the date County receives said invoice. Each invoice shall describe in detail, the services performed and the associated percentage of tasks completed. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.5. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to County or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the termination of this Agreement.

3.0 TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days after County delivers its Notice to Proceed for each separately approved Project. Said services shall be performed in strict compliance with the Project Schedule approved by County as set forth in each Project Scope of Work. Each Project Schedule may be amended by mutual agreement of the parties.

Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

4.0 TERM OF CONTRACT AND TERMINATION

4.1. Term. This Agreement shall commence upon approval by the County's Board of Supervisors and continue for a period of twenty-four (24) months, or until all work on each Project let during the 24 month period is completed, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The County reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the County.

4.3. Compensation. In the event of termination, County shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of County's written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth in Exhibit "C. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the County or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the County within ten (10) days of delivery of termination notice to Consultant, at no cost to County. Any use of uncompleted documents without specific written authorization from Consultant shall be at County's sole risk and without liability or legal expense to Consultant.

5.0 INSURANCE REQUIREMENTS

5.1. Minimum Scope and Limits of Insurance. Consultant, at its sole cost and expense, for the full term of this Agreement (and any extensions thereof), shall obtain and maintain, at minimum, compliance with all of the following insurance coverage(s) and requirements. If Consultant normally carries insurance in an amount greater than the minimum amount listed below, that greater amount shall become the minimum required amount of insurance for purposes of this Agreement. The insurance listed below shall have a retroactive date of placement prior to, or coinciding with, the date services are first provided that are governed by the terms of this Agreement:

- (a) Comprehensive general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate. 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.
- (b) Automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate.
- (c) Workers' compensation insurance as required by the State of California.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than Two Million Dollars (\$2,000,000.00), combined single limit for each occurrence. If Consultant cannot provide an occurrence policy, Consultant shall provide insurance covering claims made as a result of performance of Work on this Project and shall maintain such insurance in effect for not less than three years following Final Completion of the Project.

5.2. Endorsements. The Consultant shall obtain a specific endorsement to all required insurance policies, except Professional Liability insurance, naming the County of Stanislaus, its Officers, Directors, Officials, Agents, Employees and Volunteers as additional insureds for at least three years after the completion of the work to be performed under this Agreement, but, to the extent that any insurance issued to Consultant in effect after the expiration of three years provides additional insured coverage to parties Consultant agreed in writing to name as an additional insured, then Consultant shall have the obligation under this contract to obtain such additional insured coverage for the County, under any and all policies Consultant has 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) Ongoing 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.
- (e) For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County, 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 Consultant.

5.3. Deductibles: 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 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 retentions, 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.

5.4. Certificates of Insurance: At least ten (10) days prior to the date the Consultant begins performance of its obligations under this Agreement, Consultant 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 Consultant. 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.

5.5. Non-limiting: Nothing in this Section or the insurance described herein shall be construed as limiting in any way, the indemnification provisions contained in this Agreement, or the liability of Consultant and Consultant's officers, employees, agents, representatives or subcontractors for payments of damages to persons or property.

5.6. Primary Insurance: The Consultant's insurance coverage shall be primary insurance regarding the County of Stanislaus, its Officers, Directors, Officials, Agents, Employees and Volunteers. Any insurance or self-insurance maintained by the County of Stanislaus, its Officers, Directors, Officials, Agents, Employees and Volunteers shall be excess of the Consultant's insurance and shall not contribute with Consultant's insurance. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials and employees. 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. Any and all insurances cared by it shall be deemed liability coverage for any and all actions it performs in connection with this Contract.

5.7. Cancellation of Insurance: 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 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. Consultant shall maintain such coverage in effect for three years after substantial completion of the project to the extent it is commercially available at reasonable rates.

5.8. California Admitted Insurer: 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.

5.9. Subcontractors: 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.

6.0 INDEMNIFICATION

6.1. Indemnification: To the fullest extent allowed by law, Consultant shall defend, indemnify, and hold harmless the County and its officers, directors, officials, agents, employees, volunteers and representatives (collectively, "Indemnitee") 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, (collectively, "losses") 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. These indemnification obligations shall not be limited by any assertion or finding that (1) the person or entity indemnified is liable by reason of non-delegable duty, or (2) the losses were caused in part by the negligence of, breach of contract by, or violation of law by Indemnitee. Nothing in this Agreement, including the provisions of this paragraph, shall constitute a waiver or limitation of any rights which Indemnitee may have under applicable law, including without limitation, the right to implied indemnity.

6.2. 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 and as limited in section 2782.8 of the California Civil Code. This duty to defend arises immediately when such claim is made and shall be independent of any finding of negligence and shall arise regardless of any claim or assertion that Indemnitee caused or contributed to the Losses. Consultant shall provide legal counsel acceptable to the County.

6.3. Duty to Cooperate: Each party shall notify the other party within ten (10) days 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.

6.4. 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.

6.5. The foregoing provisions in this section "Indemnification" shall survive the term and termination of this Agreement.

7.0 GENERAL PROVISIONS

7.1. Entire Agreement: This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

7.2. Representatives. The Director of the Stanislaus County Department of Public Works, or his designee, shall be the representative of County for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the County, called for by this Agreement, except as otherwise expressly provided in this Agreement. Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

7.3. Project Managers. County shall designate a Project Manager to work directly with Consultant in the performance of this Agreement. Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with County during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by County.

7.4. Designated Personnel: A material covenant of this agreement is that the Consultant shall assign the individuals designated below to perform the functions designated so long as they continue in the employ of the Consultant. The designated individuals shall, so long as their performance continues to be acceptable to County, remain in charge of the services for

the Project from beginning through completion of services.

- a. Project Manager: Rodrick Hawkins, President
- b. Lead/Manager: Kevin Genasci, Survey Manager

7.5. Removal of Personnel or Sub-Consultants: If the County, in its sole discretion at any time during the term of this agreement, desires the removal of any person or sub-consultant assigned by Consultant to perform services, then the Consultant shall remove such person or consultant immediately upon receiving notice from the County.

7.6. Notices: Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

If to County:

Stanislaus County Department of Public Works
Attn: Linda Allsop, Contracts Administration
1716 Morgan Road
Modesto, California 95358
Phone: (209) 525-4157
Fax: (209) 541-2506

If to Consultant:

Hawkins & Associates Engineering, Inc.
Attn: Kay Martin, Business Office Mgr.
436 Mitchell Road
Modesto, CA 95354
Phone: (209) 575-4295
Fax: (209) 578-4295

7.7. Attorneys' Fees: In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

7.8. Governing Law: This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Stanislaus County, California.

7.9. Assignment: Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without County's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of County's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

7.10. Independent Contractor: Consultant is and shall be acting at all times as an

independent contractor and not as an employee of County. Consultant shall secure, at his expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. 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.

7.11. Confidentiality: The Consultant 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.

7.12. Ownership of Documents: Any interest, including copyright interests, of Consultant or its contractors or subconsultants in studies, reports, memoranda, computational sheets, drawings, plans or any other documents, including electronic data, prepared in connection with the Services, shall be the property of County. To the extent permitted by law, work product produced under this Agreement shall be deemed works for hire and all copyrights in such works shall be the property of the County. In the event that it is ever determined that any works created by Consultant or its subconsultants under this Agreement are not works for hire, Consultant hereby assigns to County all copyrights to such works. With the County's prior written approval, Consultant may retain and use copies of such works for reference and as documentation of experience and capabilities.

7.13. Reuse of Design Documents: Should the County desire to reuse the documents specified above and not use the services of the Consultant, then the County agrees to require the new consultant to assume any and all obligations for the reuse of the documents, and the County releases Consultant and its subconsultants from all liability associated with the reuse of such documents.

7.14. Public Records Act Disclosure: Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, and provided to County may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualifies as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs County of such trade secret. The County will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The County shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

7.15. Responsibility for Errors: Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the County's representative, regarding any services rendered under this

Agreement at no additional cost to County. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to County, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of County and to participate in any meeting required with regard to the correction.

7.16. Order of Precedence: In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of the RFP or the Response, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over both the Response and the RFP and the Response shall govern over the RFP.

7.17. Costs: Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

7.18. No Third Party Beneficiary Rights: This Agreement is entered into for the sole benefit of County and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

7.19. Construction: The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

7.20. Amendments: This Agreement may be amend only by a writing executed by the parties hereto or their respective successors and assigns.

7.21. Waiver: The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

7.22. Severability: If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party is materially

impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.


7.23. Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

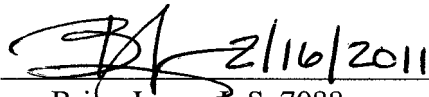
7.24. Corporate Authority: The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so, the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers:

COUNTY OF STANISLAUS

NORTHSTAR ENGINEERING GROUP, INC.

By: 
Matt Machado, Director
Department of Public Works

By:  2/16/2011
Brian Jones, L.S. 7088
Chief Financial Officer

APPROVED AS TO FORM:

John P. Doering
County Counsel

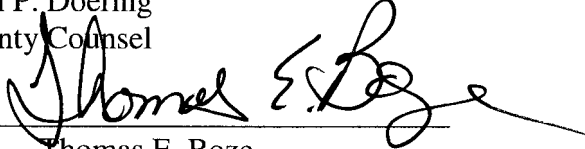
By: 
Thomas E. Boze
Deputy County Counsel

EXHIBIT A
Master Agreement

COUNTY'S REQUEST FOR PROPOSAL



DEPARTMENT OF PUBLIC WORKS

Matt Machado, PE
Director

Laurie Barton, PE
Deputy Director, Engineering/Operations

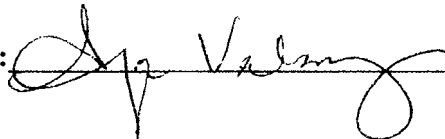
Diane Haugh
Assistant Director, Business/Finance

1716 Morgan Road, Modesto, CA 95358
Phone: 209.525.4130 Fax: 209.525.4120

Email: publicworks@stancounty.com
www.stancounty.com/publicworks

ADDENDUM NO. 1
TO REQUEST FOR PROPOSAL
FOR
ON-CALL PROFESSIONAL SURVEYING SERVICES
IN
STANISLAUS COUNTY

AJA VERBURG, ASSOCIATE ENGINEER

By: 

DATE: DECEMBER 10, 2010

PROPOSALS DUE: DECEMBER 15, 2010; 5:00 PM

Page 1 of 3

**ADDENDUM NO. 1
FOR ON-CALL PROFESSIONAL SURVEYING SERVICES,
FOR BIDS DUE WEDNESDAY, DECEMBER 15, 2010; 5:00 PM
DATE: DECEMBER 10, 2010**

TO ALL CONSULTANTS:

THE FOLLOWING CHANGES, ADDITIONS, AND CLARIFICATIONS ARE HEREBY MADE A PART OF THE REQUEST FOR PROPOSAL AND SHALL BE USED IN PREPARATION OF THE PROPOSAL SUBMITTED FOR THE WORK.

RESPONSES TO INQUIRIES

1. Without knowing the specific scope of work for future County projects, how would you suggest we solicit bids for future services and materials unknown at this time? Should we simply make some assumptions based on previous work completed for the County?

RESPONSE: UDBE/DBE forms are not required to be submitted with your proposal for this RFP. However, they will be required for project specific contracts after we establish the on-call list.

2. To ensure we meet the 3.6% goal for all projects, it seems we would need a set contract amount for the project? Again, Should we make cost assumptions based on previous work?

RESPONSE: See response to Question #1.

3. If we make some general assumptions for future projects, and solicit UDBE/DBE materials & services bids, and submit good faith efforts documentation, will that satisfy this proposal requirement?.

RESPONSE: See response to Question #1.

4. Is it left up to the individual Surveyors to format their submittals. In other words, do you have a template you want followed or can I include whatever I feel appropriate?

RESPONSE: The County does not have a template for proposals. It is up to each firm to format their own proposal and include information they believe will address the requirements of the RFP.

**ADDENDUM NO. 1
FOR ON-CALL PROFESSIONAL SURVEYING SERVICES,
FOR BIDS DUE WEDNESDAY, DECEMBER 15, 2010; 5:00 PM
DATE: DECEMBER 10, 2010**

5. Our firm is capable of performing all requested services with in-house staff. We are completing a good faith effort, but anticipate it will not be cost effective for the County for us to subcontract services. We also understand that we are required to submit good faith effort documentation upon selection for services. Therefore, if we do not plan to subcontract any services, for the proposal submittal, do Exhibit 10-O1 and 10-O2 simply need to be signed and dated?

RESPONSE: See response to Question #1. UDBE/DBE firms shall be given full opportunity to participate in the performance of the work. If no UDBE/DBE firm(s) are utilized, Exhibits 10-O1 & 10-O2 must be filled-out showing 0% participation and signed/dated by the proposer. Additional, good faith efforts must be documented for 0% UDBE/DBE participation.



STANISLAUS COUNTY
DEPARTMENT OF PUBLIC WORKS

NOTICE OF REQUEST FOR PROPOSALS

ON-CALL PROFESSIONAL SURVEYING SERVICES

Stanislaus County Department of Public Works is requesting proposals from qualified consultants to provide on-call professional surveying services. The County has established an Underutilized Disadvantaged Business Enterprise (UDBE) goal of 3.1 percent with an overall DBE goal of 3.6 percent for all contracts. Information regarding UDBE can be found in the attached "Notice to Proposers Disadvantaged Business Enterprise Information," of this Request for Proposal (RFP). Exhibit 10-O1 and Exhibit 10-O2 are required to be completed and included in the proposal. If the UDBE goal is not met for the project, only consultants selected to be awarded a Master Agreement contract will be required to submit adequate good faith efforts documentation.

A copy of this Request for Proposal is available for viewing and download on the Valley Reprographics website at www.valleyreproplanroom.com.

All questions must be submitted in writing. Please send all questions regarding this RFP in writing via email to Peter Song at peter.song@stancounty.com or fax to (209) 525-4188. The deadline to submit questions is 5:00 p.m. on Wednesday, December 8, 2010. Addendums, if necessary, will be posted on the Valley Reprographics website. The last day to issue an addendum is Friday, December 10, 2010.

Pursuant to Sections 1770 and 1773 of the Labor Code, the Board of Supervisors has ascertained the general prevailing rate of per diem wages applicable to the work to be done for straight time, overtime, Saturday, Sunday, and holiday work. These wage rates are set forth by the Director of the Department of Industrial Relations and are available at the agencies web site and are on file with the Department of Public Works and hereby made a part of the agreement.

Proposals must be submitted at or before 5:00 p.m. on Wednesday, December 15, 2010.

Proposals shall be delivered in person or by mail to the following address:

Stanislaus County
Department of Public Works
Attention: Peter Song, Assistant Engineer
1716 Morgan Road
Modesto, CA 95358

PROJECT DESCRIPTION:

The County will select and contract three (3) to five (5) firms for on-call professional surveying services. The contract with each firm will provide a not to exceed yearly budget to be drawn against as services are requested and performed. Services will be requested on an as needed and per project basis. The term of each contract will be for two (2) years with a County option for a one (1) year extension. The first two contracts issued will be for Record of Surveys, or Corner Records where applicable, for current County overlay projects.

Work will be assigned to firms on the on-call list in no particular order. The County will assign work based on the firms current work load, availability of services, cost, schedule, and contract performance.

SCOPE OF WORK:

The work will include, but will not be limited to the following:

- Boundary Surveys
- Right of Way Surveys
- Topographic Surveys and Mapping
- Record of Surveys
- Legal Descriptions and Plat Maps
- Construction Staking
- Setting of monument wells to Stanislaus County Standards (monument wells will be provided by Stanislaus County)

All work shall be performed under the direction of a Licensed Land Surveyor in accordance with the Professional Land Surveyors Act, Chapter 15, Article 3, Section 8276, or a licensed engineer authorized to do land survey work with the State of California under Section 8731 of the aforementioned Act.

Proper signs and flagging shall be used for all field work within the County right-of-way.

PROPOSAL REQUIREMENTS:

The proposal, at a minimum, shall include the following:

- List and description of all surveying services available for on-call services.
- List of personnel available for these services and a resume of qualifications for each. Each firm shall provide the name of at least one Licensed Land Surveyor, and/or Licensed Engineer authorized to do land surveying in the State of California.
- List of survey equipment, vehicles, and tools (ex. jack hammers)
- List of recently completed projects showing past performances and abilities of the proposed team.

- Details on the firms ability to adequately respond to County’s requests for services in a timely manner.
- Three (3) copies of your proposal must be submitted to the County. Please include with the proposal, in a **SEPARATE, SEALED ENVELOPE**, your hourly rate schedule. The hourly rate schedule must include all staff hourly rates and fees. Sub-consultant fees must be clearly indicated (if applicable).
- Provide references, including, but not limited to public agency clients, with a designated contact person and phone number for each reference.

The successful firms will be required to enter into a Professional Design Services Agreement with Stanislaus County for the work to be performed. A sample design services agreement is included with this Request for Proposal. The County is currently revising the indemnity section of the Professional Design Services Agreement to be consistent with Senate Bill No. 972 (SB972). A copy of SB972 is included with this RFP for your reference. The consultant shall state in the submitted proposal that their firm has reviewed the Sample Professional Design Services Agreement and will meet all of the terms and conditions if selected by the County for the requested services.

The proposals will be evaluated based on the scoring chart below. This scoring system is provided as a guideline for evaluating proposals that are submitted in response to a Request for Proposal.

Criteria	(a) Weight	(b) Score (0-10)	(a) x (b) Weighted Score
Professional Surveying Services Provided	3		
Experience of Project Manager	2		
Qualification and Experience of Key Personnel	2		
Demonstration of Professional and Financial Responsibility	1		
Experience Working With Public Agencies	1		
References	1		

Fail (0 points): Zero (0) points are given when the category being evaluated is nonresponsive.

Below Average (1 - 4 points): One (1) to four (4) points are awarded to responses that are considered to be minimally acceptable.

Average (5 points): Five (5) points are awarded if qualifications fully satisfy the requirement.

Above Average (6 - 9 points): Six (6) points to nine (9) points are awarded if qualifications more than satisfy the requirement and experience specifically applies to the project under consideration.

Exceptional (10 points): Ten (10) points are awarded if a firm's qualifications far exceed those required. Scores of ten (10) points generally are infrequent.

The proposals will be reviewed shortly after the closing date for submittal of proposals. Those firms believed to be the most qualified, based on their proposal, may be subject to an interview.

ATTACHMENTS:

1. Notice to Proposers Disadvantaged Business Enterprise Information
2. Exhibit 10-O1 & 10-O2
3. Prompt Payment of Withheld Funds to Subcontractors
4. Sample Design Services Agreement
5. Senate Bill 972



DEPARTMENT OF PUBLIC WORKS

Matt Machado, PE
Director

Laurie Barton, PE
Deputy Director, Engineering/Operations

Diane Haugh
Assistant Director, Business/Finance

1716 Morgan Road, Modesto, CA 95358
Phone: 209.525.4130 Fax: 209.525.4120

Email: publicworks@stancounty.com
www.stancounty.com/publicworks

**NOTICE TO PROPOSERS
DISADVANTAGED BUSINESS ENTERPRISE
INFORMATION**

Stanislaus County has established an Underutilized DBE goal for this Agreement of 3.1% and an overall DBE goal of 3.6 percent.

1. TERMS AS USED IN THIS DOCUMENT

- The term “Disadvantaged Business Enterprise” or “DBE” means a for-profit small business concern owned and controlled by a socially and economically disadvantaged person(s) as defined in Title 49, Part 26.5, Code of Federal Regulations (CFR).
- The term “Underutilized Disadvantaged Business Enterprise” or “UDBE.” DBE classes that have been determined in the 2007 Caltrans Disparity Study to have a statistically significant disparity in their utilization in previously awarded transportation contracts. UDBEs include: African Americans, Native Americans, Asian-Pacific Americans, and Women.
- The term “Agreement” also means “Contract.”
- Agency also means the local entity entering into this contract with the Contractor or Consultant.
- The term “Small Business” or “SB” is as defined in 49 CFR 26.65.

2. AUTHORITY AND RESPONSIBILITY

- A. DBEs and other small businesses are strongly encouraged to participate in the performance of Agreements financed in whole or in part with federal funds (See 49 CFR 26, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs”). The Contractor should ensure that DBEs and other small businesses have the opportunity to participate in the performance of the work that is the subject of this solicitation and should take all necessary and reasonable steps for this assurance. The proposer shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.

- B. Proposers are encouraged to use services offered by financial institutions owned and controlled by DBEs.

3. SUBMISSION OF UDBE AND DBE INFORMATION

If there is a UDBE goal on the contract, a “Local Agency Proposer UDBE Commitment (Consultant Contract)” (Exhibit 10-O1) form shall be included in the Request for Proposal. In order for a proposer to be considered responsible and responsive, the proposer must make good faith efforts to meet the goal established for the contract. If the goal is not met, the proposer must document adequate good faith efforts. Only UDBE participation will be counted towards the contract goal; however, all DBE participation shall be collected and reported.

A “Local Agency Proposer DBE Information (Consultant Contract)” (Exhibit 10-O2) form shall be included with the Request for Proposal. The purpose of the form is to collect data required under 49 CFR 26. For contracts with UDBE goals, this form collects DBE participation by DBEs owned by Hispanic American and Subcontinent Asian Americans males (persons whose origin are from India, Pakistan, Bangladesh, Bhutan, Maldives Islands, Nepal or Sri Lanka). For contracts with no goals, this form collects information on all DBEs, including UDBEs. Even if no DBE participation will be reported, the successful proposer must execute and return the form.

4. DBE PARTICIPATION GENERAL INFORMATION

It is the proposer’s responsibility to be fully informed regarding the requirements of 49 CFR, Part 26, and the Department’s DBE program developed pursuant to the regulations. Particular attention is directed to the following:

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
- B. A certified DBE may participate as a prime contractor, subcontractor, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A UDBE proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:
 - 1. The proposer is a UDBE and will meet the goal by performing work with its own forces.
 - 2. The proposer will meet the goal through work performed by UDBE subcontractors, suppliers or trucking companies.
 - 3. The proposer, prior to proposing, made adequate good faith efforts to meet the goal.

- D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- F. The proposer shall list only one subcontractor for each portion of work as defined in their proposal and all DBE subcontractors should be listed in the bid/cost proposal list of subcontractors.
- G. A prime contractor who is a certified DBE is eligible to claim all of the work in the Agreement toward the DBE participation except that portion of the work to be performed by non-DBE subcontractors.

5. RESOURCES

- A. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP. If you believe a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification toll free number 1-866-810-6346 for assistance. Proposer may call (916) 440-0539 for web or download assistance.
- B. Access the CUCP database from the Department of Transportation, Civil Rights, Business Enterprise Program web site at: <http://www.dot.ca.gov/hq/bep/>.
 - Click on the link in the left menu titled *Disadvantaged Business Enterprise*
 - Click on *Search for a DBE Firm* link
 - Click on *Access to the DBE Query Form* located on the first line in the center of the page
 - Searches can be performed by one or more criteria
 - Follow instructions on the screen
- C. How to Obtain a List of Certified DBEs without Internet Access

D. DBE Directory: If you do not have Internet access, Caltrans also publishes a directory of certified DBE firms extracted from the online database. A copy of the directory of certified DBEs may be ordered at: <http://caltrans-opac.ca.gov/publicat.htm>

6. MATERIALS OR SUPPLIES PURCHASED FROM DBES COUNT TOWARDS DBE CREDIT, AND IF A DBE IS ALSO A UDBE, PURCHASES WILL COUNT TOWARDS THE UDBE GOAL UNDER THE FOLLOWING CONDITIONS:

- A. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Agreement and of the general character described by the specifications.
- B. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Agreement are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.
- C. If the person both owns and operates distribution equipment for the products, any Supplementing of regular dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not UDBE regular dealers within the meaning of this section.
- D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

7. FOR DBE TRUCKING COMPANIES: CREDIT FOR DBES WILL COUNT TOWARDS DBE CREDIT, AND IF A DBE IS A UDBE, CREDIT WILL COUNT TOWARDS THE UDBE GOAL UNDER THE FOLLOWING CONDITIONS:

- A. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular Agreement, and there cannot be a contrived arrangement for the purpose of meeting the UDBE goal.
- B. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the Agreement.
- C. The DBE receives credit for the total value of the transportation services it provides on the Agreement using trucks it owns, insures, and operates using drivers it employs.
- D. The DBE may lease trucks from another DBE firm including an owner-operator who is certified as a DBE. A DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Agreement.
- E. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. A DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. A DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by the DBE.
- F. For the purposes of this Section D, a lease must indicate that the DBE has exclusive use and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, as long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

EXHIBIT 10-01 Local Agency Proposer UDBE Commitment (Consultant Contracts)

NOTE: PLEASE REFER TO INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM

LOCAL AGENCY: _____ LOCATION: _____

PROJECT DESCRIPTION: _____

PROPOSAL DATE: _____

PROPOSER'S NAME: _____

CONTRACT UDBE GOAL (%): _____

WORK ITEM NO.	DESCRIPTION OR SERVICES TO BE SUBCONTRACTED (or contracted if the proposer is a UDBE)	UDBE CERT NO. AND EXPIRATION DATE	NAME OF EACH UDBE (Must be certified at the time proposals are due - include UDBE address and phone number)	PERCENT PARTICIPATION OF EACH UDBE

For Local Agency to Complete:

Local Agency Proposal Number: _____

Federal-Aid Project Number: _____

Federal Share: _____

Proposal Date: _____

Local Agency certifies that the UDBE certifications have been verified and all information is complete and accurate/unless noted otherwise.

Print Name _____ Signature _____ Date _____
Local Agency Representative

(Area Code) Telephone Number: _____

Total Claimed UDBE Commitment _____ %

Signature of Proposer _____

Date _____ (Area Code) Tel. No. _____

Person to Contact _____ (Please Type or Print)

Local Agency Proposer UDBE Commitment (Consultant Contracts)
(Rev 6/27/09)

Distribution: (1) Original - Local agency files

**INSTRUCTIONS – LOCAL AGENCY PROPOSER UDBE COMMITMENT
(CONSULTANT CONTRACTS)****ALL PROPOSERS:**

PLEASE NOTE: It is the proposer's responsibility to verify that the UDBE(s) falls into one of the following groups in order to count towards the UDBE contract goal: 1) African Americans; 2) Asian-Pacific Americans; 3) Native Americans; 4) Women. This information must be submitted with your proposal. Failure to submit the required UDBE commitment will be grounds for finding the proposal nonresponsive.

A "UDBE" is a firm meeting the definition of a DBE as specified in 49 CFR and is one of the following groups: African Americans, Native Americans, Asian-Pacific Americans, or Women.

The form requires specific information regarding the consultant contract: Local Agency, Location, Project Description, Proposal Date, Proposer's Name, and Contract UDBE Goal.

The form has a column for the Work Item Number and Description or Services to be subcontracted to UDBEs (or performed if the proposer is a UDBE). The UDBE prime contractors shall indicate all work to be performed by UDBEs including work to be performed by its own forces, if a UDBE. The UDBE shall provide a certification number to the Consultant and notify the Consultant in writing with the date of decertification if their status should change during the course of the contract. Enter UDBE prime consultant and subconsultant certification numbers. The form has a column for the Names of certified UDBEs to perform the work (must be certified on the date proposals are due and include UDBE address and phone number).

There is a column for the percent participation of each UDBE. Enter the Total Claimed UDBE Participation percentage of items of work submitted with proposal pursuant to the Special Provisions. (If 100% of item is not to be performed or furnished by the UDBE, describe exact portion of time to be performed or furnished by the UDBE.) See "Notice to Proposers Disadvantaged Business Enterprise Information," (Exhibit 10-I) to determine how to count the participation of UDBE firms. **Note:** If the proposer has not met the contract goal, the local agency must evaluate the proposer's good faith efforts to meet the goal in order to be considered for award of the contract.

Exhibit 10-01 must be signed and dated by the consultant submitting the proposal. Also list a phone number in the space provided and print the name of the person to contact.

For the Successful Proposer only, local agencies should complete the Proposal Number, Federal-aid Project Number, Federal Share, and Proposal Date fields and verify that all information is complete and accurate before filing.

EXHIBIT 10-02 Local Agency Proposer DBE Information (Consultant Contracts)

NOTE: PLEASE REFER TO INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM				
LOCAL AGENCY: _____		LOCATION: _____		
PROJECT DESCRIPTION: _____				
TOTAL CONTRACT AMOUNT (\$): _____				
PROPOSER'S NAME: _____				
WORK ITEM NO.	DESCRIPTION OR SERVICES TO BE SUBCONTRACTED (or contracted if the proposer is a DBE)	DBE CERT NO. AND EXPIRATION DATE	NAME OF EACH DBE (Must be certified at the time proposals are due - include DBE address and phone number)	DOLLAR AMOUNT OF EACH DBE
<p>For Local Agency to Complete:</p> <p>Local Agency Contract Number: _____</p> <p>Federal-Aid Project Number: _____</p> <p>Federal Share: _____</p> <p>Contract Award: _____</p> <p>Local Agency certifies that the DBE certifications have been verified and all information is complete and accurate.</p> <p>_____</p> <p>Print Name _____ Signature _____ Date _____</p> <p>Local Agency Representative</p> <p>(Area Code) Telephone Number: _____</p>			<p>Total Claimed DBE Participation \$ _____</p> <p style="text-align: right;">_____ %</p>	
<p>For Caltrans Review:</p> <p>_____</p> <p>Print Name _____ Signature _____ Date _____</p> <p>Caltrans District Local Assistance Engineer</p>			<p>Signature of Proposer _____</p> <p>Date _____ (Area Code) Tel. No. _____</p> <p>Person to Contact _____ (Please Type or Print)</p> <p>Local Agency Proposer DBE Information (Consultant Contracts) (Rev 6/27/09)</p>	

Distribution: (1) Copy - Fax or scan a copy to the Caltrans District Local Assistance Engineer (DLAE) within 15 days after contract execution. Failure to send a copy to the DLAE within 15 days after contract execution may result in deobligation of funds for this project.
(2) Original - Local agency files

**INSTRUCTIONS - LOCAL AGENCY PROPOSER DBE INFORMATION
(CONSULTANT CONTRACTS)**

SUCCESSFUL PROPOSER:

The form requires specific information regarding the consultant or other contract: Local Agency, Location, Project Description, Total Contract Amount, Proposal Date, and successful Proposer's Name.

The form has a column for the Work Item Number and Description or Services to be Subcontracted to DBEs. The prime consultant shall indicate all work to be performed by DBEs including, if the prime consultant is a DBE, work performed by its own forces, if a DBE. The DBE shall provide a certification number to the prime consultant. Enter DBE prime consultant's and subconsultant's certification number. The form has a column for the Names of DBE certified contractors to perform the work (must be certified on or before the proposals are due and include DBE address and phone number).

Enter the Total Claimed DBE Participation dollar amount of items of work in the total DBE Dollar Amount column. (If 100% of item is not to be performed by the DBE, describe exact portion of time to be performed by the DBE.) See "Notice to Proposers Disadvantaged Business Enterprise Information," (Exhibit 10-I) to determine how to count the participation of DBE firms.

Exhibit 10-02 must be signed and dated by the successful proposer at contract execution. Also list a phone number in the space provided and print the name of the person to contact.

Local agencies should complete the Contract Number, Federal-aid Project Number, Federal Share, and Contract Award fields and verify that all information is complete and accurate before signing and sending a copy of the form to the District Local Assistance Engineer within 15 days of contract execution. Failure to submit a completed and accurate form within the 15-day time period may result in the deobligation of funds on this project.

District DBE Coordinator should verify that all information is complete and accurate. Once the information has been verified, the **District Local Assistance Engineer** signs and dates the form.

(Attachment)

Prompt Payment of Withheld Funds to Subcontractors

Federal regulation (49 CFR 26.29) requires one of the following three methods be used in federal-aid contracts to ensure prompt and full payment of any retainage kept by the prime contractor or subcontractor to a subcontractor.

Please check the box of the method chosen by the local agency to ensure prompt and full payment of any retainage.

- Method 1:** No retainage will be held by the agency from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
- Method 2:** No retainage will be held by the agency from progress payments due the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor in 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
- Method 3:** The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

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**STANISLAUS COUNTY
PROFESSIONAL DESIGN SERVICES AGREEMENT**

This Agreement is made and entered into by and between the County of Stanislaus, a political subdivision of the State of California, hereinafter referred to as "County" and INSERT CONSULTANT'S NAME, hereinafter referred to as "Consultant".

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0 PROFESSIONAL SERVICES TO BE PROVIDED BY CONSULTANT

1.1. Scope of Services: Consultant shall provide the professional services described in the County's Request for Proposal ("RFP") attached hereto as Exhibit "A" and incorporated herein by reference and Consultant's Response to County's RFP (the "Response"). A copy of said Response is attached hereto as Exhibit "B" and incorporated herein by this reference.

1.2. Professional Practices: All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also represents that it is familiar with all laws that may affect its performance of this Agreement and shall advise County of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Representations: Consultant represents that it has reviewed the RFP and that in its professional judgment the services to be performed under this Agreement can be performed within the maximum fee set forth herein below and within the time specified in the Project Schedule attached hereto. Consultant represents that it is qualified to perform the professional services required by this Agreement and possesses the necessary licenses and permits required to perform said services. Consultant represents that it has no interest and shall not acquire any interest direct or indirect which conflicts, or has the appearance of conflicting, in any manner or degree with the performance of the work and services under this Agreement.

1.4. Compliance with Laws. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement.

1.5. Non-Discrimination. During the performance of this Agreement, Consultant and its officers, employees, agents, representatives or subcontractors shall not unlawfully

SAMPLE

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. 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.

1.6. Non-Exclusive Agreement. Consultant acknowledges that County may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of County. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

2.0 COMPENSATION AND BILLING

2.1. Compensation. Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "C", attached hereto and made a part of this Agreement (the "Fee Schedule"). Consultant's compensation shall in no case exceed Insert Amount – spelled out and (\$)

2.2. Reimbursements. In addition to the aforementioned fees, Consultant will be reimbursed for any expenses specifically set forth in a Project Scope of Work. All such reimbursement amounts are limited to those costs and expenses that are reasonable, necessary and actually incurred by the Consultant in connection with the services provided. The County shall not pay a mark up on any item of reimbursement. The County shall not pay for any item of overhead such as telephone, facsimile, postage, etc. All requests for reimbursement shall be accompanied by a copy of the original invoice.

2.3. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in Exhibits A and B unless the County or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

SAMPLE

2.4. Method of Billing. Consultant may submit invoices to County's Project Manager for approval on a progress basis, but no more often than once each calendar month. Said invoice shall be based on the total of all Consultants' services that have been completed to County's sole satisfaction. County shall pay Consultant's invoice within forty-five (45) days from the date County receives said invoice. Each invoice shall describe in detail, the services performed and the associated percentage of tasks completed. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.5. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to County or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the termination of this Agreement.

3.0 TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days after County delivers its Notice to Proceed. Said services shall be performed in strict compliance with the Project Schedule approved by County as set forth in Exhibit "D", attached hereto and incorporated herein by this reference. The Project Schedule may be amended by mutual agreement of the parties. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

4.0 TERM OF CONTRACT AND TERMINATION

4.1. Term. This Agreement shall commence upon approval by the County's Board of Supervisors and continue until the work required herein is completed, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The County reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of

SAMPLE

termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the County.

4.3. Compensation. In the event of termination, County shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of County's written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth in Exhibit "C". In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the County or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the County within ten (10) days of delivery of termination notice to Consultant, at no cost to County. Any use of uncompleted documents without specific written authorization from Consultant shall be at County's sole risk and without liability or legal expense to Consultant.

5.0 INSURANCE REQUIREMENTS

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain and maintain during the life of this Agreement all of the following insurance coverage:

- (a) Comprehensive general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury with a policy limit of not less than Two Million Dollars (\$2,000,000.00), combined single limits, per occurrence and aggregate. 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.
- (b) Automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate.
- (c) Workers' compensation insurance as required by the State of California.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than Two Million Dollars (\$2,000,000.00), combined single limit for each occurrence. If Consultant cannot provide an occurrence policy, Consultant shall provide insurance covering claims made as a result of performance of Work on this Project and shall maintain such insurance in effect for not less than three years following Final

SAMPLE

Completion of the Project.

5.2. Endorsements. The Consultant shall obtain a specific endorsement to all required insurance policies, except 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 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.
- (e) For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County, 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 Consultant.

5.3. Deductibles: 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 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 retentions, 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.

5.4. Certificates of Insurance: At least ten (10) days prior to the date the Consultant begins performance of its obligations under this Agreement, Consultant 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 Consultant. 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.

5.5. Non-limiting: Nothing in this Section or the insurance described herein shall be construed as limiting in any way, the indemnification provisions contained in this Agreement, or the liability of Consultant and Consultant's officers, employees, agents, representatives or subcontractors for payments of damages to persons or property.

5.6. Primary Insurance: The Consultant's insurance coverage shall be primary

SAMPLE

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

5.7. Cancellation of Insurance: 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 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. Consultant shall maintain such coverage in effect for three (3) years after substantial completion of the project to the extent it is commercially available at reasonable rates.

5.8. California Admitted Insurer: 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.

5.9. Subcontractors: 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.

6.0 INDEMNIFICATION

6.1. 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.

6.2. 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

SAMPLE

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.

6.3. 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.

6.4. 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.

7.0 GENERAL PROVISIONS

7.1. Entire Agreement: This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

7.2. Representatives. The Director of the Stanislaus County Department of Public Works, or his designee, shall be the representative of County for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the County, called for by this Agreement, except as otherwise expressly provided in this Agreement. Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

7.3. Project Managers. County shall designate a Project Manager to work directly with Consultant in the performance of this Agreement. Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with County during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by County.

SAMPLE

7.4. Designated Personnel: A material covenant of this agreement is that the Consultant shall assign the individuals designated below to perform the functions designated so long as they continue in the employ of the Consultant. The designated individuals shall, so long as their performance continues to be acceptable to County, remain in charge of the services for the Project from beginning through completion of services.

- a. Project Manager: _____; and
- b. Lead/Manager: _____

7.5. Removal of Personnel or Sub-Consultants: If the County, in its sole discretion at any time during the term of this agreement, desires the removal of any person or sub-consultant assigned by Consultant to perform services, then the Consultant shall remove such person or consultant immediately upon receiving notice from the County.

7.6. Notices: Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

If to County:

Stanislaus County
Department of Public Works
Attn:
1716 Morgan Road
Modesto, California 95358

If to Consultant:

7.7. Attorneys' Fees: In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

7.8. Governing Law: This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Stanislaus County, California.

7.9. Assignment: Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without County's prior written consent. Any attempted assignment, transfer, subletting or encumbrance

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shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of County's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

7.10. Independent Contractor: Consultant is and shall be acting at all times as an independent contractor and not as an employee of County. Consultant shall secure, at his expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. 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.

7.11. Confidentiality: The Consultant 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.

7.12. Ownership of Documents: Any interest, including copyright interests, of Consultant or its contractors or subconsultants in studies, reports, memoranda, computational sheets, drawings, plans or any other documents, including electronic data, prepared in connection with the Services, shall be the property of County. To the extent permitted by law, work product produced under this Agreement shall be deemed works for hire and all copyrights in such works shall be the property of the County. In the event that it is ever determined that any works created by Consultant or its subconsultants under this Agreement are not works for hire, Consultant hereby assigns to County all copyrights to such works. With the County's prior written approval, Consultant may retain and use copies of such works for reference and as documentation of experience and capabilities.

7.13. Reuse of Design Documents: Should the County desire to reuse the documents specified above and not use the services of the Consultant, then the County agrees to require the new consultant to assume any and all obligations for the reuse of the documents, and the County releases Consultant and its subconsultants from all liability associated with the reuse of such documents.

7.14. Public Records Act Disclosure: Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, and provided to County may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualifies as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs County of such trade secret.

SAMPLE

The County will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The County shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

7.15. Responsibility for Errors: Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the County's representative, regarding any services rendered under this Agreement at no additional cost to County. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to County, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of County and to participate in any meeting required with regard to the correction.

7.16. Order of Precedence: In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of the RFP or the Response, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over both the Response and the RFP and the Response shall govern over the RFP.

7.17. Costs: Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

7.18. No Third Party Beneficiary Rights: This Agreement is entered into for the sole benefit of County and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

7.19. Construction: The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

7.20. Amendments: This Agreement may be amend only by a writing executed by the parties hereto or their respective successors and assigns.

7.21. Waiver: The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative

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of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

7.22. Severability: If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

7.23. Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

7.24. Corporate Authority: The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so, the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers:

COUNTY OF STANISLAUS

INSERT NAME OF COMPANY

By: _____
Matt Machado, Director
Department of Public Works

By: _____
(Insert Name)
(Insert Title)

Approved: BOS Resolution # _____
Dated: _____

APPROVED AS TO FORM:
John P. Doering
County Counsel

By: _____
Thomas E. Boze
Deputy County Counsel

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EXHIBIT A

COUNTY'S REQUEST FOR PROPOSAL

SAMPLE

EXHIBIT B

CONSULTANT'S RESPONSE TO COUNTY'S REQUEST FOR PROPOSAL

SAMPLE

EXHIBIT C

CONSULTANT'S FEE SCHEDULE

SAMPLE

EXHIBIT D

PROJECT SCHEDULE

Senate Bill No. 972

CHAPTER 510

An act to amend Section 2782.8 of the Civil Code, relating to indemnity.

[Approved by Governor September 29, 2010. Filed with
Secretary of State September 29, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 972, Wolk. Indemnity: design professionals.

Existing law provides, for all contracts, and amendments to contracts, entered into on or after January 1, 2007, with a public agency for design professional services, all provisions, clauses, covenants, and agreements contained in, collateral to, or affecting these contracts, that purport to indemnify, including the cost to defend, the public agency by a design professional against liability for claims against the public agency, are unenforceable, except for claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional.

This bill would provide, with respect to contracts and amendments to contracts entered into on or after January 1, 2011, with a public agency for design professional services, that all provisions, clauses, covenants, and agreements contained in, collateral to, or affecting these contracts or amendments to contracts that purport to require the design professional to defend the public agency under an indemnity agreement, including the duty and the cost to defend, are unenforceable, except for claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional. The bill would provide that all contracts and all solicitation documents between a public agency and a design professional are deemed to incorporate these provisions by reference.

The people of the State of California do enact as follows:

SECTION 1. Section 2782.8 of the Civil Code is amended to read:

2782.8. (a) For all contracts, and amendments thereto, entered into on or after January 1, 2007, with a public agency for design professional services, all provisions, clauses, covenants, and agreements contained in, collateral to, or affecting any such contract, and amendments thereto, that purport to indemnify, including the duty and the cost to defend, the public agency by a design professional against liability for claims against the public agency, are unenforceable, except for claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional. The duty to indemnify, including the duty and the cost to defend, is limited as provided in this section. This section shall not be waived

or modified by contractual agreement, act, or omission of the parties. Contractual provisions, clauses, covenants, or agreements not expressly prohibited herein are reserved to the agreement of the parties.

(b) All contracts and all solicitation documents, including requests for proposal, invitations for bid, and other solicitation documents, between a public agency and a design professional, are deemed to incorporate by reference the provisions of this section.

(c) For purposes of this section, the following definitions apply:

(1) "Public agency" includes any county, city, city and county, district, school district, public authority, municipal corporation, or other political subdivision, joint powers authority, or public corporation in the state. Public agency does not include the State of California.

(2) "Design professional" includes all of the following:

(A) An individual licensed as an architect pursuant to Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code, and a business entity offering architectural services in accordance with that chapter.

(B) An individual licensed as a landscape architect pursuant to Chapter 3.5 (commencing with Section 5615) of Division 3 of the Business and Professions Code, and a business entity offering landscape architectural services in accordance with that chapter.

(C) An individual registered as a professional engineer pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, and a business entity offering professional engineering services in accordance with that chapter.

(D) An individual licensed as a professional land surveyor pursuant to Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code, and a business entity offering professional land surveying services in accordance with that chapter.

(d) This section shall only apply to a professional service contract, or any amendment thereto, entered into on or after January 1, 2007.

(e) The amendments made to this section by the act adding this subdivision shall apply to services offered pursuant to a design professional contract, or any amendment thereto, entered into on or after January 1, 2011.

(f) Nothing in this section shall abrogate the provisions of Section 1104 of the Public Contract Code.

EXHIBIT B
Master Agreement

CONSULTANT'S RESPONSE TO COUNTY'S REQUEST FOR PROPOSAL



STATEMENT OF QUALIFICATIONS



Response to Request for Proposals for **On-Call Professional Surveying Services**

Prepared For:
Stanislaus County
Department of Public Works
Peter Song, Assistant Engineer
1716 Morgan Road
Modesto, CA 95358

BE Sub-Consultant:





NorthStar
Engineering Group, Inc.

December 15, 2010

Stanislaus County
Department of Public Works
Peter Song, Assistant Engineer
1716 Morgan Road
Modesto, CA 95358

Subject: On-Call Professional Surveying Services

Dear Mr. Song,

NorthStar Engineering Group, Inc. (NorthStar) sincerely appreciates this opportunity to provide our Proposal to Stanislaus County for On-Call Professional Surveying Services. We are confident that we have the qualifications and expertise to provide the best quality service to Stanislaus County. NorthStar has assembled a team equal to the challenge posed by the Request for Proposal (RFP). Our team offers the following benefits and we believe that these set us apart as the best consultant choice for this opportunity:

1. The members of our project team have an average of over 20 years of experience surveying and performing tasks as outlined in the RFP. This experience is documented in the attached Proposal.
2. NorthStar is a registered California Corporation. We operate efficiently with a staff of highly skilled professionals who take pride in our work and enjoy the challenges unique to each project. Our full line of professional services is offered at competitive and reasonable rates.

NorthStar appreciates the invitation to submit to you this Proposal and express our interest in working with Stanislaus County, now and in the future. We hope that your careful review and consideration of our Proposal will assist you with selecting the best firm(s) for the On-Call Professional Surveying Services. Should you have any questions or require additional information, please do not hesitate to contact us.

Thank You and Best Regards,



Brian Jones, L.S. 7088
Best Regards,

attachment



TABLE OF CONTENTS

*Response to Request for Proposal for
On-Call Professional Surveying Services*

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Company Profile

NorthStar Engineering Group, Inc. (NorthStar), founded in 2002, has established a stellar list of successful projects and loyal clients throughout the Central Valley. NorthStar employs a staff of 18 full time professionals under the direction of four working principals who are committed to client satisfaction and dedicated to providing our clients with quality and value.



We have become leaders in our industry and our community by providing innovative solutions and value for our clients. Our teamwork philosophy and industry experience allows us to provide our clients with a unique combination of professional benefits and exceptional service.

NorthStar has *Local Expertise* and a comprehensive understanding of the issues associated with providing professional design services. NorthStar team members greatly value our client relationships and have a long standing reputation for success working throughout the San Joaquin Valley.

Every project has a *Dedicated Project Team* that understands successful projects can be correlated directly with the experience and time availability of the project manager. We provide a project management team that possesses the experience and commitment required to provide exceptional professional consulting services.

Our team offers *Comprehensive Experience* and qualifications allowing us to effectively provide engineering consulting services to each unique project. Our experience and capabilities include critical review and analysis, reporting, technical design, and surveying.

NorthStar prides itself on completing quality work on time and within budget. We take our reputation very seriously and never take opportunities like this lightly. For this specific opportunity we have three licensed Land Surveyors on staff as referenced in this proposal, as well as up to four survey field crews to gather data and perform the field services needed. We believe that based on our work load and current personnel levels we will more than adequately serve the County with any request they may have.

Professional Services

Land Surveying

NorthStar has been providing professional land surveying services since its inception. Our team members include California registered land surveyors and technicians who are experienced at performing boundary, topographic, and construction surveys. Our experienced field and office staff manage a full range of projects and are consistently prepared for heavy workloads and critical deadlines. We specialize in identifying and resolving issues before they turn into problems that can cause project delays. This department provides:

- A.L.T.A. Surveys
- Aerial Control Surveys
- Boundary Surveys
- Right-of-Way Surveys
- Topographic Surveys and Mapping
- Legal Descriptions
- Parcel Maps
- Final Maps
- Construction Staking
- Record of Surveys
- Monumentation (Centerline, Right-of-Way, Etc.)



Land Planning

At NorthStar we know there is more than one answer to planning the future. Every City has a different personality. Each County has different resources, assets, and features. Every client has a different need, and our planning team understands the importance of listening. A strong community is a place where the character, resources, and capabilities of the land and local residents are identified, valued, and built upon. The professionals at NorthStar form a team that is tailored to meet the needs of your development, County, City, or Town; strategically planning for the future with your unique vision always in mind. We tackle your complex zoning issues and offer solutions to your infrastructure dilemmas, consider your future economic climate, and establish a path to achieve your vision for a project. We formulate practical planning solutions that build strength in your community, setting it apart from all others. Planning projects may include:

- Community Planning
- Preliminary Site Planning
- Initial Site Review
- Land Planning and Project Design
- Entitlements and Processing
- General Plan Amendment
- Zoning Changes
- Utility Master Planning
- Tentative Mapping
- Feasibility Analysis and Reports



Professional Services, *Continued*

Civil Engineering

The team of professionals at NorthStar carries extensive and impressive credentials in planning, design, permitting, and construction phase services for multiple land uses. We realize the power and ultimate value of careful research. Our knowledge base and pool of expertise is deep and plentiful.

Public Works

NorthStar's public works team has extensive experience in a variety of water, wastewater, and drainage infrastructure projects that provide efficient systems for our communities and for the public health and safety of our residents. Additionally, we offer consulting engineering services that include, capital improvements planning and budgeting, rate analyses, development review, and general day-to-day consultation in management, operations, and maintenance. We are sensitive to the budget and timing constraints of our communities and are committed to cooperative efforts that meet the goals of our clients. Our public works team has the technical expertise and capabilities to design, bid, and manage your upcoming project, which may include:

- Booster Pumping Stations
- Pump Stations
- Well Design & Head Treatment
- Wastewater Treatment
- Reservoirs
- Sewer Lift Stations
- Pipe Lines
- Project Permitting
- Project Management
- Odor Control
- Hydraulic Modeling
- Capacity Studies
- Utility Master Planning



Land Development

Our land development team delivers complete civil engineering services including commercial, residential, industrial, worship, educational, and retail ventures. Our highly experienced project managers partner with our clients to ensure the success of every job from preliminary design phases to construction. All projects are handled by expert civil engineers, CAD technicians, and designers utilizing state-of-the-art software. Some projects may include:

- Feasibility Studies and Reports
- Educational Facilities
- Non-Profit Facilities
- Church Facilities
- Commercial and Industrial Development
- Roadways and Street Improvements
- Large Master-Planned Communities to Small-Scale Developments
- Utilities
- Land Subdividing
- Site Planning
- Wastewater
- PIS
- Storm Water Management

Personnel Available

Kent Hysell, L.S. (Partner)

- Education: General Education Courses – California State University Stanislaus - Turlock, CA
- Credentials: California Land Surveyor, #6953
Utah Land Surveyor, #309637
Oregon Land Surveyor, #02842
- Experience: Mr. Hysell has over 25 years experience and has successfully performed or supervised surveying services for a broad range of projects. He has extensive survey experience and knowledge of the region. Mr. Hysell oversees the day-to-day operations of NorthStar's survey department and has managed up to twelve survey crews. He has experience in research, calculations, boundary surveys, topographic surveys, aerial control surveys, construction staking, and project management. Mr. Hysell also stays up to date and educated in surveying and engineering by attending PSMJ Project Manager Boot Camp, Trimble Classes for GPS Static and Real Time Kinematic Surveying, Subdivision Map Act Classes, and Laws for the California Surveyor, maintaining a minimum of 16 hours of continuing education credits a year.

Brian Jones, L.S. (Partner)

- Education: Civil Engineering – California State Polytechnic University - Pomona, CA
General Education Courses – California State University Stanislaus - Turlock, CA
- Credentials: California Land Surveyor, #7088
Utah Land Surveyor, #330833
Idaho Land Surveyor, #8910
- Experience: Mr. Jones is skilled in the supervision and coordination of multidisciplinary teams with over 25 years experience in the civil engineering and land surveying professions. He is responsible for coordination and management of Civil projects beginning with initial project feasibility through to design, including construction support. His Civil project experience includes residential, commercial, retail, and industrial developments. His Civil design experience includes utility system design, grading design, earthwork quantity calculations, and preparation of civil improvement plans and project specifications. His surveying experience includes office calculations, boundary surveys, construction staking, and management of construction projects including residential, commercial, retail, & industrial developments, airfields, highway interchanges, highway reconstruction, prisons, water and waste water treatment plants, dams, geothermal power plants, light rail systems, bridges, and several 2002 Olympic Facilities. Mr. Jones maintains a minimum of 16 hours of survey related continuing education credits annually and attends monthly meetings for the California Land Surveyors Association. He also attends Autodesk University every year for 32 hours of hands-on training with the latest Autodesk Civil 3D software developments. Autodesk University provides intense training opportunities, and Mr. Jones focuses on 3D surface modeling, and 3D utility design.

Personnel Available, Continued

Bryan Weststeyn, L.S.I.T. (Partner)

- Education: General Education Courses – California State University Stanislaus - Turlock, CA
- Credentials: California Land Surveyor in Training, #ZL004916
- Experience: Mr. Weststeyn distinguishes himself in the quality of his work. He directs, schedules, and reviews all field survey activity, coordinates field crew operations including bidding projects, setting up field calculations and notes, as well as scheduling a variety of projects including boundary, topography, and construction staking. He has over 25 years of field surveying experience spanning a wide variety of projects including boundary, topography, construction staking for residential and commercial developments, horizontal/vertical control networks, plan analysis (including computer drawings), GPS surveying, and field staking. Mr. Weststeyn works closely with public agencies, private clients, contractors, and sub-consultants to coordinate their survey and construction staking needs. His solid foundation in all aspects of field work includes: bridges, dams, levees, light rail systems, pipelines, ponds, prisons, railroads, roads, runways, schools, spillways, subdivisions, tunnels, wastewater treatment plants, and miscellaneous structures.

Keith Spencer, L.S.

- Education: General Education Courses - Community Colleges of the Air Force
Computer Sciences - California State University Stanislaus - Turlock, CA
- Credentials: California Land Surveyor, #6406
- Experience: Mr. Spencer spent 5 years with the Army Corps of Engineers, Vicksburg District; that experience coupled with more than 10 years as a Party Chief for local firms has provided a solid foundation in field survey. His office survey experience spans more than 18 years and includes founding a survey firm. This extensive background makes him well equipped for office survey responsibilities that include, research, coordination and preparation of final maps, parcel maps, A.L.T.A. surveys, vesting tentative maps, topographical surveys, legal descriptions, and exhibits of survey projects.

Survey Field Crews (4-Crews)

- Signatory: Operating Engineers Local No. 3
- Experience: NorthStar survey crews are professional, accurate, and diligent in accomplishing their tasks. Our survey crews have 50+ years combined experience. Our range of field services includes boundary, topography, and construction staking for residential and commercial developments; horizontal and vertical control networks, plan analysis, GPS surveying and field staking for pipelines, roads, bridges, dams, levees, schools, ponds, buildings, tunnels, and more.

DBE Sub-Consultant

- Company: Minney Surveying - Company information attached.

DBE Sub-Consultant Company Information
Minney Surveying

STATEMENT OF QUALIFICATIONS

FOR



*A WOMAN-OWNED BUSINESS PROVIDING QUALITY LAND
SURVEYING SERVICES THROUGHOUT THE CENTRAL VALLEY*

16824 Monreal Road

Madera, CA 93636

(559) 322-8235

www.minneysurveying.com



INTRODUCTION

Minney Surveying is a CUCP (California Unified Certification Program) Certified DBE (Disadvantaged Business Enterprise), providing a complete range of land surveying services to our clients throughout the State of California. Our firm also qualifies as a UDBE (Underutilized Disadvantaged Business Enterprise).

CERTIFICATIONS

- Public Utility Commission WBE No. 8GN00053
- California DBE 37360

SERVICES OFFERED

- Construction Staking
- Topographic Surveys
- Boundary Surveys
- GPS Control Surveys
- Right of Way Determination
- Right-of-Way Legal Descriptions

APPROACH TO PROJECT MANAGEMENT

Minney Surveying's approach to project management involves building a strong team relationship between the parties involved in the project. With a strong team relationship, the players can all work toward the same goals and produce a successful project. Completing each project on time and within budget is the number one priority of Minney Surveying.

PREVIOUS PROJECT EXPERIENCE

Temperance & Sierra Avenues Topographic Survey (Clovis, CA)

Minney Surveying was responsible for the field data collection, data processing, and topographic and right of way map preparation for approximately 0.5 mile of roadway near the intersection of Temperance Avenue and Sierra Avenue in Clovis. The topographic survey was to be used for the design of a new traffic signal.



Water Pipeline 287 Topographic Survey (Fresno, CA)

Minney Surveying was responsible for the field data collection, data processing, and topographic map preparation for approximately 1 mile of roadway near the intersection of West Avenue and Sierra Avenue in Fresno. The topographic survey was to be used for the design of a new water pipeline.

Palm Avenue Topographic Survey (Fresno, CA)

Minney Surveying was responsible for the field data collection, data processing, and topographic map preparation for approximately 750 feet of roadway near the intersection of Palm Avenue and Harvard Avenue in Fresno. The topographic survey was to be used in a court case.

Channel Ranch & Hines Ranch Boundary Survey (Sanger, CA)

Minney Surveying was responsible for the field data collection, data processing, property boundary determination and corner record preparation for approximately 180 acres of farm land near the Kings River in Sanger. The survey was to be used to determine whether to purchase the property.

Tavlan Property Boundary Survey (Reedley, CA)

Minney Surveying was responsible for the field data collection, data processing, property boundary determination and record of survey map preparation for approximately 40 acres of land in Reedley. The survey was to be used to monument a disputed property line.

**CALIFORNIA UNIFIED CERTIFICATION PROGRAM
DISADVANTAGED BUSINESS ENTERPRISE CERTIFICATE**

MINNEY SURVEYING

3312 E. SIERRA AVENUE
FRESNO, CA 93710

Owner: ANNE MINNEY
Business Structure: SOLE PROPRIETORSHIP

This certificate acknowledges that said firm is approved by the California Unified Certification Program (CUCP) as a Disadvantaged Business Enterprise (DBE) as defined by the U.S. Department of Transportation (DOT) CFR 49 Part 26, as may be amended, for the following NAICS codes:

NAICS Code(s) * Indicates primary NAICS code

* 541370 Surveying and Mapping (except Geophysical) Services

Work Category Code(s)

C8760 SURVEYOR

C9826 LAND SURVEYING

Licenses

LS Land Surveyor

CERTIFYING AGENCY:

CITY OF FRESNO
2101 G STREET, BUILDING A
FRESNO, CA 93706 0000

(559) 621-1182

UCP Firm Number : 37360

Beth McDowell

CUCP OFFICER

November 12, 2009

16824 Monreal Road
Madera, CA 93636
(559) 322-8235
anne@minneysurveying.com

Anne Smoke, PLS

Professional Highlights

Temperance & Sierra Avenues Topographic Survey-Clovis, CA

- Field data collection of topographic features including curb, gutter, pavement and surface utilities for approximately 0.5 mile of roadway near the intersection of Temperance Avenue and Sierra Avenue to be used for the design of a new traffic signal.
- Preparation of a topographic map showing the above described features and existing right of way lines.

Water Pipeline 287 Topographic Survey-Fresno, CA

- Field data collection of topographic features including curb, gutter, pavement and surface utilities for approximately 1 mile of roadway near the intersection of West Avenue and Sierra Avenue to be used for the design of a new water main.
- Preparation of a topographic map showing the above described features.

Palm Avenue Topographic Survey-Fresno, CA

- Field data collection of topographic features including curb, gutter, and pavement for approximately 750 feet of roadway to be used for a court case.
- Preparation of a topographic map showing the above described features.

Skills

- Boundary Determination
- Legal Descriptions
- GPS Control Processing
- Subdivision Mapping
- Lot Line Adjustments
- Topographic Mapping
- A.L.T.A. Surveys
- Settlement Monitoring Surveys

Employment History

Owner	Minney Surveying, Fresno, CA	July 2008-Present
Project Surveyor	Mark Thomas & Co., Fresno, CA	April 2007-July 2008
Land Surveyor	Quad Knopf, Fresno, CA	March 2005-April 2007
Assistant Surveyor	Penfield & Smith, Camarillo, CA	June 2001-March 2005

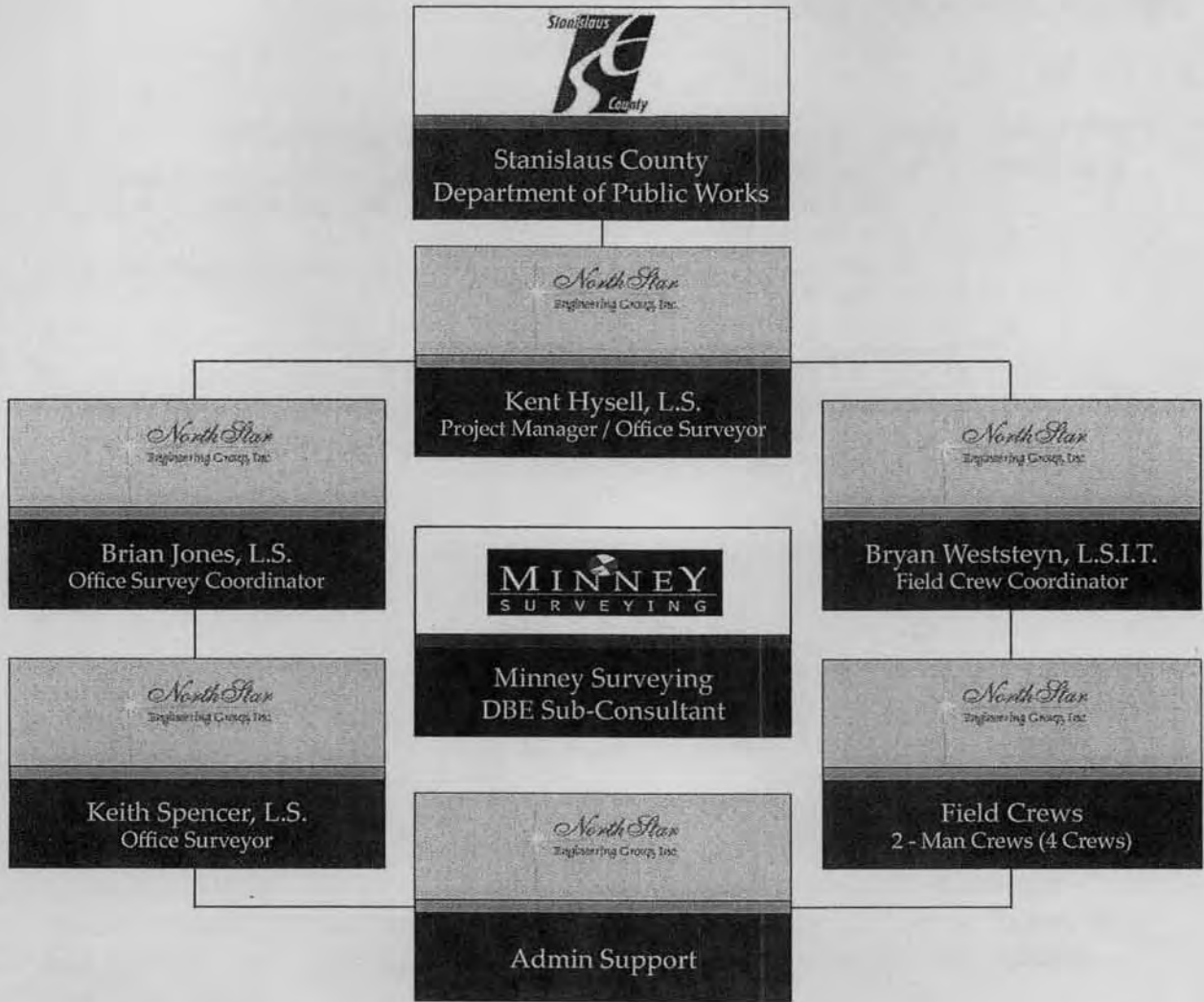
Education

BS Surveying Engineering	CSU Fresno, Fresno, CA	May 2001
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Professional License

California Professional Land Surveyor No. 7985

Organization Chart



Survey Equipment

Data Collectors

1. TDS Nomad (2 Units)
2. HP 48GX with SMI Version #7 (4 Units)
3. Allegro CE with SMI (2 Units)
4. Allegro CX with SMI (1 Unit)
5. SMI Jet CE (2 Units)
6. TDS Ranger

Computer Software

1. AutoCAD Civil 3D 2010 (19 Licenses)
2. AutoCAD LDT 2008 (19 Licenses)
3. Starnet Pro 6.0.36
4. Topcon Tools Version 7.5
5. Trimble Business Center

Survey Total Stations

1. Topcon GPT 3003W (2 Units)
2. Topcon GTS 311
3. Topcon GTS 700
4. Topcon GTS 4
5. Topcon GTS 301
6. Topcon GTS 3002W
7. Wild T2 - Topcon Top Mount DM-S3

Survey Levels

1. Wild NA2 Level (7 Units)
2. Wild GPM 1 Parallel Plate-Micrometer for NA2 Level
3. Wild GPM1 Parallel Plate Micrometer.

GPS Systems

1. Topcon Hiper GA - With two rovers
2. Topcon GB-500

Miscellaneous Survey Equipment

1. Fixed 2 Meter GPS Rod with Bi-Pod (3 Units)
2. Motorola Radius CP 200 Radios (5 Pairs)
3. Motorola HT90 Radios (2 Pairs)
4. Honda Generator EB 3000
5. Dewalt Rotohammer (1 Unit)
6. Dewalt Concrete Saw
7. Hewlett Packard 11411D Triple Prism (2 Units)
8. Kawasaki 300 ATV QUAD
9. Survey Crew Safety Road Signs
10. Schonstedt Magnetic Locator (5 Units)
11. Triple Prism Assembly (2 Units)
12. Mini Prism (3 Units)
13. Prism Pole - 8' Adjustable (6 Units)
14. Prism Pole - 12' Adjustable (1 Unit)
15. Prism Pole - 1' Mini (1 Unit)
16. 330' Stainless Steel Tapes (4 Units)
17. Bosch 60lb Demolition Hammer.
18. Level Rod - Lenker Rod (7 Units)
19. Level Rod - 25' Fiberglass (7 Units)
20. Tribrach with Optical Plummet (10 Units)

Reference Projects

Albers Road / Dusty Lane Widening and Intersection Project

Stanislaus County, CA

Performed a topographic survey for over 3,200 lf of existing roadway on 50 foot stations for use in designing the proposed edge of pavement and curb for the roadway widening. Cross-section plots, point file, and an AutoCAD file with a DTM was delivered to the County for their use and review.

Albers Road / Milnes Road Widening and Intersection Project

Stanislaus County, CA

Performed a topographic survey for over 3,800 lf of existing roadway on 50 foot stations for use in designing the proposed edge of pavement and curb for the roadway widening. Cross-section plots, point file, and an AutoCAD file with a DTM was delivered to the County for their use and review.

Broadway Curb, Gutter, and Sidewalk

Atwater, CA

Performed a horizontal control network survey and a topographic survey along the proposed alignment of Broadway Avenue. Prepared construction drawings showing the title and location, standard details, notes and street sections, existing topography, and plan view of improved curb, gutter, and sidewalk design. Provided an engineer's opinion of probable construction costs, coordinated with the storm water pollution prevention plan consultant, performed a dry utility review, and attended meetings with City staff.

East "A", Cloverland, and North Sierra Streets

Oakdale, CA

Prepared a comprehensive topographic base map of the existing conditions for use by the City staff and utility companies to identify locations and characteristics of existing underground utilities and the extents of needed improvements before commencing the project design. Prepared engineering plans for various roadway design; water, sewer, and storm drain pipelines; and curb and gutter in the project area. We actively coordinated with the City and utility companies to avoid conflicts with existing utilities.

Lake Road Grizzly Ranch

Hickman, CA

Designed 10 miles of new paved access roads in accordance with Stanislaus County Standards and Specifications for a 2,800 acre farmland subdivision located in the San Joaquin Valley foothills. Design requirements included matching existing topography, design speed considerations, hydrology analysis, culvert design and onsite retention site design. All easements and right-of-way dedications were processed with the parcel map that created 71 - 40 acre parcels.

Lone Tree Way

Antioch, CA

Designed roadway improvements, including 2 deceleration lanes, the addition of 3 new driveways, and the extension of the existing left turn lane. Project required the roadway to be widened by approximately 16 feet for the addition of the deceleration lanes and the reduction of the existing landscaped median to accommodate the left turn lane extension. Coordinated with the traffic engineer to integrate the design specifications for the traffic signal loop at the affected intersection. All engineering designs were made in accordance with the City of Antioch Standards and Specifications. Prepared legal description of right-of-way dedication and multiple legal descriptions for access easements.

Reference Projects, Continued

Moffat Boulevard

Manteca, CA

Performed research, coordination, and field surveying providing horizontal and vertical control to establish project on the City of Manteca's GPS Control System. Provided base mapping, aerial orthophoto control, and topographic map for corridor study of approximately 1 1/2 miles of Moffat Boulevard.

O'Hara Loop Re-Alignment

Brentwood, CA

Designed roadway improvements in accordance with the City of Brentwood Standards and Specifications. Survey services included record document research, right-of-way calculations, and a field survey to establish horizontal and vertical control, in accordance with the City of Brentwood's GPS Control System. Performed a topographic survey of the project limits with special consideration to match points, adjacent improvements, and other features with special design considerations. Deliverable included area base mapping, aerial orthophoto control and photo background, and topographic map for approximately 1/4 mile of O'Hara Loop Road. Prepared a record of survey for the re-alignment, as well as legal descriptions for exchange parcels and facilities easements.

Pacific Ethanol Facility

Stockton, CA

Pacific Ethanol, the largest West Coast-based marketer and producer of ethanol, has constructed a facility that produces 50 million gallons of ethanol per year on a 30 acre site including 3.5 miles of off-site railway, off-site utilities, and access road at the port of Stockton, CA. Some of the specific services provided included, a topographic survey, A.L.T.A. survey, construction staking of railway, slope staking, construction staking of all on-site improvements, construction staking of buildings, construction support, and design.

Tenth Street

Modesto, CA

Performed field survey and provided a topographic map locating existing street features such as curb lines, buildings (at right-of-way line), power poles, fire hydrants, catch basins, street lights, surface evidence of base-ment access, vaults, meter boxes, and other major infrastructure for Tenth Street between I and J Streets.

Third Street

Riverbank, CA

Performed field survey and provided a topographic map locating existing street features such as curb lines, buildings (at right-of-way line), power poles, fire hydrants, catch basins, street lights, surface evidence of base-ments access, vaults, meter boxes, and other major infrastructure for Third Street between Highway 108 and Patterson Road.

Winton Way Overlay

Manteca, CA

Designed roadway improvements in two phases including approximately 0.75 miles of curb, gutter, and side-walk, approximately 0.5 miles of pavement overlay, two storm drain inlets and lateral, reconstruction of the existing median curb, and 20 drive approaches. Survey services included record document research, right-of-way calculations, field survey to establish horizontal and vertical control, existing street cross sections, match points, and improvements located with the project limits. Deliverables included a topographic plan, which was part of the project improvement plans.

Professional References

Agencies

Company: City of Modesto
Contact: William Wong
Title: Senior Civil Engineer
Address: 1010 10th Street
Modesto, CA 95354
Phone: (209) 571-5801

Company: City of Oakdale
Contact: David Meyers
Title: Deputy Public Works Director
Address: 455 South Fifth Avenue
Oakdale, CA 95361
Phone: (209) 845-3607

Company: City of Merced
Contact: Daryl Jordan
Title: City Engineer
Address: 678 West 18th Street, 2nd Floor
Merced, CA 95340
Phone: (209) 385-6846

Company: City of Stockton MUD
Contact: Antonio Tovar
Title: Senior Civil Engineer
Address: 2500 Navy Drive
Stockton, CA 95206
Phone: (209) 937-8790

Company: Madera County RMA
Contact: Lori Gardner
Title: Administrative Services
Address: 2037 W. Cleverland Avenue
Madera, CA 93637
Phone: (559) 661-6333

Heavy Contractors

Company: Teichert Construction
Contact: Keith Jones
Title: Estimator
Address: P.O. Box 1118
Stockton, CA 95201
Phone: (209) 983-2318

Company: Granite Construction
Contact: Chip Kerlee
Title: Construction Manager
Address: P.O. Box 151
Stockton, CA 95201
Phone: (209) 234-3581

Company: George Reed
Contact: Ron Foust
Title: Director of Business Development
Address: 140 Empire Avenue
Modesto, CA 95354
Phone: (209) 523-0734

Company: Ross F. Carroll
Contact: Sean Carroll
Title: President
Address: 8873 Warnerville Rd.
Oakdale, CA 95361
Phone: (209) 848-5959

Company: Preston Pipeline
Contact: Steve Dunn
Title: Area Manager-Central Valley
Address: 12687 Manthey Drive
Lathrop, CA 95330
Phone: (209) 983-6500

Addendums Received

Signed Addendums Received, Attached.



DEPARTMENT OF PUBLIC WORKS

Matt Machado, PE
Director

Laurie Barton, PE
Deputy Director, Engineering/Operations

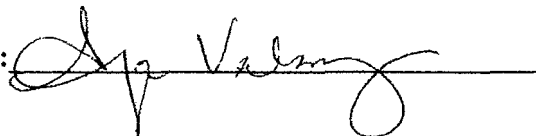
Diane Haugh
Assistant Director, Business/Finance

1716 Morgan Road, Modesto, CA 95358
Phone: 209.525.4130 Fax: 209.525.4120

Email: publicworks@stancounty.com
www.stancounty.com/publicworks

ADDENDUM NO. 1
TO REQUEST FOR PROPOSAL
FOR
ON-CALL PROFESSIONAL SURVEYING SERVICES
IN
STANISLAUS COUNTY

AJA VERBURG, ASSOCIATE ENGINEER

By: 

Received: Friday, December 10, 2010



By: Brian Jones, L.S.

DATE: DECEMBER 10, 2010

PROPOSALS DUE: DECEMBER 15, 2010; 5:00 PM

Page 1 of 3

**ADDENDUM NO. 1
FOR ON-CALL PROFESSIONAL SURVEYING SERVICES,
FOR BIDS DUE WEDNESDAY, DECEMBER 15, 2010; 5:00 PM
DATE: DECEMBER 10, 2010**

TO ALL CONSULTANTS:

THE FOLLOWING CHANGES, ADDITIONS, AND CLARIFICATIONS ARE HEREBY MADE A PART OF THE REQUEST FOR PROPOSAL AND SHALL BE USED IN PREPARATION OF THE PROPOSAL SUBMITTED FOR THE WORK.

RESPONSES TO INQUIRIES

1. Without knowing the specific scope of work for future County projects, how would you suggest we solicit bids for future services and materials unknown at this time? Should we simply make some assumptions based on previous work completed for the County?

RESPONSE: UDBE/DBE forms are not required to be submitted with your proposal for this RFP. However, they will be required for project specific contracts after we establish the on-call list.

2. To ensure we meet the 3.6% goal for all projects, it seems we would need a set contract amount for the project? Again, Should we make cost assumptions based on previous work?

RESPONSE: See response to Question #1.

3. If we make some general assumptions for future projects, and solicit UDBE/DBE materials & services bids, and submit good faith efforts documentation, will that satisfy this proposal requirement?.

RESPONSE: See response to Question #1.

4. Is it left up to the individual Surveyors to format their submittals. In other words, do you have a template you want followed or can I include whatever I feel appropriate?

RESPONSE: The County does not have a template for proposals. It is up to each firm to format their own proposal and include information they believe will address the requirements of the RFP.

**ADDENDUM NO. 1
FOR ON-CALL PROFESSIONAL SURVEYING SERVICES,
FOR BIDS DUE WEDNESDAY, DECEMBER 15, 2010; 5:00 PM
DATE: DECEMBER 10, 2010**

5. Our firm is capable of performing all requested services with in-house staff. We are completing a good faith effort, but anticipate it will not be cost effective for the County for us to subcontract services. We also understand that we are required to submit good faith effort documentation upon selection for services. Therefore, if we do not plan to subcontract any services, for the proposal submittal, do Exhibit 10-O1 and 10-O2 simply need to be signed and dated?

RESPONSE: See response to Question #1. UDBE/DBE firms shall be given full opportunity to participate in the performance of the work. If no UDBE/DBE firm(s) are utilized, Exhibits 10-O1 & 10-O2 must be filled-out showing 0% participation and signed/dated by the proposer. Additional, good faith efforts must be documented for 0% UDBE/DBE participation.

EXHIBIT C
Master Agreement

CONSULTANTS FEE SCHEDULE

NORTHSTAR ENGINEERING GROUP, INC.

Rate Schedule

ENGINEERING:

PRINCIPAL	\$140.00
CIVIL ENGINEER	\$115.00
PROJECT MANAGER	\$105.00
DESIGNER III	\$100.00
DESIGNER II	\$ 95.00
DESIGNER I	\$ 90.00
DRAFTER / CAD III	\$ 85.00
DRAFTER/CAD II	\$ 80.00
DRAFTER/CAD I	\$ 75.00

SURVEYING:

PRINCIPAL	\$140.00
LAND SURVEYOR	\$115.00
OFFICE SURVEYOR	\$105.00
TWO-MAN SURVEY CREW – “B” RATE*	\$180.00
TWO-MAN SURVEY CREW – “A” RATE*	\$200.00

PLANNING:

PRINCIPAL	\$140.00
PLANNER	\$105.00

FIELD SERVICES:

CONSTRUCTION OBSERVATION	\$125.00
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ADMINISTRATION:

COMMUNITY OUTREACH	\$125.00
CLERICAL	\$ 55.00

MATERIALS:

COST PLUS 10 PERCENT	
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The above rate schedule is effective through December 31, 2010 and is subject to adjustment January 1, 2011.

***NOTE: Overtime and Saturday work will be billed at time and a half and Sunday work will be billed at double time**

DBE SUB-CONSULTANT RATE SCHEDULE



BILLING RATES

Licensed Land Surveyor.....	\$85/hour
Licensed Civil Engineer.....	\$95/hour
1-Person Robotics Survey Crew.....	\$115/hour
2-Person Robotics Survey Crew.....	\$130/hour
1-Person GPS Survey Crew.....	\$135/hour
2-Person GPS Survey Crew.....	\$150/hour
Mileage.....	\$0.50/mile
Expert Witness.....	\$130/hour

PROJECT SCOPE OF WORK
Project No. 000?
[To be prepared for each project.]

1. Except as hereinafter provided, the services provided by the Consultant under this Project Scope of Work (hereinafter referred to as "P.S.W.") shall be subject to the terms and conditions set forth in the Professional Design Services Master Agreement made and entered into by and between the County of Stanislaus ("County") and [Company Name] ("Contractor"), on [Insert Date], 2011.
2. The Consultant shall provide services under the Master Agreement and this P.S.W. as set forth in the Master Agreement Exhibits A and B and/or the Consultant's Proposed Project Scope of Work dated [Insert Date], 2011, attached hereto as Exhibit 1 and, by this reference, made a part hereof.
3. Consultant will be compensated for the services described herein in accordance with the Section 2.0 of the Master Agreement. The maximum amount to be paid by the County for services provided under this P.S.W. shall not exceed \$700,000, including, without limitation, the cost of any subcontractors, consultants, experts or investigators retained by the Consultant to perform or to assist in the performance of its work under this P.S.W.
4. The term of this P.S.W shall commence as stated in the Project Notice to Proceed and continue until all services described herein are completed, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties. Consultant's services described herein shall be performed in strict compliance with the Project Schedule approved by County as set forth in Exhibit 2, attached hereto and incorporated herein by this reference.

IN WITNESS WHEREOF, the parties hereto have caused this Project Scope of Work, Project No. 000? to be executed by and through their respective authorized officers:

COUNTY OF STANISLAUS

CONSULTANT

By: _____
Matt Machado, Director
Department of Public Works

By: _____
Name & Title

APPROVED AS TO FORM:
John P. Doering
County Counsel

By: _____
Thomas E. Boze
Deputy County Counsel

STANISLAUS COUNTY
PROFESSIONAL DESIGN SERVICES MASTER AGREEMENT
March 1, 2011 to March 1, 2013

2011 MAR 15 A 9:00

This Agreement is made and entered into by and between the County of Stanislaus, a political subdivision of the State of California, hereinafter referred to as "County" and DeLaMare-Fultz Engineering and Surveying, hereinafter referred to as "Consultant".

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0 PROFESSIONAL SERVICES TO BE PROVIDED BY CONSULTANT

1.1. Scope of Services: Consultant shall provide the professional services described in the County's Request for Proposal ("RFP") attached hereto as Exhibit "A" and incorporated herein by reference and Consultant's Response to County's RFP (the "Response"). A copy of said Response is attached hereto as Exhibit "B" and incorporated herein by this reference. Each project added to and to be performed under this Agreement shall be separately approved by the parties. Each project where the cost of services does not exceed \$100,000 shall be approved by purchase order issued by the County Purchasing Agent or designee; projects greater than \$100,000 shall be approved by resolution of the Board of Supervisors for the County.

1.2. Professional Practices: All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also represents that it is familiar with all laws that may affect its performance of this Agreement and shall advise County of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Representations: Consultant represents that it has reviewed the RFP and that in its professional judgment the services to be performed under this Agreement can be performed within the maximum fee set forth herein below and within the time specified in the Project Schedule attached hereto. Consultant represents that it is qualified to perform the professional services required by this Agreement and possesses the necessary licenses and permits required to perform said services. Consultant represents that it has no interest and shall not acquire any interest direct or indirect which conflicts, or has the appearance of conflicting, in any manner or degree with the performance of the work and services under this Agreement.

1.4. Compliance with Laws. Consultant agrees that it shall perform the services required by this Agreement in compliance with all applicable Federal and California laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable

to the services required under this Agreement.

1.5. Non-Discrimination. 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 disability, medical condition (including genetic characteristics), marital status, age, political affiliation, sex or sexual orientation. 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.

1.6. Non-Exclusive Agreement. Consultant acknowledges that County may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of County. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

1.8. Covenant Against Contingent Fees. Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the consultant; to solicit or secure this agreement; and that he/she has not paid or agreed to pay any company or person other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award, or formation of this agreement. For breach or violation of this warranty, the local agency shall have the right to annul this agreement without liability, or at its discretion; to deduct from the agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

2.0 COMPENSATION AND BILLING

2.1. Compensation. For each task or project let under this Agreement Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "C", attached hereto and made a part of this Agreement (the "Fee Schedule"). Consultant will be compensated on a time and materials basis, based on the hours worked by the Consultant's employees or subcontractors at

the hourly rates specified in the Fee Schedule. Fee Schedule rates shall include direct salary costs, employee benefits, and overhead. The rates stated in the Fee Schedule are not adjustable during the term of this Agreement. Consultant's compensation under this Master Agreement shall in no case exceed Two Hundred Thousand Dollars (\$200,000). The County may retain ten percent of all periodic or progress payments made to the Consultant until completion and acceptance of all work tasks and County shall have right to withhold payment from Consultant for any unsatisfactory service until such time service is performed satisfactorily.

2.2. Reimbursements. In addition to the aforementioned fees, Consultant will be reimbursed for any expenses specifically set forth in a Project Scope of Work. All such reimbursement amounts are limited to those costs and expenses that are reasonable, necessary and actually incurred by the Consultant in connection with the services provided. The County shall not pay a mark up on any item of reimbursement. The County shall not pay for any item of overhead such as telephone, facsimile, postage, etc. All requests for reimbursement shall be accompanied by a copy of the original invoice.

2.3. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in Exhibits A and B and specified in each Project Scope of Work unless the County or the Project Manager for the Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.4. Method of Billing. Consultant may submit invoices to County's Project Manager for approval on a progress basis, but no more often than once each calendar month. Said invoice shall be based on the total of all Consultants' services that have been completed to County's sole satisfaction. County shall pay Consultant's invoice within forty-five (45) days from the date County receives said invoice. Each invoice shall describe in detail, the services performed and the associated percentage of tasks completed. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.5. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to County or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the termination of this Agreement.

3.0 TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days after County delivers its Notice to Proceed for each separately approved Project. Said services shall be performed in strict compliance with the Project Schedule approved by County as set forth in each Project Scope of Work. Each Project Schedule may be amended by mutual agreement of the parties.

Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

4.0 TERM OF CONTRACT AND TERMINATION

4.1. Term. This Agreement shall commence upon approval by the County's Board of Supervisors and continue for a period of twenty-four (24) months, or until all work on each Project let during the 24 month period is completed, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The County reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the County.

4.3. Compensation. In the event of termination, County shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of County's written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth in Exhibit "C". In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the County or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the County within ten (10) days of delivery of termination notice to Consultant, at no cost to County. Any use of uncompleted documents without specific written authorization from Consultant shall be at County's sole risk and without liability or legal expense to Consultant.

5.0 INSURANCE REQUIREMENTS

5.1. Minimum Scope and Limits of Insurance. Consultant, at its sole cost and expense, for the full term of this Agreement (and any extensions thereof), shall obtain and maintain, at minimum, compliance with all of the following insurance coverage(s) and requirements. If Consultant normally carries insurance in an amount greater than the minimum amount listed below, that greater amount shall become the minimum required amount of insurance for purposes of this Agreement. The insurance listed below shall have a retroactive date of placement prior to, or coinciding with, the date services are first provided that are governed by the terms of this Agreement:

- (a) Comprehensive general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate. 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.
- (b) Automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate.
- (c) Workers' compensation insurance as required by the State of California.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than Two Million Dollars (\$2,000,000.00), combined single limit for each occurrence. If Consultant cannot provide an occurrence policy, Consultant shall provide insurance covering claims made as a result of performance of Work on this Project and shall maintain such insurance in effect for not less than three years following Final Completion of the Project.

5.2. Endorsements. The Consultant shall obtain a specific endorsement to all required insurance policies, except Professional Liability insurance, naming the County of Stanislaus, its Officers, Directors, Officials, Agents, Employees and Volunteers as additional insureds for at least three years after the completion of the work to be performed under this Agreement, but, to the extent that any insurance issued to Consultant in effect after the expiration of three years provides additional insured coverage to parties Consultant agreed in writing to name as an additional insured, then Consultant shall have the obligation under this contract to obtain such additional insured coverage for the County, under any and all policies Consultant has 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) Ongoing 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.
- (e) For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County, 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 Consultant.

5.3. Deductibles: 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 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 retentions, 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.

5.4. Certificates of Insurance: At least ten (10) days prior to the date the Consultant begins performance of its obligations under this Agreement, Consultant 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 Consultant. 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.

5.5. Non-limiting: Nothing in this Section or the insurance described herein shall be construed as limiting in any way, the indemnification provisions contained in this Agreement, or the liability of Consultant and Consultant's officers, employees, agents, representatives or subcontractors for payments of damages to persons or property.

5.6. Primary Insurance: The Consultant's insurance coverage shall be primary insurance regarding the County of Stanislaus, its Officers, Directors, Officials, Agents, Employees and Volunteers. Any insurance or self-insurance maintained by the County of Stanislaus, its Officers, Directors, Officials, Agents, Employees and Volunteers shall be excess of the Consultant's insurance and shall not contribute with Consultant's insurance. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials and employees. 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. Any and all insurances cared by it shall be deemed liability coverage for any and all actions it performs in connection with this Contract.

5.7. Cancellation of Insurance: 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 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. Consultant shall maintain such coverage in effect for three years after substantial completion of the project to the extent it is commercially available at reasonable rates.

5.8. California Admitted Insurer: 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.

5.9. Subcontractors: 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.

6.0 INDEMNIFICATION

6.1. Indemnification: To the fullest extent allowed by law, Consultant shall defend, indemnify, and hold harmless the County and its officers, directors, officials, agents, employees, volunteers and representatives (collectively, "Indemnatee") 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, (collectively, "losses") 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. These indemnification obligations shall not be limited by any assertion or finding that (1) the person or entity indemnified is liable by reason of non-delegable duty, or (2) the losses were caused in part by the negligence of, breach of contract by, or violation of law by Indemnatee. Nothing in this Agreement, including the provisions of this paragraph, shall constitute a waiver or limitation of any rights which Indemnatee may have under applicable law, including without limitation, the right to implied indemnity.

6.2. 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 and as limited in section 2782.8 of the California Civil Code. This duty to defend arises immediately when such claim is made and shall be independent of any finding of negligence and shall arise regardless of any claim or assertion that Indemnatee caused or contributed to the Losses. Consultant shall provide legal counsel acceptable to the County.

6.3. Duty to Cooperate: Each party shall notify the other party within ten (10) days 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.

6.4. 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.

6.5. The foregoing provisions in this section "Indemnification" shall survive the term and termination of this Agreement.

7.0 GENERAL PROVISIONS

7.1. Entire Agreement: This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

7.2. Representatives. The Director of the Stanislaus County Department of Public Works, or his designee, shall be the representative of County for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the County, called for by this Agreement, except as otherwise expressly provided in this Agreement. Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

7.3. Project Managers. County shall designate a Project Manager to work directly with Consultant in the performance of this Agreement. Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with County during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by County.

7.4. Designated Personnel: A material covenant of this agreement is that the Consultant shall assign the individuals designated below to perform the functions designated so long as they continue in the employ of the Consultant. The designated individuals shall, so long

as their performance continues to be acceptable to County, remain in charge of the services for the Project from beginning through completion of services.

- a. Project Manager: Scott T. DeLaMare, Land Surveyor
- b. Lead/Manager: N/A

7.5. Removal of Personnel or Sub-Consultants: If the County, in its sole discretion at any time during the term of this agreement, desires the removal of any person or sub-consultant assigned by Consultant to perform services, then the Consultant shall remove such person or consultant immediately upon receiving notice from the County.

7.6. Notices: Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

If to County:

Stanislaus County Department of Public Works
Attn: Linda Allsop, Contracts Administrator
1716 Morgan Road
Modesto, California 95358
Phone: (209) 525-4157
Fax: (209) 541-2506

If to Consultant:

DeLaMare-Fultz Engineering & Surveying
Attn: Barbara J. DeLaMare, Vice President
3421 Tully Road, Ste. J
Modesto, CA 95350
Phone: (209) 529-7450
Fax: (209) 529-0457

7.7. Attorneys' Fees: In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

7.8. Governing Law: This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Stanislaus County, California.

7.9. Assignment: Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without County's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of County's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

7.10. Independent Contractor: Consultant is and shall be acting at all times as an independent contractor and not as an employee of County. Consultant shall secure, at his expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. 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.

7.11. Confidentiality: The Consultant 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.

7.12. Ownership of Documents: Any interest, including copyright interests, of Consultant or its contractors or subconsultants in studies, reports, memoranda, computational sheets, drawings, plans or any other documents, including electronic data, prepared in connection with the Services, shall be the property of County. To the extent permitted by law, work product produced under this Agreement shall be deemed works for hire and all copyrights in such works shall be the property of the County. In the event that it is ever determined that any works created by Consultant or its subconsultants under this Agreement are not works for hire, Consultant hereby assigns to County all copyrights to such works. With the County's prior written approval, Consultant may retain and use copies of such works for reference and as documentation of experience and capabilities.

7.13. Reuse of Design Documents: Should the County desire to reuse the documents specified above and not use the services of the Consultant, then the County agrees to require the new consultant to assume any and all obligations for the reuse of the documents, and the County releases Consultant and its subconsultants from all liability associated with the reuse of such documents.

7.14. Public Records Act Disclosure: Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, and provided to County may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualifies as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs County of such trade secret. The County will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The County shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

7.15. Responsibility for Errors: Consultant shall be responsible for its work and results

under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the County's representative, regarding any services rendered under this Agreement at no additional cost to County. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to County, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of County and to participate in any meeting required with regard to the correction.

7.16. Order of Precedence: In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of the RFP or the Response, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over both the Response and the RFP and the Response shall govern over the RFP.

7.17. Costs: Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

7.18. No Third Party Beneficiary Rights: This Agreement is entered into for the sole benefit of County and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

7.19. Construction: The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

7.20. Amendments: This Agreement may be amend only by a writing executed by the parties hereto or their respective successors and assigns.

7.21. Waiver: The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

7.22. Severability: If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the

offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.


7.23. Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

7.24. Corporate Authority: The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so, the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers:

COUNTY OF STANISLAUS

DELAMARE-FULTZ ENGINEERING &
SURVEYING

By: 
Matt Machado, Director
Department of Public Works

By: 
Barbara J. DeLaMare, Vice President

APPROVED AS TO FORM:

John P. Doering
County Counsel

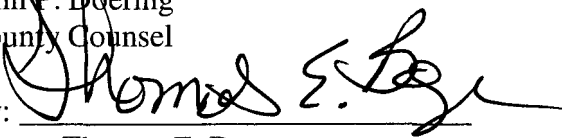
By: 
Thomas E. Boze
Deputy County Counsel

EXHIBIT A
Master Agreement

COUNTY'S REQUEST FOR PROPOSAL

**STANISLAUS COUNTY
PROFESSIONAL DESIGN SERVICES AGREEMENT**

This Agreement is made and entered into by and between the County of Stanislaus, a political subdivision of the State of California, hereinafter referred to as "County" and INSERT CONSULTANT'S NAME, hereinafter referred to as "Consultant".

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0 PROFESSIONAL SERVICES TO BE PROVIDED BY CONSULTANT

1.1. Scope of Services: Consultant shall provide the professional services described in the County's Request for Proposal ("RFP") attached hereto as Exhibit "A" and incorporated herein by reference and Consultant's Response to County's RFP (the "Response"). A copy of said Response is attached hereto as Exhibit "B" and incorporated herein by this reference.

1.2. Professional Practices: All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also represents that it is familiar with all laws that may affect its performance of this Agreement and shall advise County of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Representations: Consultant represents that it has reviewed the RFP and that in its professional judgment the services to be performed under this Agreement can be performed within the maximum fee set forth herein below and within the time specified in the Project Schedule attached hereto. Consultant represents that it is qualified to perform the professional services required by this Agreement and possesses the necessary licenses and permits required to perform said services. Consultant represents that it has no interest and shall not acquire any interest direct or indirect which conflicts, or has the appearance of conflicting, in any manner or degree with the performance of the work and services under this Agreement.

1.4. Compliance with Laws. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement.

1.5. Non-Discrimination. During the performance of this Agreement, Consultant and its officers, employees, agents, representatives or subcontractors shall not unlawfully

SAMPLE

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. 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.

1.6. Non-Exclusive Agreement. Consultant acknowledges that County may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of County. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

2.0 COMPENSATION AND BILLING

2.1. Compensation. Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "C", attached hereto and made a part of this Agreement (the "Fee Schedule"). Consultant's compensation shall in no case exceed Insert Amount – spelled out and (\$)

2.2. Reimbursements. In addition to the aforementioned fees, Consultant will be reimbursed for any expenses specifically set forth in a Project Scope of Work. All such reimbursement amounts are limited to those costs and expenses that are reasonable, necessary and actually incurred by the Consultant in connection with the services provided. The County shall not pay a mark up on any item of reimbursement. The County shall not pay for any item of overhead such as telephone, facsimile, postage, etc. All requests for reimbursement shall be accompanied by a copy of the original invoice.

2.3. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in Exhibits A and B unless the County or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

SAMPLE

2.4. Method of Billing. Consultant may submit invoices to County's Project Manager for approval on a progress basis, but no more often than once each calendar month. Said invoice shall be based on the total of all Consultants' services that have been completed to County's sole satisfaction. County shall pay Consultant's invoice within forty-five (45) days from the date County receives said invoice. Each invoice shall describe in detail, the services performed and the associated percentage of tasks completed. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.5. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to County or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the termination of this Agreement.

3.0 TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days after County delivers its Notice to Proceed. Said services shall be performed in strict compliance with the Project Schedule approved by County as set forth in Exhibit "D", attached hereto and incorporated herein by this reference. The Project Schedule may be amended by mutual agreement of the parties. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

4.0 TERM OF CONTRACT AND TERMINATION

4.1. Term. This Agreement shall commence upon approval by the County's Board of Supervisors and continue until the work required herein is completed, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The County reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of

SAMPLE

termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the County.

4.3. Compensation. In the event of termination, County shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of County's written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth in Exhibit "C". In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the County or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the County within ten (10) days of delivery of termination notice to Consultant, at no cost to County. Any use of uncompleted documents without specific written authorization from Consultant shall be at County's sole risk and without liability or legal expense to Consultant.

5.0 INSURANCE REQUIREMENTS

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain and maintain during the life of this Agreement all of the following insurance coverage:

- (a) Comprehensive general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury with a policy limit of not less than Two Million Dollars (\$2,000,000.00), combined single limits, per occurrence and aggregate. 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.
- (b) Automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate.
- (c) Workers' compensation insurance as required by the State of California.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than Two Million Dollars (\$2,000,000.00), combined single limit for each occurrence. If Consultant cannot provide an occurrence policy, Consultant shall provide insurance covering claims made as a result of performance of Work on this Project and shall maintain such insurance in effect for not less than three years following Final

Completion of the Project.

5.2. Endorsements. The Consultant shall obtain a specific endorsement to all required insurance policies, except 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 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.
- (e) For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County, 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 Consultant.

5.3. Deductibles: 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 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 retentions, 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.

5.4. Certificates of Insurance: At least ten (10) days prior to the date the Consultant begins performance of its obligations under this Agreement, Consultant 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 Consultant. 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.

5.5. Non-limiting: Nothing in this Section or the insurance described herein shall be construed as limiting in any way, the indemnification provisions contained in this Agreement, or the liability of Consultant and Consultant's officers, employees, agents, representatives or subcontractors for payments of damages to persons or property.

5.6. Primary Insurance: The Consultant's insurance coverage shall be primary

SAMPLE

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

5.7. Cancellation of Insurance: 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 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. Consultant shall maintain such coverage in effect for three (3) years after substantial completion of the project to the extent it is commercially available at reasonable rates.

5.8. California Admitted Insurer: 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.

5.9. Subcontractors: 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.

6.0 INDEMNIFICATION

6.1. 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.

6.2. 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

SAMPLE

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.

6.3. 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.

6.4. 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.

7.0 GENERAL PROVISIONS

7.1. Entire Agreement: This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

7.2. Representatives. The Director of the Stanislaus County Department of Public Works, or his designee, shall be the representative of County for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the County, called for by this Agreement, except as otherwise expressly provided in this Agreement. Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

7.3. Project Managers. County shall designate a Project Manager to work directly with Consultant in the performance of this Agreement. Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with County during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by County.

SAMPLE

7.4. Designated Personnel: A material covenant of this agreement is that the Consultant shall assign the individuals designated below to perform the functions designated so long as they continue in the employ of the Consultant. The designated individuals shall, so long as their performance continues to be acceptable to County, remain in charge of the services for the Project from beginning through completion of services.

- a. Project Manager: _____; and
- b. Lead/Manager: _____

7.5. Removal of Personnel or Sub-Consultants: If the County, in its sole discretion at any time during the term of this agreement, desires the removal of any person or sub-consultant assigned by Consultant to perform services, then the Consultant shall remove such person or consultant immediately upon receiving notice from the County.

7.6. Notices: Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

If to County:

Stanislaus County
Department of Public Works
Attn:
1716 Morgan Road
Modesto, California 95358

If to Consultant:

7.7. Attorneys' Fees: In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

7.8. Governing Law: This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Stanislaus County, California.

7.9. Assignment: Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without County's prior written consent. Any attempted assignment, transfer, subletting or encumbrance

SAMPLE

shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of County's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

7.10. Independent Contractor: Consultant is and shall be acting at all times as an independent contractor and not as an employee of County. Consultant shall secure, at his expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. 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.

7.11. Confidentiality: The Consultant 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.

7.12. Ownership of Documents: Any interest, including copyright interests, of Consultant or its contractors or subconsultants in studies, reports, memoranda, computational sheets, drawings, plans or any other documents, including electronic data, prepared in connection with the Services, shall be the property of County. To the extent permitted by law, work product produced under this Agreement shall be deemed works for hire and all copyrights in such works shall be the property of the County. In the event that it is ever determined that any works created by Consultant or its subconsultants under this Agreement are not works for hire, Consultant hereby assigns to County all copyrights to such works. With the County's prior written approval, Consultant may retain and use copies of such works for reference and as documentation of experience and capabilities.

7.13. Reuse of Design Documents: Should the County desire to reuse the documents specified above and not use the services of the Consultant, then the County agrees to require the new consultant to assume any and all obligations for the reuse of the documents, and the County releases Consultant and its subconsultants from all liability associated with the reuse of such documents.

7.14. Public Records Act Disclosure: Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, and provided to County may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualifies as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs County of such trade secret.

SAMPLE

The County will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The County shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

7.15. Responsibility for Errors: Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the County's representative, regarding any services rendered under this Agreement at no additional cost to County. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to County, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of County and to participate in any meeting required with regard to the correction.

7.16. Order of Precedence: In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of the RFP or the Response, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over both the Response and the RFP and the Response shall govern over the RFP.

7.17. Costs: Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

7.18. No Third Party Beneficiary Rights: This Agreement is entered into for the sole benefit of County and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

7.19. Construction: The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

7.20. Amendments: This Agreement may be amend only by a writing executed by the parties hereto or their respective successors and assigns.

7.21. Waiver: The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative

SAMPLE

of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

7.22. Severability: If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

7.23. Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

7.24. Corporate Authority: The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so, the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers:

COUNTY OF STANISLAUS

INSERT NAME OF COMPANY

By: _____
Matt Machado, Director
Department of Public Works

By: _____
(Insert Name)
(Insert Title)

Approved: BOS Resolution # _____
Dated: _____

APPROVED AS TO FORM:
John P. Doering
County Counsel

By: _____
Thomas E. Boze
Deputy County Counsel

SAMPLE

EXHIBIT A

COUNTY'S REQUEST FOR PROPOSAL

SAMPLE

EXHIBIT B

CONSULTANT'S RESPONSE TO COUNTY'S REQUEST FOR PROPOSAL

SAMPLE

EXHIBIT C

CONSULTANT'S FEE SCHEDULE

SAMPLE

EXHIBIT D

PROJECT SCHEDULE

Senate Bill No. 972

CHAPTER 510

An act to amend Section 2782.8 of the Civil Code, relating to indemnity.

[Approved by Governor September 29, 2010. Filed with
Secretary of State September 29, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 972, Wolk. Indemnity: design professionals.

Existing law provides, for all contracts, and amendments to contracts, entered into on or after January 1, 2007, with a public agency for design professional services, all provisions, clauses, covenants, and agreements contained in, collateral to, or affecting these contracts, that purport to indemnify, including the cost to defend, the public agency by a design professional against liability for claims against the public agency, are unenforceable, except for claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional.

This bill would provide, with respect to contracts and amendments to contracts entered into on or after January 1, 2011, with a public agency for design professional services, that all provisions, clauses, covenants, and agreements contained in, collateral to, or affecting these contracts or amendments to contracts that purport to require the design professional to defend the public agency under an indemnity agreement, including the duty and the cost to defend, are unenforceable, except for claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional. The bill would provide that all contracts and all solicitation documents between a public agency and a design professional are deemed to incorporate these provisions by reference.

The people of the State of California do enact as follows:

SECTION 1. Section 2782.8 of the Civil Code is amended to read:

2782.8. (a) For all contracts, and amendments thereto, entered into on or after January 1, 2007, with a public agency for design professional services, all provisions, clauses, covenants, and agreements contained in, collateral to, or affecting any such contract, and amendments thereto, that purport to indemnify, including the duty and the cost to defend, the public agency by a design professional against liability for claims against the public agency, are unenforceable, except for claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional. The duty to indemnify, including the duty and the cost to defend, is limited as provided in this section. This section shall not be waived

or modified by contractual agreement, act, or omission of the parties. Contractual provisions, clauses, covenants, or agreements not expressly prohibited herein are reserved to the agreement of the parties.

(b) All contracts and all solicitation documents, including requests for proposal, invitations for bid, and other solicitation documents, between a public agency and a design professional, are deemed to incorporate by reference the provisions of this section.

(c) For purposes of this section, the following definitions apply:

(1) "Public agency" includes any county, city, city and county, district, school district, public authority, municipal corporation, or other political subdivision, joint powers authority, or public corporation in the state. Public agency does not include the State of California.

(2) "Design professional" includes all of the following:

(A) An individual licensed as an architect pursuant to Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code, and a business entity offering architectural services in accordance with that chapter.

(B) An individual licensed as a landscape architect pursuant to Chapter 3.5 (commencing with Section 5615) of Division 3 of the Business and Professions Code, and a business entity offering landscape architectural services in accordance with that chapter.

(C) An individual registered as a professional engineer pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, and a business entity offering professional engineering services in accordance with that chapter.

(D) An individual licensed as a professional land surveyor pursuant to Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code, and a business entity offering professional land surveying services in accordance with that chapter.

(d) This section shall only apply to a professional service contract, or any amendment thereto, entered into on or after January 1, 2007.

(e) The amendments made to this section by the act adding this subdivision shall apply to services offered pursuant to a design professional contract, or any amendment thereto, entered into on or after January 1, 2011.

(f) Nothing in this section shall abrogate the provisions of Section 1104 of the Public Contract Code.



STANISLAUS COUNTY
DEPARTMENT OF PUBLIC WORKS

NOTICE OF REQUEST FOR PROPOSALS

ON-CALL PROFESSIONAL SURVEYING SERVICES

Stanislaus County Department of Public Works is requesting proposals from qualified consultants to provide on-call professional surveying services. The County has established an Underutilized Disadvantaged Business Enterprise (UDBE) goal of 3.1 percent with an overall DBE goal of 3.6 percent for all contracts. Information regarding UDBE can be found in the attached "Notice to Proposers Disadvantaged Business Enterprise Information," of this Request for Proposal (RFP). Exhibit 10-O1 and Exhibit 10-O2 are required to be completed and included in the proposal. If the UDBE goal is not met for the project, only consultants selected to be awarded a Master Agreement contract will be required to submit adequate good faith efforts documentation.

A copy of this Request for Proposal is available for viewing and download on the Valley Reprographics website at www.valleyreproplanroom.com.

All questions must be submitted in writing. Please send all questions regarding this RFP in writing via email to Peter Song at peter.song@stancounty.com or fax to (209) 525-4188. The deadline to submit questions is 5:00 p.m. on Wednesday, December 8, 2010. Addendums, if necessary, will be posted on the Valley Reprographics website. The last day to issue an addendum is Friday, December 10, 2010.

Pursuant to Sections 1770 and 1773 of the Labor Code, the Board of Supervisors has ascertained the general prevailing rate of per diem wages applicable to the work to be done for straight time, overtime, Saturday, Sunday, and holiday work. These wage rates are set forth by the Director of the Department of Industrial Relations and are available at the agencies web site and are on file with the Department of Public Works and hereby made a part of the agreement.

Proposals must be submitted at or before 5:00 p.m. on Wednesday, December 15, 2010.

Proposals shall be delivered in person or by mail to the following address:

Stanislaus County
Department of Public Works
Attention: Peter Song, Assistant Engineer
1716 Morgan Road
Modesto, CA 95358

PROJECT DESCRIPTION:

The County will select and contract three (3) to five (5) firms for on-call professional surveying services. The contract with each firm will provide a not to exceed yearly budget to be drawn against as services are requested and performed. Services will be requested on an as needed and per project basis. The term of each contract will be for two (2) years with a County option for a one (1) year extension. The first two contracts issued will be for Record of Surveys, or Corner Records where applicable, for current County overlay projects.

Work will be assigned to firms on the on-call list in no particular order. The County will assign work based on the firms current work load, availability of services, cost, schedule, and contract performance.

SCOPE OF WORK:

The work will include, but will not be limited to the following:

- Boundary Surveys
- Right of Way Surveys
- Topographic Surveys and Mapping
- Record of Surveys
- Legal Descriptions and Plat Maps
- Construction Staking
- Setting of monument wells to Stanislaus County Standards (monument wells will be provided by Stanislaus County)

All work shall be performed under the direction of a Licensed Land Surveyor in accordance with the Professional Land Surveyors Act, Chapter 15, Article 3, Section 8276, or a licensed engineer authorized to do land survey work with the State of California under Section 8731 of the aforementioned Act.

Proper signs and flagging shall be used for all field work within the County right-of-way.

PROPOSAL REQUIREMENTS:

The proposal, at a minimum, shall include the following:

- List and description of all surveying services available for on-call services.
- List of personnel available for these services and a resume of qualifications for each. Each firm shall provide the name of at least one Licensed Land Surveyor, and/or Licensed Engineer authorized to do land surveying in the State of California.
- List of survey equipment, vehicles, and tools (ex. jack hammers)
- List of recently completed projects showing past performances and abilities of the proposed team.

- Details on the firms ability to adequately respond to County’s requests for services in a timely manner.
- Three (3) copies of your proposal must be submitted to the County. Please include with the proposal, in a **SEPARATE, SEALED ENVELOPE**, your hourly rate schedule. The hourly rate schedule must include all staff hourly rates and fees. Sub-consultant fees must be clearly indicated (if applicable).
- Provide references, including, but not limited to public agency clients, with a designated contact person and phone number for each reference.

The successful firms will be required to enter into a Professional Design Services Agreement with Stanislaus County for the work to be performed. A sample design services agreement is included with this Request for Proposal. The County is currently revising the indemnity section of the Professional Design Services Agreement to be consistent with Senate Bill No. 972 (SB972). A copy of SB972 is included with this RFP for your reference. The consultant shall state in the submitted proposal that their firm has reviewed the Sample Professional Design Services Agreement and will meet all of the terms and conditions if selected by the County for the requested services.

The proposals will be evaluated based on the scoring chart below. This scoring system is provided as a guideline for evaluating proposals that are submitted in response to a Request for Proposal.

Criteria	(a) Weight	(b) Score (0-10)	(a) x (b) Weighted Score
Professional Surveying Services Provided	3		
Experience of Project Manager	2		
Qualification and Experience of Key Personnel	2		
Demonstration of Professional and Financial Responsibility	1		
Experience Working With Public Agencies	1		
References	1		

Fail (0 points): Zero (0) points are given when the category being evaluated is nonresponsive.

Below Average (1 - 4 points): One (1) to four (4) points are awarded to responses that are considered to be minimally acceptable.

Average (5 points): Five (5) points are awarded if qualifications fully satisfy the requirement.

Above Average (6 - 9 points): Six (6) points to nine (9) points are awarded if qualifications more than satisfy the requirement and experience specifically applies to the project under consideration.

Exceptional (10 points): Ten (10) points are awarded if a firm's qualifications far exceed those required. Scores of ten (10) points generally are infrequent.

The proposals will be reviewed shortly after the closing date for submittal of proposals. Those firms believed to be the most qualified, based on their proposal, may be subject to an interview.

ATTACHMENTS:

1. Notice to Proposers Disadvantaged Business Enterprise Information
2. Exhibit 10-O1 & 10-O2
3. Prompt Payment of Withheld Funds to Subcontractors
4. Sample Design Services Agreement
5. Senate Bill 972



DEPARTMENT OF PUBLIC WORKS

Matt Machado, PE
Director

Laurie Barton, PE
Deputy Director, Engineering/Operations

Diane Haugh
Assistant Director, Business/Finance

1716 Morgan Road, Modesto, CA 95358
Phone: 209.525.4130 Fax: 209.525.4120

Email: publicworks@stancounty.com
www.stancounty.com/publicworks

**NOTICE TO PROPOSERS
DISADVANTAGED BUSINESS ENTERPRISE
INFORMATION**

Stanislaus County has established an Underutilized DBE goal for this Agreement of 3.1% and an overall DBE goal of 3.6 percent.

1. TERMS AS USED IN THIS DOCUMENT

- The term “Disadvantaged Business Enterprise” or “DBE” means a for-profit small business concern owned and controlled by a socially and economically disadvantaged person(s) as defined in Title 49, Part 26.5, Code of Federal Regulations (CFR).
- The term “Underutilized Disadvantaged Business Enterprise” or “UDBE.” DBE classes that have been determined in the 2007 Caltrans Disparity Study to have a statistically significant disparity in their utilization in previously awarded transportation contracts. UDBEs include: African Americans, Native Americans, Asian-Pacific Americans, and Women.
- The term “Agreement” also means “Contract.”
- Agency also means the local entity entering into this contract with the Contractor or Consultant.
- The term “Small Business” or “SB” is as defined in 49 CFR 26.65.

2. AUTHORITY AND RESPONSIBILITY

- A. DBEs and other small businesses are strongly encouraged to participate in the performance of Agreements financed in whole or in part with federal funds (See 49 CFR 26, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs”). The Contractor should ensure that DBEs and other small businesses have the opportunity to participate in the performance of the work that is the subject of this solicitation and should take all necessary and reasonable steps for this assurance. The proposer shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.

- B. Proposers are encouraged to use services offered by financial institutions owned and controlled by DBEs.

3. SUBMISSION OF UDBE AND DBE INFORMATION

If there is a UDBE goal on the contract, a “Local Agency Proposer UDBE Commitment (Consultant Contract)” (Exhibit 10-01) form shall be included in the Request for Proposal. In order for a proposer to be considered responsible and responsive, the proposer must make good faith efforts to meet the goal established for the contract. If the goal is not met, the proposer must document adequate good faith efforts. Only UDBE participation will be counted towards the contract goal; however, all DBE participation shall be collected and reported.

A “Local Agency Proposer DBE Information (Consultant Contract)” (Exhibit 10-02) form shall be included with the Request for Proposal. The purpose of the form is to collect data required under 49 CFR 26. For contracts with UDBE goals, this form collects DBE participation by DBEs owned by Hispanic American and Subcontinent Asian Americans males (persons whose origin are from India, Pakistan, Bangladesh, Bhutan, Maldives Islands, Nepal or Sri Lanka). For contracts with no goals, this form collects information on all DBEs, including UDBEs. Even if no DBE participation will be reported, the successful proposer must execute and return the form.

4. DBE PARTICIPATION GENERAL INFORMATION

It is the proposer’s responsibility to be fully informed regarding the requirements of 49 CFR, Part 26, and the Department’s DBE program developed pursuant to the regulations. Particular attention is directed to the following:

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
- B. A certified DBE may participate as a prime contractor, subcontractor, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A UDBE proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:
 - 1. The proposer is a UDBE and will meet the goal by performing work with its own forces.
 - 2. The proposer will meet the goal through work performed by UDBE subcontractors, suppliers or trucking companies.
 - 3. The proposer, prior to proposing, made adequate good faith efforts to meet the goal.

- D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- F. The proposer shall list only one subcontractor for each portion of work as defined in their proposal and all DBE subcontractors should be listed in the bid/cost proposal list of subcontractors.
- G. A prime contractor who is a certified DBE is eligible to claim all of the work in the Agreement toward the DBE participation except that portion of the work to be performed by non-DBE subcontractors.

5. RESOURCES

- A. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP. If you believe a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification toll free number 1-866-810-6346 for assistance. Proposer may call (916) 440-0539 for web or download assistance.
- B. Access the CUCP database from the Department of Transportation, Civil Rights, Business Enterprise Program web site at: <http://www.dot.ca.gov/hq/bep/>.
 - Click on the link in the left menu titled *Disadvantaged Business Enterprise*
 - Click on *Search for a DBE Firm* link
 - Click on *Access to the DBE Query Form* located on the first line in the center of the page
 - Searches can be performed by one or more criteria
 - Follow instructions on the screen
- C. How to Obtain a List of Certified DBEs without Internet Access

D. DBE Directory: If you do not have Internet access, Caltrans also publishes a directory of certified DBE firms extracted from the online database. A copy of the directory of certified DBEs may be ordered at: <http://caltrans-opac.ca.gov/publicat.htm>

6. MATERIALS OR SUPPLIES PURCHASED FROM DBES COUNT TOWARDS DBE CREDIT, AND IF A DBE IS ALSO A UDBE, PURCHASES WILL COUNT TOWARDS THE UDBE GOAL UNDER THE FOLLOWING CONDITIONS:

- A. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Agreement and of the general character described by the specifications.
- B. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Agreement are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.
- C. If the person both owns and operates distribution equipment for the products, any Supplementing of regular dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not UDBE regular dealers within the meaning of this section.
- D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

7. FOR DBE TRUCKING COMPANIES: CREDIT FOR DBES WILL COUNT TOWARDS DBE CREDIT, AND IF A DBE IS A UDBE, CREDIT WILL COUNT TOWARDS THE UDBE GOAL UNDER THE FOLLOWING CONDITIONS:

- A. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular Agreement, and there cannot be a contrived arrangement for the purpose of meeting the UDBE goal.
- B. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the Agreement.
- C. The DBE receives credit for the total value of the transportation services it provides on the Agreement using trucks it owns, insures, and operates using drivers it employs.
- D. The DBE may lease trucks from another DBE firm including an owner-operator who is certified as a DBE. A DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Agreement.
- E. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. A DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. A DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by the DBE.
- F. For the purposes of this Section D, a lease must indicate that the DBE has exclusive use and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, as long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

EXHIBIT 10-01 Local Agency Proposer UDBE Commitment (Consultant Contracts)

NOTE: PLEASE REFER TO INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM

LOCAL AGENCY: _____ LOCATION: _____

PROJECT DESCRIPTION: _____

PROPOSAL DATE: _____

PROPOSER'S NAME: _____

CONTRACT UDBE GOAL (%): _____

WORK ITEM NO.	DESCRIPTION OR SERVICES TO BE SUBCONTRACTED (or contracted if the proposer is a UDBE)	UDBE CERT NO. AND EXPIRATION DATE	NAME OF EACH UDBE (Must be certified at the time proposals are due - include UDBE address and phone number)	PERCENT PARTICIPATION OF EACH UDBE

<p>For Local Agency to Complete:</p> <p>Local Agency Proposal Number: _____</p> <p>Federal-Aid Project Number: _____</p> <p>Federal Share: _____</p> <p>Proposal Date: _____</p> <p>Local Agency certifies that the UDBE certifications have been verified and all information is complete and accurate/unless noted otherwise.</p> <p>_____ Print Name Local Agency Representative</p> <p>_____ Signature</p> <p>_____ Date</p> <p>(Area Code) Telephone Number: _____</p>	<p style="text-align: center;">Total Claimed UDBE Commitment</p> <p style="text-align: right;">_____ %</p> <p>_____ Signature of Proposer</p> <p>_____ Date (Area Code) Tel. No.</p> <p>_____ Person to Contact (Please Type or Print)</p> <p style="text-align: center; font-size: small;">Local Agency Proposer UDBE Commitment (Consultant Contracts) (Rev 6/27/09)</p>
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Distribution: (1) Original - Local agency files

**INSTRUCTIONS – LOCAL AGENCY PROPOSER UDBE COMMITMENT
(CONSULTANT CONTRACTS)**

ALL PROPOSERS:

PLEASE NOTE: It is the proposer's responsibility to verify that the UDBE(s) falls into one of the following groups in order to count towards the UDBE contract goal: 1) African Americans; 2) Asian-Pacific Americans; 3) Native Americans; 4) Women. This information must be submitted with your proposal. Failure to submit the required UDBE commitment will be grounds for finding the proposal nonresponsive.

A "UDBE" is a firm meeting the definition of a DBE as specified in 49 CFR and is one of the following groups: African Americans, Native Americans, Asian-Pacific Americans, or Women.

The form requires specific information regarding the consultant contract: Local Agency, Location, Project Description, Proposal Date, Proposer's Name, and Contract UDBE Goal.

The form has a column for the Work Item Number and Description or Services to be subcontracted to UDBEs (or performed if the proposer is a UDBE). The UDBE prime contractors shall indicate all work to be performed by UDBEs including work to be performed by its own forces, if a UDBE. The UDBE shall provide a certification number to the Consultant and notify the Consultant in writing with the date of decertification if their status should change during the course of the contract. Enter UDBE prime consultant and subconsultant certification numbers. The form has a column for the Names of certified UDBEs to perform the work (must be certified on the date proposals are due and include UDBE address and phone number).

There is a column for the percent participation of each UDBE. Enter the Total Claimed UDBE Participation percentage of items of work submitted with proposal pursuant to the Special Provisions. (If 100% of item is not to be performed or furnished by the UDBE, describe exact portion of time to be performed or furnished by the UDBE.) See "Notice to Proposers Disadvantaged Business Enterprise Information," (Exhibit 10-I) to determine how to count the participation of UDBE firms. **Note:** If the proposer has not met the contract goal, the local agency must evaluate the proposer's good faith efforts to meet the goal in order to be considered for award of the contract.

Exhibit 10-01 must be signed and dated by the consultant submitting the proposal. Also list a phone number in the space provided and print the name of the person to contact.

For the Successful Proposer only, local agencies should complete the Proposal Number, Federal-aid Project Number, Federal Share, and Proposal Date fields and verify that all information is complete and accurate before filing.

EXHIBIT 10-02 Local Agency Proposer DBE Information (Consultant Contracts)

NOTE: PLEASE REFER TO INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM				
LOCAL AGENCY: _____		LOCATION: _____		
PROJECT DESCRIPTION: _____				
TOTAL CONTRACT AMOUNT (\$): _____				
PROPOSER'S NAME: _____				
WORK ITEM NO.	DESCRIPTION OR SERVICES TO BE SUBCONTRACTED (or contracted if the proposer is a DBE)	DBE CERT NO. AND EXPIRATION DATE	NAME OF EACH DBE (Must be certified at the time proposals are due - include DBE address and phone number)	DOLLAR AMOUNT OF EACH DBE
For Local Agency to Complete:			Total Claimed DBE Participation \$ _____ %	
Local Agency Contract Number: _____			Signature of Proposer _____ Date _____ (Area Code) Tel. No. _____ Person to Contact _____ (Please Type or Print) Local Agency Proposer DBE Information (Consultant Contracts) (Rev 6/27/09)	
Federal-Aid Project Number: _____				
Federal Share: _____				
Contract Award: _____				
Local Agency certifies that the DBE certifications have been verified and all informations is complete and accurate.			Signature of Proposer _____ Date _____ (Area Code) Tel. No. _____ Person to Contact _____ (Please Type or Print)	
Print Name _____	Signature _____	Date _____		
Local Agency Representative _____				
(Area Code) Telephone Number: _____			Person to Contact _____ (Please Type or Print)	
For Caltrans Review:				
Print Name _____	Signature _____	Date _____	Local Agency Proposer DBE Information (Consultant Contracts) (Rev 6/27/09)	
Caltrans District Local Assistance Engineer _____				

Distribution: (1) Copy - Fax or scan a copy to the Caltrans District Local Assistance Engineer (DLAE) within 15 days after contract execution.
 Failure to send a copy to the DLAE within 15 days after contract execution may result in deobligation of funds for this project.
 (2) Original - Local agency files

**INSTRUCTIONS - LOCAL AGENCY PROPOSER DBE INFORMATION
(CONSULTANT CONTRACTS)**

SUCCESSFUL PROPOSER:

The form requires specific information regarding the consultant or other contract: Local Agency, Location, Project Description, Total Contract Amount, Proposal Date, and successful Proposer's Name.

The form has a column for the Work Item Number and Description or Services to be Subcontracted to DBEs. The prime consultant shall indicate all work to be performed by DBEs including, if the prime consultant is a DBE, work performed by its own forces, if a DBE. The DBE shall provide a certification number to the prime consultant. Enter DBE prime consultant's and subconsultant's certification number. The form has a column for the Names of DBE certified contractors to perform the work (must be certified on or before the proposals are due and include DBE address and phone number).

Enter the Total Claimed DBE Participation dollar amount of items of work in the total DBE Dollar Amount column. (If 100% of item is not to be performed by the DBE, describe exact portion of time to be performed by the DBE.) See "Notice to Proposers Disadvantaged Business Enterprise Information," (Exhibit 10-I) to determine how to count the participation of DBE firms.

Exhibit 10-02 must be signed and dated by the successful proposer at contract execution. Also list a phone number in the space provided and print the name of the person to contact.

Local agencies should complete the Contract Number, Federal-aid Project Number, Federal Share, and Contract Award fields and verify that all information is complete and accurate before signing and sending a copy of the form to the District Local Assistance Engineer within 15 days of contract execution. Failure to submit a completed and accurate form within the 15-day time period may result in the deobligation of funds on this project.

District DBE Coordinator should verify that all information is complete and accurate. Once the information has been verified, the **District Local Assistance Engineer** signs and dates the form.

(Attachment)

Prompt Payment of Withheld Funds to Subcontractors

Federal regulation (49 CFR 26.29) requires one of the following three methods be used in federal-aid contracts to ensure prompt and full payment of any retainage kept by the prime contractor or subcontractor to a subcontractor.

Please check the box of the method chosen by the local agency to ensure prompt and full payment of any retainage.

- Method 1:** No retainage will be held by the agency from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

- Method 2:** No retainage will be held by the agency from progress payments due the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor in 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

- Method 3:** The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.



DEPARTMENT OF PUBLIC WORKS

Matt Machado, PE
Director

Laurie Barton, PE
Deputy Director, Engineering/Operations

Diane Haugh
Assistant Director, Business/Finance

1716 Morgan Road, Modesto, CA 95358
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Email: publicworks@stancounty.com
www.stancounty.com/publicworks

ADDENDUM NO. 1
TO REQUEST FOR PROPOSAL
FOR
ON-CALL PROFESSIONAL SURVEYING SERVICES
IN
STANISLAUS COUNTY

AJA VERBURG, ASSOCIATE ENGINEER

By:

DATE: DECEMBER 10, 2010

PROPOSALS DUE: DECEMBER 15, 2010; 5:00 PM

Page 1 of 3

**ADDENDUM NO. 1
FOR ON-CALL PROFESSIONAL SURVEYING SERVICES,
FOR BIDS DUE WEDNESDAY, DECEMBER 15, 2010; 5:00 PM
DATE: DECEMBER 10, 2010**

TO ALL CONSULTANTS:

THE FOLLOWING CHANGES, ADDITIONS, AND CLARIFICATIONS ARE HEREBY MADE A PART OF THE REQUEST FOR PROPOSAL AND SHALL BE USED IN PREPARATION OF THE PROPOSAL SUBMITTED FOR THE WORK.

RESPONSES TO INQUIRIES

1. Without knowing the specific scope of work for future County projects, how would you suggest we solicit bids for future services and materials unknown at this time? Should we simply make some assumptions based on previous work completed for the County?

RESPONSE: UDBE/DBE forms are not required to be submitted with your proposal for this RFP. However, they will be required for project specific contracts after we establish the on-call list.

2. To ensure we meet the 3.6% goal for all projects, it seems we would need a set contract amount for the project? Again, Should we make cost assumptions based on previous work?

RESPONSE: See response to Question #1.

3. If we make some general assumptions for future projects, and solicit UDBE/DBE materials & services bids, and submit good faith efforts documentation, will that satisfy this proposal requirement?.

RESPONSE: See response to Question #1.

4. Is it left up to the individual Surveyors to format their submittals. In other words, do you have a template you want followed or can I include whatever I feel appropriate?

RESPONSE: The County does not have a template for proposals. It is up to each firm to format their own proposal and include information they believe will address the requirements of the RFP.

**ADDENDUM NO. 1
FOR ON-CALL PROFESSIONAL SURVEYING SERVICES,
FOR BIDS DUE WEDNESDAY, DECEMBER 15, 2010; 5:00 PM
DATE: DECEMBER 10, 2010**

5. Our firm is capable of performing all requested services with in-house staff. We are completing a good faith effort, but anticipate it will not be cost effective for the County for us to subcontract services. We also understand that we are required to submit good faith effort documentation upon selection for services. Therefore, if we do not plan to subcontract any services, for the proposal submittal, do Exhibit 10-O1 and 10-O2 simply need to be signed and dated?

RESPONSE: See response to Question #1. UDBE/DBE firms shall be given full opportunity to participate in the performance of the work. If no UDBE/DBE firm(s) are utilized, Exhibits 10-O1 & 10-O2 must be filled-out showing 0% participation and signed/dated by the proposer. Additional, good faith efforts must be documented for 0% UDBE/DBE participation.

EXHIBIT B
Master Agreement

CONSULTANT'S RESPONSE TO COUNTY'S REQUEST FOR PROPOSAL



DELAMARE - FULTZ
ENGINEERING AND SURVEYING

3421 TULLY ROAD, SUITE J · MODESTO, CA 95350 · 209.529.7450 · FAX 209.529.0457
www.dfengineering.com

REQUEST FOR PROPOSALS
ON-CALL PROFESSIONAL SURVEYING SERVICES

STANISLAUS COUNTY
PUBLIC WORKS DEPARTMENT

Statement of Qualifications

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DELAMARE-FULTZ

ENGINEERING AND SURVEYING

3421 TULLY ROAD • SUITE J • MODESTO, CA 95350
TELEPHONE [209] 529-7450 • FAX [209] 529-0457

www.dfengineering.com

- **THOMAS H. DELAMARE**
R.C.E. 36341, L.S. 3407
- **RICHARD L. FULTZ**
BOARD OF DIRECTORS MEMBER
- **RICHARD C. TATOYAN**
PLANNER & DESIGN CONSULTANT
- **BARBARA J. DELAMARE**
C.P.A. 46482E
- **SCOTT DELAMARE**
L.S. 8078
- **DAVID J. HOBERG**
R.C.E. 53311

December 15, 2010

Stanislaus County Department of Public Works
Attention: Peter Song, Assistant Engineer
1716 Morgan Road
Modesto, CA 95358

Re: **Request for Proposal; On-Call Professional Surveying Services**

DeLaMare-Fultz Engineering & Surveying is pleased to present our Statement of Qualifications for consideration and I want to thank you for the opportunity to provide our qualifications as outlined in your Request for Proposals.

Commitment: We have completed a number of Surveying projects and we have a complete understanding of what needs to be done to perform these services in a cost-effective and timely manner. DeLaMare-Fultz has an uncompromising commitment to providing quality service and our mission will be to provide the Stanislaus County Department of Public Works with the complete and most appropriate services to accomplish their goals.

Company Profile: Our firm has been in business for over 50 years. The firm was founded in 1957 in Modesto, California. The firm incorporated in 1972. Office location is 3421 Tully Road, Suite J, Modesto, CA 95350 (since 1972). Our staff consists of 8 employees.

On-Call Professional Surveying Services: All work shall be performed by Scott T. DeLaMare, LS 8078 or Thomas H. DeLaMare, LS 3407, both Licensed Land Surveyors; or under their direction in accordance with the Professional Land Surveyors Act, Chapter 15, Article 3, Section 8276.

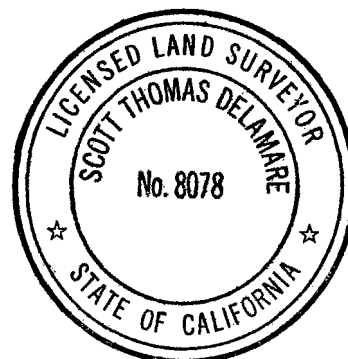
Please give me a call at (209) 529-7450 if you require any further information or if you have any questions concerning this proposal.

Sincerely,

**DELAMARE-FULTZ ENGINEERING
& SURVEYING**



Scott T. DeLaMare LS 8078
Vice-President



ON-CALL SURVEYING SERVICES

Boundary Surveys

Initial phase includes a land records research for the purpose of locating deeds, maps and other documents relevant to the location and rights associated with the parcel of land. DF Engineering then performs a field survey to locate boundary evidence, such as iron pipes, monuments, walls, fences, etc. DF Engineering utilizes a full array of conventional and GPS instrumentation, and equipment is monitored continually for accuracy and reliability. All field measurements are then verified in the office. A Boundary Survey plan is then drafted using current AutoCAD software and stamped with either Scott T. DeLaMare's or Thomas H. DeLaMare's professional land surveyors seal and signature. DF Engineering's experienced surveyors have a thorough understanding of the research, methods, principles and laws relating to land boundary surveys.

Right of Way Surveys

DF Engineering prepares Right of Way Surveys to substantiate right of way acquisition and to document existing rights of way. We will research data on existing property lines and any other evidence to determine and map Stanislaus County rights of way. The Right of Way lines will be monumented whenever possible or for safety and practicality, monumentation of offset lines will be utilized.

Topographic Surveys and Mapping

Initial phase includes research for the basis of bearing / horizontal control. DF Engineering will determine coordinates based on monuments closest to the site. All coordinates and distances will be ground distances from thereon in. Research will include determination of benchmarks for vertical control. Elevations will be based benchmarks closest to the site. Two benchmarks will be chosen and checked to each other with a differential bench run between them. Solicitation of utility companies for existing records of any utilities on or around the site will be part of the initial phase. DF Engineering will then perform a Field Survey to establish a control network and set enough control points to facilitate the collection of all topography data. DF Engineering will perform topography survey to locate all points required to draft the project; including all existing improvements. Final phase includes preparation of Topographic Survey drawing to incorporate field collected data into AutoCAD; plotting topography and record utility data. DF Engineering will then submit a preliminary Topography Survey map to County Public Works Department for review. DF Engineering will "walk" the site with preliminary Topography Survey in hand to check for totality. Revisions will be made to the Topography Survey for any County Public Works Department comments and the final Topography Survey map will then be submitted to County Public Works Department.

Record of Surveys

Initial phase includes research of existing recorded survey maps with the County and a thorough research of deeds and documents as discovery proceeds. Analysis of all provided and discovered data will be performed. DF Engineering will incorporate all provided and discovered data into a pre-calculation drawing of the record positions for monuments expected to be found in the field. A field survey will be performed to search for and locate any record monuments needed to complete the project. The exterior boundary will be resolved and the data collected in the field survey analyzed. The field collected data will be compared to record data. Final resolution of the exterior boundary will be performed. The final boundary resolution will then be incorporated into a Record of Survey drawing. The Record of Survey will be submitted to County Public Works Department for review and recording. DF Engineering will calculate positions of the monuments to set and prepare a staking drawing of the monuments to set and then set monuments in the ground on site.

ON-CALL SURVEYING SERVICES (continued)

Legal Descriptions and Plat Maps

DF Engineering will prepare Legal Descriptions on 8 ½" x 11" paper. "EXHIBIT A" will be labeled at the top of the page. A reference to the project and the type of dedication/conveyance will be included in the heading on each page. Any additional data that includes numbers, such as dates, and project numbers, will be placed at the bottom of the page. The Legal Descriptions will be signed, sealed, and dated by Scott T. DeLaMare, LS 8078 or Thomas H. DeLaMare, LS 3407. The preamble will include the section, township, and range, in which the described property is located. The area of the property being described will be listed.

DF Engineering will prepare Plats on 8 ½" x 11" paper. "Exhibit B" will be labeled at the top of the page. A reference to the project and the type of dedication/conveyance will be included on the plat. Any data that is not pertinent to the description, such as company name, project numbers, etc. will be shown in a title block at the bottom of the plat. The Plats will be signed, sealed, and dated by Scott T. DeLaMare, LS 8078 or Thomas H. DeLaMare, LS 3407. The plat will include the section, township, and range, in which the described property is located. All survey data will be shown: bearings, distances, and dimensions of the dedication/conveyance. The relationship to all existing adjoining or overlapping/intersecting easements will be shown. All plats will have a north arrow and scale. The survey data on the plat will agree with data shown in the legal description.

Construction Staking

DF Engineering's construction staking services are structured so that experienced onsite decisions can be made and that the job is done right the first time, every time. DF Engineering crews use their expertise and advanced survey technologies to capture accurate data and field points. In the office, all data and calculations are verified by as part of our quality control process. For each day of staking, the owner/contractor will receive a color copy of a staking sheet for the task that was performed. The stakes for that day are shown in red.

Setting of monument wells to Stanislaus County Standards & Corner Records

1. Monument Preservation per California Business And Professions Code Section 8771:
 - a. Research/locate monuments and benchmarks within the project boundaries.
 - b. Establish local ties for each monument/benchmark to be preserved/perpetuated.
 - c. Draft and file with the County, Corner Records for each monument/benchmark to be preserved/perpetuated before demolition commences.
 - d. Check integrity and remark position (if necessary) of any compromised monuments.
 - i. Install ¾" iron pipe, 24" long, with plastic yellow tag or nail and tag to replace compromised monuments.
 - ii. Monument wells and monument well installation not included in this proposal.
 - e. Draft and file with the County, Corner Records for each monument/benchmark to be preserved/perpetuated after construction is completed.

Proper signs and flagging shall be used for all field work within the County right-of-way.

EQUIPMENT

INNOVATIVE AND ADVANCED TECHNIQUES

Appropriate instrumentation and procedures shall be selected to obtain precision requirements necessary to meet or exceed the accuracy standards required. Total station and GPS shall be considered appropriate for performing surveys. Sufficient control shall be distributed throughout to allow horizontal and vertical positioning to be checked for compliance with stated accuracy standards. DF Engineering shall use a field crew experienced in performing the surveys and capable of responding to and completing work assignments for the projects.

Trucks

2008 ½ Ton Chevrolet Suburban, 5.3 liter V-8 Engine, 4WD
2008 Nissan Pathfinder SUV, 5.6 liter V-8 Engine, 4WD
1999 Ford 250 ¾ Ton Pick-up, 5.3 liter V-8 Engine, 4WD

Field Equipment

GPS; Trimble 5800 Rover, Trimble 4700 Base
Total Stations; Topcon, Trimble Robotic
Data Collection; Trimble TSC2, TSCe

Office Software

Civil 3D 2011
Civil 3D 2010
Civil 3D 2009
Land Desktop Companion 2009
Civil 3D 2008
Land Desktop Companion 2008

GREAT!
↙

DF Engineering owns or has access to all the necessary tools and equipment to perform all On-Call Professional Surveying Services. DF Engineering has open accounts at the following Supply Stores: Valley Rental Centers, Inc. / Safe-T-Lite of Modesto / California Surveying & Drafting Supply

DEMONSTRATION OF PROFESSIONAL AND FINANCIAL RESPONSIBILTIV

Brief History: Our firm has been in business for over 50 years. We have completed an average of 40 projects per year in the last three years and have an average volume of work of \$1 million gross. The firm was founded in 1957 in Modesto, California as Roy E. Fredricksen, Civil Engineer. Thomas H. DeLaMare and Richard L. Fultz joined Fredricksen's firm in 1959 and 1968 respectively. In 1978 the firm became Fredricksen, DeLaMare & Fultz, and in 1984, DeLaMare-Fultz Engineering & Surveying. The firm incorporated in 1972. Office location is 3421 Tully Road, Suite J, Modesto, CA 95350 (since 1972). Web Site: www.dfengineering.com

Current Workload: Our firm is currently working on the following projects in progress:

Project Name	Location	Client
Shopping Center	W. Main Street, Turlock	NUCP, LLC
Toyota Dealership Expansion	McHenry Avenue, Modesto	Modesto Toyota
School Expansion	Stonum Road, Ceres	Stanislaus County Office of Education
Elementary School	Newman	CT Bray & Sons, Inc.
Subdivision	Modesto	Florsheim
Humphreys College Expansion	Stockton	Dr. Robert Humphreys
Prime Shine Express Car Wash	Modesto	Prime Shine, Inc.

DeLaMare-Fultz Engineering & Surveying has maintained the following insurance coverage for over 50 years:

- **General Liability - Travelers** (Best Rating of A:XV)
Limit of Liability: \$2,000,000
- **Automobile Liability - Victor O. Schinnerer-CNA** (Best Rating of A:XV)
Limit of Liability: \$1,000,000
- **Workers Compensation - Travelers** (Best Rating of A:XV)
Limit of Liability: \$1,000,000
- **Professional Liability - Victor O. Schinnerer-CNA** (Best Rating of A:XV)
Limit of Liability: \$2,000,000
- **Additional Insured Endorsements: Provided upon request.**

DeLaMare-Fultz Engineering & Surveying has consistently upgraded to the current AutoCAD software since AutoCAD Release 14 (version prior to AutoCAD 2000):

AutoCAD 2010 Civil 3D <i>f-quest</i>	AutoCAD 2003
AutoCAD 2009 Civil 3D	AutoCAD 2002
AutoCAD 2008 Civil 3D	AutoCAD 2001
AutoCAD 2007	AutoCAD 2001
AutoCAD 2006	AutoCAD 2000
AutoCAD 2005	AutoCAD Release 14 (1997)
AutoCAD 2004	

DEMONSTRATION OF PROFESSIONAL AND FINANCIAL RESPONSIBILTiy (continued)

PROFESSIONAL ORGANIZATIONS:

California Land Surveyors Association (CLSA)

Tom DeLaMare and Scott DeLaMare, both of DeLaMare-Fultz, are members of CLSA and active in the local chapter of CLSA.

American Council of Civil Engineers of California (ACEC)

The firm of DeLaMare-Fultz is a State member and local Chapter member of ACEC; Tom DeLaMare serves as Program Director and Barbara DeLaMare is on the membership Committee.

American Society of Civil Engineers (ASCE)

David Hoberg, of DeLaMare-Fultz, is member of ASCE, and is active in the local chapter of ASCE.

Modesto Engineer's Club (MEC)

Tom DeLaMare, David Hoberg and Sergio Fuentes, of DeLaMare-Fultz, are active members of the Modesto Engineer's Club.

Building Industry Association of Central California (BIACC)

The firm of DeLaMare-Fultz belongs to the BIACC and participates in local events.

COMMUNITY INVOLVEMENT:

San Joaquin Engineers Council

Tom DeLaMare, of DeLaMare-Fultz, was awarded the 2010 Engineer of the Year and is an active member of the Council for 2010.

Stanislaus County Planning Commission

Tom DeLaMare, of DeLaMare-Fultz, was selected by the County Board of Supervisors in 2008 for a two year term as Planning Commissioner for Stanislaus County.

City of Modesto Comprehensive Fee Task Force

Richard Tatoyan, of DeLaMare-Fultz, has recently been approved by Modesto City Council to be included as a member of this committee, as a representative of the Construction Industry Liaison Committee (CILC). The goal of this committee is to review all current fees and make recommendations to Council for possible future adjustments.

City of Modesto Committee for Update of the Guidance Manual for New Development Stormwater Quality Control Measures

Richard Tatoyan and David Hoberg, both of DeLaMare-Fultz, have been asked to join this committee to discuss and make recommendations for the 2010 revisions to this manual. The primary goal of this process is to revise the manual based on the requirements specified in the City's National Pollutant Discharge Elimination System (NPDES) Permit that was recently reissued by the California Regional Water Quality Control Board, Central Valley Region.

RECENTLY COMPLETED PROJECTS

Hurd Barrington Elementary School, Newman (construction in progress)

Client: **Newman-Crows Landing Unified School District**; Performed complete Boundary Survey and Topography Survey to facilitate the preparation of improvement plans for the building of a new elementary school. Also prepared and filed a Record of Survey with the County of Stanislaus. Currently, providing construction staking.

Street Improvement Plans for portions of Maag Avenue and "D" Street, 2010

Client: **City of Oakdale**; Provide complete topography, design, construction plans and specifications, quantities, Engineer's estimate, and construction staking. Monument preservation and preparation of Corner Records.

Shiloh Elementary School Expansion, Stanislaus County, 2010

Client: **Shiloh School District**; Prepared metes and bounds legal description with plat map for school expansion area, for District's use in obtaining funding from the State of California.

Electrical Easement, Dienstag Road, Waterford, 2010

Client: **Modesto Irrigation District**; Performed field survey, research and preparation of legal description and plat map for electrical easement.

Graphics Drive Re-Alignment & Woodland Avenue Intersection Improvements, 2010

Client: **Modesto Irrigation District**; Provide complete topography, utility research, street design, sanitary sewer, storm drain and water design, improvement plans, coordination with sub-consultant (KD Anderson) to provide traffic signals at intersection, Estimated quantities, Engineer's estimate, special provisions section of project specifications; provide legal descriptions for right-of-way acquisitions and abandonments. Prepare for recording Final Parcel Map.

Traffic Signal Upgrade-Hatch Road and Crows Landing Road (pending construction)

Client: **County of Stanislaus**; Provide complete topography, utility research, street design, improvement plans, coordination with sub-consultant (KD Anderson) to provide traffic signals at intersection, Estimated Quantities, Engineer's estimate and Record Drawings.

City of Turlock, Engineering and Surveying Services, January 2000 to June 2011

Annual contract to provide engineering and surveying services for City of Turlock. Tasks included review of City Projects, Project Recommendations, Land Surveying, Design Engineering, and Drafting.

- Lot Line Adjustment, City of Turlock Skate Park and Turlock Irrigation District Parking Structure-2010; Perform field survey, prepare legal descriptions, plats and application package and present exhibits for final deeds to be recorded to perfect/finalize the lot line adjustment. Also prepared legal description and plat for access easement.
- Columbia Park Water Feature-2009; Provide topographic survey of project site; prepare topographic base drawing and site plan for design of improvement drawings. Provide Civil Engineering design and improvement plans including sanitary sewer service, water service and extension to project site, site grading design incorporating location of surface drain system and transition to surrounding park features. *The proposal for this work was not to exceed \$16,300. DeLaMare-Fultz performed under the proposal and invoiced the City for \$14,500.*
- Other Projects completed for the City of Turlock; Construction staking-Golden State Blvd. & West Tuolumne Road. Perform boundary and topography survey, prepare legal descriptions and exhibit maps for Well Site #37 Property Acquisition. Perform topography survey for Miscellaneous Overlays Project for street improvements. Perform topography survey, prepare plan line and perform construction staking for Christoffersen Parkway from Mt. View Road to Golden State Boulevard. Perform topography survey, prepare plan line and perform construction staking for Christoffersen Parkway Extension from Crowell Road and Geer Road.

Street Improvement Plans for North Third Avenue, 2009

Client: **City of Oakdale**; Provide complete topography, design, construction plans and specifications, quantities, Engineer's estimate, and construction staking.

RESPONSE TO REQUESTS FOR SERVICES

DeLaMare-Fultz Engineering & Surveying has a long successful history of tackling challenging Survey projects with creative solutions. Projects are thoroughly researched, clear communication established, scope defined and economically evaluated. All projects are coordinated with the client's expectations. The work is prepared under the control and direct supervision of the project surveyor, who assumes the full responsibility for their portion of the survey as mandated by licensure.

DeLaMare-Fultz values a reputation of providing excellent, responsive service at a reasonable cost. A typical DeLaMare-Fultz Topography and Record of Survey project approach would include:

- **A Team Approach:** Work with client and staff to develop a team relationship with all design professionals involved with the project. Work to establish clear lines of communication. Our staff has extensive experience in coordinating and working with staff at governmental agencies, including; City of Modesto, City of Turlock, Stanislaus County, San Joaquin County and Merced County.
- **Define the project:** Preliminary meetings/obtain clear understanding of project objectives and scope in order to provide the specific results the client is looking for.
- **Project Research:** Horizontal and vertical control datum, solicitation of the various utility companies for records pertaining to the site.
- **Determine Project Controls:** Establish onsite control points referenced to the chosen datum.
- **Site Accessibility:** Coordinate with client to contact and inform neighboring parcel owners of surveyor presence. Work with client to obtain access permissions and logistics for neighboring parcel topography data, if needed.
- **Field Topography Survey:** Locate all required surface topography data. Investigate sub-surface wet utilities by opening accessible manholes and access points to establish size, direction and invert elevations referenced to chosen datum.
- **Presentation/Topographic Map:** Prepare Topographic Map using the latest technology of AutoCAD programs, walk the site to check for completeness, perform in-house check prior to any submittal.
- **Coordination with client:** Project meetings, progress reports, proactive communication throughout project. Our goal is "no surprises". DeLaMare-Fultz has successfully coordinated survey efforts with the Office of the State Architect, Irrigation Districts, PG&E, AT&T California, Comcast and other utility companies.
- **Follow up/Job Completion:** Proactively follow project to completion.

REFERENCES

Richard Smith, PE
Modesto Irrigation District
1231 11th Street
Modesto, CA 95354
209-526-7463

Michael Jones, LS
Modesto Irrigation District
1231 11th Street
Modesto, CA 95354
209-526-7568

Michael Pitcock, PE
City Engineer
Director of Development Services
City of Turlock
Capital Projects/Engineering
156 S. Broadway
Turlock, CA 95380
209-668-5520

David A. Leamon, PE, Senior Civil Engineer
Stanislaus County
Department of Public Works
1716 Morgan Road
Modesto, CA 95358
209-568-6130

David Myers, City Engineer
City of Oakdale
Department of Public Works
455 S. 5th Avenue
Oakdale, CA 95361
209-845-3600

REVIEW OF SAMPLE PROFESSIONAL DESIGN SERVICES AGREEMENT



DELAMARE-FULTZ

ENGINEERING AND SURVEYING

3421 TULLY ROAD • SUITE J • MODESTO, CA 95350
TELEPHONE [209] 529-7450 • FAX [209] 529-0457

www.dfengineering.com

- **THOMAS H. DELAMARE**
R.C.E. 36341, L.S. 3407
- **RICHARD L. FULTZ**
BOARD OF DIRECTORS MEMBER
- **RICHARD C. TATOYAN**
PLANNER & DESIGN CONSULTANT
- **BARBARA J. DELAMARE**
C.P.A. 46482E
- **SCOTT DELAMARE**
L.S. 8078
- **DAVID J. HOBERG**
R.C.E. 53311

December 15, 2010

The firm has reviewed the Sample Professional Design Services Agreement and will meet all of the terms and conditions including insurance requirements if selected by the County for requested services.

Sincerely,

DELAMARE-FULTZ ENGINEERING
& SURVEYING

Barbara J. DeLaMare

Barbara J. DeLaMare
Vice-President

EXHIBIT 10-01 Local Agency Proposer UDBE Commitment (Consultant Contracts)

NOTE: PLEASE REFER TO INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM

LOCAL AGENCY: Stanislaus County LOCATION: Stanislaus County

PROJECT DESCRIPTION: On-Call Professional Surveying Services

PROPOSAL DATE: December 15, 2010

PROPOSER'S NAME: DeLaMare-Fultz Engineering & Surveying

CONTRACT UDBE GOAL (%): 3.1%

WORK ITEM NO.	DESCRIPTION OR SERVICES TO BE SUBCONTRACTED (or contracted if the proposer is a UDBE)	UDBE CERT NO. AND EXPIRATION DATE	NAME OF EACH UDBE (Must be certified at the time proposals are due - include UDBE address and phone number)	PERCENT PARTICIPATION OF EACH UDBE

For Local Agency to Complete:

Local Agency Proposal Number: _____
 Federal-Aid Project Number: _____
 Federal Share: _____
 Proposal Date: _____

Total Claimed UDBE Commitment -0- %

Local Agency certifies that the UDBE certifications have been verified and all information is complete and accurate/unless noted otherwise.

Barbara J. DeLaMare
 Signature of Proposer

12/15/2010 (209) 529-7450
 Date (Area Code) Tel. No.

Print Name _____ Signature _____ Date _____
 Local Agency Representative

Barbara J. DeLaMare
 Person to Contact (Please Type or Print)

(Area Code) Telephone Number: _____

Local Agency Proposer UDBE Commitment (Consultant Contracts)
 (Rev 6/27/09)

Distribution: (1) Original - Local agency files

EXHIBIT 10-02 Local Agency Proposer DBE Information (Consultant Contracts)

NOTE: PLEASE REFER TO INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM

LOCAL AGENCY: Stanislaus County LOCATION: Stanislaus County

PROJECT DESCRIPTION: On-Call Professional Surveying Services

TOTAL CONTRACT AMOUNT (\$): _____

PROPOSER'S NAME: DeLaMare-Fultz Engineering & Surveying

WORK ITEM NO.	DESCRIPTION OR SERVICES TO BE SUBCONTRACTED (or contracted if the proposer is a DBE)	DBE CERT NO. AND EXPIRATION DATE	NAME OF EACH DBE (Must be certified at the time proposals are due - include DBE address and phone number)	DOLLAR AMOUNT OF EACH DBE

<p>For Local Agency to Complete:</p> <p>Local Agency Contract Number: _____</p> <p>Federal-Aid Project Number: _____</p> <p>Federal Share: _____</p> <p>Contract Award: _____</p> <p>Local Agency certifies that the DBE certifications have been verified and all informations is complete and accurate.</p> <p>Print Name _____ Signature _____ Date _____ Local Agency Representative</p> <p>(Area Code) Telephone Number: _____</p> <p>For Caltrans Review:</p> <p>Print Name _____ Signature _____ Date _____ Caltrans District Local Assistance Engineer</p>	<p>Total Claimed DBE Participation \$ <u>-0-</u></p> <p style="text-align: right;"><u>-0-</u> %</p> <p><i>Barbara J. DeLaMare</i> Signature of Proposer</p> <p><u>12/15/2010</u> (209) <u>529-7450</u> Date (Area Code) Tel. No.</p> <p><u>Barbara J. DeLaMare</u> Person to Contact (Please Type or Print)</p> <p style="text-align: right;">Local Agency Proposer DBE Information (Consultant Contracts) (Rev 6/27/09)</p>
--	--

Distribution: (1) Copy - Fax or scan a copy to the Caltrans District Local Assistance Engineer (DLAE) within 15 days after contract execution. Failure to send a copy to the DLAE within 15 days after contract execution may result in deobligation of funds for this project.
(2) Original - Local agency files

EXHIBIT C
Master Agreement

CONSULTANTS FEE SCHEDULE



3421 TULLY ROAD, SUITE J · MODESTO, CA 95350 · 209.529.7450 · FAX 209.529.0457
www.dfengineering.com

**REQUEST FOR PROPOSALS
ON-CALL PROFESSIONAL SURVEYING SERVICES**

**STANISLAUS COUNTY
PUBLIC WORKS DEPARTMENT**

HOURLY RATE SCHEDULE

Principal Engineer/Land Surveyor	\$150.00/ hour	Thomas H. DeLaMare
Principal Land Surveyor/Survey Manager	110.00	Scott T. DeLaMare
Project Management	110.00	Barbara J. DeLaMare
Senior Planner/Designer/Project Manager	110.00	Richard C. Tatoyan
Civil Engineer/Project Engineer	100.00	David J. Hoberg
Assistant Engineer	90.00	Sergio Fuentes
Civil/Survey Drafter	65.00	Eddie C. Baker
Survey Technician	65.00	Chris M. Helie
Administrative Assistant	35.00	Megan Garcia
1-Man Survey Party	65.00	
2-Man Survey Party	100.00	
* 2-Man Survey Party Public Works	160.00	

* "Public Works" rate based upon prevailing pay rates mandated by the State Department of Industrial Relations for public works projects.

PROJECT SCOPE OF WORK
Project No. 000?
[To be prepared for each project.]

1. Except as hereinafter provided, the services provided by the Consultant under this Project Scope of Work (hereinafter referred to as "P.S.W.") shall be subject to the terms and conditions set forth in the Professional Design Services Master Agreement made and entered into by and between the County of Stanislaus ("County") and [Company Name] ("Contractor"), on [Insert Date], 2011.
2. The Consultant shall provide services under the Master Agreement and this P.S.W. as set forth in the Master Agreement Exhibits A and B and/or the Consultant's Proposed Project Scope of Work dated [Insert Date], 2011, attached hereto as Exhibit 1 and, by this reference, made a part hereof.
3. Consultant will be compensated for the services described herein in accordance with the Section 2.0 of the Master Agreement. The maximum amount to be paid by the County for services provided under this P.S.W. shall not exceed \$700,000, including, without limitation, the cost of any subcontractors, consultants, experts or investigators retained by the Consultant to perform or to assist in the performance of its work under this P.S.W.
4. The term of this P.S.W shall commence as stated in the Project Notice to Proceed and continue until all services described herein are completed, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties. Consultant's services described herein shall be performed in strict compliance with the Project Schedule approved by County as set forth in Exhibit 2, attached hereto and incorporated herein by this reference.

IN WITNESS WHEREOF, the parties hereto have caused this Project Scope of Work, Project No. 000? to be executed by and through their respective authorized officers:

COUNTY OF STANISLAUS

CONSULTANT

By: _____
Matt Machado, Director
Department of Public Works

By: _____
Name & Title

APPROVED AS TO FORM:

John P. Doering
County Counsel

By: _____
Thomas E. Boze
Deputy County Counsel

STANISLAUS COUNTY
PROFESSIONAL DESIGN SERVICES MASTER AGREEMENT
March 1, 2011 to March 1, 2013

This Agreement is made and entered into by and between the County of Stanislaus, a political subdivision of the State of California, hereinafter referred to as "County" and BKF Engineers, hereinafter referred to as "Consultant".

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0 PROFESSIONAL SERVICES TO BE PROVIDED BY CONSULTANT

1.1. Scope of Services: Consultant shall provide the professional services described in the County's Request for Proposal ("RFP") attached hereto as Exhibit "A" and incorporated herein by reference and Consultant's Response to County's RFP (the "Response"). A copy of said Response is attached hereto as Exhibit "B" and incorporated herein by this reference. Each project added to and to be performed under this Agreement shall be separately approved by the parties. Each project where the cost of services does not exceed \$100,000 shall be approved by purchase order issued by the County Purchasing Agent or designee; projects greater than \$100,000 shall be approved by resolution of the Board of Supervisors for the County.

1.2. Professional Practices: All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also represents that it is familiar with all laws that may affect its performance of this Agreement and shall advise County of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Representations: Consultant represents that it has reviewed the RFP and that in its professional judgment the services to be performed under this Agreement can be performed within the maximum fee set forth herein below and within the time specified in the Project Schedule attached hereto. Consultant represents that it is qualified to perform the professional services required by this Agreement and possesses the necessary licenses and permits required to perform said services. Consultant represents that it has no interest and shall not acquire any interest direct or indirect which conflicts, or has the appearance of conflicting, in any manner or degree with the performance of the work and services under this Agreement.

1.4. Compliance with Laws. Consultant agrees that it shall perform the services required by this Agreement in compliance with all applicable Federal and California laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable

to the services required under this Agreement.

1.5. Non-Discrimination. 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 disability, medical condition (including genetic characteristics), marital status, age, political affiliation, sex or sexual orientation. 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.

1.6. Non-Exclusive Agreement. Consultant acknowledges that County may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of County. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

1.8. Covenant Against Contingent Fees. Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the consultant; to solicit or secure this agreement; and that he/she has not paid or agreed to pay any company or person other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award, or formation of this agreement. For breach or violation of this warranty, the local agency shall have the right to annul this agreement without liability, or at its discretion; to deduct from the agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

2.0 COMPENSATION AND BILLING

2.1. Compensation. For each task or project let under this Agreement Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "C", attached hereto and made a part of this Agreement (the "Fee Schedule"). Consultant will be compensated on a time and materials basis, based on the hours worked by the Consultant's employees or subcontractors at the hourly rates specified in the Fee Schedule. Fee Schedule rates shall include direct salary

costs, employee benefits, and overhead. The rates stated in the Fee Schedule are not adjustable during the term of this Agreement. Consultant's compensation under this Master Agreement shall in no case exceed Two Hundred Thousand Dollars (\$200,000). The County may retain ten percent of all periodic or progress payments made to the Consultant until completion and acceptance of all work tasks and County shall have right to withhold payment from Consultant for any unsatisfactory service until such time service is performed satisfactorily.

2.2. Reimbursements. In addition to the aforementioned fees, Consultant will be reimbursed for any expenses specifically set forth in a Project Scope of Work. All such reimbursement amounts are limited to those costs and expenses that are reasonable, necessary and actually incurred by the Consultant in connection with the services provided. The County shall not pay a mark up on any item of reimbursement. The County shall not pay for any item of overhead such as telephone, facsimile, postage, etc. All requests for reimbursement shall be accompanied by a copy of the original invoice.

2.3. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in Exhibits A and B and specified in each Project Scope of Work unless the County or the Project Manager for the Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.4. Method of Billing. Consultant may submit invoices to County's Project Manager for approval on a progress basis, but no more often than once each calendar month. Said invoice shall be based on the total of all Consultants' services that have been completed to County's sole satisfaction. County shall pay Consultant's invoice within forty-five (45) days from the date County receives said invoice. Each invoice shall describe in detail, the services performed and the associated percentage of tasks completed. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.5. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to County or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the termination of this Agreement.

3.0 TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days after County delivers its Notice to Proceed for each separately approved Project. Said services shall be performed in strict compliance with the Project Schedule approved by County as set forth in each Project Scope of Work. Each Project Schedule may be amended by mutual agreement of the parties. Failure to commence work in a timely manner and/or diligently pursue work to completion may

be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

4.0 TERM OF CONTRACT AND TERMINATION

4.1. Term. This Agreement shall commence upon approval by the County's Board of Supervisors and continue for a period of twenty-four (24) months, or until all work on each Project let during the 24 month period is completed, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The County reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the County.

4.3. Compensation. In the event of termination, County shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of County's written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth in Exhibit "C". In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the County or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the County within ten (10) days of delivery of termination notice to Consultant, at no cost to County. Any use of uncompleted documents without specific written authorization from Consultant shall be at County's sole risk and without liability or legal expense to Consultant.

5.0 INSURANCE REQUIREMENTS

5.1. Minimum Scope and Limits of Insurance. Consultant, at its sole cost and expense, for the full term of this Agreement (and any extensions thereof), shall obtain and maintain, at minimum, compliance with all of the following insurance coverage(s) and requirements. If Consultant normally carries insurance in an amount greater than the minimum amount listed below, that greater amount shall become the minimum required amount of insurance for purposes of this Agreement. The insurance listed below shall have a retroactive date of placement prior to, or coinciding with, the date services are first provided that are governed by the terms of this Agreement:

- (a) Comprehensive general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate. 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.
- (b) Automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate.
- (c) Workers' compensation insurance as required by the State of California.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than Two Million Dollars (\$2,000,000.00), combined single limit for each occurrence. If Consultant cannot provide an occurrence policy, Consultant shall provide insurance covering claims made as a result of performance of Work on this Project and shall maintain such insurance in effect for not less than three years following Final Completion of the Project.

5.2. Endorsements. The Consultant shall obtain a specific endorsement to all required insurance policies, except Professional Liability insurance, naming the County of Stanislaus, its Officers, Directors, Officials, Agents, Employees and Volunteers as additional insureds for at least three years after the completion of the work to be performed under this Agreement, but, to the extent that any insurance issued to Consultant in effect after the expiration of three years provides additional insured coverage to parties Consultant agreed in writing to name as an additional insured, then Consultant shall have the obligation under this contract to obtain such additional insured coverage for the County, under any and all policies Consultant has 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) Ongoing 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.
- (e) For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County, 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 Consultant.

5.3. Deductibles: 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 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 retentions, 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.

5.4. Certificates of Insurance: At least ten (10) days prior to the date the Consultant begins performance of its obligations under this Agreement, Consultant 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 Consultant. 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.

5.5. Non-limiting: Nothing in this Section or the insurance described herein shall be construed as limiting in any way, the indemnification provisions contained in this Agreement, or the liability of Consultant and Consultant's officers, employees, agents, representatives or subcontractors for payments of damages to persons or property.

5.6. Primary Insurance: The Consultant's insurance coverage shall be primary insurance regarding the County of Stanislaus, its Officers, Directors, Officials, Agents, Employees and Volunteers. Any insurance or self-insurance maintained by the County of Stanislaus, its Officers, Directors, Officials, Agents, Employees and Volunteers shall be excess of the Consultant's insurance and shall not contribute with Consultant's insurance. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials and employees. 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. Any and all insurances cared by it shall be deemed liability coverage for any and all actions it performs in connection with this Contract.

5.7. Cancellation of Insurance: 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 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. Consultant shall maintain

such coverage in effect for three years after substantial completion of the project to the extent it is commercially available at reasonable rates.

5.8. California Admitted Insurer: 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.

5.9. Subcontractors: 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.

6.0 INDEMNIFICATION

6.1. Indemnification: To the fullest extent allowed by law, Consultant shall defend, indemnify, and hold harmless the County and its officers, directors, officials, agents, employees, volunteers and representatives (collectively, "Indemnitee") 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, (collectively, "losses") 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. These indemnification obligations shall not be limited by any assertion or finding that (1) the person or entity indemnified is liable by reason of non-delegable duty, or (2) the losses were caused in part by the negligence of, breach of contract by, or violation of law by Indemnitee. Nothing in this Agreement, including the provisions of this paragraph, shall constitute a waiver or limitation of any rights which Indemnitee may have under applicable law, including without limitation, the right to implied indemnity.

6.2. 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 and as limited in section 2782.8 of the California Civil Code. This duty to defend arises immediately when such claim is made and shall be independent of any finding of negligence and shall arise regardless of any claim or assertion that Indemnitee caused or contributed to the Losses. Consultant shall provide legal counsel acceptable to the County.

6.3. Duty to Cooperate: Each party shall notify the other party within ten (10) days 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.

6.4. 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.

6.5. The foregoing provisions in this section "Indemnification" shall survive the term and termination of this Agreement.

7.0 GENERAL PROVISIONS

7.1. Entire Agreement: This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

7.2. Representatives. The Director of the Stanislaus County Department of Public Works, or his designee, shall be the representative of County for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the County, called for by this Agreement, except as otherwise expressly provided in this Agreement. Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

7.3. Project Managers. County shall designate a Project Manager to work directly with Consultant in the performance of this Agreement. Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with County during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by County.

7.4. Designated Personnel: A material covenant of this agreement is that the Consultant shall assign the individuals designated below to perform the functions designated so long as they continue in the employ of the Consultant. The designated individuals shall, so long as their performance continues to be acceptable to County, remain in charge of the services for the Project from beginning through completion of services.

- a. Project Manager: Walter Stemberga
- b. Lead/Manager: N/A

7.5. Removal of Personnel or Sub-Consultants: If the County, in its sole discretion at any time during the term of this agreement, desires the removal of any person or sub-consultant assigned by Consultant to perform services, then the Consultant shall remove such person or consultant immediately upon receiving notice from the County.

7.6. Notices: Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

If to County:

Stanislaus County Department of Public Works
Attn: Dave Leamon, Manger
1716 Morgan Road
Modesto, California 95358
Phone: (209) 525-4184
Fax: (209) 541-2509

If to Consultant:

BKF Engineers
Attn: Billy Martin, Principal / Vice President
4670 Willow Road, Ste. 250
Pleasanton, CA 94588
Phone: (925) 396-7700
Fax: (925) 396-7799

7.7. Attorneys' Fees: In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

7.8. Governing Law: This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Stanislaus County, California.

7.9. Assignment: Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without County's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of County's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

7.10. Independent Contractor: Consultant is and shall be acting at all times as an independent contractor and not as an employee of County. Consultant shall secure, at his

expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. 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.

7.11. Confidentiality: The Consultant 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.

7.12. Ownership of Documents: Any interest, including copyright interests, of Consultant or its contractors or subconsultants in studies, reports, memoranda, computational sheets, drawings, plans or any other documents, including electronic data, prepared in connection with the Services, shall be the property of County. To the extent permitted by law, work product produced under this Agreement shall be deemed works for hire and all copyrights in such works shall be the property of the County. In the event that it is ever determined that any works created by Consultant or its subconsultants under this Agreement are not works for hire, Consultant hereby assigns to County all copyrights to such works. With the County's prior written approval, Consultant may retain and use copies of such works for reference and as documentation of experience and capabilities.

7.13. Reuse of Design Documents: Should the County desire to reuse the documents specified above and not use the services of the Consultant, then the County agrees to require the new consultant to assume any and all obligations for the reuse of the documents, and the County releases Consultant and its subconsultants from all liability associated with the reuse of such documents.

7.14. Public Records Act Disclosure: Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, and provided to County may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualifies as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs County of such trade secret. The County will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The County shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

7.15. Responsibility for Errors: Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the County's representative, regarding any services rendered under this Agreement at no additional cost to County. In the event that an error or omission attributable to

Consultant occurs, then Consultant shall, at no cost to County, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of County and to participate in any meeting required with regard to the correction.

7.16. Order of Precedence: In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of the RFP or the Response, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over both the Response and the RFP and the Response shall govern over the RFP.

7.17. Costs: Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

7.18. No Third Party Beneficiary Rights: This Agreement is entered into for the sole benefit of County and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

7.19. Construction: The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

7.20. Amendments: This Agreement may be amend only by a writing executed by the parties hereto or their respective successors and assigns.

7.21. Waiver: The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

7.22. Severability: If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent

jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.


7.23. Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.


7.24. Corporate Authority: The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so, the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers:

COUNTY OF STANISLAUS

BKF ENGINEERS

By: 
Matt Machado, Director
Department of Public Works

By: 
Billy Martin, Principal
Vice President

APPROVED AS TO FORM:

John P. Doering
County Counsel

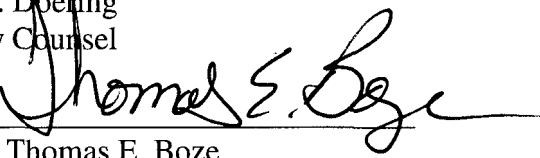
By: 
Thomas E. Boze
Deputy County Counsel

EXHIBIT A
Master Agreement

COUNTY'S REQUEST FOR PROPOSAL



DEPARTMENT OF PUBLIC WORKS

Matt Machado, PE
Director

Laurie Barton, PE
Deputy Director, Engineering/Operations

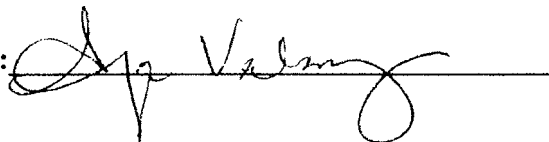
Diane Haugh
Assistant Director, Business/Finance

1716 Morgan Road, Modesto, CA 95358
Phone: 209.525.4130 Fax: 209.525.4120

Email: publicworks@stancounty.com
www.stancountv.com/publicworks

ADDENDUM NO. 1
TO REQUEST FOR PROPOSAL
FOR
ON-CALL PROFESSIONAL SURVEYING SERVICES
IN
STANISLAUS COUNTY

AJA VERBURG, ASSOCIATE ENGINEER

By: 

DATE: DECEMBER 10, 2010

PROPOSALS DUE: DECEMBER 15, 2010; 5:00 PM

Page 1 of 3

**ADDENDUM NO. 1
FOR ON-CALL PROFESSIONAL SURVEYING SERVICES,
FOR BIDS DUE WEDNESDAY, DECEMBER 15, 2010; 5:00 PM
DATE: DECEMBER 10, 2010**

TO ALL CONSULTANTS:

THE FOLLOWING CHANGES, ADDITIONS, AND CLARIFICATIONS ARE HEREBY MADE A PART OF THE REQUEST FOR PROPOSAL AND SHALL BE USED IN PREPARATION OF THE PROPOSAL SUBMITTED FOR THE WORK.

RESPONSES TO INQUIRIES

1. Without knowing the specific scope of work for future County projects, how would you suggest we solicit bids for future services and materials unknown at this time? Should we simply make some assumptions based on previous work completed for the County?

RESPONSE: UDBE/DBE forms are not required to be submitted with your proposal for this RFP. However, they will be required for project specific contracts after we establish the on-call list.

2. To ensure we meet the 3.6% goal for all projects, it seems we would need a set contract amount for the project? Again, Should we make cost assumptions based on previous work?

RESPONSE: See response to Question #1.

3. If we make some general assumptions for future projects, and solicit UDBE/DBE materials & services bids, and submit good faith efforts documentation, will that satisfy this proposal requirement?.

RESPONSE: See response to Question #1.

4. Is it left up to the individual Surveyors to format their submittals. In other words, do you have a template you want followed or can I include whatever I feel appropriate?

RESPONSE: The County does not have a template for proposals. It is up to each firm to format their own proposal and include information they believe will address the requirements of the RFP.

**ADDENDUM NO. 1
FOR ON-CALL PROFESSIONAL SURVEYING SERVICES,
FOR BIDS DUE WEDNESDAY, DECEMBER 15, 2010; 5:00 PM
DATE: DECEMBER 10, 2010**

5. Our firm is capable of performing all requested services with in-house staff. We are completing a good faith effort, but anticipate it will not be cost effective for the County for us to subcontract services. We also understand that we are required to submit good faith effort documentation upon selection for services. Therefore, if we do not plan to subcontract any services, for the proposal submittal, do Exhibit 10-O1 and 10-O2 simply need to be signed and dated?

RESPONSE: See response to Question #1. UDBE/DBE firms shall be given full opportunity to participate in the performance of the work. If no UDBE/DBE firm(s) are utilized, Exhibits 10-O1 & 10-O2 must be filled-out showing 0% participation and signed/dated by the proposer. Additional, good faith efforts must be documented for 0% UDBE/DBE participation.



STANISLAUS COUNTY
DEPARTMENT OF PUBLIC WORKS

NOTICE OF REQUEST FOR PROPOSALS

ON-CALL PROFESSIONAL SURVEYING SERVICES

Stanislaus County Department of Public Works is requesting proposals from qualified consultants to provide on-call professional surveying services. The County has established an Underutilized Disadvantaged Business Enterprise (UDBE) goal of 3.1 percent with an overall DBE goal of 3.6 percent for all contracts. Information regarding UDBE can be found in the attached "Notice to Proposers Disadvantaged Business Enterprise Information," of this Request for Proposal (RFP). Exhibit 10-O1 and Exhibit 10-O2 are required to be completed and included in the proposal. If the UDBE goal is not met for the project, only consultants selected to be awarded a Master Agreement contract will be required to submit adequate good faith efforts documentation.

A copy of this Request for Proposal is available for viewing and download on the Valley Reprographics website at www.valleyreproplanroom.com.

All questions must be submitted in writing. Please send all questions regarding this RFP in writing via email to Peter Song at peter.song@stancounty.com or fax to (209) 525-4188. The deadline to submit questions is 5:00 p.m. on Wednesday, December 8, 2010. Addendums, if necessary, will be posted on the Valley Reprographics website. The last day to issue an addendum is Friday, December 10, 2010.

Pursuant to Sections 1770 and 1773 of the Labor Code, the Board of Supervisors has ascertained the general prevailing rate of per diem wages applicable to the work to be done for straight time, overtime, Saturday, Sunday, and holiday work. These wage rates are set forth by the Director of the Department of Industrial Relations and are available at the agencies web site and are on file with the Department of Public Works and hereby made a part of the agreement.

Proposals must be submitted at or before 5:00 p.m. on Wednesday, December 15, 2010.

Proposals shall be delivered in person or by mail to the following address:

Stanislaus County
Department of Public Works
Attention: Peter Song, Assistant Engineer
1716 Morgan Road
Modesto, CA 95358

PROJECT DESCRIPTION:

The County will select and contract three (3) to five (5) firms for on-call professional surveying services. The contract with each firm will provide a not to exceed yearly budget to be drawn against as services are requested and performed. Services will be requested on an as needed and per project basis. The term of each contract will be for two (2) years with a County option for a one (1) year extension. The first two contracts issued will be for Record of Surveys, or Corner Records where applicable, for current County overlay projects.

Work will be assigned to firms on the on-call list in no particular order. The County will assign work based on the firms current work load, availability of services, cost, schedule, and contract performance.

SCOPE OF WORK:

The work will include, but will not be limited to the following:

- Boundary Surveys
- Right of Way Surveys
- Topographic Surveys and Mapping
- Record of Surveys
- Legal Descriptions and Plat Maps
- Construction Staking
- Setting of monument wells to Stanislaus County Standards (monument wells will be provided by Stanislaus County)

All work shall be performed under the direction of a Licensed Land Surveyor in accordance with the Professional Land Surveyors Act, Chapter 15, Article 3, Section 8276, or a licensed engineer authorized to do land survey work with the State of California under Section 8731 of the aforementioned Act.

Proper signs and flagging shall be used for all field work within the County right-of-way.

PROPOSAL REQUIREMENTS:

The proposal, at a minimum, shall include the following:

- List and description of all surveying services available for on-call services.
- List of personnel available for these services and a resume of qualifications for each. Each firm shall provide the name of at least one Licensed Land Surveyor, and/or Licensed Engineer authorized to do land surveying in the State of California.
- List of survey equipment, vehicles, and tools (ex. jack hammers)
- List of recently completed projects showing past performances and abilities of the proposed team.

- Details on the firms ability to adequately respond to County’s requests for services in a timely manner.
- Three (3) copies of your proposal must be submitted to the County. Please include with the proposal, in a **SEPARATE, SEALED ENVELOPE**, your hourly rate schedule. The hourly rate schedule must include all staff hourly rates and fees. Sub-consultant fees must be clearly indicated (if applicable).
- Provide references, including, but not limited to public agency clients, with a designated contact person and phone number for each reference.

The successful firms will be required to enter into a Professional Design Services Agreement with Stanislaus County for the work to be performed. A sample design services agreement is included with this Request for Proposal. The County is currently revising the indemnity section of the Professional Design Services Agreement to be consistent with Senate Bill No. 972 (SB972). A copy of SB972 is included with this RFP for your reference. The consultant shall state in the submitted proposal that their firm has reviewed the Sample Professional Design Services Agreement and will meet all of the terms and conditions if selected by the County for the requested services.

The proposals will be evaluated based on the scoring chart below. This scoring system is provided as a guideline for evaluating proposals that are submitted in response to a Request for Proposal.

Criteria	(a) Weight	(b) Score (0-10)	(a) x (b) Weighted Score
Professional Surveying Services Provided	3		
Experience of Project Manager	2		
Qualification and Experience of Key Personnel	2		
Demonstration of Professional and Financial Responsibility	1		
Experience Working With Public Agencies	1		
References	1		

Fail (0 points): Zero (0) points are given when the category being evaluated is nonresponsive.
Below Average (1 - 4 points): One (1) to four (4) points are awarded to responses that are considered to be minimally acceptable.
Average (5 points): Five (5) points are awarded if qualifications fully satisfy the requirement.

Above Average (6 - 9 points): Six (6) points to nine (9) points are awarded if qualifications more than satisfy the requirement and experience specifically applies to the project under consideration.

Exceptional (10 points): Ten (10) points are awarded if a firm's qualifications far exceed those required. Scores of ten (10) points generally are infrequent.

The proposals will be reviewed shortly after the closing date for submittal of proposals. Those firms believed to be the most qualified, based on their proposal, may be subject to an interview.

ATTACHMENTS:

1. Notice to Proposers Disadvantaged Business Enterprise Information
2. Exhibit 10-O1 & 10-O2
3. Prompt Payment of Withheld Funds to Subcontractors
4. Sample Design Services Agreement
5. Senate Bill 972



DEPARTMENT OF PUBLIC WORKS

Matt Machado, PE
Director

Laurie Barton, PE
Deputy Director, Engineering/Operations

Diane Haugh
Assistant Director, Business/Finance

1716 Morgan Road, Modesto, CA 95358
Phone: 209.525.4130 Fax: 209.525.4120

Email: publicworks@stancounty.com
www.stancounty.com/publicworks

**NOTICE TO PROPOSERS
DISADVANTAGED BUSINESS ENTERPRISE
INFORMATION**

Stanislaus County has established an Underutilized DBE goal for this Agreement of 3.1% and an overall DBE goal of 3.6 percent.

1. TERMS AS USED IN THIS DOCUMENT

- The term “Disadvantaged Business Enterprise” or “DBE” means a for-profit small business concern owned and controlled by a socially and economically disadvantaged person(s) as defined in Title 49, Part 26.5, Code of Federal Regulations (CFR).
- The term “Underutilized Disadvantaged Business Enterprise” or “UDBE.” DBE classes that have been determined in the 2007 Caltrans Disparity Study to have a statistically significant disparity in their utilization in previously awarded transportation contracts. UDBEs include: African Americans, Native Americans, Asian-Pacific Americans, and Women.
- The term “Agreement” also means “Contract.”
- Agency also means the local entity entering into this contract with the Contractor or Consultant.
- The term “Small Business” or “SB” is as defined in 49 CFR 26.65.

2. AUTHORITY AND RESPONSIBILITY

- A. DBEs and other small businesses are strongly encouraged to participate in the performance of Agreements financed in whole or in part with federal funds (See 49 CFR 26, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs”). The Contractor should ensure that DBEs and other small businesses have the opportunity to participate in the performance of the work that is the subject of this solicitation and should take all necessary and reasonable steps for this assurance. The proposer shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.

- B. Proposers are encouraged to use services offered by financial institutions owned and controlled by DBEs.

3. SUBMISSION OF UDBE AND DBE INFORMATION

If there is a UDBE goal on the contract, a "Local Agency Proposer UDBE Commitment (Consultant Contract)" (Exhibit 10-O1) form shall be included in the Request for Proposal. In order for a proposer to be considered responsible and responsive, the proposer must make good faith efforts to meet the goal established for the contract. If the goal is not met, the proposer must document adequate good faith efforts. Only UDBE participation will be counted towards the contract goal; however, all DBE participation shall be collected and reported.

A "Local Agency Proposer DBE Information (Consultant Contract)" (Exhibit 10-O2) form shall be included with the Request for Proposal. The purpose of the form is to collect data required under 49 CFR 26. For contracts with UDBE goals, this form collects DBE participation by DBEs owned by Hispanic American and Subcontinent Asian Americans males (persons whose origin are from India, Pakistan, Bangladesh, Bhutan, Maldives Islands, Nepal or Sri Lanka). For contracts with no goals, this form collects information on all DBEs, including UDBEs. Even if no DBE participation will be reported, the successful proposer must execute and return the form.

4. DBE PARTICIPATION GENERAL INFORMATION

It is the proposer's responsibility to be fully informed regarding the requirements of 49 CFR, Part 26, and the Department's DBE program developed pursuant to the regulations. Particular attention is directed to the following:

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
- B. A certified DBE may participate as a prime contractor, subcontractor, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A UDBE proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:
 - 1. The proposer is a UDBE and will meet the goal by performing work with its own forces.
 - 2. The proposer will meet the goal through work performed by UDBE subcontractors, suppliers or trucking companies.
 - 3. The proposer, prior to proposing, made adequate good faith efforts to meet the goal.

- D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- F. The proposer shall list only one subcontractor for each portion of work as defined in their proposal and all DBE subcontractors should be listed in the bid/cost proposal list of subcontractors.
- G. A prime contractor who is a certified DBE is eligible to claim all of the work in the Agreement toward the DBE participation except that portion of the work to be performed by non-DBE subcontractors.

5. RESOURCES

- A. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP. If you believe a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification toll free number 1-866-810-6346 for assistance. Proposer may call (916) 440-0539 for web or download assistance.
- B. Access the CUCP database from the Department of Transportation, Civil Rights, Business Enterprise Program web site at: <http://www.dot.ca.gov/hq/bep/>.
 - Click on the link in the left menu titled *Disadvantaged Business Enterprise*
 - Click on *Search for a DBE Firm* link
 - Click on *Access to the DBE Query Form* located on the first line in the center of the page
 - Searches can be performed by one or more criteria
 - Follow instructions on the screen
- C. How to Obtain a List of Certified DBEs without Internet Access

D. DBE Directory: If you do not have Internet access, Caltrans also publishes a directory of certified DBE firms extracted from the online database. A copy of the directory of certified DBEs may be ordered at: <http://caltrans-opac.ca.gov/publicat.htm>

6. MATERIALS OR SUPPLIES PURCHASED FROM DBES COUNT TOWARDS DBE CREDIT, AND IF A DBE IS ALSO A UDBE, PURCHASES WILL COUNT TOWARDS THE UDBE GOAL UNDER THE FOLLOWING CONDITIONS:

- A. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Agreement and of the general character described by the specifications.
- B. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Agreement are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.
- C. If the person both owns and operates distribution equipment for the products, any Supplementing of regular dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not UDBE regular dealers within the meaning of this section.
- D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

7. FOR DBE TRUCKING COMPANIES: CREDIT FOR DBES WILL COUNT TOWARDS DBE CREDIT, AND IF A DBE IS A UDBE, CREDIT WILL COUNT TOWARDS THE UDBE GOAL UNDER THE FOLLOWING CONDITIONS:

- A. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular Agreement, and there cannot be a contrived arrangement for the purpose of meeting the UDBE goal.
- B. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the Agreement.
- C. The DBE receives credit for the total value of the transportation services it provides on the Agreement using trucks it owns, insures, and operates using drivers it employs.
- D. The DBE may lease trucks from another DBE firm including an owner-operator who is certified as a DBE. A DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Agreement.
- E. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. A DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. A DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by the DBE.
- F. For the purposes of this Section D, a lease must indicate that the DBE has exclusive use and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, as long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

EXHIBIT 10-O1 Local Agency Proposer UDBE Commitment (Consultant Contracts)

NOTE: PLEASE REFER TO INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM

LOCAL AGENCY: _____ LOCATION: _____

PROJECT DESCRIPTION: _____

PROPOSAL DATE: _____

PROPOSER'S NAME: _____

CONTRACT UDBE GOAL (%): _____

WORK ITEM NO.	DESCRIPTION OR SERVICES TO BE SUBCONTRACTED (or contracted if the proposer is a UDBE)	UDBE CERT NO. AND EXPIRATION DATE	NAME OF EACH UDBE (Must be certified at the time proposals are due - include UDBE address and phone number)	PERCENT PARTICIPATION OF EACH UDBE

<p>For Local Agency to Complete:</p> <p>Local Agency Proposal Number: _____</p> <p>Federal-Aid Project Number: _____</p> <p>Federal Share: _____</p> <p>Proposal Date: _____</p> <p>Local Agency certifies that the UDBE certifications have been verified and all information is complete and accurate/unless noted otherwise.</p> <p>Print Name _____ Signature _____ Date _____</p> <p>Local Agency Representative</p> <p>(Area Code) Telephone Number: _____</p>	<p style="text-align: center;">Total Claimed UDBE Commitment _____ %</p> <p>_____ Signature of Proposer</p> <p>_____ Date (Area Code) Tel. No.</p> <p>_____ Person to Contact (Please Type or Print)</p> <p style="text-align: center;">Local Agency Proposer UDBE Commitment (Consultant Contracts) (Rev 6/27/09)</p>
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Distribution: (1) Original - Local agency files

**INSTRUCTIONS – LOCAL AGENCY PROPOSER UDBE COMMITMENT
(CONSULTANT CONTRACTS)**

ALL PROPOSERS:

PLEASE NOTE: It is the proposer's responsibility to verify that the UDBE(s) falls into one of the following groups in order to count towards the UDBE contract goal: 1) African Americans; 2) Asian-Pacific Americans; 3) Native Americans; 4) Women. This information must be submitted with your proposal. Failure to submit the required UDBE commitment will be grounds for finding the proposal nonresponsive.

A "UDBE" is a firm meeting the definition of a DBE as specified in 49 CFR and is one of the following groups: African Americans, Native Americans, Asian-Pacific Americans, or Women.

The form requires specific information regarding the consultant contract: Local Agency, Location, Project Description, Proposal Date, Proposer's Name, and Contract UDBE Goal.

The form has a column for the Work Item Number and Description or Services to be subcontracted to UDBEs (or performed if the proposer is a UDBE). The UDBE prime contractors shall indicate all work to be performed by UDBEs including work to be performed by its own forces, if a UDBE. The UDBE shall provide a certification number to the Consultant and notify the Consultant in writing with the date of decertification if their status should change during the course of the contract. Enter UDBE prime consultant and subconsultant certification numbers. The form has a column for the Names of certified UDBEs to perform the work (must be certified on the date proposals are due and include UDBE address and phone number).

There is a column for the percent participation of each UDBE. Enter the Total Claimed UDBE Participation percentage of items of work submitted with proposal pursuant to the Special Provisions. (If 100% of item is not to be performed or furnished by the UDBE, describe exact portion of time to be performed or furnished by the UDBE.) See "Notice to Proposers Disadvantaged Business Enterprise Information," (Exhibit 10-I) to determine how to count the participation of UDBE firms. **Note:** If the proposer has not met the contract goal, the local agency must evaluate the proposer's good faith efforts to meet the goal in order to be considered for award of the contract.

Exhibit 10-01 must be signed and dated by the consultant submitting the proposal. Also list a phone number in the space provided and print the name of the person to contact.

For the Successful Proposer only, local agencies should complete the Proposal Number, Federal-aid Project Number, Federal Share, and Proposal Date fields and verify that all information is complete and accurate before filing.

EXHIBIT 10-02 Local Agency Proposer DBE Information (Consultant Contracts)

NOTE: PLEASE REFER TO INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM

LOCAL AGENCY: _____ LOCATION: _____

PROJECT DESCRIPTION: _____

TOTAL CONTRACT AMOUNT (\$): _____

PROPOSER'S NAME: _____

WORK ITEM NO.	DESCRIPTION OR SERVICES TO BE SUBCONTRACTED (or contracted if the proposer is a DBE)	DBE CERT NO. AND EXPIRATION DATE	NAME OF EACH DBE (Must be certified at the time proposals are due - include DBE address and phone number)	DOLLAR AMOUNT OF EACH DBE

For Local Agency to Complete:

Local Agency Contract Number: _____

Federal-Aid Project Number: _____

Federal Share: _____

Contract Award: _____

Local Agency certifies that the DBE certifications have been verified and all informations is complete and accurate.

_____ Signature _____ Date _____
 Local Agency Representative

(Area Code) Telephone Number: _____

Total Claimed DBE Participation \$ _____ %

Signature of Proposer

_____ Date (Area Code) Tel. No. _____

Person to Contact (Please Type or Print)

For Caltrans Review:

_____ Signature _____ Date _____
 Caltrans District Local Assistance Engineer

Local Agency Proposer DBE Information (Consultant Contracts)
(Rev 6/27/09)

Distribution: (1) Copy - Fax or scan a copy to the Caltrans District Local Assistance Engineer (DLAE) within 15 days after contract execution.
 Failure to send a copy to the DLAE within 15 days after contract execution may result in deobligation of funds for this project.
 (2) Original - Local agency files

**INSTRUCTIONS - LOCAL AGENCY PROPOSER DBE INFORMATION
(CONSULTANT CONTRACTS)****SUCCESSFUL PROPOSER:**

The form requires specific information regarding the consultant or other contract: Local Agency, Location, Project Description, Total Contract Amount, Proposal Date, and successful Proposer's Name.

The form has a column for the Work Item Number and Description or Services to be Subcontracted to DBEs. The prime consultant shall indicate all work to be performed by DBEs including, if the prime consultant is a DBE, work performed by its own forces, if a DBE. The DBE shall provide a certification number to the prime consultant. Enter DBE prime consultant's and subconsultant's certification number. The form has a column for the Names of DBE certified contractors to perform the work (must be certified on or before the proposals are due and include DBE address and phone number).

Enter the Total Claimed DBE Participation dollar amount of items of work in the total DBE Dollar Amount column. (If 100% of item is not to be performed by the DBE, describe exact portion of time to be performed by the DBE.) See "Notice to Proposers Disadvantaged Business Enterprise Information," (Exhibit 10-I) to determine how to count the participation of DBE firms.

Exhibit 10-02 must be signed and dated by the successful proposer at contract execution. Also list a phone number in the space provided and print the name of the person to contact.

Local agencies should complete the Contract Number, Federal-aid Project Number, Federal Share, and Contract Award fields and verify that all information is complete and accurate before signing and sending a copy of the form to the District Local Assistance Engineer within 15 days of contract execution. Failure to submit a completed and accurate form within the 15-day time period may result in the deobligation of funds on this project.

District DBE Coordinator should verify that all information is complete and accurate. Once the information has been verified, the **District Local Assistance Engineer** signs and dates the form.

(Attachment)

Prompt Payment of Withheld Funds to Subcontractors

Federal regulation (49 CFR 26.29) requires one of the following three methods be used in federal-aid contracts to ensure prompt and full payment of any retainage kept by the prime contractor or subcontractor to a subcontractor.

Please check the box of the method chosen by the local agency to ensure prompt and full payment of any retainage.

- Method 1:** No retainage will be held by the agency from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
- Method 2:** No retainage will be held by the agency from progress payments due the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor in 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
- Method 3:** The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

SAMPLE

STANISLAUS COUNTY PROFESSIONAL DESIGN SERVICES AGREEMENT

This Agreement is made and entered into by and between the County of Stanislaus, a political subdivision of the State of California, hereinafter referred to as "County" and ~~INSERT CONSULTANT'S NAME~~, hereinafter referred to as "Consultant".

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0 PROFESSIONAL SERVICES TO BE PROVIDED BY CONSULTANT

1.1. Scope of Services: Consultant shall provide the professional services described in the County's Request for Proposal ("RFP") attached hereto as **Exhibit "A"** and incorporated herein by reference and Consultant's Response to County's RFP (the "Response"). A copy of said Response is attached hereto as **Exhibit "B"** and incorporated herein by this reference.

1.2. Professional Practices: All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also represents that it is familiar with all laws that may affect its performance of this Agreement and shall advise County of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Representations: Consultant represents that it has reviewed the RFP and that in its professional judgment the services to be performed under this Agreement can be performed within the maximum fee set forth herein below and within the time specified in the Project Schedule attached hereto. Consultant represents that it is qualified to perform the professional services required by this Agreement and possesses the necessary licenses and permits required to perform said services. Consultant represents that it has no interest and shall not acquire any interest direct or indirect which conflicts, or has the appearance of conflicting, in any manner or degree with the performance of the work and services under this Agreement.

1.4. Compliance with Laws. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement.

1.5. Non-Discrimination. During the performance of this Agreement, Consultant and its officers, employees, agents, representatives or subcontractors shall not unlawfully

SAMPLE

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. 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.

1.6. Non-Exclusive Agreement. Consultant acknowledges that County may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of County. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

2.0 COMPENSATION AND BILLING

2.1. Compensation. Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "C", attached hereto and made a part of this Agreement (the "Fee Schedule"). Consultant's compensation shall in no case exceed Insert Amount – spelled out and (\$)

2.2. Reimbursements. In addition to the aforementioned fees, Consultant will be reimbursed for any expenses specifically set forth in a Project Scope of Work. All such reimbursement amounts are limited to those costs and expenses that are reasonable, necessary and actually incurred by the Consultant in connection with the services provided. The County shall not pay a mark up on any item of reimbursement. The County shall not pay for any item of overhead such as telephone, facsimile, postage, etc. All requests for reimbursement shall be accompanied by a copy of the original invoice.

2.3. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in Exhibits A and B unless the County or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

SAMPLE

2.4. Method of Billing. Consultant may submit invoices to County's Project Manager for approval on a progress basis, but no more often than once each calendar month. Said invoice shall be based on the total of all Consultants' services that have been completed to County's sole satisfaction. County shall pay Consultant's invoice within forty-five (45) days from the date County receives said invoice. Each invoice shall describe in detail, the services performed and the associated percentage of tasks completed. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.5. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to County or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the termination of this Agreement.

3.0 TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days after County delivers its Notice to Proceed. Said services shall be performed in strict compliance with the Project Schedule approved by County as set forth in Exhibit "D", attached hereto and incorporated herein by this reference. The Project Schedule may be amended by mutual agreement of the parties. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

4.0 TERM OF CONTRACT AND TERMINATION

4.1. Term. This Agreement shall commence upon approval by the County's Board of Supervisors and continue until the work required herein is completed, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The County reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of

SAMPLE

termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the County.

4.3. Compensation. In the event of termination, County shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of County's written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth in Exhibit "C". In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the County or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the County within ten (10) days of delivery of termination notice to Consultant, at no cost to County. Any use of uncompleted documents without specific written authorization from Consultant shall be at County's sole risk and without liability or legal expense to Consultant.

5.0 INSURANCE REQUIREMENTS

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain and maintain during the life of this Agreement all of the following insurance coverage:

- (a) Comprehensive general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury with a policy limit of not less than Two Million Dollars (\$2,000,000.00), combined single limits, per occurrence and aggregate. 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.
- (b) Automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate.
- (c) Workers' compensation insurance as required by the State of California.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than Two Million Dollars (\$2,000,000.00), combined single limit for each occurrence. If Consultant cannot provide an occurrence policy, Consultant shall provide insurance covering claims made as a result of performance of Work on this Project and shall maintain such insurance in effect for not less than three years following Final

Completion of the Project.

5.2. Endorsements. The Consultant shall obtain a specific endorsement to all required insurance policies, except 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 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.
- (e) For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County, 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 Consultant.

5.3. Deductibles: 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 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 retentions, 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.

5.4. Certificates of Insurance: At least ten (10) days prior to the date the Consultant begins performance of its obligations under this Agreement, Consultant 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 Consultant. 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.

5.5. Non-limiting: Nothing in this Section or the insurance described herein shall be construed as limiting in any way, the indemnification provisions contained in this Agreement, or the liability of Consultant and Consultant's officers, employees, agents, representatives or subcontractors for payments of damages to persons or property.

5.6. Primary Insurance: The Consultant's insurance coverage shall be primary

SAMPLE

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

5.7. Cancellation of Insurance: 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 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. Consultant shall maintain such coverage in effect for three (3) years after substantial completion of the project to the extent it is commercially available at reasonable rates.

5.8. California Admitted Insurer: 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.

5.9. Subcontractors: 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.

6.0 INDEMNIFICATION

6.1. 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.

6.2. 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

SAMPLE

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.

6.3. 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.

6.4. 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.

7.0 GENERAL PROVISIONS

7.1. Entire Agreement: This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

7.2. Representatives. The Director of the Stanislaus County Department of Public Works, or his designee, shall be the representative of County for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the County, called for by this Agreement, except as otherwise expressly provided in this Agreement. Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

7.3. Project Managers. County shall designate a Project Manager to work directly with Consultant in the performance of this Agreement. Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with County during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by County.

SAMPLE

7.4. Designated Personnel: A material covenant of this agreement is that the Consultant shall assign the individuals designated below to perform the functions designated so long as they continue in the employ of the Consultant. The designated individuals shall, so long as their performance continues to be acceptable to County, remain in charge of the services for the Project from beginning through completion of services.

- a. Project Manager: _____; and
- b. Lead/Manager: _____

7.5. Removal of Personnel or Sub-Consultants: If the County, in its sole discretion at any time during the term of this agreement, desires the removal of any person or sub-consultant assigned by Consultant to perform services, then the Consultant shall remove such person or consultant immediately upon receiving notice from the County.

7.6. Notices: Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

If to County:

Stanislaus County
Department of Public Works
Attn:
1716 Morgan Road
Modesto, California 95358

If to Consultant:

7.7. Attorneys' Fees: In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

7.8. Governing Law: This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Stanislaus County, California.

7.9. Assignment: Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without County's prior written consent. Any attempted assignment, transfer, subletting or encumbrance

SAMPLE

shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of County's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

7.10. Independent Contractor: Consultant is and shall be acting at all times as an independent contractor and not as an employee of County. Consultant shall secure, at his expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. 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.

7.11. Confidentiality: The Consultant 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.

7.12. Ownership of Documents: Any interest, including copyright interests, of Consultant or its contractors or subconsultants in studies, reports, memoranda, computational sheets, drawings, plans or any other documents, including electronic data, prepared in connection with the Services, shall be the property of County. To the extent permitted by law, work product produced under this Agreement shall be deemed works for hire and all copyrights in such works shall be the property of the County. In the event that it is ever determined that any works created by Consultant or its subconsultants under this Agreement are not works for hire, Consultant hereby assigns to County all copyrights to such works. With the County's prior written approval, Consultant may retain and use copies of such works for reference and as documentation of experience and capabilities.

7.13. Reuse of Design Documents: Should the County desire to reuse the documents specified above and not use the services of the Consultant, then the County agrees to require the new consultant to assume any and all obligations for the reuse of the documents, and the County releases Consultant and its subconsultants from all liability associated with the reuse of such documents.

7.14. Public Records Act Disclosure: Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, and provided to County may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualifies as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs County of such trade secret.

SAMPLE

The County will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The County shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

7.15. Responsibility for Errors: Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the County's representative, regarding any services rendered under this Agreement at no additional cost to County. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to County, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of County and to participate in any meeting required with regard to the correction.

7.16. Order of Precedence: In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of the RFP or the Response, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over both the Response and the RFP and the Response shall govern over the RFP.

7.17. Costs: Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

7.18. No Third Party Beneficiary Rights: This Agreement is entered into for the sole benefit of County and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

7.19. Construction: The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

7.20. Amendments: This Agreement may be amend only by a writing executed by the parties hereto or their respective successors and assigns.

7.21. Waiver: The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative

SAMPLE

of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

7.22. Severability: If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

7.23. Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

7.24. Corporate Authority: The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so, the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers:

COUNTY OF STANISLAUS

INSERT NAME OF COMPANY

By: _____
Matt Machado, Director
Department of Public Works

By: _____
(Insert Name)
(Insert Title)

Approved: BOS Resolution # _____
Dated: _____

APPROVED AS TO FORM:
John P. Doering
County Counsel

By: _____
Thomas E. Boze
Deputy County Counsel

SAMPLE

EXHIBIT A

COUNTY'S REQUEST FOR PROPOSAL

SAMPLE

EXHIBIT B

CONSULTANT'S RESPONSE TO COUNTY'S REQUEST FOR PROPOSAL

SAMPLE

EXHIBIT C

CONSULTANT'S FEE SCHEDULE

SAMPLE

EXHIBIT D

PROJECT SCHEDULE

Senate Bill No. 972

CHAPTER 510

An act to amend Section 2782.8 of the Civil Code, relating to indemnity.

[Approved by Governor September 29, 2010. Filed with
Secretary of State September 29, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 972, Wolk. Indemnity: design professionals.

Existing law provides, for all contracts, and amendments to contracts, entered into on or after January 1, 2007, with a public agency for design professional services, all provisions, clauses, covenants, and agreements contained in, collateral to, or affecting these contracts, that purport to indemnify, including the cost to defend, the public agency by a design professional against liability for claims against the public agency, are unenforceable, except for claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional.

This bill would provide, with respect to contracts and amendments to contracts entered into on or after January 1, 2011, with a public agency for design professional services, that all provisions, clauses, covenants, and agreements contained in, collateral to, or affecting these contracts or amendments to contracts that purport to require the design professional to defend the public agency under an indemnity agreement, including the duty and the cost to defend, are unenforceable, except for claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional. The bill would provide that all contracts and all solicitation documents between a public agency and a design professional are deemed to incorporate these provisions by reference.

The people of the State of California do enact as follows:

SECTION 1. Section 2782.8 of the Civil Code is amended to read:

2782.8. (a) For all contracts, and amendments thereto, entered into on or after January 1, 2007, with a public agency for design professional services, all provisions, clauses, covenants, and agreements contained in, collateral to, or affecting any such contract, and amendments thereto, that purport to indemnify, including the duty and the cost to defend, the public agency by a design professional against liability for claims against the public agency, are unenforceable, except for claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional. The duty to indemnify, including the duty and the cost to defend, is limited as provided in this section. This section shall not be waived

or modified by contractual agreement, act, or omission of the parties. Contractual provisions, clauses, covenants, or agreements not expressly prohibited herein are reserved to the agreement of the parties.

(b) All contracts and all solicitation documents, including requests for proposal, invitations for bid, and other solicitation documents, between a public agency and a design professional, are deemed to incorporate by reference the provisions of this section.

(c) For purposes of this section, the following definitions apply:

(1) "Public agency" includes any county, city, city and county, district, school district, public authority, municipal corporation, or other political subdivision, joint powers authority, or public corporation in the state. Public agency does not include the State of California.

(2) "Design professional" includes all of the following:

(A) An individual licensed as an architect pursuant to Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code, and a business entity offering architectural services in accordance with that chapter.

(B) An individual licensed as a landscape architect pursuant to Chapter 3.5 (commencing with Section 5615) of Division 3 of the Business and Professions Code, and a business entity offering landscape architectural services in accordance with that chapter.

(C) An individual registered as a professional engineer pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, and a business entity offering professional engineering services in accordance with that chapter.

(D) An individual licensed as a professional land surveyor pursuant to Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code, and a business entity offering professional land surveying services in accordance with that chapter.


(d) This section shall only apply to a professional service contract, or any amendment thereto, entered into on or after January 1, 2007.

(e) The amendments made to this section by the act adding this subdivision shall apply to services offered pursuant to a design professional contract, or any amendment thereto, entered into on or after January 1, 2011.


(f) Nothing in this section shall abrogate the provisions of Section 1104 of the Public Contract Code.

EXHIBIT B
Master Agreement

CONSULTANT'S RESPONSE TO COUNTY'S REQUEST FOR PROPOSAL




SFPUC, San Francisco



Santa Clara County Water District



VIA, San Jose



Santana Row, San Jose

BKF Engineers
34670 Willow Rd., Suite 250
Pleasanton, CA 94588

www.BKF.com

Contact: **Billy Martin, PLS**
BMartin@bkf.com
(650) 482-6345



Proposal for:

Stanislaus County

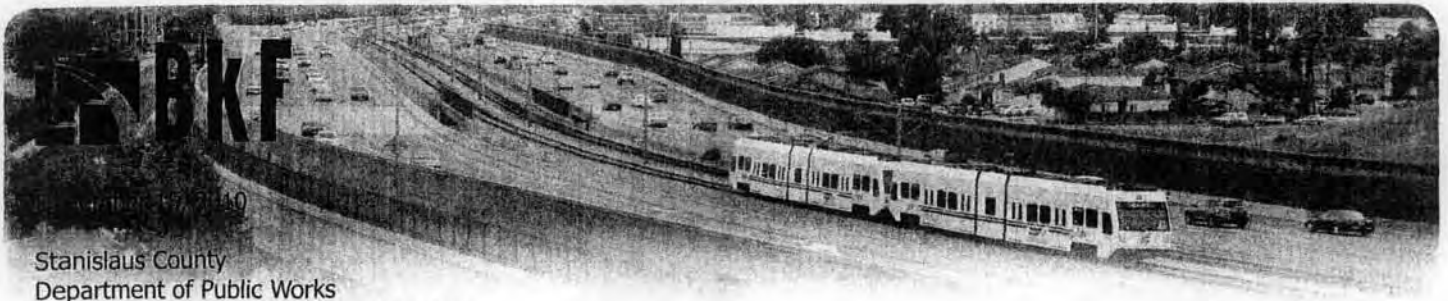
Department of Public Works

On-Call Professional Surveying Services

12/15/2010



ENGINEERS / SURVEYORS / PLANNERS



Stanislaus County
Department of Public Works
Attention: Peter Song, Assistant Engineer
1716 Morgan Road
Modesto, CA 95358

SUBJECT: Request for Proposals for On-Call Professional Surveying Services

Dear Mr. Peter Song:

It is with great interest and excitement that we are responding to your request for proposal pertaining to professional land surveying tasks.

BKF has assembled a qualified and skilled team to meet Stanislaus County's project delivery goals and schedules. Each member of the BKF team offers expertise in boundary, right of way, topographic surveys and mapping, Record of Surveys, legal descriptions, plat maps, construction and the resetting of monuments. The following key team members are available to ensure the highest quality deliverables in a timely and budget conscious fashion:

Billy Martin, PLS	Mike Shoup, PLS	Davis Thresh, PLS	Barry Williams, PLS
Charles Ciardi, PLS	Bill Slepnikoff, PLS	Jose Garcia, PLS	Robert Enriquez, PLS
Ray Sullivan, PLS	Jan O'Flaherty, PLS, PE	Savior Micallef, PLS	Don Scapuzzi, PLS, PE
Greg Hurd, PLS, PE	Dan Scott, PLS	Geoff Coleman, PLS, PE	Gary Baines, PLS
Ralph Thomas, PLS	Jason Kirchman, PLS	Alan Rordorf, PLS	

The BKF Team will compliment the County's staff with our vast resources, overall ability and qualifications to handle the unique challenges inherent to their projects. A few of the reasons we feel this way include:

- BKF has remained strong with over 95-years of doing business in Northern and Central California.
- 80% of BKF's clients are repeat clients who have maintained a long lasting relationship with BKF.
- We have local staff regarded by other surveyors as being experts in every facet of surveying.
- BKF prides itself in offering rapid response with quality service by not over committing resources. BKF understands that it is not always possible to predict emergencies or schedule changes.
- BKF's team is confident that we can proficiently perform every aspect of surveying for the California American Water Company. We have honed our skills and expertise over the years by working closely with planners, engineers, architects and others because we realize that our work product will form the basis for their design and ultimately the finished product.

BKF has read the RFP and Addendum 1 posted on December 10, 2010, and will abide by all the Agreement terms and UDBE/DBE contract goals. We plan to utilize the services of **D&D Surveying** in Dublin, a certified DBE/UDBE sub-consultant to fulfill the County's 3.1% UDBE and 3.6% DBE goal for this contract. Please refer to the **Appendix** section for their qualifications and certification.

BKF's Team has offices in Pleasanton, Dublin (D&D Surveying), Walnut Creek, Santa Rosa, Sacramento, Richmond, Redwood City, San Jose, and Orange employing over 50 surveyors including 19 licensed land surveyors and 15 field survey crews. The BKF Team has the local resources and production capacity to support the County both efficiently and economically.

Our team capabilities, experience and close proximity to the County's projects eminently qualifies BKF to perform the services required to deliver quality products on schedule and within budget.

We urge you to contact our client references to verify our timely service with specific attention to quality and budgets.

Sincerely,

Billy Martin, PLS
Principal/Vice President





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- *D&D SURVEYING QUALIFICATIONS*
- *DBE/UDBE CERTIFICATIONS*
- *ADDENDUM 1 ACKNOWLEDGEMENT*



Our proposal was printed on double-sided recycled paper.





SECTION I - ON-CALL SURVEYING SERVICES

By becoming an extension to the County of Stanislaus staff, BKF's Team will perform the services required to meet the Program's goals. Our approach will start with fully understanding the breadth of work the County has already completed for its facilities. This will be accomplished by interacting with the County staff and researching their, other utility companies and public records. BKF's surveyors are accustomed to working with and researching all types of documentation including recorded and un-recorded maps and deeds along with digital files which may be in GIS, AutoCAD, Microstation, etc. formats. We will then use these records to their fullest extent to set the foundation for achieving the objectives of the Program. In order to meet the objectives of the Program we will use the expertise of our staff to fully manage and coordinate in a quality fashion the following tasks:

- ALTA Surveys
- Boundary and Right of Way Survey Analysis
- Encroachment Plats and Legal Descriptions
- Geodetic Control Checks and Supplemental Control Plats and Legal Descriptions for Land Acquisition
- Record of Surveys
- Expert Witnessing
- Right of Way Engineering
- Right of Way Appraisal Mapping
- Collection of Design Data (Topographic, Planimetric, Utility and Hydrographic)
- Photogrammetric Services
- Record Map Updates
- GIS maintenance
- Construction and As-built support services

We are confident that our extensive resources, experience on similar projects and management approach are well suited for your project. Our project surveyors are ready to assist the County on any project no matter the size as our staff is accustomed to On-Call projects that might consist of a portion of a day to months or even years. BKF believes we can provide survey services to support the County.





SECTION II - STAFF AVAILABILITY AND RESUMES

The following table lists key personnel which are available to service this agreement:

BKF TEAM	YEARS EXPERIENCE	YEARS WITH BKF	LICENSE SURVEY	DEGREE	POSITION
Billy Martin	31	17	PLS 5797	4-year	PIC/PM
Mike Shoup	14	4	PLS 7616	4-year	PS
Davis Thresh	26	20	PLS 6868	2-year	PS
Charlie Ciardi	36	22	PLS 7321	2-year	PS
Bill Slepnikoff	31	3	PLS 5701	4-year	PS
Barry Williams	31	26	PLS 6711	2-year	PS
Savior Micallef	16	14	PLS 8289	4-year	PS
Ralph Thomas	33	7	PLS 4760	4-year	PS
Geoff Coleman	12	12	PLS 8438	4-year	PS
Gary Baines	11	11	PLS 8203	4-year	PS
Janine O'Flaherty	30	30	PLS 5325	4-year	PS
Greg Hurd	23	22	PLS 8809	4-year	PS
John Koroyan	26	25	LSIT 2355	4-year	PS
Walter Stemberga	13	10		2-year	PS
Jose Garcia	26	25	PLS 8315	2-year	PS
Ray Sullivan	13	13	PLS 8337	4-year	PS
Marilyn Morris	22	17	LSIT 4468	2-year	PS
Ron Logan	11	11	Sur II	2-year	PS
Chuck Markovich	21	21	Sur II	2-year	PS
Doug Campen	11	4	Sur II	2-year	PS
Januario Garces	13	10	LSIT	2-year	PS
Krassimira Maltby	11	3	LSIT	4-year	PS
Jason Simmons	6	3	Sur I	2-year	PS
Ryan Borger	9	3	Sur I	2-year	PS
Nick Jacobson	36	11	PLS 7516	2-year	PC
Bruce Field	36	13		2-year	PC
Marty Gores	31	14		2-year	PC
Bryan Klym	29	14		2-year	PC
Pete Nuessmann	26	11		2-year	PC
Paul Darling	26	11		2-year	PC
Rob Shepperson	16	13		2-year	PC
Alvaro Ojeda	13	10		2-year	PC
Armondo Ojeda	11	8		2-year	PC
Mitch Stockton	31	14		2-year	PC

PIC : Principal in Charge PS : Project Surveyor Sur : Surveyor PC : Party Chief PP : Project Photogrammetrist
 PUL : Project Utility Locator





SECTION II - STAFF AVAILABILITY AND RESUMES

BILLY MARTIN, PLS – PRINCIPAL-IN-CHARGE/PROJECT MANAGER
 Education: B.S., Surveying and Photogrammetry, CSU, Fresno, CA

Registration: Professional Land Surveyor, CA No. 5797, 1987
 Years with BKF: 16 years

Total Years Professional Experience: **Over 30 years**

As Principal in Charge of the surveying operations for BKF Engineers, Mr. Martin oversees all surveying projects completed by the firm. He has been extensively involved in right of way projects for both rail design and highway projects including completion of control surveys, design topographic surveys, boundary determination, preparation of ROW documents, construction layout, and as-built surveys to insure construction compliance with design criteria.

- City of Pleasanton On-Call Survey Services, Pleasanton, California
- Alameda County Flood Control District, Fremont, California
- City Of Berkeley On-Call Survey Services, Berkeley, California
- City Of Livermore On-Call Services, Livermore, California
- Alameda County Public Works On-Call Survey Services, Alameda County, California
- City Of San Ramon On-Call Services, San Ramon, California
- Santa Clara Valley Water District, Santa Clara, California
- Contra Costa Water District On-Call Surveys, Contra Costa County, California
- BART Survey and Right-of-Way from Colma Station to San Francisco International Airport, San Mateo County, California
- SFPUC On-Call Services, San Francisco, California
- Silicon Valley Rapid Transit (SVRT) BART Extension from Warm Springs to San Jose, Santa Clara and Alameda Counties, California

MICHAEL SHOUP, PLS – PROJECT SURVEYOR

Education: B.S, Surveying Engineering, California State University, Fresno

Registration: Professional Land Surveyor CA. No. 7616, since 2000

Associations: California Land Surveyors Association

Total Years Professional Experience: **13 Years**

Years with BKF: 3 Years

Mr. Shoup is responsible for all phases of land surveying including construction, both aerial and conventional topo-

graphic and planimetric surveys, boundary analysis and resolutions, right of way engineering, as-built surveys, digital terrain modeling, directing field and office survey efforts, contract document preparation, cost estimation, and contract administration. He provides coordination with clients, other professional consultants and reviewing agencies. In a supervisory role, he's been responsible for surveying tasks related to the design and construction of transportation, residential, commercial and public works projects throughout Northern California.

- California Water Service, South San Francisco, California
- Caltrans On-Call Contract District 4, San Francisco, San Mateo, Santa Clara Counties
- San Francisco Public Utility Commission (SFPUC), San Francisco, San Mateo, Santa Clara, Alameda, San Joaquin, Stanislaus, Calaveras and Tuolumne Counties, California
- Silicon Valley Rapid Transit Project (BART Extension Fremont to San Jose), San Jose, Milpitas, Fremont, California
- Vasona LRT Corridor Surveys, Santa Clara and San Jose, California
- SAFCA Open End Contract For Surveying And Mapping, Sacramento County, California
- Tasman West Light Rail Extension Project, Santa Clara Valley Transportation Authority, San Jose, Santa Clara, Sunnyvale, Mountain View, California

WILLIAM SLEPNIKOFF, PLS – PROJECT SURVEYOR

Education: AA, Geography, San Francisco State University, 1973

Continuing Education Courses, CLSA Sponsored Workshops, Fresno State

Affiliations: Construction Management Association of America

Professional Land Surveyor / California #5701/1987

Professional Land Surveyor / Nevada #9494/1991

Years with BKF: 2 years

Total Years Professional Experience: **Over 30 years**

With over 30 years of experience, Mr. Slepnikoff is responsible for project management and quality assurance for land survey services. His experience includes review of subdivision plans for local agencies, and right of way and boundary resolution for new roadways, roadway widening and reconstruction, and bridge crossings. He also has considerable





SECTION II - STAFF AVAILABILITY AND RESUMES

experience in dealing with right of way acquisition, boundary control, map checking, construction monitoring, construction staking, and GPS surveys. He has worked on various VTA, BART, Caltrans, CCWD, EBMUD, and public works projects in many Bay Area counties.

- Santa Clara Valley Transportation Authority, San Jose, California
- Tasman East Light Rail Transit, Santa Clara County
- BART Pittsburg/Antioch Extension Construction Management Service Survey Subcontract, Contra Costa County, California
- Oakland International Airport, Oakland, California
- Contra Costa County Walnut Creek Channel Surveys, Walnut Creek, California

CHARLES CIARDI, PLS - PROJECT SURVEYOR

Education: A.S., Civil Engineering Technology with an option in Land Surveying - San Francisco City College
Registration: Professional Land Surveyor, CA No. 7321, 1998
Years with BKF: 21 years
Total Years of Professional Experience: **35 years**

Mr. Ciardi has 21 years surveying experience with BKF in various aspects of land surveying, including topographic survey, boundary, right of way mapping, tentative, final and parcel mapping, horizontal and vertical control, and construction staking.

At BKF, Mr. Ciardi provides survey project management including scheduling and budget tracking, supervising field crews and coordinating office and field efforts. He negotiates and administers contracts, reviews all record documents before submittal, provides project follow-up with progress reports, project finalization and all client contact through completion of the project.

- BART Survey and Right of Way from Colma Station to San Francisco International Airport, San Mateo County, California
- Brittan and Howard Avenues Grade Separations, San Carlos, California
- Stanford University, Ongoing Survey Services, Stanford, California
- Bay Meadows Development, San Mateo, California
- Sausalito Public Safety Facilities, Sausalito, California

DAVIS THRESH, PLS - PROJECT SURVEYOR

Education: Surveying, Diablo Valley College, CA
Registration: Professional Land Surveyor, CA No. 6868, 1992

Years with BKF: 19 years

Total Years of Professional Experience: **25 years**

Mr. Thresh is a Survey Manager, overseeing BKF's San Jose survey group. His survey experience spans over 25 years. Throughout his tenure with BKF, he has played a key role in many projects, in both the public and private sectors. His responsibility involves project management of all survey projects including scheduling, budget tracking, dispatching, supervision of crews, and coordination of the office and field surveyors. Mr. Thresh has directly overseen the topographic surveys, construction staking survey and right of way acquisition and mapping for many of the firm's roadway and highway projects.

- BART / San Francisco International Airport Extension, San Mateo County, California
- BART Survey And Right Of Way On-Call, San Mateo County, California
- Brittan and Howard Avenues Grade Separations, San Carlos, California
- Vasona LRT Corridor Surveys, Santa Clara and San Jose, California
- Alameda County Public Works On-Call Survey Services, Alameda County, California
- BART Survey & ROW (On-Call), San Mateo County, California
- Bay Division Pipeline Reliability Upgrade, Fremont to Redwood City, California
- Santa Clara Valley Water District, Santa Clara, California
- Silicon Valley Rapid Transit SVRT BART Extension from Warm Springs to San Jose, Santa Clara and Alameda Counties, California
- Santa Clara County Parks On-Call, Santa Clara County, California
- Santa Clara Valley Water District On-Call Services, Santa Clara County, California

BARRY WILLIAMS, PLS - PROJECT SURVEYOR

Education: Surveying, Diablo Valley College, California
Registration: Professional Land Surveyor, CA No. 6711
Years with BKF: 25 years

Total Years Professional Experience: **30 years**

Mr. Williams has over 30 years of experience in land sur-





SECTION II - STAFF AVAILABILITY AND RESUMES

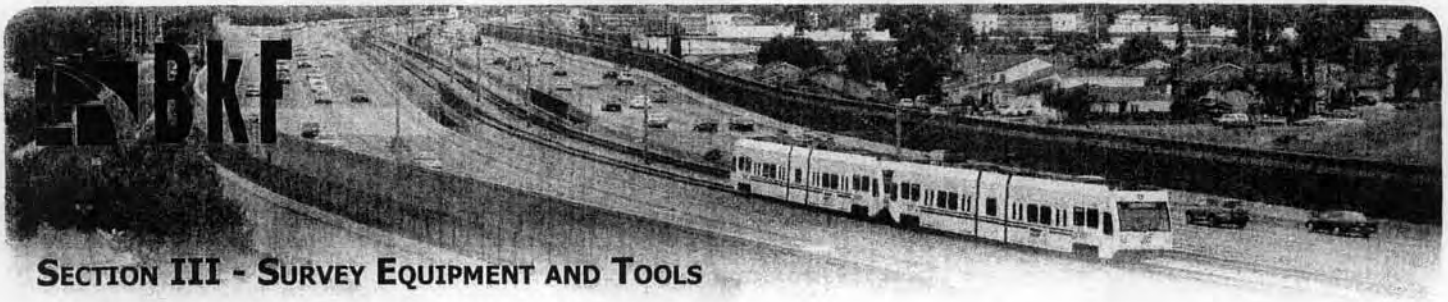
veying. His project experience includes boundary and topographic surveys, photogrammetric control, horizontal and vertical control systems and public works projects. Mr. Williams' extensive construction staking experience includes subdivisions, apartment complexes, roadway, utility and refinery surveys. His primary responsibilities as a survey manager include preparing job cost estimates, providing office computations, and supervising field crews and support personnel.

- Central Contra Costa Sanitary District A-Line Easement Acquisition, Central Contra Costa County, California
- Cerrito Creek Greenway, El Cerrito, California
- City of Berkeley On-Call Surveys, Alameda County, California
- City of San Ramon On-Call Services, San Ramon, California
- Contra Costa Water District On-Call Surveys, Contra Costa County, California
- Duck Creek, Stockton, California
- Gordon Valley/Green Valley Water District, Vallejo, California
- Los Vaqueros Reservoir, Contra Costa County, California
- Tracy Downtown Improvements, Tracy, California



CONTRA COSTA COUNTY SANITARY DISTRICT





SECTION III - SURVEY EQUIPMENT AND TOOLS

Since 1915, BKF Engineers has built a reputation based on our ability to plan, design, and successfully implement complex infrastructure projects. BKF's involvement from beginning through construction ensures continuity throughout the project's life. This knowledge enables BKF to shape the early feasibility, planning, and environmental review processes to culminate in projects built on sound fundamentals: having solid design elements, understanding thoroughly project impacts, providing financially feasible construction, and strategies that implement a successful plan. Our staff of 200 professionals provides solutions to transportation challenges by establishing designs based on defined goals, developing practical alternatives, clear communications, and delivering documents which facilitate construction. We are committed to developing projects that are economical, sustainable, and respectful of the community they serve.

EQUIPMENT & TECHNOLOGY

BKF Engineers recognizes the importance of providing our designers and surveyors with the right tools to complete their tasks effectively and efficiently. As such, BKF is constantly reinvesting in new equipment, hardware, and software. Company wide, we are currently employing the following:

Software

- BKF currently has 135 AutoCAD seats that are used for design. In addition, we are using Land Development Desktop and Civil 3D running on AutoCAD 2008, 2009 & 2010 along with several add-on applications that provide the designer with robust design tools. BKF also maintains our own in-house module for drawing standards.
- Microsoft Office is networked company-wide for word processing and spreadsheet applications. We also have licenses for many other programs (over 100 programs in all) that are used for special design purposes.
- BKF actively monitors the use of software to insure that we are within our license allocations.

Hardware

- Standard AutoCAD workstations are Quad Core, 3.2 Ghz, 4GB Ram with a 22" widescreen monitor.
- Most BKF offices are connected via a wide area network (WAN) with DS3 high speed links using a mesh topology. Many sites have backup wireless links as well.
- BKF presently has 28 Windows and Linux servers on our network with over 20 Terrabytes of data storage. Work stations are connected to servers with 100/1000mbs

Ethernet links.

- Data is saved on multiple Raid 5 arrays and backed up nightly insuring minimal downtime and maximum data security
- BKF has 7 large format high-speed laser plotters and 5 large format color plotters. We also have 26, 11"x17" capable laser and multifunction printers

Survey Equipment

- Microstation SE or later versions and AutoCad R2007 or compatible versions
- 2.4+ GHZ machines for computer aided drafting systems
- Microsoft office suite, ms project and adobe's suite
- Voice over IP telephony integration for complete remote access and advanced call forwarding
- Leica total station instruments for conventional land surveying
- Leica digital level instruments for precise differential leveling
- Trimble global positioning system instruments and software for GPS work
- TDS, Carlson, Leica and Trimble Geomatic office surveying software for digital field data collection
- Leica high definition laser scanner





SECTION IV - RELEVANT PROJECT EXPERIENCE AND TEAM CAPABILITIES

BKF Engineers is very familiar with the philosophy behind engaging consultants for "On Call" service contracts. We have performed services under many similar contracts throughout the Bay Area including On-Call contracts for Caltrans, VTA, PCJPB, SMCTA, Caltrain, SFPUC, BART and many others. We have handled small to large survey requests, and design projects ranging from fencing to major transportation projects. In practice we have been able to respond to Task Order requests within days, not weeks. We understand that timing is critical to these projects and our thorough knowledge of your proposed project types, as well as our large staffing resources, will allow us to move on your projects quickly and professionally. We also understand completely your contracting procedures.

BKF's Team has offices in Pleasanton, Dublin (D&D Surveying), Redwood City, San Jose, Walnut Creek, Santa Rosa, Sacramento, Richmond, Orange and **employs over 50 surveyors including 19 California licensed land surveyors and 15 field survey crews.** The BKF Team has not only the local resources and production capacity but also the relevant experience to handle all of the County of Stanislaus' survey, right of way, utility locating, photogrammetric and engineering needs.

BKF's project management leadership is the foundation of BKF's past success. BKF has assembled a team of professionals with experience and enthusiasm. In general, the key elements to a successful project are coordination of resources, determination of and adherence to schedules, cost control and quality control of the finished product. These elements are carefully integrated into our methodology from past experience. By assigning proven land surveyors to your project, BKF will assure you timely work products, a cross pollination of design expertise, and the ability to effectively manage multiple project elements during peak workload periods.

BKF's surveyors have honed their skills and expertise over the years by working closely with planners, engineers, architects and others because we realize that our work product will form the basis for their design and ultimately the finished product. This expertise of knowing how to work will all disciplines (not just surveyors) is a tremendous asset.

BKF's Team members have successfully worked together on numerous high profile projects. This Team history and continuity gives us unmatched depth of experience from both a project management and skill perspective to handle both small and large projects alike. Our Team members have been selected to create redundancy in both capability and capacity. For instance, if one Team member reaches capacity, a Task Order can be directed to another member with equal expertise with available resources. This depth allows us to facilitate peak periods of Task Order work without sacrificing quality or efficiency.

The cornerstone of our approach will be continuous, effective and open communication between the County staff and the BKF Team.

BKF's highly qualified and experienced staff has successfully provided quality work products on time and budget due to our strong management team. **Billy Martin, PLS** who is the director of land surveying at BKF will oversee the day to day activities to ensure the satisfaction of the Stanislaus County. Management of all Task Order work will be expertise based. This will ensure we provide the County the most qualified and seasoned staff available. He will evaluate the technical specifications, special conditions, resource requirements, location of project and project deliverables prior to assigning the work. **Billy** has successfully coordinated inter-agency and multi-jurisdiction objectives and comments to coordinate and achieve their project goals. Under **Billy's** direction, BKF's self-sufficient teams have demonstrated the ability to compliment each other by having the familiarity and experience to work as one large cohesive team. The County can confidently draw on this experience to ensure its Program objectives are realized.

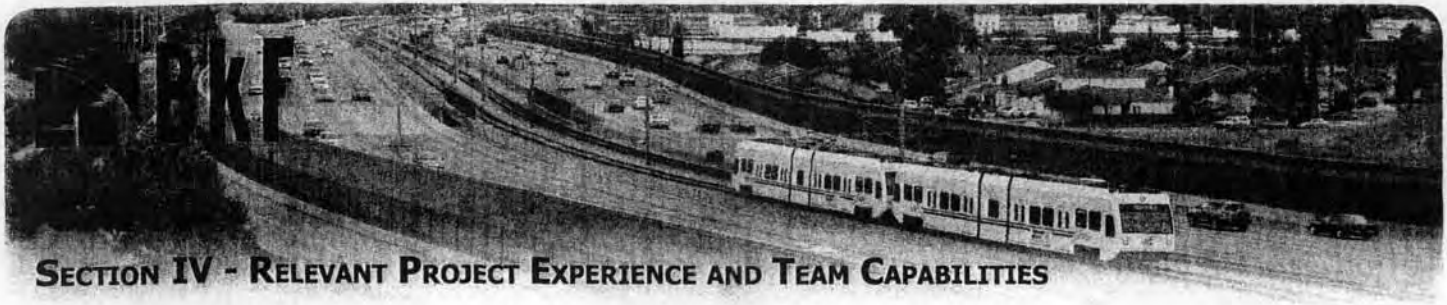
ON-CALL SURVEY SERVICES

The experience that BKF surveyors and management team has gained from the multitude of On-Call surveying projects uniquely qualifies BKF to provide **Boundary Surveys, Right of Way Surveys, Topographic Surveys and Mapping, Record of Surveys, Legal Descriptions and Plat Maps, Construction Staking, Setting of monument wells to Stanislaus County Standards, provide expert witness services, provide photogrammetric services and assist inspectors and engineers with the as-built process both during and after construction.**

BKF also has surveying personnel who are specialists in the development and maintenance of **Geographic Information Systems (GIS)**. This is crucial to maintaining a current set of digital working files and making them accessible at a moment's notice. BKF and its team members are well versed in utilizing and fully leveraging the potential of a properly maintained and designed system. We understand GIS capabilities and support for data gathering, analysis, plan formulation, public outreach, environmental compliance documentation, and coordination of data across systems. The BKF Team can incorporate data files for parcel information, existing land use, topographic, planimetric, zoning, public facilities, infrastructure systems and planning constraints. One of the key strengths we offer is our ability to effectively communicate with technical and supervisory staff.

The following pages will describe some of our existing and past On-call service agreements. It is important to note that many of these On-call contracts included individual tasks ranging from hundreds of dollars to millions of dollars. BKF prides itself on having the expertise and bandwidth to take on large and/or small projects to ensure our client's objectives are met.





SECTION IV - RELEVANT PROJECT EXPERIENCE AND TEAM CAPABILITIES

SFPUC WATER SYSTEM IMPROVEMENT PROGRAM

BKF is currently the SFPUC Master Surveyor. BKF has conducted land surveys along the entire Hetch Hetchy Corridor which extends from Yosemite to San Francisco. This includes preparation of hundreds of encroachment surveys utilizing the ALTA Standards, hundreds of Legal Descriptions/Plats/Appraisal Maps in conformance with applicable State Law to support their Water System Improvement Program, Geodetic Control Surveys and GIS services along the entire Hetch Hetchy System. This project was horizontally and vertically controlled using the CORS and HPGN control networks. BKF's primary point of contact with the SFPUC is Tony Durkee, PLS.

SFPUC Bay Tunnel - BKF provided horizontal and vertical GPS control for the three different DWR projects (Newark Valve House, Irvington Portal and for the Bay Tunnel aerial survey). The largest project was 35 miles in length spanning from the hills of Fremont to Redwood City. This project was horizontally and vertically controlled from each side of the Bay using CORS and HPGN control points. BKF's primary point of contact with the SFPUC is Tony Durkee, PLS.



SAN FRANCISCO PUBLIC UTILITIES COMMISSION

BART - SAN FRANCISCO AIRPORT EXTENSION (COLMA TO SFO)

BKF provided surveying support for this 6 mile extension through San Mateo County crossing City, County, PCJPB and Caltrans property. BKF's involvement included: researching, compiling and resolving historical records to resolve the right-of-way. As part of this effort BKF successfully completed GPS control surveys to establish and perpetuate monumentation for over 180 private and public parcels. BKF was also charged with the preparation of appraisal maps, right of way maps, encroachment exhibits, the preparation of aerial and underground easements for overhead structures and utilities, topographic surveys, densification of geodetic control and construction support. BKF's primary point of contact for this On-Call effort was Mr. Don Scapuzzi, PLS, PE.

BART - SILICON VALLEY RAPID TRANSIT EXTENSION

BKF is currently providing surveying support for the 16 mile project through the Cities of Fremont, Milpitas, San Jose and Santa Clara (Counties of Alameda and Santa Clara) - corridor crosses BART, Caltrans, PCJPB, County, City, SCVWD, ACF&WCD, multiple utility right of ways, UPRR and private property. BKF has been supporting the VTA with On-Call surveying services since 1997 and our main point of contact is Mr. Stan Heffner, PLS.



BART, FREMONT TO SAN JOSE

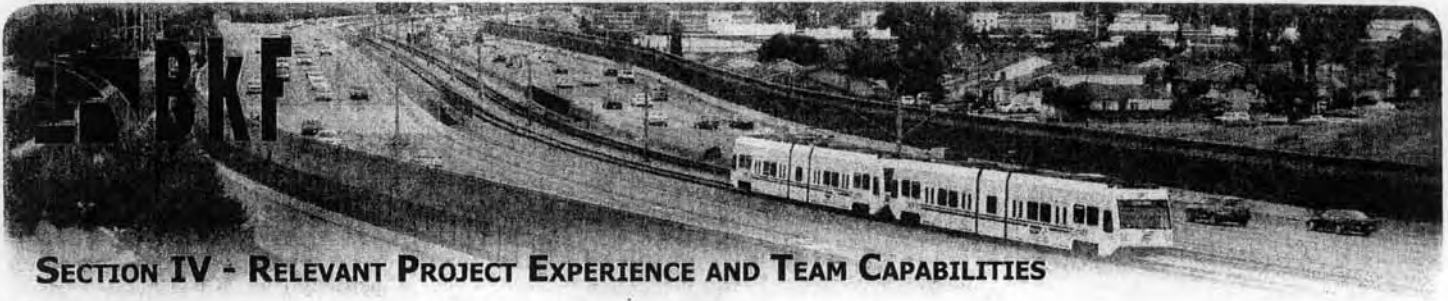
VTA VASONA EXTENSION

5.3 mile project from San Jose to and south of Campbell crossing Caltrans, County of Santa Clara, City of San Jose, City of Campbell, PCJPB, SCVWD and private property). This project crossed many existing highways and surface streets. BKF played a key role for Right of Way Acquisition, Design surveys for utilities and surface improvements and interacted closely with VTA inspectors and engineers during construction. The primary point of contact at the Santa Clara Valley Transportation Authority was Mr. Stan Heffner, PLS.

CONTRA COSTA SANITARY DISTRICT

BKF is currently providing professional land surveying services on an on-call basis for the CCCSD. New legal descriptions and plats are required for the 'Amended Grand Easement' for each of five easements containing approximately 67 parcels / sub-parcels. BKF will survey and calculate centerlines for all sanitary sewer of District's 200' scale base map to be within or crossing the SPTC R/W. All surveys to be made in California coordinate System of 1983 GPS each 2002.00 (NGS) or 2007.00 (CSRC). CCD83 coordinates shall be provided at the centers of sanitary sewer structures - manhole covers are typically offset from centers of structure. CCS83 coordinates on pairs of nearby found related monuments of record that will serve as baseline.





SECTION IV - RELEVANT PROJECT EXPERIENCE AND TEAM CAPABILITIES

Legal descriptions and plats for approximately 67 parcels with as many as four centerlines described for each parcel. BKF's primary point of contact for this agreement is Ms. Liz Charleton.

CONTRA COSTA WATER DISTRICT

BKF is currently providing professional land surveying services on an on-call basis for the Contra Costa Water District. BKF has been providing these services to the Water District since 2001. We have provided office and field support on an as needed basis. Some of the tasks have included: Los Vaqueros Reservoir - Property Surveys, Lindsey Channel - Topographic, Putnam Road - Replacement Topo Survey, Geary Road - Replacement Topo Survey, Lime Ridge - Record of Survey, Hillsdale Nursery - Corner Record, Hardcastle - Record of Survey, Murder's Creek - Boundary Survey, Concord Blvd - Record of Survey, Rosemary/Parkside - Replacement Topo, Vasco Road - Property Descriptions, Pine Hollow Reservoir - Site Topo Survey, Cora Ct - Record of Survey, Iron Horse - Construction Staking, Mapping, Dan Leshner Pipeline - Construction Staking, Divide Tanks - Description, Topo Survey, Downtown Concord - Main Replacement Topo, Lindsey Basin - Easement, Topo Survey. BKF's primary point of contact for this agreement is Mr. Paul Lau.

SANTA CLARA VALLEY WATER DISTRICT

BKF is currently providing professional land surveying services on an on-call basis for the Santa Clara Valley Water District. BKF has been working closely with the Water District since 2003 to supplement their existing staff. Some of the tasks BKF has completed include: The construction calculations for the Guadalupe River project; Monument location on Hicks Road; Easement staking on the Pajaro River; Detailed topographic bridge surveys along the Coyote Creek through downtown San Jose; Construction staking at the Lenihan Dam at the Lexington Reservoir. The primary point of contact at the Santa Clara Valley Water District is Mr. Dan Gilleland, PLS.



SANTA CLARA VALLEY WATER DISTRICT





SECTION V - ABILITY TO RESPOND TO COUNTY'S REQUESTS

STANDARDIZED WORK PRODUCTS

BKF's team is capable of delivering all work products in conformance with the County processes and standards. We understand that standardization promotes efficiency and design readiness. We have a clear understanding that our work product is a building block for things to follow since we are a multi-discipline firm.

STAFF AVAILABILITY

BKF has earned high regard for its services over the years when dealing with "on-call" projects with various public agencies because of its open and forward thinking recommendations of project approach, cost saving techniques, scheduling, budgets and the understanding that on-call projects often require rapid high quality service with minimal notice.

BKF also understands that it is not always possible to predict emergencies or schedule changes. BKF prides itself in offering rapid response with quality service by not over committing our resources.

BACKGROUND

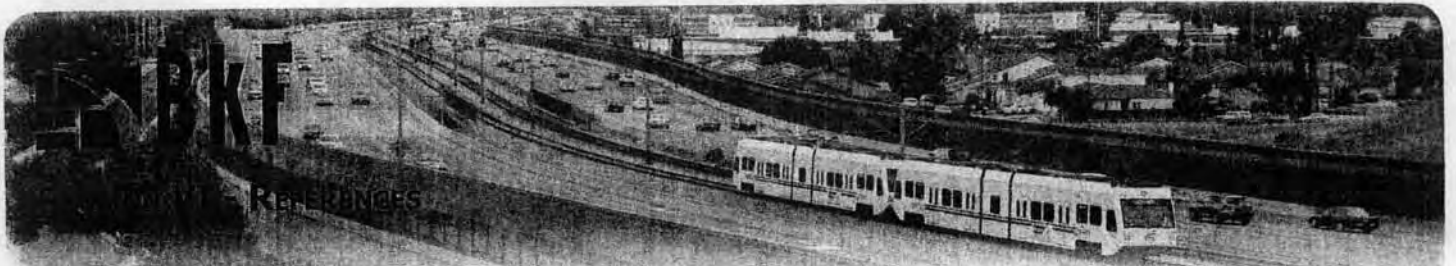
BKF has been a leading civil engineering and surveying firm in California since 1915. We've provided engineering, surveying, and land planning services for government agencies, developers, contractors, and corporations. BKF's long standing goal is to establish long-term working relationships with clients by producing accurate, cost-effective work products and delivering them on schedule.

In order to facilitate a quick response time, we plan to utilize the services of our offices from Sacramento, Santa Rosa, Richmond, Walnut Creek, Pleasanton, San Jose, and Redwood City for this contract. BKF prides itself on delivering projects on time and within budget. We believe the key to this is that we have one principal in charge of surveying and he spends considerable time making sure that the workload stays balanced and not over committed corporate wide. BKF's self-sufficient office teams have demonstrated in the past to possess the ability to compliment each other by having the familiarity and experience to work as one large cohesive team. The key staff's total experience spans well over 100 years and includes all types of survey work. This will allow the County to confidently draw from the vast experience and resources from any of our offices when the workload demands it.



- Redwood City 650.482.6300
- San Jose 408.467.9100
- Pleasanton 925.396.7700
- Walnut Creek 925.940.2200
- Sacramento 916.556.5800
- Orange County 714.415.0500
- Richmond 510.529.0336
- Santa Rosa 707.583.8500





BKF has compiled a list of relevant client references. These leaders of various public agencies have worked with the Project Team proposed for the County Projects. The references listed below can validate our firm's experience and commitment in delivering projects on time and within budget. We are proud to have worked for each of our references for over ten years on multiple types of projects similar to those proposed by County. BKF urges the County to review our firm's experience and contact our references as confirmation of our commitment and excellent customer service.

1. SANTA CLARA VALLEY TRANSPORTATION AUTHORITY (VTA)

Mr. Russ Mohr
3331 N. First Street, Bldg. A, San Jose, CA 95134
(408) 321-5870
Russ.Mohr@vta.org

"We have every confidence in your expertise and the work of BKF crews and personnel ... Thanks, we appreciate your QA/QC and you are doing an excellent job of it. Your findings will definitely be an asset with future surveys. Thanks again for being so conscientious" in regards to the VTA Platform Retrofit Project. - Russell Mohr, Survey Manager for Santa Clara Valley Transportation Authority

- VASONA LRT PROJECT
- SVRT/BART PROJECT
- SOUTHLINE PLATFORM RETROFIT PROJECT
- UPRR SUB-RELOCATION PROJECT

2. SANTA CLARA VALLEY TRANSPORTATION AUTHORITY (VTA)

Mr. Stan Heffner, PLS
3331 N. First Street, Bldg. A, San Jose, CA 95134
(408) 321-5886
Stan.Heffner@vta.org

- VASONA LRT PROJECT
- SVRT/BART PROJECT
- SOUTHLINE PLATFORM RETROFIT PROJECT
- UPRR SUB-RELOCATION PROJECT

3. SAN FRANCISCO PUBLIC UTILITIES COMMISSION (SFPUC)

Mr. Brian Morelli
1145 Market Street, 7th Floor, San Francisco, CA 94103
(415) 554-1545
Bmorelli@sfgwater.org

"Excellent, thanks for all your expedited work on this assignment. You guys are the best! Thanks, Brian" in regards to

the Right-of-Way work for the new Irvington Tunnel Project. - Brian Morelli, Real Estate/Right-of-Way Manager for SFPUC

- BAY DIVISION PIPELINE RELIABILITY UPGRADE PROJECT
 - NEW IRVINGTON TUNNEL PROJECT
 - BAY DIVISION TUNNEL PROJECT
 - TESLA PORTAL RECORD OF SURVEY
 - SAN JOAQUIN PIPELINE RELIABILITY PROJECT
- Mr. Tony Durkee, PLS
1145 Market Street, 7th Floor, San Francisco, CA 94103
(415) 554-3193
Tdurkee@sfgwater.org

"Easy to work with ... consistently deliver high quality work products" in regards to the Right-of-Way work for the Bay Division Pipeline Project. -Tony Durkee, PLS, San Francisco Public Utility Commission Survey Manager

- BAY DIVISION PIPELINE RELIABILITY UPGRADE PROJECT
- NEW IRVINGTON TUNNEL PROJECT
- BAY DIVISION TUNNEL PROJECT
- TESLA PORTAL RECORD OF SURVEY
- SAN JOAQUIN PIPELINE RELIABILITY PROJECT

4. CALTRANS DISTRICT 4

Mr. Paolo Marinangeli, PLS
25100 Mission Blvd, Hayward, CA, 94544
(510) 881-3965
Paolo_marinangeli@dot.ca.gov

- SAN MATEO HIGHWAY 101 CONSTRUCTION STAKING
 - FIELD CREW AND OFFICE AUGMENTATION
- Mr. A.J. Burgess, PLS
Mail Station 11, 111 Grand Avenue, 94612
Mail: P.O. Box 23440, Oakland, CA 94623-0440
(510) 286-5296
aj_burgess@dot.ca.gov

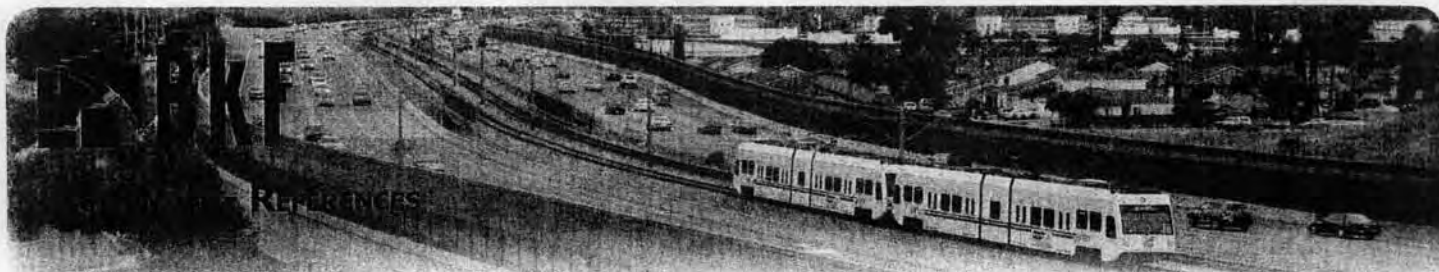
"Extremely thorough and easy to follow ... excellent work product ...looks like something one of our staff would have done" in regards to the Highway 17 NAD83 Rollover project we completed for District 4. - A.J. Burgess, PLS, Caltrans Senior Transportation Surveyor

- HIGHWAY 17 RIGHT OF WAY ROLLOVER TO NAD83

5. SANTA CLARA VALLEY WATER DISTRICT (SCVWD)

Mr. Dan Gilleland
Santa Clara Valley Water District
5750 Almaden Expressway, San Jose, CA 95118
(408) 265-2600 ext. 3703
Dgilleland@valleywater.org





- PERMANENTE CREEK CROSS SECTIONING (2004-CURRENT)
- CYPRESS LANE EASEMENT STAKING (2004-CURRENT)
- FELLOWS DIKE TOPOGRAPHIC SURVEY (2004-CURRENT)
- ADOBE CREEK ROCK MONITORING (2005-CURRENT)
- ALUM ROCK LEVEL RUN (2006-CURRENT)
- BERRYESSA ROAD BRIDGE TOPOGRAPHIC SURVEY (2004-CURRENT)
- BROKAW BRIDGE TOPOGRAPHIC SURVEY (2004-CURRENT)
- CALABAZAS CREEK CIRCLE EASEMENT STAKING (2005-CURRENT)
- CAMP COYOTE RELOCATION CONSTRUCTION STAKING (1995-CURRENT)
- COMBS PROPERTY/SAN VICENT AVE. BOUNDARY SURVEY (2004-CURRENT)
- CORRALITOS CREEK SURVEY (2005-CURRENT)
- COYOTE CREEK, ZANKER RD. TOPOGRAPHIC SURVEY (1995-CURRENT)
- UVAS DAM MONITORING (2007-CURRENT)
- AS NEEDED STAFF AUGMENTATION (2007-CURRENT)
- RINCONADA WATER TREATMENT PLANT MONITORING SURVEY (2007-CURRENT)

Reference is Tom Dougherty at SCVWD (408) 265-2607 ext. 3713 Tdougherty@valleywater.org for:

- STEVENS CREEK CROSS SECTIONING (2007-CURRENT)

6. CITY OF BERKELEY PUBLIC WORKS DEPARTMENT

Mr. Kenneth Emeziem
 1947 Center Street, 4th Floor, Berkeley, CA 94704
 (510) 981-6444
 Kemeziem@ci.berkeley.ca.us

BKF provided staking for sewer replacement at Ward and MLK. Corner Record for possible disturbed monument.

- MONUMENT REFERENCING
- BKF PROVIDED MONUMENT REFERENCING ASSOCIATED WITH SEWER REPLACEMENT AND REHABILITATION PLAN 7848, 7854, 7856, 7857, 7890, 7901, AND 7869. MONUMENTS WERE REFERENCED FOR THE ELLIS/FAIRVIEW TRAFFIC CIRCLE PROJECT, GRIZZLY BEAR BOULEVARD, AND C.O.B. UTILITY UNDERGROUND PROJECT (WD#47).

Topographic Surveys to facilitate design of planned sewer project and street rehabilitation program include:

- ARCH STREET / SPRING WAY
- 1208 MILVIA STREET
- MAYBECK TWIN DRIVE
- HILGARD - LeROY - SPRING WAY
- NEILSON STREET
- ALCATRAZ - DANA - PRINCE STREET
- HEARST - OXFORD STREETS
- SHATTUCK - VINE STREETS
- CEDAR / ROSE PARK

7. CONTRA COSTA WATER DISTRICT (CCWD) ON-CALL SURVEYS

CCWD
 Mr. Paul Lau
 2411 Bisso Ln, PO Box H20, Concord, CA 94524
 (925) 688-8016
 plau@ccwater.com

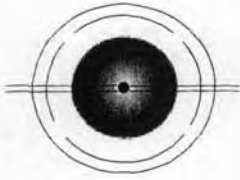
- LOS VAQUEROS RESERVOIR – PROPERTY SURVEYS
- LINDSEY CHANNEL – TOPOGRAPHIC
- PUTNAM ROAD & GEARY ROAD – REPLACEMENT TOPO SURVEY
- LIME RIDGE & HARDCASTLE – RECORD OF SURVEY
- HILLSDALE NURSERY – CORNER RECORD
- MURDER'S CREEK – BOUNDARY SURVEY
- CONCORD BLVD – BOUNDARY, RECORD OF SURVEY
- ROSEMARY/PARKSIDE – REPLACEMENT TOPO SURVEY
- VASCO ROAD – PROPERTY DESCRIPTIONS
- PINE HOLLOW RESERVOIR - SITE TOPO SURVEY
- CORA CT – BOUNDARY, RECORD OF SURVEY
- IRON HORSE – CONSTRUCTION STAKING, MAPPING
- DAN LESHAR PIPELINE - CONSTRUCTION STAKING
- DIVIDE TANKS – DESCRIPTION, TOPO SURVEY
- DOWNTOWN CONCORD – MAIN REPLACEMENT TOPO SURVEY
- LINDSEY BASIN – EASEMENT, TOPO SURVEY

8. CENTRAL CONTRA COSTA SANITATION DISTRICT (CCSD)

Ms. Liz Charleton
 5019 Imhoff Place, Martinez, CA 94553
 (925) 229-7374
 charlton@centralsan.dst.ca.us

BKF is currently providing professional land surveying services on an on-call basis for the CCCSD. New legal descriptions and plats are required for the 'Amended Grand Easement' for each of five easements containing approximately 67 parcels / sub-parcels. BKF will survey and calculate centerlines for all sanitary sewer of District's 200' scale base map to be within or crossing the SPTC R/W. All surveys to be made in California coordinate System of 1983 GPS each 2002.00 (NGS) or 2007.00 (CSRC). CCD83 coordinates shall be provided at the centers of sanitary sewer structures – manhole covers are typically offset from centers of structure. CCS83 coordinates on pairs of nearby found related monuments of record that will serve as baseline. Legal descriptions and plats for approximately 67 parcels with as many as four centerlines described for each parcel.





D & D SURVEYING, INC.

6990 Village Parkway, Suite 207

POST OFFICE BOX 2068

Dublin, CA 94568

Phone: 925-828-8900 Fax 925-828-1550

Firm Profile

D & D Surveying, Inc is a Survey and Mapping, Right of Way Engineering firm founded in Dublin California in July of 2010. We are a small single discipline surveying firm that specializes in transportation and public works with an emphasis on design surveys, right of way engineering to Caltrans Standards.

Our clients are most often large engineering firms servicing cities, counties, and transportation authorities, Caltrans, VTA and BART

Our business is 95% public sector work, because of our understanding and experience on transportation projects we are able to deliver the highest quality deliverables on time and under budget.

Our client base is local agencies such as ACTIA, CCTA, VTA and BART.

Our firm's structure is that of an S Corporation with one stockholder, Mr. Dan S. Scott III.

We are a Certified **UDBE** with the California Unified Certification Program (CUCP).

Services Provided

D & D Surveying, Inc. provides the following survey mapping services;

- Topo processing
- Boundary analysis
- Preparations of survey maps and legal descriptions
- Geodetic network adjustments

Equipment List

- 2 Workstations
- AutoCad Civil 3D software
- StarPlus least square adjustment software
- Trimble TGO software

CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP) DBE THIS CERTIFIES THAT

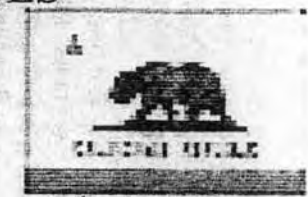
D & D Surveying, Inc.
Firm Name

039127
Firm#

October 01, 2015
Renewal Date

IS APPROVED BY
THE CALIFORNIA UNIFIED CERTIFICATION PROGRAM (UCP)
AS A DISADVANTAGED BUSINESS ENTERPRISE (DBE)
AS DEFINED BY THE U.S. DEPARTMENT OF TRANSPORTATION (DOT)
49 CFR, PART 26, AS MAY BE AMENDED,
FOR THE FOLLOWING NAICS CODES:

541370 - SURVEYING & MAPPING (except Geophysical) SERVICES



UNIFIED CERTIFICATION PROGRAM

Hayden J. Lee, Manager
Office of Small & Disadvantaged Businesses



Certifying Agency

D & D Surveying, Inc.

Dan S. Scott III, PLS

Project Surveyor

Registration 2002 - Land Surveyor - California No. 7840; 2003 - Land Surveyor - Nevada No. 15937

Overview

Mr. Scott is President and sole stockholder of D & D Surveying, Inc. Dan has over 22 years of surveying experience, including 11 years in the public sector where much of his field and office work consisted of large capital improvement projects as an employee of the County of Orange. Dan has a strong background in office management, boundary analysis, right-of-way engineering, geodetic network adjustments, topo and cross-section data processing, lot line adjustments, encumbrance maps, and Records of Survey as well as writing legal descriptions. Dan began surveying while in the military and has since built arterial highways, toll roads (to Caltrans Standards), dams, flood control channels, and light rail systems. Since his arrival in the Bay Area 10 years ago, Dan has been working almost exclusively on transportation projects, most often to Caltrans Standards. Mr. Scott has an excellent reputation for providing the highest quality mapping and right of way deliverables in the region. ***District 4 has used deliverables prepared by him as examples to other consultants on what a delivery package should consist of.*** Some of the local projects he has managed include the State Route 84 Isabel Widening, Port of Oakland Surveying and Mapping On-Call, I-580 construction at Center Street in Castro Valley as well as sound wall construction in Livermore and San Leandro for ACTIA, Surveying and Mapping On-Call for VTA, etc. Dan has excellent communication and organizational skills to bring to this project. He is proficient in many office systems as well such as AutoCAD, Micro Station, StarPlus Least Square Adjustment, and Trimble Geomatics Office.

Education Bachelor of Arts, Business Management, North Central College, Naperville, Illinois
Survey and Mapping Program, Rancho Santiago College, California

Experience

East - West Connector I-880 to I-238 Mission Blvd., PS&E, ACTIA, Fremont & Union City, CA

Survey Manager responsible for performing all the survey field and office work for this project under the direction of the TY LIN survey manager. Managed all the GPS aerial and project control on NAD 88 and NAVD88 datum's, design and utility surveys, cross sections at conforms, record land net, field locations of all street centerline monuments and subdivision corners (by GPS/RTK methods). Performed boundary analysis along the entire route from the I-880 to Mission Boulevard for the Record of Survey. The aerial mapping was done to Caltrans Standards, checklist, A, B and C. The ROWE on the I-238 portion will be mapped to Caltrans Standards.

SR 84 Bypass (Isabel Avenue), PSR, PS&E, ACTIA, Livermore, California

Project Surveyor assisting with the production and supervision of the Surveying and Mapping tasks for this Project Study Report. Prepared Hard Copy and Appraisal Maps along with legal description and plats for parcel acquisitions. The purpose of the project is to relieve the greater downtown area of Livermore by having the commute traffic exit I-580 on the eastside of town utilizing the Airway off ramps. Managed detailed design surveys as delineate on certain environmentally sensitive areas within project.

BART Earthquake Safety Program Phase I, PS&E, Oakland, CA

Project Surveyor responsible for control and design surveys, duties also included Preparing Appraisal and Right of Way Maps for construction documents. Prepared over 60 legal description and plats for acquisitions of parcels for project. The project limits consisted of two separate segments of the BART line running through Oakland including the Transbay Tube. First segment running from the portal of the tube to Martin Luther King Blvd. The second segment was mapping 19 crossing from 27th Street to the Berkeley Tunnel.

State Highway 101 Aux, SCVTA, Palo Alto/Mountain View CA

Prepared Caltrans Right-of-Way Hard Copy and Appraisal Maps, Section 83 plats, along with acquisition plats and descriptions for this project consisting of 1.6 miles.

D & D Surveying, Inc.

Dan S. Scott III, PLS

Project Surveyor

SR 4 Somersville Road Interchange Widening Segment I, PS&E, Antioch & Pittsburg, CA

Project Surveyor performed all boundary related research, calculated a local land net identifying ownership and existing monumentations. Prepared Hard Copy and Appraisal Maps along with 40 legal description and plats for acquisitions of parcels.

I-580 Soundwalls, PS&E, ACCMA, San Leandro/Oakland CA

Performed the horizontal and vertical control network for both sites encompassing this design project. Cross sections were taken on 50 foot intervals, from the fog line to the R/W fences, on both shoulders for over a mile in total. Data processing of the field information for the cross sections, topographic mapping, and utility surveys was performed and delivered to client January 2007. Project cost: \$7.4 million

Downtown East Valley-Bus Rapid Transit Project (BRTP) VTA/HMH Engineers, San Jose CA

As a subconsultant to HMH Engineers, Survey Manager responsible for performing all the survey field and office work necessary to produce the project control for photogrammetric mapping. Provided the GPS planning and adjustment, directed field crews for all GPS and conventional surveys.

BCDC, Port of Oakland Surveying and Mapping On-Call Services, Port of Oakland CA

Task Project Manager, providing research, data base compilation and exhibit preparation for the totality and history of the S.F.B.C.D.C. permit conditions that encumber Port of Oakland between Clay Street and Alice Street. Performed calculations and analysis, wrote legal descriptions and prepared accompanying plat maps for public access easements within the Jack London Square.

VTA/BART Extension, Surveying Contract, Warm Springs to Downtown San Jose, Towill Inc.

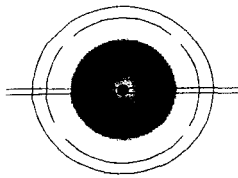
This is a 5-year, \$5 million, contract for all Surveying and Mapping Services required mapping and acquiring all necessary right-of-way, including Bart Stations and parking facilities. All resources to accomplish this work are being performed by the consultant team and administered by the VTA Surveying and Mapping Manager. Under contract with Towill, Inc. to perform 17% of the work including fieldwork as well as research, developing the existing land-net, reconciliation of the R/W, and preparing acquisition documents. As Task Order Manager, prepared the Record of Survey for the portion of the route that goes from the old Western Railroad R/W crossing Hwy 101 through the old part of town to Santa Clara Street.

I-880 Coleman Interchange, ROW Engineering, Dillon Surveys, VTA/VHA, San Jose, CA

Land Surveyor responsible for drafting the Hard Copy and Appraisal Maps to *Caltrans Standards*. Performed all of the Micro Station drafting and sheet layout for the entire 13 sheet project as well as preparing 21 legal descriptions with plats.

Santa Teresa and Curtner (LRT) Park and Ride Lots, Boundary Maps, HMH, VTA, San Jose, CA

Task Order Manager for the preparation of Record Boundary Maps for the VTA Real Estate division for possible sales transaction on a portion of each of these two stations along the Guadalupe corridor LRT line. These boundaries were based mostly on the Caltrans Hard Copy Maps that VTA had prepared utilizing consultants as well as record maps.



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RELEVANT EXPERIENCE

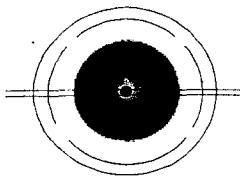
State Route 84 Isabel Widening Project, ACTIA, PSR and PS&E, Livermore, CA

State Route 4 Somersville Widening Project, CCTA, PS&E, Antioch/Pittsburg, CA

State Route 101 Aux, VTA, PS&E, Palo Alto/Mountain View, CA

BART Earthquake Safety Program, Phase I, BART, PS&E, Oakland, CA

Downtown East Valley Bus Rapid Transit Project, VTA, PS&E, San Jose, CA



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PROFESSIONAL REFERENCES

Mr. Forrest Reed, PLS, Port Land Surveyor
Port of Oakland, Oakland, CA, (510) 627-1472
BCDC, Port of Oakland Surveying and Mapping Services

Mr. Stan Heffner PLS, Surveying and Mapping Manager
Santa Clara Valley Transportation Authority (VTA) San Jose CA, (408) 321-5886
VTA/BART Extension Surveying and Mapping Services

Mr. Hassen Beshir, PE, Principal Engineer
BART, Oakland, CA (510) 287-4997
BART Earthquake Safety Program

Mr. Russ Berringer, PLS, Senior Land Surveyor
Caltrans District 4, Right of Way
111 Grand Ave., Oakland, CA 94623
(510)286-5744
Numerous ROWE Submittals to Caltrans Standards

Mr. Jim Stein, PLS, County Surveyor, Contra Costa County
County Surveyor, Public Works Department, (925) 313-2314

Mr. Art Dao, PE, Deputy Director
Alameda County Transportation Improvement Authority, (510) 893-3347 x 104
1333 Broadway, Suite 300
Oakland, CA 94612
**East West Connector
State Route 84 Isabel Widening Project**

Mr. Kyle K. Lei, PE, Associate Engineer
Engineering and Transportation Department, City of San Leandro, (510) 577-3302
City of San Leandro On Call Surveying and Mapping Services

Mr. Dennis Dillon, PLS, VTA/VHA Survey Coordinator, Consultant
Dillon Surveys, Morgan Hill CA , (408) 778-3258
Numerous Caltrans Right-of Way Projects

Mr. Scott Shortlidge, PLS Survey Manager
TY Lin International, San Ramon CA (925) 365-3987
East West Connector

Mr Sasha Dansky, PE Principal/Division Manager
Mark Thomas & Company, Walnut Creek CA (925) 938-0383
State Route 4 Widening Project

**EXHIBIT C
Master Agreement**

CONSULTANTS FEE SCHEDULE



BILLING SCHEDULE

PROFESSIONAL PERSONNEL SERVICE FEES

JANUARY 1, 2010 - DECEMBER 31, 2010

PERSONNEL

HOURLY RATES

ENGINEERING

Associate	\$167.00
Project Manager	\$158.00 - \$163.00
Engineer IV	\$146.00
Engineer I, II, III	\$104.00 - \$119.00 - \$136.00

PLANNING

Planner I, II, III	\$104.00 - \$119.00 - \$135.00
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SURVEYING

Project Manager	\$158.00
Surveyor I, II, III, IV	\$104.00 - \$119.00 - \$136.00 - \$146.00
Survey Party Chief	\$131.00
Survey Chainman	\$103.00
Apprentice I, II, III, IV	\$54.00 - \$75.00 - \$85.00 - \$96.00

DESIGN AND DRAFTING

Technician I, II, III	\$99.00 - \$107.00 - \$116.00
Drafter I, II, III, IV	\$77.00 - \$85.00 - \$94.00 - \$103.00
Student Engineer/Surveyor	\$55.00

CONSTRUCTION ADMINISTRATION

Senior Construction Administrator	\$155.00
Resident Engineer	\$113.00
Field Engineer I, II, III	\$104.00 - \$119.00 - \$136.00

SERVICES AND EXPENSES

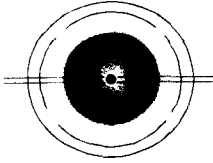
Project Assistant	\$67.00
Clerical/Administrative Assistant	\$57.00

Principals' time on projects is chargeable at \$193.00- \$215.00 per hour.

Charges for outside services, equipment, and facilities not furnished directly by BKF Engineers will be billed at cost plus 10%. Such charges may include, but shall not be limited to printing and reproduction services; shipping, delivery, and courier charges; subconsultant fees and expenses; special fees, permits, and insurance; transportation on public carriers, meals, and lodging; and consumable materials. Mileage will be charged at the prevailing IRS rate per mile.

Monthly invoices are due within 30 days from invoice date. Interest will be charged at 0.833% per month on past due accounts.

Expert witness/litigation rates are available upon request.



D & D SURVEYING, INC.
Surveying and Mapping Services

BASIS OF COMPENSATION

Professional Services Hourly Rate Schedule
(Effective through March 01, 2011)

Project Manager.....	\$136.00
Project Surveyor.....	\$134.79
Assistant Land Surveyor.....	\$115.00 *
Surveyor Technician.....	\$100.00 *

* OVERTIME @ 1.29 TIMES THE ABOVE HOURLY RATES

Expenses @ Cost including:

Reproduction, Research - Outside
Filing & Permit Fees
Overnight Delivery

Expenses at the following:

Auto Mileage \$0.50
Reproduction - In House - \$1.00 per sq ft

Note: This rate schedule is effective through March 01, 2011. The rates and fees for all services performed subsequent to the date shall be increased proportionately to the increases in costs by D & D Surveying, Inc.

PROJECT SCOPE OF WORK
Project No. 000?
[To be prepared for each project.]

1. Except as hereinafter provided, the services provided by the Consultant under this Project Scope of Work (hereinafter referred to as "P.S.W.") shall be subject to the terms and conditions set forth in the Professional Design Services Master Agreement made and entered into by and between the County of Stanislaus ("County") and [Company Name] ("Contractor"), on [Insert Date], 2011.
2. The Consultant shall provide services under the Master Agreement and this P.S.W. as set forth in the Master Agreement Exhibits A and B and/or the Consultant's Proposed Project Scope of Work dated [Insert Date], 2011, attached hereto as Exhibit 1 and, by this reference, made a part hereof.
3. Consultant will be compensated for the services described herein in accordance with the Section 2.0 of the Master Agreement. The maximum amount to be paid by the County for services provided under this P.S.W. shall not exceed \$700,000, including, without limitation, the cost of any subcontractors, consultants, experts or investigators retained by the Consultant to perform or to assist in the performance of its work under this P.S.W.
4. The term of this P.S.W shall commence as stated in the Project Notice to Proceed and continue until all services described herein are completed, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties. Consultant's services described herein shall be performed in strict compliance with the Project Schedule approved by County as set forth in Exhibit 2, attached hereto and incorporated herein by this reference.

IN WITNESS WHEREOF, the parties hereto have caused this Project Scope of Work, Project No. 000? to be executed by and through their respective authorized officers:

COUNTY OF STANISLAUS

CONSULTANT

By: _____
Matt Machado, Director
Department of Public Works

By: _____
Name & Title

APPROVED AS TO FORM:
John P. Doering
County Counsel

By: _____
Thomas E. Boze
Deputy County Counsel

STANISLAUS COUNTY
PROFESSIONAL DESIGN SERVICES MASTER AGREEMENT
March 1, 2011 to March 1, 2013

This Agreement is made and entered into by and between the County of Stanislaus, a political subdivision of the State of California, hereinafter referred to as "County" and Hawkins & Associates Engineering, Inc., hereinafter referred to as "Consultant".

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0 PROFESSIONAL SERVICES TO BE PROVIDED BY CONSULTANT

1.1. Scope of Services: Consultant shall provide the professional services described in the County's Request for Proposal ("RFP") attached hereto as Exhibit "A" and incorporated herein by reference and Consultant's Response to County's RFP (the "Response"). A copy of said Response is attached hereto as Exhibit "B" and incorporated herein by this reference. Each project added to and to be performed under this Agreement shall be separately approved by the parties. Each project where the cost of services does not exceed \$100,000 shall be approved by purchase order issued by the County Purchasing Agent or designee; projects greater than \$100,000 shall be approved by resolution of the Board of Supervisors for the County.

1.2. Professional Practices: All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also represents that it is familiar with all laws that may affect its performance of this Agreement and shall advise County of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Representations: Consultant represents that it has reviewed the RFP and that in its professional judgment the services to be performed under this Agreement can be performed within the maximum fee set forth herein below and within the time specified in the Project Schedule attached hereto. Consultant represents that it is qualified to perform the professional services required by this Agreement and possesses the necessary licenses and permits required to perform said services. Consultant represents that it has no interest and shall not acquire any interest direct or indirect which conflicts, or has the appearance of conflicting, in any manner or degree with the performance of the work and services under this Agreement.

1.4. Compliance with Laws. Consultant agrees that it shall perform the services required by this Agreement in compliance with all applicable Federal and California laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable

to the services required under this Agreement.

1.5. Non-Discrimination. 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 disability, medical condition (including genetic characteristics), marital status, age, political affiliation, sex or sexual orientation. 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.

1.6. Non-Exclusive Agreement. Consultant acknowledges that County may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of County. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

1.8. Covenant Against Contingent Fees. Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the consultant; to solicit or secure this agreement; and that he/she has not paid or agreed to pay any company or person other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award, or formation of this agreement. For breach or violation of this warranty, the local agency shall have the right to annul this agreement without liability, or at its discretion; to deduct from the agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

2.0 COMPENSATION AND BILLING

2.1. Compensation. For each task or project let under this Agreement Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "C", attached hereto and made a part of this Agreement (the "Fee Schedule"). Consultant will be compensated on a time and materials basis, based on the hours worked by the Consultant's employees or subcontractors at

the hourly rates specified in the Fee Schedule. Fee Schedule rates shall include direct salary costs, employee benefits, and overhead. The rates stated in the Fee Schedule are not adjustable during the term of this Agreement. Consultant's compensation under this Master Agreement shall in no case exceed Two Hundred Thousand Dollars (\$200,000). The County may retain ten percent of all periodic or progress payments made to the Consultant until completion and acceptance of all work tasks and County shall have right to withhold payment from Consultant for any unsatisfactory service until such time service is performed satisfactorily.

2.2. Reimbursements. In addition to the aforementioned fees, Consultant will be reimbursed for any expenses specifically set forth in a Project Scope of Work. All such reimbursement amounts are limited to those costs and expenses that are reasonable, necessary and actually incurred by the Consultant in connection with the services provided. The County shall not pay a mark up on any item of reimbursement. The County shall not pay for any item of overhead such as telephone, facsimile, postage, etc. All requests for reimbursement shall be accompanied by a copy of the original invoice.

2.3. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in Exhibits A and B and specified in each Project Scope of Work unless the County or the Project Manager for the Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.4. Method of Billing. Consultant may submit invoices to County's Project Manager for approval on a progress basis, but no more often than once each calendar month. Said invoice shall be based on the total of all Consultants' services that have been completed to County's sole satisfaction. County shall pay Consultant's invoice within forty-five (45) days from the date County receives said invoice. Each invoice shall describe in detail, the services performed and the associated percentage of tasks completed. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.5. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to County or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the termination of this Agreement.

3.0 TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days after County delivers its Notice to Proceed for each separately approved Project. Said services shall be performed in strict compliance with the Project Schedule approved by County as set forth in each Project Scope of Work. Each Project Schedule may be amended by mutual agreement of the parties.

Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

4.0 TERM OF CONTRACT AND TERMINATION

4.1. Term. This Agreement shall commence upon approval by the County's Board of Supervisors and continue for a period of twenty-four (24) months, or until all work on each Project let during the 24 month period is completed, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The County reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the County.

4.3. Compensation. In the event of termination, County shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of County's written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth in Exhibit "C". In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the County or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the County within ten (10) days of delivery of termination notice to Consultant, at no cost to County. Any use of uncompleted documents without specific written authorization from Consultant shall be at County's sole risk and without liability or legal expense to Consultant.

5.0 INSURANCE REQUIREMENTS

5.1. Minimum Scope and Limits of Insurance. Consultant, at its sole cost and expense, for the full term of this Agreement (and any extensions thereof), shall obtain and maintain, at minimum, compliance with all of the following insurance coverage(s) and requirements. If Consultant normally carries insurance in an amount greater than the minimum amount listed below, that greater amount shall become the minimum required amount of insurance for purposes of this Agreement. The insurance listed below shall have a retroactive date of placement prior to, or coinciding with, the date services are first provided that are governed by the terms of this Agreement:

- (a) Comprehensive general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate. 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.
- (b) Automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate.
- (c) Workers' compensation insurance as required by the State of California.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than Two Million Dollars (\$2,000,000.00), combined single limit for each occurrence. If Consultant cannot provide an occurrence policy, Consultant shall provide insurance covering claims made as a result of performance of Work on this Project and shall maintain such insurance in effect for not less than three years following Final Completion of the Project.

5.2. Endorsements. The Consultant shall obtain a specific endorsement to all required insurance policies, except Professional Liability insurance, naming the County of Stanislaus, its Officers, Directors, Officials, Agents, Employees and Volunteers as additional insureds for at least three years after the completion of the work to be performed under this Agreement, but, to the extent that any insurance issued to Consultant in effect after the expiration of three years provides additional insured coverage to parties Consultant agreed in writing to name as an additional insured, then Consultant shall have the obligation under this contract to obtain such additional insured coverage for the County, under any and all policies Consultant has 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) Ongoing 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.
- (e) For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County, 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 Consultant.

5.3. Deductibles: 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 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 retentions, 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.

5.4. Certificates of Insurance: At least ten (10) days prior to the date the Consultant begins performance of its obligations under this Agreement, Consultant 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 Consultant. 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.

5.5. Non-limiting: Nothing in this Section or the insurance described herein shall be construed as limiting in any way, the indemnification provisions contained in this Agreement, or the liability of Consultant and Consultant's officers, employees, agents, representatives or subcontractors for payments of damages to persons or property.

5.6. Primary Insurance: The Consultant's insurance coverage shall be primary insurance regarding the County of Stanislaus, its Officers, Directors, Officials, Agents, Employees and Volunteers. Any insurance or self-insurance maintained by the County of Stanislaus, its Officers, Directors, Officials, Agents, Employees and Volunteers shall be excess of the Consultant's insurance and shall not contribute with Consultant's insurance. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials and employees. 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. Any and all insurances cared by it shall be deemed liability coverage for any and all actions it performs in connection with this Contract.

5.7. Cancellation of Insurance: 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 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. Consultant shall maintain such coverage in effect for three years after substantial completion of the project to the extent it is commercially available at reasonable rates.

5.8. California Admitted Insurer: 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.

5.9. Subcontractors: 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.

6.0 INDEMNIFICATION

6.1. Indemnification: To the fullest extent allowed by law, Consultant shall defend, indemnify, and hold harmless the County and its officers, directors, officials, agents, employees, volunteers and representatives (collectively, "Indemnatee") 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, (collectively, "losses") 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. These indemnification obligations shall not be limited by any assertion or finding that (1) the person or entity indemnified is liable by reason of non-delegable duty, or (2) the losses were caused in part by the negligence of, breach of contract by, or violation of law by Indemnatee. Nothing in this Agreement, including the provisions of this paragraph, shall constitute a waiver or limitation of any rights which Indemnatee may have under applicable law, including without limitation, the right to implied indemnity.

6.2. 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 and as limited in section 2782.8 of the California Civil Code. This duty to defend arises immediately when such claim is made and shall be independent of any finding of negligence and shall arise regardless of any claim or assertion that Indemnatee caused or contributed to the Losses. Consultant shall provide legal counsel acceptable to the County.

6.3. Duty to Cooperate: Each party shall notify the other party within ten (10) days 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.

6.4. 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.

6.5. The foregoing provisions in this section "Indemnification" shall survive the term and termination of this Agreement.

7.0 GENERAL PROVISIONS

7.1. Entire Agreement: This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

7.2. Representatives. The Director of the Stanislaus County Department of Public Works, or his designee, shall be the representative of County for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the County, called for by this Agreement, except as otherwise expressly provided in this Agreement. Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

7.3. Project Managers. County shall designate a Project Manager to work directly with Consultant in the performance of this Agreement. Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with County during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by County.

7.4. Designated Personnel: A material covenant of this agreement is that the Consultant shall assign the individuals designated below to perform the functions designated so long as they continue in the employ of the Consultant. The designated individuals shall, so long as their performance continues to be acceptable to County, remain in charge of the services for

the Project from beginning through completion of services.

- a. Project Manager: Rodrick Hawkins, President
- b. Lead/Manager: Kevin Genasci, Survey Manager

7.5. Removal of Personnel or Sub-Consultants: If the County, in its sole discretion at any time during the term of this agreement, desires the removal of any person or sub-consultant assigned by Consultant to perform services, then the Consultant shall remove such person or consultant immediately upon receiving notice from the County.

7.6. Notices: Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

If to County:

Stanislaus County Department of Public Works
Attn: Linda Allsop, Contracts Administration
1716 Morgan Road
Modesto, California 95358
Phone: (209) 525-4157
Fax: (209) 541-2506

If to Consultant:

Hawkins & Associates Engineering, Inc.
Attn: Kay Martin, Business Office Mgr.
436 Mitchell Road
Modesto, CA 95354
Phone: (209) 575-4295
Fax: (209) 578-4295

7.7. Attorneys' Fees: In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

7.8. Governing Law: This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Stanislaus County, California.

7.9. Assignment: Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without County's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of County's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

7.10. Independent Contractor: Consultant is and shall be acting at all times as an

independent contractor and not as an employee of County. Consultant shall secure, at his expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. 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.

7.11. Confidentiality: The Consultant 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.

7.12. Ownership of Documents: Any interest, including copyright interests, of Consultant or its contractors or subconsultants in studies, reports, memoranda, computational sheets, drawings, plans or any other documents, including electronic data, prepared in connection with the Services, shall be the property of County. To the extent permitted by law, work product produced under this Agreement shall be deemed works for hire and all copyrights in such works shall be the property of the County. In the event that it is ever determined that any works created by Consultant or its subconsultants under this Agreement are not works for hire, Consultant hereby assigns to County all copyrights to such works. With the County's prior written approval, Consultant may retain and use copies of such works for reference and as documentation of experience and capabilities.

7.13. Reuse of Design Documents: Should the County desire to reuse the documents specified above and not use the services of the Consultant, then the County agrees to require the new consultant to assume any and all obligations for the reuse of the documents, and the County releases Consultant and its subconsultants from all liability associated with the reuse of such documents.

7.14. Public Records Act Disclosure: Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, and provided to County may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualifies as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs County of such trade secret. The County will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The County shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

7.15. Responsibility for Errors: Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the County's representative, regarding any services rendered under this

Agreement at no additional cost to County. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to County, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of County and to participate in any meeting required with regard to the correction.

7.16. Order of Precedence: In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of the RFP or the Response, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over both the Response and the RFP and the Response shall govern over the RFP.

7.17. Costs: Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

7.18. No Third Party Beneficiary Rights: This Agreement is entered into for the sole benefit of County and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

7.19. Construction: The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

7.20. Amendments: This Agreement may be amend only by a writing executed by the parties hereto or their respective successors and assigns.

7.21. Waiver: The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

7.22. Severability: If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party is materially

impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

7.23. Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

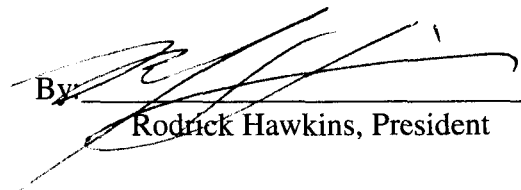
7.24. Corporate Authority: The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so, the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers:

COUNTY OF STANISLAUS

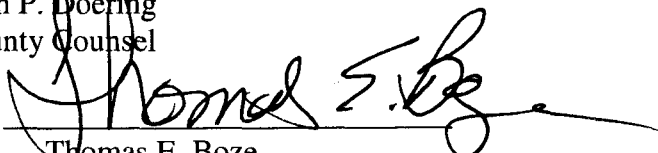
HAWKINS & ASSOCIATES ENGINEERING, INC.

By: _____
Matt Machado, Director
Department of Public Works

By: 
Rodrick Hawkins, President

APPROVED AS TO FORM:

John P. Doering
County Counsel

By: 
Thomas E. Boze
Deputy County Counsel

**EXHIBIT A
Master Agreement**

COUNTY'S REQUEST FOR PROPOSAL



DEPARTMENT OF PUBLIC WORKS

Matt Machado, PE
Director

Laurie Barton, PE
Deputy Director, Engineering/Operations

Diane Haugh
Assistant Director, Business/Finance

1716 Morgan Road, Modesto, CA 95358
Phone: 209.525.4130 Fax: 209.525.4120

Email: publicworks@stancounty.com
www.stancounty.com/publicworks

ADDENDUM NO. 1

TO REQUEST FOR PROPOSAL

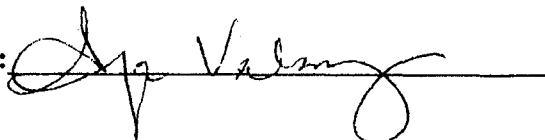
FOR

ON-CALL PROFESSIONAL SURVEYING SERVICES

IN

STANISLAUS COUNTY

AJA VERBURG, ASSOCIATE ENGINEER

By: 

DATE: DECEMBER 10, 2010

PROPOSALS DUE: DECEMBER 15, 2010; 5:00 PM

Page 1 of 3

**ADDENDUM NO. 1
FOR ON-CALL PROFESSIONAL SURVEYING SERVICES,
FOR BIDS DUE WEDNESDAY, DECEMBER 15, 2010; 5:00 PM
DATE: DECEMBER 10, 2010**

TO ALL CONSULTANTS:

THE FOLLOWING CHANGES, ADDITIONS, AND CLARIFICATIONS ARE HEREBY MADE A PART OF THE REQUEST FOR PROPOSAL AND SHALL BE USED IN PREPARATION OF THE PROPOSAL SUBMITTED FOR THE WORK.

RESPONSES TO INQUIRIES

1. Without knowing the specific scope of work for future County projects, how would you suggest we solicit bids for future services and materials unknown at this time? Should we simply make some assumptions based on previous work completed for the County?

RESPONSE: UDBE/DBE forms are not required to be submitted with your proposal for this RFP. However, they will be required for project specific contracts after we establish the on-call list.

2. To ensure we meet the 3.6% goal for all projects, it seems we would need a set contract amount for the project? Again, Should we make cost assumptions based on previous work?

RESPONSE: See response to Question #1.

3. If we make some general assumptions for future projects, and solicit UDBE/DBE materials & services bids, and submit good faith efforts documentation, will that satisfy this proposal requirement?.

RESPONSE: See response to Question #1.

4. Is it left up to the individual Surveyors to format their submittals. In other words, do you have a template you want followed or can I include whatever I feel appropriate?

RESPONSE: The County does not have a template for proposals. It is up to each firm to format their own proposal and include information they believe will address the requirements of the RFP.

**ADDENDUM NO. 1
FOR ON-CALL PROFESSIONAL SURVEYING SERVICES,
FOR BIDS DUE WEDNESDAY, DECEMBER 15, 2010; 5:00 PM
DATE: DECEMBER 10, 2010**

5. Our firm is capable of performing all requested services with in-house staff. We are completing a good faith effort, but anticipate it will not be cost effective for the County for us to subcontract services. We also understand that we are required to submit good faith effort documentation upon selection for services. Therefore, if we do not plan to subcontract any services, for the proposal submittal, do Exhibit 10-O1 and 10-O2 simply need to be signed and dated?

RESPONSE: See response to Question #1. UDBE/DBE firms shall be given full opportunity to participate in the performance of the work. If no UDBE/DBE firm(s) are utilized, Exhibits 10-O1 & 10-O2 must be filled-out showing 0% participation and signed/dated by the proposer. Additional, good faith efforts must be documented for 0% UDBE/DBE participation.



STANISLAUS COUNTY
DEPARTMENT OF PUBLIC WORKS

NOTICE OF REQUEST FOR PROPOSALS

ON-CALL PROFESSIONAL SURVEYING SERVICES

Stanislaus County Department of Public Works is requesting proposals from qualified consultants to provide on-call professional surveying services. The County has established an Underutilized Disadvantaged Business Enterprise (UDBE) goal of 3.1 percent with an overall DBE goal of 3.6 percent for all contracts. Information regarding UDBE can be found in the attached "Notice to Proposers Disadvantaged Business Enterprise Information," of this Request for Proposal (RFP). Exhibit 10-O1 and Exhibit 10-O2 are required to be completed and included in the proposal. If the UDBE goal is not met for the project, only consultants selected to be awarded a Master Agreement contract will be required to submit adequate good faith efforts documentation.

A copy of this Request for Proposal is available for viewing and download on the Valley Reprographics website at www.valleyreproplanroom.com.

All questions must be submitted in writing. Please send all questions regarding this RFP in writing via email to Peter Song at peter.song@stancounty.com or fax to (209) 525-4188. The deadline to submit questions is 5:00 p.m. on Wednesday, December 8, 2010. Addendums, if necessary, will be posted on the Valley Reprographics website. The last day to issue an addendum is Friday, December 10, 2010.

Pursuant to Sections 1770 and 1773 of the Labor Code, the Board of Supervisors has ascertained the general prevailing rate of per diem wages applicable to the work to be done for straight time, overtime, Saturday, Sunday, and holiday work. These wage rates are set forth by the Director of the Department of Industrial Relations and are available at the agencies web site and are on file with the Department of Public Works and hereby made a part of the agreement.

Proposals must be submitted at or before 5:00 p.m. on Wednesday, December 15, 2010.

Proposals shall be delivered in person or by mail to the following address:

Stanislaus County
Department of Public Works
Attention: Peter Song, Assistant Engineer
1716 Morgan Road
Modesto, CA 95358

PROJECT DESCRIPTION:

The County will select and contract three (3) to five (5) firms for on-call professional surveying services. The contract with each firm will provide a not to exceed yearly budget to be drawn against as services are requested and performed. Services will be requested on an as needed and per project basis. The term of each contract will be for two (2) years with a County option for a one (1) year extension. The first two contracts issued will be for Record of Surveys, or Corner Records where applicable, for current County overlay projects.

Work will be assigned to firms on the on-call list in no particular order. The County will assign work based on the firms current work load, availability of services, cost, schedule, and contract performance.

SCOPE OF WORK:

The work will include, but will not be limited to the following:

- Boundary Surveys
- Right of Way Surveys
- Topographic Surveys and Mapping
- Record of Surveys
- Legal Descriptions and Plat Maps
- Construction Staking
- Setting of monument wells to Stanislaus County Standards (monument wells will be provided by Stanislaus County)

All work shall be performed under the direction of a Licensed Land Surveyor in accordance with the Professional Land Surveyors Act, Chapter 15, Article 3, Section 8276, or a licensed engineer authorized to do land survey work with the State of California under Section 8731 of the aforementioned Act.

Proper signs and flagging shall be used for all field work within the County right-of-way.

PROPOSAL REQUIREMENTS:

The proposal, at a minimum, shall include the following:

- List and description of all surveying services available for on-call services.
- List of personnel available for these services and a resume of qualifications for each. Each firm shall provide the name of at least one Licensed Land Surveyor, and/or Licensed Engineer authorized to do land surveying in the State of California.
- List of survey equipment, vehicles, and tools (ex. jack hammers)
- List of recently completed projects showing past performances and abilities of the proposed team.

- Details on the firms ability to adequately respond to County's requests for services in a timely manner.
- Three (3) copies of your proposal must be submitted to the County. Please include with the proposal, in a **SEPARATE, SEALED ENVELOPE**, your hourly rate schedule. The hourly rate schedule must include all staff hourly rates and fees. Sub-consultant fees must be clearly indicated (if applicable).
- Provide references, including, but not limited to public agency clients, with a designated contact person and phone number for each reference.

The successful firms will be required to enter into a Professional Design Services Agreement with Stanislaus County for the work to be performed. A sample design services agreement is included with this Request for Proposal. The County is currently revising the indemnity section of the Professional Design Services Agreement to be consistent with Senate Bill No. 972 (SB972). A copy of SB972 is included with this RFP for your reference. The consultant shall state in the submitted proposal that their firm has reviewed the Sample Professional Design Services Agreement and will meet all of the terms and conditions if selected by the County for the requested services.

The proposals will be evaluated based on the scoring chart below. This scoring system is provided as a guideline for evaluating proposals that are submitted in response to a Request for Proposal.

Criteria	(a) Weight	(b) Score (0-10)	(a) x (b) Weighted Score
Professional Surveying Services Provided	3		
Experience of Project Manager	2		
Qualification and Experience of Key Personnel	2		
Demonstration of Professional and Financial Responsibility	1		
Experience Working With Public Agencies	1		
References	1		

Fail (0 points): Zero (0) points are given when the category being evaluated is nonresponsive.

Below Average (1 - 4 points): One (1) to four (4) points are awarded to responses that are considered to be minimally acceptable.

Average (5 points): Five (5) points are awarded if qualifications fully satisfy the requirement.

Above Average (6 - 9 points): Six (6) points to nine (9) points are awarded if qualifications more than satisfy the requirement and experience specifically applies to the project under consideration.

Exceptional (10 points): Ten (10) points are awarded if a firm's qualifications far exceed those required. Scores of ten (10) points generally are infrequent.

The proposals will be reviewed shortly after the closing date for submittal of proposals. Those firms believed to be the most qualified, based on their proposal, may be subject to an interview.

ATTACHMENTS:

1. Notice to Proposers Disadvantaged Business Enterprise Information
2. Exhibit 10-O1 & 10-O2
3. Prompt Payment of Withheld Funds to Subcontractors
4. Sample Design Services Agreement
5. Senate Bill 972



DEPARTMENT OF PUBLIC WORKS

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**NOTICE TO PROPOSERS
DISADVANTAGED BUSINESS ENTERPRISE
INFORMATION**

Stanislaus County has established an Underutilized DBE goal for this Agreement of 3.1% and an overall DBE goal of 3.6 percent.

1. TERMS AS USED IN THIS DOCUMENT

- The term “Disadvantaged Business Enterprise” or “DBE” means a for-profit small business concern owned and controlled by a socially and economically disadvantaged person(s) as defined in Title 49, Part 26.5, Code of Federal Regulations (CFR).
- The term “Underutilized Disadvantaged Business Enterprise” or “UDBE.” DBE classes that have been determined in the 2007 Caltrans Disparity Study to have a statistically significant disparity in their utilization in previously awarded transportation contracts. UDBEs include: African Americans, Native Americans, Asian-Pacific Americans, and Women.
- The term “Agreement” also means “Contract.”
- Agency also means the local entity entering into this contract with the Contractor or Consultant.
- The term “Small Business” or “SB” is as defined in 49 CFR 26.65.

2. AUTHORITY AND RESPONSIBILITY

- A. DBEs and other small businesses are strongly encouraged to participate in the performance of Agreements financed in whole or in part with federal funds (See 49 CFR 26, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs”). The Contractor should ensure that DBEs and other small businesses have the opportunity to participate in the performance of the work that is the subject of this solicitation and should take all necessary and reasonable steps for this assurance. The proposer shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.

- B. Proposers are encouraged to use services offered by financial institutions owned and controlled by DBEs.

3. SUBMISSION OF UDBE AND DBE INFORMATION

If there is a UDBE goal on the contract, a “Local Agency Proposer UDBE Commitment (Consultant Contract)” (Exhibit 10-O1) form shall be included in the Request for Proposal. In order for a proposer to be considered responsible and responsive, the proposer must make good faith efforts to meet the goal established for the contract. If the goal is not met, the proposer must document adequate good faith efforts. Only UDBE participation will be counted towards the contract goal; however, all DBE participation shall be collected and reported.

A “Local Agency Proposer DBE Information (Consultant Contract)” (Exhibit 10-O2) form shall be included with the Request for Proposal. The purpose of the form is to collect data required under 49 CFR 26. For contracts with UDBE goals, this form collects DBE participation by DBEs owned by Hispanic American and Subcontinent Asian Americans males (persons whose origin are from India, Pakistan, Bangladesh, Bhutan, Maldives Islands, Nepal or Sri Lanka). For contracts with no goals, this form collects information on all DBEs, including UDBEs. Even if no DBE participation will be reported, the successful proposer must execute and return the form.

4. DBE PARTICIPATION GENERAL INFORMATION

It is the proposer’s responsibility to be fully informed regarding the requirements of 49 CFR, Part 26, and the Department’s DBE program developed pursuant to the regulations. Particular attention is directed to the following:

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
- B. A certified DBE may participate as a prime contractor, subcontractor, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A UDBE proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:
 - 1. The proposer is a UDBE and will meet the goal by performing work with its own forces.
 - 2. The proposer will meet the goal through work performed by UDBE subcontractors, suppliers or trucking companies.
 - 3. The proposer, prior to proposing, made adequate good faith efforts to meet the goal.

- D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- F. The proposer shall list only one subcontractor for each portion of work as defined in their proposal and all DBE subcontractors should be listed in the bid/cost proposal list of subcontractors.
- G. A prime contractor who is a certified DBE is eligible to claim all of the work in the Agreement toward the DBE participation except that portion of the work to be performed by non-DBE subcontractors.

5. RESOURCES

- A. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP. If you believe a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification toll free number 1-866-810-6346 for assistance. Proposer may call (916) 440-0539 for web or download assistance.
- B. Access the CUCP database from the Department of Transportation, Civil Rights, Business Enterprise Program web site at: <http://www.dot.ca.gov/hq/bep/>.
 - Click on the link in the left menu titled *Disadvantaged Business Enterprise*
 - Click on *Search for a DBE Firm* link
 - Click on *Access to the DBE Query Form* located on the first line in the center of the page
 - Searches can be performed by one or more criteria
 - Follow instructions on the screen
- C. How to Obtain a List of Certified DBEs without Internet Access

D. DBE Directory: If you do not have Internet access, Caltrans also publishes a directory of certified DBE firms extracted from the online database. A copy of the directory of certified DBEs may be ordered at: <http://caltrans-opac.ca.gov/publicat.htm>

6. MATERIALS OR SUPPLIES PURCHASED FROM DBES COUNT TOWARDS DBE CREDIT, AND IF A DBE IS ALSO A UDBE, PURCHASES WILL COUNT TOWARDS THE UDBE GOAL UNDER THE FOLLOWING CONDITIONS:

- A. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Agreement and of the general character described by the specifications.
- B. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Agreement are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.
- C. If the person both owns and operates distribution equipment for the products, any Supplementing of regular dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not UDBE regular dealers within the meaning of this section.
- D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

7. FOR DBE TRUCKING COMPANIES: CREDIT FOR DBES WILL COUNT TOWARDS DBE CREDIT, AND IF A DBE IS A UDBE, CREDIT WILL COUNT TOWARDS THE UDBE GOAL UNDER THE FOLLOWING CONDITIONS:

- A. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular Agreement, and there cannot be a contrived arrangement for the purpose of meeting the UDBE goal.
- B. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the Agreement.
- C. The DBE receives credit for the total value of the transportation services it provides on the Agreement using trucks it owns, insures, and operates using drivers it employs.
- D. The DBE may lease trucks from another DBE firm including an owner-operator who is certified as a DBE. A DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Agreement.
- E. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. A DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. A DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by the DBE.
- F. For the purposes of this Section D, a lease must indicate that the DBE has exclusive use and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, as long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

EXHIBIT 10-O1 Local Agency Proposer UDBE Commitment (Consultant Contracts)

NOTE: PLEASE REFER TO INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM

LOCAL AGENCY: _____ LOCATION: _____

PROJECT DESCRIPTION: _____

PROPOSAL DATE: _____

PROPOSER'S NAME: _____

CONTRACT UDBE GOAL (%): _____

WORK ITEM NO.	DESCRIPTION OR SERVICES TO BE SUBCONTRACTED (or contracted if the proposer is a UDBE)	UDBE CERT NO. AND EXPIRATION DATE	NAME OF EACH UDBE (Must be certified at the time proposals are due - include UDBE address and phone number)	PERCENT PARTICIPATION OF EACH UDBE

For Local Agency to Complete:

Local Agency Proposal Number: _____

Federal-Aid Project Number: _____

Federal Share: _____

Proposal Date: _____

Local Agency certifies that the UDBE certifications have been verified and all information is complete and accurate/unless noted otherwise.

Print Name Signature Date
Local Agency Representative

(Area Code) Telephone Number: _____

Total Claimed UDBE
Commitment

_____ %

Signature of Proposer

Date (Area Code) Tel. No.

Person to Contact (Please Type or Print)

Local Agency Proposer UDBE Commitment (Consultant Contracts)
(Rev 6/27/09)

Distribution: (1) Original - Local agency files

**INSTRUCTIONS – LOCAL AGENCY PROPOSER UDBE COMMITMENT
(CONSULTANT CONTRACTS)**

ALL PROPOSERS:

PLEASE NOTE: It is the proposer’s responsibility to verify that the UDBE(s) falls into one of the following groups in order to count towards the UDBE contract goal: 1) African Americans; 2) Asian-Pacific Americans; 3) Native Americans; 4) Women. This information must be submitted with your proposal. Failure to submit the required UDBE commitment will be grounds for finding the proposal nonresponsive.

A “UDBE” is a firm meeting the definition of a DBE as specified in 49 CFR and is one of the following groups: African Americans, Native Americans, Asian-Pacific Americans, or Women.

The form requires specific information regarding the consultant contract: Local Agency, Location, Project Description, Proposal Date, Proposer’s Name, and Contract UDBE Goal.

The form has a column for the Work Item Number and Description or Services to be subcontracted to UDBEs (or performed if the proposer is a UDBE). The UDBE prime contractors shall indicate all work to be performed by UDBEs including work to be performed by its own forces, if a UDBE. The UDBE shall provide a certification number to the Consultant and notify the Consultant in writing with the date of decertification if their status should change during the course of the contract. Enter UDBE prime consultant and subconsultant certification numbers. The form has a column for the Names of certified UDBEs to perform the work (must be certified on the date proposals are due and include UDBE address and phone number).

There is a column for the percent participation of each UDBE. Enter the Total Claimed UDBE Participation percentage of items of work submitted with proposal pursuant to the Special Provisions. (If 100% of item is not to be performed or furnished by the UDBE, describe exact portion of time to be performed or furnished by the UDBE.) See “Notice to Proposers Disadvantaged Business Enterprise Information,” (Exhibit 10-I) to determine how to count the participation of UDBE firms. **Note:** If the proposer has not met the contract goal, the local agency must evaluate the proposer’s good faith efforts to meet the goal in order to be considered for award of the contract.

Exhibit 10-01 must be signed and dated by the consultant submitting the proposal. Also list a phone number in the space provided and print the name of the person to contact.

For the Successful Proposer only, local agencies should complete the Proposal Number, Federal-aid Project Number, Federal Share, and Proposal Date fields and verify that all information is complete and accurate before filing.

EXHIBIT 10-02 Local Agency Proposer DBE Information (Consultant Contracts)

NOTE: PLEASE REFER TO INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM

LOCAL AGENCY: _____ LOCATION: _____

PROJECT DESCRIPTION: _____

TOTAL CONTRACT AMOUNT (\$): _____

PROPOSER'S NAME: _____

WORK ITEM NO.	DESCRIPTION OR SERVICES TO BE SUBCONTRACTED (or contracted if the proposer is a DBE)	DBE CERT NO. AND EXPIRATION DATE	NAME OF EACH DBE (Must be certified at the time proposals are due - include DBE address and phone number)	DOLLAR AMOUNT OF EACH DBE

<p>For Local Agency to Complete:</p> <p>Local Agency Contract Number: _____</p> <p>Federal-Aid Project Number: _____</p> <p>Federal Share: _____</p> <p>Contract Award: _____</p> <p>Local Agency certifies that the DBE certifications have been verified and all informations is complete and accurate.</p> <p>_____</p> <p>Print Name _____ Signature _____ Date _____</p> <p>Local Agency Representative</p> <p>(Area Code) Telephone Number: _____</p> <p>For Caltrans Review:</p> <p>_____</p> <p>Print Name _____ Signature _____ Date _____</p> <p>Caltrans District Local Assistance Engineer</p>	<p>Total Claimed DBE Participation \$ _____ %</p> <p>_____ Signature of Proposer</p> <p>_____ Date (Area Code) Tel. No.</p> <p>_____ Person to Contact (Please Type or Print)</p> <p>Local Agency Proposer DBE Information (Consultant Contracts) (Rev 6/27/09)</p>
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Distribution: (1) Copy - Fax or scan a copy to the Caltrans District Local Assistance Engineer (DLAE) within 15 days after contract execution. Failure to send a copy to the DLAE within 15 days after contract execution may result in deobligation of funds for this project.
 (2) Original - Local agency files

**INSTRUCTIONS - LOCAL AGENCY PROPOSER DBE INFORMATION
(CONSULTANT CONTRACTS)**

SUCCESSFUL PROPOSER:

The form requires specific information regarding the consultant or other contract: Local Agency, Location, Project Description, Total Contract Amount, Proposal Date, and successful Proposer's Name.

The form has a column for the Work Item Number and Description or Services to be Subcontracted to DBEs. The prime consultant shall indicate all work to be performed by DBEs including, if the prime consultant is a DBE, work performed by its own forces, if a DBE. The DBE shall provide a certification number to the prime consultant. Enter DBE prime consultant's and subconsultant's certification number. The form has a column for the Names of DBE certified contractors to perform the work (must be certified on or before the proposals are due and include DBE address and phone number).

Enter the Total Claimed DBE Participation dollar amount of items of work in the total DBE Dollar Amount column. (If 100% of item is not to be performed by the DBE, describe exact portion of time to be performed by the DBE.) See "Notice to Proposers Disadvantaged Business Enterprise Information," (Exhibit 10-I) to determine how to count the participation of DBE firms.

Exhibit 10-02 must be signed and dated by the successful proposer at contract execution. Also list a phone number in the space provided and print the name of the person to contact.

Local agencies should complete the Contract Number, Federal-aid Project Number, Federal Share, and Contract Award fields and verify that all information is complete and accurate before signing and sending a copy of the form to the District Local Assistance Engineer within 15 days of contract execution. Failure to submit a completed and accurate form within the 15-day time period may result in the deobligation of funds on this project.

District DBE Coordinator should verify that all information is complete and accurate. Once the information has been verified, the **District Local Assistance Engineer** signs and dates the form.

(Attachment)

Prompt Payment of Withheld Funds to Subcontractors

Federal regulation (49 CFR 26.29) requires one of the following three methods be used in federal-aid contracts to ensure prompt and full payment of any retainage kept by the prime contractor or subcontractor to a subcontractor.

Please check the box of the method chosen by the local agency to ensure prompt and full payment of any retainage.

- Method 1:** No retainage will be held by the agency from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
- Method 2:** No retainage will be held by the agency from progress payments due the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor in 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
- Method 3:** The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

SAMPLE

STANISLAUS COUNTY
PROFESSIONAL DESIGN SERVICES AGREEMENT

This Agreement is made and entered into by and between the County of Stanislaus, a political subdivision of the State of California, hereinafter referred to as "County" and ~~INSERT CONSULTANT'S NAME~~, hereinafter referred to as "Consultant".

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0 PROFESSIONAL SERVICES TO BE PROVIDED BY CONSULTANT

1.1. Scope of Services: Consultant shall provide the professional services described in the County's Request for Proposal ("RFP") attached hereto as Exhibit "A" and incorporated herein by reference and Consultant's Response to County's RFP (the "Response"). A copy of said Response is attached hereto as Exhibit "B" and incorporated herein by this reference.

1.2. Professional Practices: All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also represents that it is familiar with all laws that may affect its performance of this Agreement and shall advise County of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Representations: Consultant represents that it has reviewed the RFP and that in its professional judgment the services to be performed under this Agreement can be performed within the maximum fee set forth herein below and within the time specified in the Project Schedule attached hereto. Consultant represents that it is qualified to perform the professional services required by this Agreement and possesses the necessary licenses and permits required to perform said services. Consultant represents that it has no interest and shall not acquire any interest direct or indirect which conflicts, or has the appearance of conflicting, in any manner or degree with the performance of the work and services under this Agreement.

1.4. Compliance with Laws. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement.

1.5. Non-Discrimination. During the performance of this Agreement, Consultant and its officers, employees, agents, representatives or subcontractors shall not unlawfully

SAMPLE

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. 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.

1.6. Non-Exclusive Agreement. Consultant acknowledges that County may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of County. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

2.0 COMPENSATION AND BILLING

2.1. Compensation. Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "C", attached hereto and made a part of this Agreement (the "Fee Schedule"). Consultant's compensation shall in no case exceed ~~Insert Amount - spelled out and (\$)~~

2.2. Reimbursements. In addition to the aforementioned fees, Consultant will be reimbursed for any expenses specifically set forth in a Project Scope of Work. All such reimbursement amounts are limited to those costs and expenses that are reasonable, necessary and actually incurred by the Consultant in connection with the services provided. The County shall not pay a mark up on any item of reimbursement. The County shall not pay for any item of overhead such as telephone, facsimile, postage, etc. All requests for reimbursement shall be accompanied by a copy of the original invoice.

2.3. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in Exhibits A and B unless the County or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

SAMPLE

2.4. Method of Billing. Consultant may submit invoices to County's Project Manager for approval on a progress basis, but no more often than once each calendar month. Said invoice shall be based on the total of all Consultants' services that have been completed to County's sole satisfaction. County shall pay Consultant's invoice within forty-five (45) days from the date County receives said invoice. Each invoice shall describe in detail, the services performed and the associated percentage of tasks completed. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.5. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to County or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the termination of this Agreement.

3.0 TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days after County delivers its Notice to Proceed. Said services shall be performed in strict compliance with the Project Schedule approved by County as set forth in Exhibit "D", attached hereto and incorporated herein by this reference. The Project Schedule may be amended by mutual agreement of the parties. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

4.0 TERM OF CONTRACT AND TERMINATION

4.1. Term. This Agreement shall commence upon approval by the County's Board of Supervisors and continue until the work required herein is completed, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The County reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of

SAMPLE

termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the County.

4.3. Compensation. In the event of termination, County shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of County's written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth in Exhibit "C". In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the County or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the County within ten (10) days of delivery of termination notice to Consultant, at no cost to County. Any use of uncompleted documents without specific written authorization from Consultant shall be at County's sole risk and without liability or legal expense to Consultant.

5.0 INSURANCE REQUIREMENTS

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain and maintain during the life of this Agreement all of the following insurance coverage:

- (a) Comprehensive general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury with a policy limit of not less than Two Million Dollars (\$2,000,000.00), combined single limits, per occurrence and aggregate. 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.
- (b) Automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate.
- (c) Workers' compensation insurance as required by the State of California.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than Two Million Dollars (\$2,000,000.00), combined single limit for each occurrence. If Consultant cannot provide an occurrence policy, Consultant shall provide insurance covering claims made as a result of performance of Work on this Project and shall maintain such insurance in effect for not less than three years following Final

SAMPLE

Completion of the Project.

5.2. Endorsements. The Consultant shall obtain a specific endorsement to all required insurance policies, except 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 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.
- (e) For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County, 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 Consultant.

5.3. Deductibles: 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 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 retentions, 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.

5.4. Certificates of Insurance: At least ten (10) days prior to the date the Consultant begins performance of its obligations under this Agreement, Consultant 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 Consultant. 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.

5.5. Non-limiting: Nothing in this Section or the insurance described herein shall be construed as limiting in any way, the indemnification provisions contained in this Agreement, or the liability of Consultant and Consultant's officers, employees, agents, representatives or subcontractors for payments of damages to persons or property.

5.6. Primary Insurance: The Consultant's insurance coverage shall be primary

SAMPLE

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

5.7. Cancellation of Insurance: 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 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. Consultant shall maintain such coverage in effect for three (3) years after substantial completion of the project to the extent it is commercially available at reasonable rates.

5.8. California Admitted Insurer: 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.

5.9. Subcontractors: 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.

6.0 INDEMNIFICATION

6.1. 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.

6.2. 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

SAMPLE

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.

6.3. 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.

6.4. 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.

7.0 GENERAL PROVISIONS

7.1. Entire Agreement: This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

7.2. Representatives. The Director of the Stanislaus County Department of Public Works, or his designee, shall be the representative of County for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the County, called for by this Agreement, except as otherwise expressly provided in this Agreement. Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

7.3. Project Managers. County shall designate a Project Manager to work directly with Consultant in the performance of this Agreement. Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with County during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by County.

SAMPLE

7.4. Designated Personnel: A material covenant of this agreement is that the Consultant shall assign the individuals designated below to perform the functions designated so long as they continue in the employ of the Consultant. The designated individuals shall, so long as their performance continues to be acceptable to County, remain in charge of the services for the Project from beginning through completion of services.

- a. Project Manager: _____; and
- b. Lead/Manager: _____

7.5. Removal of Personnel or Sub-Consultants: If the County, in its sole discretion at any time during the term of this agreement, desires the removal of any person or sub-consultant assigned by Consultant to perform services, then the Consultant shall remove such person or consultant immediately upon receiving notice from the County.

7.6. Notices: Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

If to County:

Stanislaus County
Department of Public Works
Attn:
1716 Morgan Road
Modesto, California 95358

If to Consultant:

7.7. Attorneys' Fees: In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

7.8. Governing Law: This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Stanislaus County, California.

7.9. Assignment: Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without County's prior written consent. Any attempted assignment, transfer, subletting or encumbrance

SAMPLE

shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of County's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

7.10. Independent Contractor: Consultant is and shall be acting at all times as an independent contractor and not as an employee of County. Consultant shall secure, at his expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. 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.

7.11. Confidentiality: The Consultant 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.

7.12. Ownership of Documents: Any interest, including copyright interests, of Consultant or its contractors or subconsultants in studies, reports, memoranda, computational sheets, drawings, plans or any other documents, including electronic data, prepared in connection with the Services, shall be the property of County. To the extent permitted by law, work product produced under this Agreement shall be deemed works for hire and all copyrights in such works shall be the property of the County. In the event that it is ever determined that any works created by Consultant or its subconsultants under this Agreement are not works for hire, Consultant hereby assigns to County all copyrights to such works. With the County's prior written approval, Consultant may retain and use copies of such works for reference and as documentation of experience and capabilities.

7.13. Reuse of Design Documents: Should the County desire to reuse the documents specified above and not use the services of the Consultant, then the County agrees to require the new consultant to assume any and all obligations for the reuse of the documents, and the County releases Consultant and its subconsultants from all liability associated with the reuse of such documents.

7.14. Public Records Act Disclosure: Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, and provided to County may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualifies as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs County of such trade secret.

SAMPLE

The County will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The County shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

7.15. Responsibility for Errors: Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the County's representative, regarding any services rendered under this Agreement at no additional cost to County. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to County, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of County and to participate in any meeting required with regard to the correction.

7.16. Order of Precedence: In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of the RFP or the Response, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over both the Response and the RFP and the Response shall govern over the RFP.

7.17. Costs: Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

7.18. No Third Party Beneficiary Rights: This Agreement is entered into for the sole benefit of County and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

7.19. Construction: The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

7.20. Amendments: This Agreement may be amend only by a writing executed by the parties hereto or their respective successors and assigns.

7.21. Waiver: The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative

SAMPLE

of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

7.22. Severability: If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

7.23. Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

7.24. Corporate Authority: The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so, the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers:

COUNTY OF STANISLAUS

INSERT NAME OF COMPANY

By: _____
Matt Machado, Director
Department of Public Works

By: _____
(Insert Name)
(Insert Title)

Approved: BOS Resolution # _____
Dated: _____

APPROVED AS TO FORM:
John P. Doering
County Counsel

By: _____
Thomas E. Boze
Deputy County Counsel

SAMPLE

EXHIBIT A

COUNTY'S REQUEST FOR PROPOSAL

SAMPLE

EXHIBIT B

CONSULTANT'S RESPONSE TO COUNTY'S REQUEST FOR PROPOSAL

SAMPLE

EXHIBIT C

CONSULTANT'S FEE SCHEDULE

SAMPLE

EXHIBIT D

PROJECT SCHEDULE

Senate Bill No. 972

CHAPTER 510

An act to amend Section 2782.8 of the Civil Code, relating to indemnity.

[Approved by Governor September 29, 2010. Filed with
Secretary of State September 29, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 972, Wolk. Indemnity: design professionals.

Existing law provides, for all contracts, and amendments to contracts, entered into on or after January 1, 2007, with a public agency for design professional services, all provisions, clauses, covenants, and agreements contained in, collateral to, or affecting these contracts, that purport to indemnify, including the cost to defend, the public agency by a design professional against liability for claims against the public agency, are unenforceable, except for claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional.

This bill would provide, with respect to contracts and amendments to contracts entered into on or after January 1, 2011, with a public agency for design professional services, that all provisions, clauses, covenants, and agreements contained in, collateral to, or affecting these contracts or amendments to contracts that purport to require the design professional to defend the public agency under an indemnity agreement, including the duty and the cost to defend, are unenforceable, except for claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional. The bill would provide that all contracts and all solicitation documents between a public agency and a design professional are deemed to incorporate these provisions by reference.

The people of the State of California do enact as follows:

SECTION 1. Section 2782.8 of the Civil Code is amended to read:

2782.8. (a) For all contracts, and amendments thereto, entered into on or after January 1, 2007, with a public agency for design professional services, all provisions, clauses, covenants, and agreements contained in, collateral to, or affecting any such contract, and amendments thereto, that purport to indemnify, including the duty and the cost to defend, the public agency by a design professional against liability for claims against the public agency, are unenforceable, except for claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional. The duty to indemnify, including the duty and the cost to defend, is limited as provided in this section. This section shall not be waived

or modified by contractual agreement, act, or omission of the parties. Contractual provisions, clauses, covenants, or agreements not expressly prohibited herein are reserved to the agreement of the parties.

(b) All contracts and all solicitation documents, including requests for proposal, invitations for bid, and other solicitation documents, between a public agency and a design professional, are deemed to incorporate by reference the provisions of this section.

(c) For purposes of this section, the following definitions apply:

(1) "Public agency" includes any county, city, city and county, district, school district, public authority, municipal corporation, or other political subdivision, joint powers authority, or public corporation in the state. Public agency does not include the State of California.

(2) "Design professional" includes all of the following:

(A) An individual licensed as an architect pursuant to Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code, and a business entity offering architectural services in accordance with that chapter.

(B) An individual licensed as a landscape architect pursuant to Chapter 3.5 (commencing with Section 5615) of Division 3 of the Business and Professions Code, and a business entity offering landscape architectural services in accordance with that chapter.

(C) An individual registered as a professional engineer pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, and a business entity offering professional engineering services in accordance with that chapter.

(D) An individual licensed as a professional land surveyor pursuant to Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code, and a business entity offering professional land surveying services in accordance with that chapter.

(d) This section shall only apply to a professional service contract, or any amendment thereto, entered into on or after January 1, 2007.

(e) The amendments made to this section by the act adding this subdivision shall apply to services offered pursuant to a design professional contract, or any amendment thereto, entered into on or after January 1, 2011.

(f) Nothing in this section shall abrogate the provisions of Section 1104 of the Public Contract Code.

EXHIBIT B
Master Agreement

CONSULTANT'S RESPONSE TO COUNTY'S REQUEST FOR PROPOSAL

Request for Proposal
On-Call Professional Surveying Services
Stanislaus County
Department of Public Works



Hawkins & Associates Engineering, Inc.
436 Mitchell Road
Modesto, California 95354
(209) 575-4295

Civil Engineering • Land Surveying • Land Planning



HAWKINS & ASSOCIATES ENGINEERING, INC.

Civil Engineering • Land Surveying • Land Planning

436 Mitchell Road
Modesto, CA 95354

Ph: (209) 575-4295
Fx: (209) 578-4295

www.hawkins-eng.com

December 15, 2010

Stanislaus County
Department of Public Works
Mr. Peter Song, Assistant Engineer
1716 Morgan Road
Modesto, CA 95358

Re: Request for Proposal – On-Call Professional Surveying Services

Dear Mr. Song,

Thank you for the opportunity to submit our qualifications for On-Call Professional Surveying Services. We are confident that we exceed the required qualifications, can effectively satisfy your project scope and meet all project deadlines. In addition, we are very interested in the opportunity to serve Stanislaus County in that capacity and have enclosed our Statement of Qualifications. We believe that it could be the beginning of a long and valued relationship, recognized for enhancing the level of productivity and service to the community.

While we are a small, local firm, we are committed to providing innovative engineering, surveying, and land planning solutions for clients in our community. Our ability to employ the latest terrestrial and global positioning technology, coupled with our in-depth knowledge of local industry standards, policies, and practices make our firm well suited for Professional Surveying Services. We are located at 436 Mitchell Road with hours of operation Monday through Friday 8:00 a.m. to 5:00 p.m., however, these hours are routinely modified in order to meet scheduling and project deadline requirements.

Sincerely,

A handwritten signature in black ink, appearing to read "Rodrick H. Hawkins". The signature is stylized and fluid.

Rodrick H. Hawkins, P.E.
President



HAWKINS & ASSOCIATES ENGINEERING, INC.

Hawkins & Associates Engineering, Inc. was established in 1998 by Rodrick Hawkins and provides civil engineering, land planning, and surveying services. Since its founding, the firm has enjoyed steady growth and currently has a staff of five registered professionals with over eighty-five years combined experience working throughout Stanislaus County and Central California.

At Hawkins and Associates, it is our goal to provide our customers with engineering, surveying and land planning solutions that are innovative yet practical. We define our success by the success of our clients, and this client centered approach has earned us a current client list that includes some of Stanislaus County's largest corporations such as Beard Land Improvement Company, E & J Gallo Winery, Foster Farms, Sorensen Construction, Simile Construction Services, Modesto and Empire Traction Company and Huff Construction Company.

Our firm has demonstrated the ability to work closely and effectively with governmental agencies, design professionals, construction firms, and the general public. We are committed to providing the type of direct professional representation for our clientele that not often available in larger firms. This commitment allows us to truly understand our clients, their goals and to partner in their success.

Our experience includes the planning, design, and construction of numerous commercial and industrial sites, school sites, residential developments and municipal infrastructure. Many of these projects have required approval and coordination with utility companies, contractors, consultants and various local, state and federal agencies. We provide project cost estimates, construction administration services, master plans, specifications, operations and design manuals. We have additional experience working with Fish and Game, Army Corps of Engineers, FEMA and Caltrans.

We have assembled an exceptional staff with extensive experience in the Central Valley and with Stanislaus County Public Agencies. Our registered staff includes Rodrick H. Hawkins, President, P.E. No. C50188, Kevin Genasci, P.L.S. No. 70508, Survey Department Manager, Gary Madsen, P.E. No. C70508, Project Manager, and Crolie Lindsay, P.E. C3190, P.L.S. No. 4709, Quality Control (semi-retired). Our project designers have extensive knowledge in the preparation of topographic mapping and converting collected field data to computer aided drafting systems.



Rodrick H. Hawkins

President

Registrations

Registered Civil Engineer (R.C.E.) – Number 50188, CA, 1993

Education

B.S., Civil Engineering, California Polytechnic State University, San Luis Obispo, 1989

Rod founded Hawkins & Associates Engineering, Inc. in 1998 with the goal of assembling a relatively small, high quality staff of engineering, surveying and land planning professionals. His engineering experience includes master planning, design and project management for numerous commercial, industrial, educational, residential and municipal infrastructure projects. He has also provided project cost estimates and construction administration services and prepared master plans, specifications, operations and design manuals, and revenue plans for many public and private projects. Many of these projects have required approval and coordination with utility companies, contractors, consultants and various local, state and federal agencies. Having served as a Consulting City Engineer, Rod understands the processes that contribute to working productively with government agencies. Because of this extensive and varied experience, Rod recognizes the important role that a civil engineering, land planning, and land surveying firm performs in the planning and execution of a successful project.

Kevin J. Genasci

Survey Department Manager

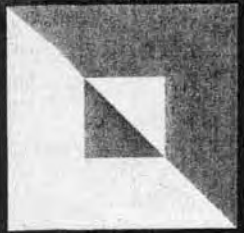
Registrations

Professional Land Surveyor (P.L.S.) – Number 8660 CA, 2009

Education

California Polytechnic State University, San Luis Obispo, 2003

Kevin is the Survey Department Manager with responsibilities including setting up projects for field operations, review of plans for constructability, providing map and deed research, and communication with clients and contractors. He is instrumental in maintaining continuity between data required by office staff and the collection of data by the field crews. His understanding of the demands of field survey and office design needs and processes are invaluable to the overall development of the planning, design and construction product. Kevin's extensive field experience includes; boundary, A.L.T.A. and topographic surveys; aerial control, project reconnaissance, and construction staking. His knowledge of boundary control, legal principles, topography, and mapping requirements, along with the technical skills he has developed, establishes him as a highly productive cadastral mapper and project reviewer. As a licensed land surveyor Kevin's expertise is also utilized in the writing of a variety of legal descriptions and technical documents.



Gary E. Madsen
Project Manager

Registrations

Registered Civil Engineer (R.C.E.) – Number 70508 CA 2006

Education

B.S., Civil Engineering, Montana State University, Bozeman, 2001

Gary's engineering experience ranges from large scale master planning to project specific design and detailing. His project experience has included multiple municipal, commercial, and residential developments and redevelopments. Within these projects he has performed roadway layout and design, sanitary sewer collection system design, water distribution system design, mass grading design, and storm drainage conveyance and collection system design.

Gary also has experience working with Fish and Game, Army Corps of Engineers, FEMA, Caltrans, and numerous local agencies within the Central Valley. Gary has been able to develop strong relationships with clients and governing agencies in both the public and private sectors because of his strong work ethic, ability to manage projects, production of a quality product, and most importantly his attention to client satisfaction.

Crolie E. Lindsay
Quality Control, Semi-Retired

Registrations

Registered Civil Engineer (R.C.E.) – Number 50188 CA, 1980

Professional Land Surveyor (P.L.S.) – Number 4709 CA, 1978

Crolie has provided a wide variety of professional engineering services including: civil engineering, architectural and structural design, and project administration. He has prepared master plans, specifications, and project cost estimates for many public and private projects. Crolie has provided expertise associated with storm drainage, sewerage, water systems, roadways, and other major infrastructure improvements throughout the San Joaquin Valley.

Crolie's land surveying experience includes boundary and A.L.T.A. surveys, preparation of subdivision, parcel and record of survey maps, monument search, and construction staking. He also provides legal descriptions for lot line adjustments, easements, annexations, and district boundaries.

Surveying Services:

Boundary Surveys:

- Record document search (including maps, deeds, title reports, etc.), examination and interpretation.
- Field search, recovery, and interpretation of monuments and other physical evidence.
- Rectification of physical evidence and record information.
- Coordination with agencies, property owners, and title companies.

Topographic Surveys and Mapping:

- Record information research through agencies, utility companies, etc.
- Control recovery, determination, and layout.
- Field location of physical characteristics.
- Coordination of USA marking and potholing.
- AutoCAD drafting of topographic features, both of record and physically located.
- Creation of surface models.
- Drafting of scaled topographic maps suitable for design and bidding purposes.

Legal Descriptions and Plat Maps:

- Record document search, examination and interpretation.
- Field search, recovery, and interpretation of monuments and other evidence.
- Creating legal description based on record info and project requirements.
- Drafting legal plats based on legal description and project requirements.
- Coordinating easement locations with agencies, property owners, etc.

Monumentation:

- Set standard monuments (i.e. iron pipes, brass caps, nails and tags, etc.) as required.
- Set ties and file corner records as necessary.

Right-of-Way Surveys:

- Record document search (including maps, deeds, title reports, etc.), examination and interpretation.
- Field search, recovery, and interpretation of monuments and other physical evidence.
- Rectification of physical evidence and record information.
- Coordination with agencies, property owners, and title companies.
- Coordination of encroachment permits and traffic control, as necessary.

Records of Survey:

- Record document search (including maps, deeds, title reports, etc.), examination and interpretation.
- Field search, recovery, and interpretation of monuments and other physical evidence.
- Rectification of physical evidence and record information.
- Coordination with agencies, property owners, and title companies.
- Drafting of map based on the Land Surveyor's Act and applicable County standards.
- Processing map through County Surveyor's Office.

Construction Staking:

- Review improvement plans
- Coordination of construction control with the County and design engineer.
- Verification of critical tie points (inverts, flow-lines, etc.)
- Construction staking for all phases of construction and all types of improvements.
- Creation of field notes, stake-out sheets, and cut-sheets related to staking.
- Coordination with contractor, design engineer, and County, as required.
- As-Built surveys, foundation/form/pad certifications and other inspections and certifications, as required.
- Monitoring of construction related settling.

Corner Search:

- Record document search (including maps, deeds, title reports, etc.), examination and interpretation.
- Field search, recovery, and interpretation of monuments and other physical evidence.
- Rectification of physical evidence and record information.
- Filing of records of survey or corner records, as necessary.

Resources:

Conventional Survey Equipment: Our survey crews are fully equipped with 4WD survey trucks, safety gear, digital cameras and two way radios, in addition to all required professional surveying equipment.

Trimble/Topcon GPS Systems: The dual-frequency GPS receivers are designed for static, fast-static and real-time survey modes at survey grade precision. Each data collector has advance field software and on-board Geoids models for enhanced vertical accuracy. The data collectors also allow for seamless integration between GPS and conventional equipment.

Topcon Total Stations: Total stations combine electronic distance measurement with digital horizontal and vertical angle measurement. Combined with the GPS systems and data collectors, our crews are fully equipped to employ the most efficient, effective, and accurate technology for each task.



Emerald Trunk Line Rehabilitation Design, City of Modesto

Client: Brown and Caldwell
201 North Civic Drive
Suite 115
Walnut Creek, CA 94596

**Project
Manager:** Eric Petrel

Size: 17,000 Linear Feet

Scope of Service:

Review title reports, deeds, maps, and other title documents to determine right-of-way lines and property lines. Write legal descriptions for temporary construction easements for the sending/receiving pits at Highway 99 crossing and 9th Street Union Pacific Railroad crossing. Write permanent easements for underground realignments and above ground facilities created by the project. Locate and dip manholes along 3.2 miles of the Emerald Trunk alignment. Locate utility pothole reference points. Provide topographic surveys and maps for Highway 99 crossing and 9th Street Union Pacific Railroad crossing for design and Encroachment Permit purposes.

**Primary Outfall Rehabilitation,
City of Modesto**

Client: Brown and Caldwell
201 North Civic Drive
Suite, 115
Walnut Creek, CA 94596

Project
Manager: Eric Petrel

Size: 33,000 Linear Feet

Scope of Service:

Review title reports, maps, and other title documents to establish street rights-of-way, property boundaries, and the existing outfall line easement locations. Locate existing facilities along the outfall lines. Provide detailed topographic survey and mapping for rehabilitation sending and receiving areas, and other construction areas along 6.3 miles of the Primary Outfall alignment. Locate utility pothole reference points. Provide detailed topographic survey and mapping at Sewer Treatment Plants for design purposes.

Write preliminary legal descriptions for permanent access, temporary access, temporary construction, and permanent facilities easements. Stake easement locations in the field for review by City of Modesto staff, appraiser, and property owners. Coordinate easement review and modification with city staff and property owners. Prepare final legal descriptions and plats for property acquisition. Provide detailed reports to appraiser for valuation purposes.





**Virginia Avenue Corridor,
City of Modesto**

Client: Callander Associates
Landscape Architecture
11180 Sun Center Drive
Suite 104
Rancho Cordova, CA 95670

Size: Four Linear Miles

Scope of Service:

Performed right-of-way alignment survey, photogrammetric control, and supplemental topography survey to facilitate project design. Provided review of storm drainage design calculations and facilities, and miscellaneous field support to Callander Associates Landscape Architecture for a four mile, multi-phased railroad corridor conversion to a fully landscaped, bike and pedestrian trail system through the City of Modesto. Assembled as-built utility data, researched record maps and associated documents in order to establish



alignment control. Established contacts with the various utilities having facilities along the alignment.





Whitmore Avenue Overlay and Rehabilitation, City of Ceres
STPL 5241 (029)

Client: City of Ceres
2220 Magnolia Street
Ceres, CA 95307

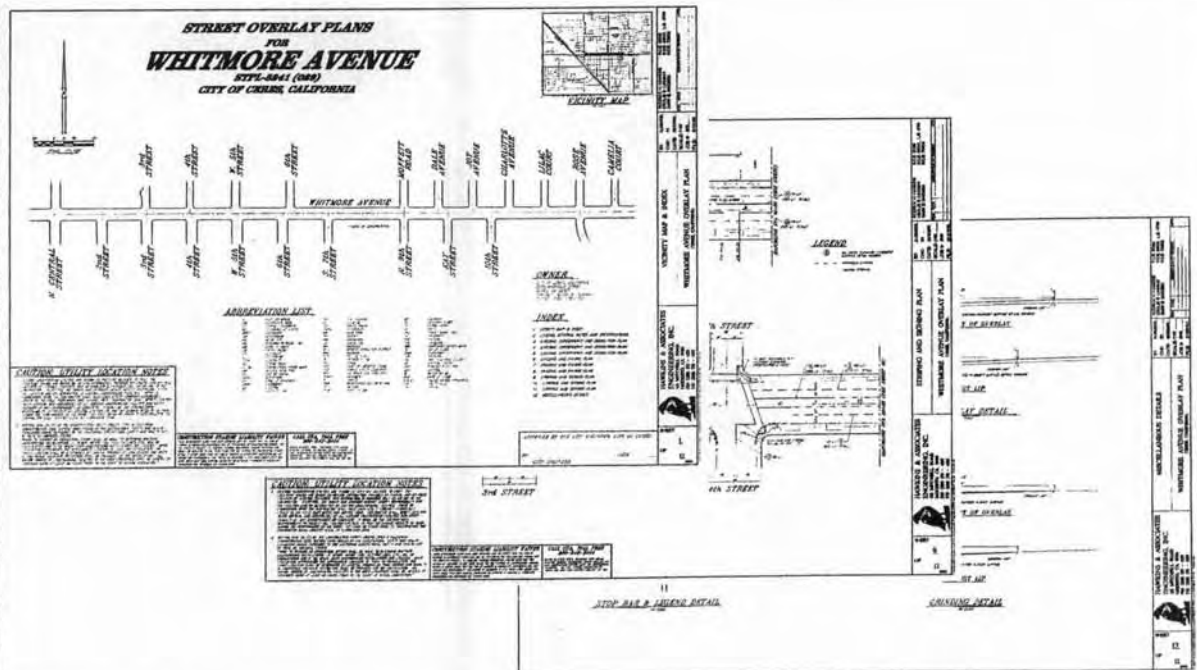
Project Manager: Glenn Gebhardt

Size: 4,250 Linear Feet

Cost: \$750,000.00

Scope of Service:

Coordination with the City of Ceres, topography survey, pavement evaluation and visual site inspection, identify curb returns that were not in compliance with A.D.A., prepared Plans, Specifications, and Estimates including: street overlay, reinstallation of traffic loops, reconstruction of curb returns to comply with A.D.A. requirements and striping plans. This project has not yet been constructed.



RECENTLY COMPLETED PROJECTS

E & J Gallo Winery
Caltrans Right of Way
Boundary/Topographic Survey
Construction Staking
Street Improvements
Parking Lot Design
\$400,000.00
Modesto, CA

Elementary Schools
Topography Survey
Construction Staking
Record of Survey and Mapping
Civil Improvement Plans
\$245,000.00
Ceres, CA

Church
Record of Survey and Mapping
Street/Highway Improvement Plans
On-Site Improvement Plans
Construction Staking
Right of Way Survey
\$75,000.00
Waterford, CA

Residential Subdivision
Master Grading and Drainage Plans
Street Improvement Plans
On-Site Improvement Plans
Legal Descriptions
Subdivision Mapping
Construction Staking
\$212,860.00
Kerman, CA

Primary Outfall Rehabilitation
Topography Survey
Tentative Mapping
Easements and Legal Descriptions
\$230,000.00
Modesto, CA

Commercial Development
Boundary Survey and Topography
Planning Applications
Tentative Mapping
Parcel Maps
Street Improvement Plans
\$125,000.00
Ceres, CA

Commercial Development
Boundary Survey and Topography
Planning Applications
Tentative Mapping
Parcel Maps
Street Improvement Plans
\$125,000.00
San Andreas, CA

Residential Subdivision and Golf
Course
Topography and Boundary Survey
Infrastructure Design
Planning Applications and
Coordination
Construction Staking
\$256,000.00
Tuolumne County, CA

Commercial Development
Boundary Survey and Topography
Planning Applications
Tentative Mapping
Parcel Maps
Street Improvement Plans
\$244,000.00
Stockton, CA

Elementary School
Record of Survey and Mapping
Civil Improvement Plans
Construction Staking
\$152,000.00
Farmdale, CA



REFERENCES

CLIENTS

Mr. Dan Chaffee
Foster Farms
(209) 394-6991

Mr. Joe Tune
E & J Gallo Winery
(209) 341-4242

Mr. Ken Beard, III
Beard Land Improvement
(209) 524-4632

Mr. Ralph Ogden, III
Genesis Family Enterprises
(209) 524-4466

Mr. Mike Girdner
M & L Commodities
(209) 577-5721

Mr. David Olson
Ocat, Inc.
(209) 529-6802

ARCHITECTS

Mr. Gary Mallory
F F & J Architects
(209) 668-2750

Ms. Jennifer Anderson
VBN Architects
(510) 350-0082

Mr. Frank Boots
Architecture Plus
(209) 577-4661

Mr. Robert DeGrasse
L Street Architects
(209) 575-4374

Mr. Don Phillips
Pacific Design Group
(209) 577-2288

PUBLIC AGENCIES

Mr. Richard K. Fultz
City of Turlock
(209) 668-5599

Mr. Jay Simmons
Ceres Unified School District
(209) 556-1560

Mr. Tony Tovar
City of Stockton
(209) 937-8790

Mr. Richard Ulm
City of Modesto
(209) 577-5261

Mr. Larry Fontana, PLS
Stanislaus County
(209) 765-0502

Mr. Glen Gebhardt, PE
City of Ceres
(209) 538-5789

CONTRACTORS

Mr. Tim Hensley
Hensley Paving
(209) 874-9710

Mr. Gary Huff
Huff Construction Company
(209) 545-7505

Mr. Brian Kline
Hedgecock Paving
(209) 522-3876

Mr. Brian Trammell
Sorensen Construction
(209) 522-5354

Mr. Robert Braden
Robert Braden Consulting
(209) 531-6959

**HAWKINS & ASSOCIATES ENGINEERING, INC.
DEMONSTRATION OF PROFESSIONAL
AND
FINANCIAL RESPONSIBILITY**

Insurance Provisions:

We maintain commercial general liability insurance, Worker's Compensation and Employers' Liability insurance as required by the State of California, automobile liability insurance, and Errors and Omissions Professional Insurance. We are committed to complying with all indemnification and insurance requirements.

Labor Code Compliance:

In accordance with the Prevailing Wage Pursuant to Labor Code Section 1771, labor performed under this Agreement and subject to Prevailing Wage will be paid the general prevailing rate per diem wages applicable to work done for straight time, overtime, Saturday, Sunday and holiday work. We adhere to all state and federal prevailing wage and labor law, and require sub-contractors and sub-consultants to be in compliance. On all public works projects we ensure accuracy of certified payroll, records, proper classifications of workers, and payment of overtime.

Non-Discrimination Policy:

Hawkins & Associates Engineering, Inc. does not discriminate on the basis of race, religion, sex, sexual orientation, nation origin, martial status, age, physical handicap or ownership by women or minorities.

Other Relevant Information:

We have experience with the American Recovery and Reinvestment Act, the Disadvantaged Business Enterprise program requirements, and Caltrans accounting and auditing guidelines.

Our accounting system is based on Generally Accepted Accounting Principles (GAAP) and has been in place since 1998. We are in full compliance with the applicable Federal and State regulations.

EXHIBIT 10-01 Local Agency Proposer UDBE Commitment (Consultant Contracts)

NOTE: PLEASE REFER TO INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM

LOCAL AGENCY: Stanislaus County Department of Public Works LOCATION: Stanislaus County

PROJECT DESCRIPTION: On-Call Professional Surveying Services

PROPOSAL DATE: December 15, 2010

PROPOSER'S NAME: Hawkins & Associates Engineering, Inc.

CONTRACT UDBE GOAL (%): 3.1

WORK ITEM NO.	DESCRIPTION OR SERVICES TO BE SUBCONTRACTED (or contracted if the proposer is a UDBE)	UDBE CERT NO. AND EXPIRATION DATE	NAME OF EACH UDBE (Must be certified at the time proposals are due - include UDBE address and phone number)	PERCENT PARTICIPATION OF EACH UDBE

For Local Agency to Complete:		Total Claimed UDBE Commitment	0 %
Local Agency Proposal Number: _____			
Federal-Aid Project Number: _____			
Federal Share: _____			
Proposal Date: _____			
Local Agency certifies that the UDBE certifications have been verified and all information is complete and accurate/unless noted otherwise.		 Signature of Proposer	
_____	_____	12/15/2010	(209) 575-4295
Print Name	Signature	Date	(Area Code) Tel. No.
Local Agency Representative		Kay Martin	(Please Type or Print)
		Person to Contact	
(Area Code) Telephone Number: _____		Local Agency Proposer UDBE Commitment (Consultant Contracts) (Rev 6/27/09)	

Distribution: (1) Original - Local agency files

EXHIBIT 10-O2 Local Agency Proposer DBE Information (Consultant Contracts)

NOTE: PLEASE REFER TO INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM

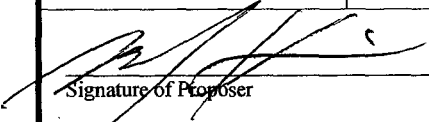
LOCAL AGENCY: Stanislaus County Department of Public Works LOCATION: Stanislaus County

PROJECT DESCRIPTION: On-Call Professional Surveying Services

TOTAL CONTRACT AMOUNT (\$): _____

PROPOSER'S NAME: Hawkins & Associates Engineering, Inc.

WORK ITEM NO.	DESCRIPTION OR SERVICES TO BE SUBCONTRACTED (or contracted if the proposer is a DBE)	DBE CERT NO. AND EXPIRATION DATE	NAME OF EACH DBE (Must be certified at the time proposals are due - include DBE address and phone number)	DOLLAR AMOUNT OF EACH DBE

<p>For Local Agency to Complete:</p> <p>Local Agency Contract Number: _____</p> <p>Federal-Aid Project Number: _____</p> <p>Federal Share: _____</p> <p>Contract Award: _____</p> <p>Local Agency certifies that the DBE certifications have been verified and all information is complete and accurate.</p> <p>_____ Signature _____ Date _____</p> <p>Print Name _____ Local Agency Representative</p> <p>(Area Code) Telephone Number: _____</p>		<p>Total Claimed DBE Participation</p> <p>\$ <u> 0 </u></p> <p><u> 0 </u> %</p>
<p>For Caltrans Review:</p> <p>_____ Signature _____ Date _____</p> <p>Print Name _____ Caltrans District Local Assistance Engineer</p>		<p> Signature of Proposer</p> <p>12/15/2010 (209) 575-4295 Date (Area Code) Tel. No.</p> <p>Kay Martin Person to Contact (Please Type or Print)</p> <p>Local Agency Proposer DBE Information (Consultant Contracts) (Rev 6/27/09)</p>

Distribution: (1) Copy - Fax or scan a copy to the Caltrans District Local Assistance Engineer (DLAE) within 15 days after contract execution. Failure to send a copy to the DLAE within 15 days after contract execution may result in deobligation of funds for this project.
(2) Original - Local agency files

**EXHIBIT C
Master Agreement**

CONSULTANTS FEE SCHEDULE

HAWKINS & ASSOCIATES ENGINEERING, INC.

Civil Engineering • Land Surveying • Land Planning

36 Mitchell Road
Modesto, California 95354

Phone 209.575.4295

Fax 209.578.4295

www.hawkins-eng.com

2010 RATE SCHEDULE

<u>SERVICE</u>	<u>HOURLY RATES</u>
Land Planning	\$125.00
Civil Engineer	\$125.00
Project Manager	\$95.00
Engineering Associate	\$90.00
Project Designer	\$85.00
Land Surveyor	\$125.00
Survey Party Chief	\$85.00
Survey Technician	\$65.00
2-Man Field Survey Crew	\$150.00 - \$170.00
3-Man Field Survey Crew	\$195.00 - \$215.00
Clerical	\$45.00

PROJECT SCOPE OF WORK
Project No. 000?
[To be prepared for each project.]

1. Except as hereinafter provided, the services provided by the Consultant under this Project Scope of Work (hereinafter referred to as "P.S.W.") shall be subject to the terms and conditions set forth in the Professional Design Services Master Agreement made and entered into by and between the County of Stanislaus ("County") and [Company Name] ("Contractor"), on [Insert Date], 2011.
2. The Consultant shall provide services under the Master Agreement and this P.S.W. as set forth in the Master Agreement Exhibits A and B and/or the Consultant's Proposed Project Scope of Work dated [Insert Date], 2011, attached hereto as Exhibit 1 and, by this reference, made a part hereof.
3. Consultant will be compensated for the services described herein in accordance with the Section 2.0 of the Master Agreement. The maximum amount to be paid by the County for services provided under this P.S.W. shall not exceed \$700,000, including, without limitation, the cost of any subcontractors, consultants, experts or investigators retained by the Consultant to perform or to assist in the performance of its work under this P.S.W.
4. The term of this P.S.W shall commence as stated in the Project Notice to Proceed and continue until all services described herein are completed, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties. Consultant's services described herein shall be performed in strict compliance with the Project Schedule approved by County as set forth in Exhibit 2, attached hereto and incorporated herein by this reference.

IN WITNESS WHEREOF, the parties hereto have caused this Project Scope of Work, Project No. 000? to be executed by and through their respective authorized officers:

COUNTY OF STANISLAUS

CONSULTANT

By: _____
Matt Machado, Director
Department of Public Works

By: _____
Name & Title

APPROVED AS TO FORM:
John P. Doering
County Counsel

By: _____
Thomas E. Boze
Deputy County Counsel

STANISLAUS COUNTY
PROFESSIONAL DESIGN SERVICES MASTER AGREEMENT 2011 OCT 12 A 8:12
March 1, 2011 to March 1, 2013

This Agreement is made and entered into by and between the County of Stanislaus, a political subdivision of the State of California, hereinafter referred to as "County" and Aspen Survey Company, Inc., hereinafter referred to as "Consultant".

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0 PROFESSIONAL SERVICES TO BE PROVIDED BY CONSULTANT

1.1. Scope of Services: Consultant shall provide the professional services described in the County's Request for Proposal ("RFP") attached hereto as Exhibit "A" and incorporated herein by reference and Consultant's Response to County's RFP (the "Response"). A copy of said Response is attached hereto as Exhibit "B" and incorporated herein by this reference. Each project added to and to be performed under this Agreement shall be separately approved by the parties. Each project where the cost of services does not exceed \$100,000 shall be approved by purchase order issued by the County Purchasing Agent or designee; projects greater than \$100,000 shall be approved by resolution of the Board of Supervisors for the County.

1.2. Professional Practices: All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also represents that it is familiar with all laws that may affect its performance of this Agreement and shall advise County of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Representations: Consultant represents that it has reviewed the RFP and that in its professional judgment the services to be performed under this Agreement can be performed within the maximum fee set forth herein below and within the time specified in the Project Schedule attached hereto. Consultant represents that it is qualified to perform the professional services required by this Agreement and possesses the necessary licenses and permits required to perform said services. Consultant represents that it has no interest and shall not acquire any interest direct or indirect which conflicts, or has the appearance of conflicting, in any manner or degree with the performance of the work and services under this Agreement.

1.4. Compliance with Laws. Consultant agrees that it shall perform the services required by this Agreement in compliance with all applicable Federal and California laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable

to the services required under this Agreement.

1.5. Non-Discrimination. 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 disability, medical condition (including genetic characteristics), marital status, age, political affiliation, sex or sexual orientation. 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.

1.6. Non-Exclusive Agreement. Consultant acknowledges that County may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of County. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

1.8. Covenant Against Contingent Fees. Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the consultant; to solicit or secure this agreement; and that he/she has not paid or agreed to pay any company or person other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award, or formation of this agreement. For breach or violation of this warranty, the local agency shall have the right to annul this agreement without liability, or at its discretion; to deduct from the agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

2.0 COMPENSATION AND BILLING

2.1. Compensation. For each task or project let under this Agreement Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "C", attached hereto and made a part of this Agreement (the "Fee Schedule"). Consultant will be compensated on a time and materials basis, based on the hours worked by the Consultant's employees or subcontractors at

the hourly rates specified in the Fee Schedule. Fee Schedule rates shall include direct salary costs, employee benefits, and overhead. The rates stated in the Fee Schedule are not adjustable during the term of this Agreement. Consultant's compensation under this Master Agreement shall in no case exceed Two Hundred Thousand Dollars (\$200,000). The County may retain ten percent of all periodic or progress payments made to the Consultant until completion and acceptance of all work tasks and County shall have right to withhold payment from Consultant for any unsatisfactory service until such time service is performed satisfactorily.

2.2. Reimbursements. In addition to the aforementioned fees, Consultant will be reimbursed for any expenses specifically set forth in a Project Scope of Work. All such reimbursement amounts are limited to those costs and expenses that are reasonable, necessary and actually incurred by the Consultant in connection with the services provided. The County shall not pay a mark up on any item of reimbursement. The County shall not pay for any item of overhead such as telephone, facsimile, postage, etc. All requests for reimbursement shall be accompanied by a copy of the original invoice.

2.3. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in Exhibits A and B and specified in each Project Scope of Work unless the County or the Project Manager for the Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.4. Method of Billing. Consultant may submit invoices to County's Project Manager for approval on a progress basis, but no more often than once each calendar month. Said invoice shall be based on the total of all Consultants' services that have been completed to County's sole satisfaction. County shall pay Consultant's invoice within forty-five (45) days from the date County receives said invoice. Each invoice shall describe in detail, the services performed and the associated percentage of tasks completed. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.5. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to County or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the termination of this Agreement.

3.0 TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days after County delivers its Notice to Proceed for each separately approved Project. Said services shall be performed in strict compliance with the Project Schedule approved by County as set forth in each Project Scope of Work. Each Project Schedule may be amended by mutual agreement of the parties.

Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

4.0 TERM OF CONTRACT AND TERMINATION

4.1. Term. This Agreement shall commence upon approval by the County's Board of Supervisors and continue for a period of twenty-four (24) months, or until all work on each Project let during the 24 month period is completed, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The County reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the County.

4.3. Compensation. In the event of termination, County shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of County's written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth in Exhibit "C". In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the County or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the County within ten (10) days of delivery of termination notice to Consultant, at no cost to County. Any use of uncompleted documents without specific written authorization from Consultant shall be at County's sole risk and without liability or legal expense to Consultant.

5.0 INSURANCE REQUIREMENTS

5.1. Minimum Scope and Limits of Insurance. Consultant, at its sole cost and expense, for the full term of this Agreement (and any extensions thereof), shall obtain and maintain, at minimum, compliance with all of the following insurance coverage(s) and requirements. If Consultant normally carries insurance in an amount greater than the minimum amount listed below, that greater amount shall become the minimum required amount of insurance for purposes of this Agreement. The insurance listed below shall have a retroactive date of placement prior to, or coinciding with, the date services are first provided that are governed by the terms of this Agreement:

- (a) Comprehensive general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate. 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.
- (b) Automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate.
- (c) Workers' compensation insurance as required by the State of California.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than Two Million Dollars (\$2,000,000.00), combined single limit for each occurrence. If Consultant cannot provide an occurrence policy, Consultant shall provide insurance covering claims made as a result of performance of Work on this Project and shall maintain such insurance in effect for not less than three years following Final Completion of the Project.

5.2. Endorsements. The Consultant shall obtain a specific endorsement to all required insurance policies, except Professional Liability insurance, naming the County of Stanislaus, its Officers, Directors, Officials, Agents, Employees and Volunteers as additional insureds for at least three years after the completion of the work to be performed under this Agreement, but, to the extent that any insurance issued to Consultant in effect after the expiration of three years provides additional insured coverage to parties Consultant agreed in writing to name as an additional insured, then Consultant shall have the obligation under this contract to obtain such additional insured coverage for the County, under any and all policies Consultant has 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) Ongoing 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.
- (e) For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County, 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 Consultant.

5.3. Deductibles: 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 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 retentions, 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.

5.4. Certificates of Insurance: At least ten (10) days prior to the date the Consultant begins performance of its obligations under this Agreement, Consultant 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 Consultant. 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.

5.5. Non-limiting: Nothing in this Section or the insurance described herein shall be construed as limiting in any way, the indemnification provisions contained in this Agreement, or the liability of Consultant and Consultant's officers, employees, agents, representatives or subcontractors for payments of damages to persons or property.

5.6. Primary Insurance: The Consultant's insurance coverage shall be primary insurance regarding the County of Stanislaus, its Officers, Directors, Officials, Agents, Employees and Volunteers. Any insurance or self-insurance maintained by the County of Stanislaus, its Officers, Directors, Officials, Agents, Employees and Volunteers shall be excess of the Consultant's insurance and shall not contribute with Consultant's insurance. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials and employees. 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. Any and all insurances cared by it shall be deemed liability coverage for any and all actions it performs in connection with this Contract.

5.7. Cancellation of Insurance: 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 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. Consultant shall maintain such coverage in effect for three years after substantial completion of the project to the extent it is commercially available at reasonable rates.

5.8. California Admitted Insurer: 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.

5.9. Subcontractors: 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.

6.0 INDEMNIFICATION

6.1. Indemnification: To the fullest extent allowed by law, Consultant shall defend, indemnify, and hold harmless the County and its officers, directors, officials, agents, employees, volunteers and representatives (collectively, "Indemnitee") 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, (collectively, "losses") 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. These indemnification obligations shall not be limited by any assertion or finding that (1) the person or entity indemnified is liable by reason of non-delegable duty, or (2) the losses were caused in part by the negligence of, breach of contract by, or violation of law by Indemnitee. Nothing in this Agreement, including the provisions of this paragraph, shall constitute a waiver or limitation of any rights which Indemnitee may have under applicable law, including without limitation, the right to implied indemnity.

6.2. 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 and as limited in section 2782.8 of the California Civil Code. This duty to defend arises immediately when such claim is made and shall be independent of any finding of negligence and shall arise regardless of any claim or assertion that Indemnitee caused or contributed to the Losses. Consultant shall provide legal counsel acceptable to the County.

6.3. Duty to Cooperate: Each party shall notify the other party within ten (10) days 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.

6.4. 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.

6.5. The foregoing provisions in this section "Indemnification" shall survive the term and termination of this Agreement.

7.0 GENERAL PROVISIONS

7.1. Entire Agreement: This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

7.2. Representatives. The Director of the Stanislaus County Department of Public Works, or his designee, shall be the representative of County for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the County, called for by this Agreement, except as otherwise expressly provided in this Agreement. Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

7.3. Project Managers. County shall designate a Project Manager to work directly with Consultant in the performance of this Agreement. Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with County during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by County.

7.4. Designated Personnel: A material covenant of this agreement is that the Consultant shall assign the individuals designated below to perform the functions designated so long as they continue in the employ of the Consultant. The designated individuals shall, so long

as their performance continues to be acceptable to County, remain in charge of the services for the Project from beginning through completion of services.

- a. Project Manager: David Harris, Vice President
- b. Lead/Manager: N/A

7.5. Removal of Personnel or Sub-Consultants: If the County, in its sole discretion at any time during the term of this agreement, desires the removal of any person or sub-consultant assigned by Consultant to perform services, then the Consultant shall remove such person or consultant immediately upon receiving notice from the County.

7.6. Notices: Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

If to County:

Stanislaus County Department of Public Works
Attn: Linda Allsop, Contracts Administrator
1716 Morgan Road
Modesto, California 95358
Phone: (209) 525-4157
Fax: (209) 541-2506

If to Consultant:

Aspen Survey Company, Inc.
Attn: David Harris, Vice President
1121 Oakdale Road, Ste. 6
Modesto, CA 95355-4000
Phone: (209) 526-9724
Fax: (209) 526-0472

7.7. Attorneys' Fees: In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

7.8. Governing Law: This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Stanislaus County, California.

7.9. Assignment: Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without County's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of County's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

7.10. Independent Contractor: Consultant is and shall be acting at all times as an independent contractor and not as an employee of County. Consultant shall secure, at his expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. 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.

7.11. Confidentiality: The Consultant 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.

7.12. Ownership of Documents: Any interest, including copyright interests, of Consultant or its contractors or subconsultants in studies, reports, memoranda, computational sheets, drawings, plans or any other documents, including electronic data, prepared in connection with the Services, shall be the property of County. To the extent permitted by law, work product produced under this Agreement shall be deemed works for hire and all copyrights in such works shall be the property of the County. In the event that it is ever determined that any works created by Consultant or its subconsultants under this Agreement are not works for hire, Consultant hereby assigns to County all copyrights to such works. With the County's prior written approval, Consultant may retain and use copies of such works for reference and as documentation of experience and capabilities.

7.13. Reuse of Design Documents: Should the County desire to reuse the documents specified above and not use the services of the Consultant, then the County agrees to require the new consultant to assume any and all obligations for the reuse of the documents, and the County releases Consultant and its subconsultants from all liability associated with the reuse of such documents.

7.14. Public Records Act Disclosure: Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, and provided to County may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualifies as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs County of such trade secret. The County will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The County shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

7.15. Responsibility for Errors: Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation

as may be required by the County's representative, regarding any services rendered under this Agreement at no additional cost to County. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to County, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of County and to participate in any meeting required with regard to the correction.

7.16. Order of Precedence: In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of the RFP or the Response, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over both the Response and the RFP and the Response shall govern over the RFP.

7.17. Costs: Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

7.18. No Third Party Beneficiary Rights: This Agreement is entered into for the sole benefit of County and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

7.19. Construction: The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

7.20. Amendments: This Agreement may be amend only by a writing executed by the parties hereto or their respective successors and assigns.

7.21. Waiver: The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

7.22. Severability: If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of

this Agreement, based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

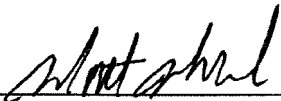
7.23. Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

7.24. Corporate Authority: The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so, the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers:

COUNTY OF STANISLAUS

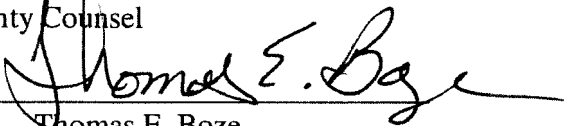
ASPEN SURVEY COMPANY, INC.

By: 
Matt Machado, Director
Department of Public Works

By: 
David Harris, Vice President

APPROVED AS TO FORM:

John P. Doering
County Counsel

By: 
Thomas E. Boze
Deputy County Counsel

*Conflict btw
PP 2.1 + 2.2 with
"C".*

See PP 7.16

EXHIBIT A
Master Agreement

COUNTY'S REQUEST FOR PROPOSAL



DEPARTMENT OF PUBLIC WORKS

Matt Machado, PE
Director

Laurie Barton, PE
Deputy Director, Engineering/Operations

Diane Haugh
Assistant Director, Business/Finance

1716 Morgan Road, Modesto, CA 95358
Phone: 209.525.4130 Fax: 209.525.4120

Email: publicworks@stancounty.com
www.stancounty.com/publicworks

ADDENDUM NO. 1

TO REQUEST FOR PROPOSAL

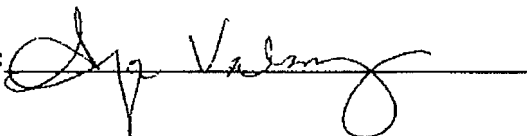
FOR

ON-CALL PROFESSIONAL SURVEYING SERVICES

IN

STANISLAUS COUNTY

AJA VERBURG, ASSOCIATE ENGINEER

By: 

DATE: DECEMBER 10, 2010

PROPOSALS DUE: DECEMBER 15, 2010; 5:00 PM

Page 1 of 3

**ADDENDUM NO. 1
FOR ON-CALL PROFESSIONAL SURVEYING SERVICES,
FOR BIDS DUE WEDNESDAY, DECEMBER 15, 2010; 5:00 PM
DATE: DECEMBER 10, 2010**

TO ALL CONSULTANTS:

THE FOLLOWING CHANGES, ADDITIONS, AND CLARIFICATIONS ARE HEREBY MADE A PART OF THE REQUEST FOR PROPOSAL AND SHALL BE USED IN PREPARATION OF THE PROPOSAL SUBMITTED FOR THE WORK.

RESPONSES TO INQUIRIES

1. Without knowing the specific scope of work for future County projects, how would you suggest we solicit bids for future services and materials unknown at this time? Should we simply make some assumptions based on previous work completed for the County?

RESPONSE: UDBE/DBE forms are not required to be submitted with your proposal for this RFP. However, they will be required for project specific contracts after we establish the on-call list.

2. To ensure we meet the 3.6% goal for all projects, it seems we would need a set contract amount for the project? Again, Should we make cost assumptions based on previous work?

RESPONSE: See response to Question #1.

3. If we make some general assumptions for future projects, and solicit UDBE/DBE materials & services bids, and submit good faith efforts documentation, will that satisfy this proposal requirement?.

RESPONSE: See response to Question #1.

4. Is it left up to the individual Surveyors to format their submittals. In other words, do you have a template you want followed or can I include whatever I feel appropriate?

RESPONSE: The County does not have a template for proposals. It is up to each firm to format their own proposal and include information they believe will address the requirements of the RFP.

**ADDENDUM NO. 1
FOR ON-CALL PROFESSIONAL SURVEYING SERVICES,
FOR BIDS DUE WEDNESDAY, DECEMBER 15, 2010; 5:00 PM
DATE: DECEMBER 10, 2010**

5. Our firm is capable of performing all requested services with in-house staff. We are completing a good faith effort, but anticipate it will not be cost effective for the County for us to subcontract services. We also understand that we are required to submit good faith effort documentation upon selection for services. Therefore, if we do not plan to subcontract any services, for the proposal submittal, do Exhibit 10-O1 and 10-O2 simply need to be signed and dated?

RESPONSE: See response to Question #1. UDBE/DBE firms shall be given full opportunity to participate in the performance of the work. If no UDBE/DBE firm(s) are utilized, Exhibits 10-O1 & 10-O2 must be filled-out showing 0% participation and signed/dated by the proposer. Additional, good faith efforts must be documented for 0% UDBE/DBE participation.



STANISLAUS COUNTY
DEPARTMENT OF PUBLIC WORKS

NOTICE OF REQUEST FOR PROPOSALS

ON-CALL PROFESSIONAL SURVEYING SERVICES

Stanislaus County Department of Public Works is requesting proposals from qualified consultants to provide on-call professional surveying services. The County has established an Underutilized Disadvantaged Business Enterprise (UDBE) goal of 3.1 percent with an overall DBE goal of 3.6 percent for all contracts. Information regarding UDBE can be found in the attached "Notice to Proposers Disadvantaged Business Enterprise Information," of this Request for Proposal (RFP). Exhibit 10-O1 and Exhibit 10-O2 are required to be completed and included in the proposal. If the UDBE goal is not met for the project, only consultants selected to be awarded a Master Agreement contract will be required to submit adequate good faith efforts documentation.

A copy of this Request for Proposal is available for viewing and download on the Valley Reprographics website at www.valleyreproplanroom.com.

All questions must be submitted in writing. Please send all questions regarding this RFP in writing via email to Peter Song at peter.song@stancounty.com or fax to (209) 525-4188. The deadline to submit questions is 5:00 p.m. on Wednesday, December 8, 2010. Addendums, if necessary, will be posted on the Valley Reprographics website. The last day to issue an addendum is Friday, December 10, 2010.

Pursuant to Sections 1770 and 1773 of the Labor Code, the Board of Supervisors has ascertained the general prevailing rate of per diem wages applicable to the work to be done for straight time, overtime, Saturday, Sunday, and holiday work. These wage rates are set forth by the Director of the Department of Industrial Relations and are available at the agencies web site and are on file with the Department of Public Works and hereby made a part of the agreement.

Proposals must be submitted at or before 5:00 p.m. on Wednesday, December 15, 2010.

Proposals shall be delivered in person or by mail to the following address:

Stanislaus County
Department of Public Works
Attention: Peter Song, Assistant Engineer
1716 Morgan Road
Modesto, CA 95358

PROJECT DESCRIPTION:

The County will select and contract three (3) to five (5) firms for on-call professional surveying services. The contract with each firm will provide a not to exceed yearly budget to be drawn against as services are requested and performed. Services will be requested on an as needed and per project basis. The term of each contract will be for two (2) years with a County option for a one (1) year extension. The first two contracts issued will be for Record of Surveys, or Corner Records where applicable, for current County overlay projects.

Work will be assigned to firms on the on-call list in no particular order. The County will assign work based on the firms current work load, availability of services, cost, schedule, and contract performance.

SCOPE OF WORK:

The work will include, but will not be limited to the following:

- Boundary Surveys
- Right of Way Surveys
- Topographic Surveys and Mapping
- Record of Surveys
- Legal Descriptions and Plat Maps
- Construction Staking
- Setting of monument wells to Stanislaus County Standards (monument wells will be provided by Stanislaus County)

All work shall be performed under the direction of a Licensed Land Surveyor in accordance with the Professional Land Surveyors Act, Chapter 15, Article 3, Section 8276, or a licensed engineer authorized to do land survey work with the State of California under Section 8731 of the aforementioned Act.

Proper signs and flagging shall be used for all field work within the County right-of-way.

PROPOSAL REQUIREMENTS:

The proposal, at a minimum, shall include the following:

- List and description of all surveying services available for on-call services.
- List of personnel available for these services and a resume of qualifications for each. Each firm shall provide the name of at least one Licensed Land Surveyor, and/or Licensed Engineer authorized to do land surveying in the State of California.
- List of survey equipment, vehicles, and tools (ex. jack hammers)
- List of recently completed projects showing past performances and abilities of the proposed team.

- Details on the firms ability to adequately respond to County’s requests for services in a timely manner.
- Three (3) copies of your proposal must be submitted to the County. Please include with the proposal, in a **SEPARATE, SEALED ENVELOPE**, your hourly rate schedule. The hourly rate schedule must include all staff hourly rates and fees. Sub-consultant fees must be clearly indicated (if applicable).
- Provide references, including, but not limited to public agency clients, with a designated contact person and phone number for each reference.

The successful firms will be required to enter into a Professional Design Services Agreement with Stanislaus County for the work to be performed. A sample design services agreement is included with this Request for Proposal. The County is currently revising the indemnity section of the Professional Design Services Agreement to be consistent with Senate Bill No. 972 (SB972). A copy of SB972 is included with this RFP for your reference. The consultant shall state in the submitted proposal that their firm has reviewed the Sample Professional Design Services Agreement and will meet all of the terms and conditions if selected by the County for the requested services.

The proposals will be evaluated based on the scoring chart below. This scoring system is provided as a guideline for evaluating proposals that are submitted in response to a Request for Proposal.

Criteria	(a) Weight	(b) Score (0-10)	(a) x (b) Weighted Score
Professional Surveying Services Provided	3		
Experience of Project Manager	2		
Qualification and Experience of Key Personnel	2		
Demonstration of Professional and Financial Responsibility	1		
Experience Working With Public Agencies	1		
References	1		

Fail (0 points): Zero (0) points are given when the category being evaluated is nonresponsive.

Below Average (1 - 4 points): One (1) to four (4) points are awarded to responses that are considered to be minimally acceptable.

Average (5 points): Five (5) points are awarded if qualifications fully satisfy the requirement.

Above Average (6 - 9 points): Six (6) points to nine (9) points are awarded if qualifications more than satisfy the requirement and experience specifically applies to the project under consideration.

Exceptional (10 points): Ten (10) points are awarded if a firm's qualifications far exceed those required. Scores of ten (10) points generally are infrequent.

The proposals will be reviewed shortly after the closing date for submittal of proposals. Those firms believed to be the most qualified, based on their proposal, may be subject to an interview.

ATTACHMENTS:

1. Notice to Proposers Disadvantaged Business Enterprise Information
2. Exhibit 10-O1 & 10-O2
3. Prompt Payment of Withheld Funds to Subcontractors
4. Sample Design Services Agreement
5. Senate Bill 972



DEPARTMENT OF PUBLIC WORKS

Matt Machado, PE
Director

Laurie Barton, PE
Deputy Director, Engineering/Operations

Diane Haugh
Assistant Director, Business/Finance

1716 Morgan Road, Modesto, CA 95358
Phone: 209.525.4130 Fax: 209.525.4120

Email: publicworks@stancounty.com
www.stancounty.com/publicworks

**NOTICE TO PROPOSERS
DISADVANTAGED BUSINESS ENTERPRISE
INFORMATION**

Stanislaus County has established an Underutilized DBE goal for this Agreement of 3.1% and an overall DBE goal of 3.6 percent.

1. TERMS AS USED IN THIS DOCUMENT

- The term “Disadvantaged Business Enterprise” or “DBE” means a for-profit small business concern owned and controlled by a socially and economically disadvantaged person(s) as defined in Title 49, Part 26.5, Code of Federal Regulations (CFR).
- The term “Underutilized Disadvantaged Business Enterprise” or “UDBE.” DBE classes that have been determined in the 2007 Caltrans Disparity Study to have a statistically significant disparity in their utilization in previously awarded transportation contracts. UDBEs include: African Americans, Native Americans, Asian-Pacific Americans, and Women.
- The term “Agreement” also means “Contract.”
- Agency also means the local entity entering into this contract with the Contractor or Consultant.
- The term “Small Business” or “SB” is as defined in 49 CFR 26.65.

2. AUTHORITY AND RESPONSIBILITY

- A. DBEs and other small businesses are strongly encouraged to participate in the performance of Agreements financed in whole or in part with federal funds (See 49 CFR 26, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs”). The Contractor should ensure that DBEs and other small businesses have the opportunity to participate in the performance of the work that is the subject of this solicitation and should take all necessary and reasonable steps for this assurance. The proposer shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.

- B. Proposers are encouraged to use services offered by financial institutions owned and controlled by DBEs.

3. SUBMISSION OF UDBE AND DBE INFORMATION

If there is a UDBE goal on the contract, a “Local Agency Proposer UDBE Commitment (Consultant Contract)” (Exhibit 10-O1) form shall be included in the Request for Proposal. In order for a proposer to be considered responsible and responsive, the proposer must make good faith efforts to meet the goal established for the contract. If the goal is not met, the proposer must document adequate good faith efforts. Only UDBE participation will be counted towards the contract goal; however, all DBE participation shall be collected and reported.

A “Local Agency Proposer DBE Information (Consultant Contract)” (Exhibit 10-O2) form shall be included with the Request for Proposal. The purpose of the form is to collect data required under 49 CFR 26. For contracts with UDBE goals, this form collects DBE participation by DBEs owned by Hispanic American and Subcontinent Asian Americans males (persons whose origin are from India, Pakistan, Bangladesh, Bhutan, Maldives Islands, Nepal or Sri Lanka). For contracts with no goals, this form collects information on all DBEs, including UDBEs. Even if no DBE participation will be reported, the successful proposer must execute and return the form.

4. DBE PARTICIPATION GENERAL INFORMATION

It is the proposer’s responsibility to be fully informed regarding the requirements of 49 CFR, Part 26, and the Department’s DBE program developed pursuant to the regulations. Particular attention is directed to the following:

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
- B. A certified DBE may participate as a prime contractor, subcontractor, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A UDBE proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:
 - 1. The proposer is a UDBE and will meet the goal by performing work with its own forces.
 - 2. The proposer will meet the goal through work performed by UDBE subcontractors, suppliers or trucking companies.
 - 3. The proposer, prior to proposing, made adequate good faith efforts to meet the goal.

- D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- F. The proposer shall list only one subcontractor for each portion of work as defined in their proposal and all DBE subcontractors should be listed in the bid/cost proposal list of subcontractors.
- G. A prime contractor who is a certified DBE is eligible to claim all of the work in the Agreement toward the DBE participation except that portion of the work to be performed by non-DBE subcontractors.

5. RESOURCES

- A. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP. If you believe a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification toll free number 1-866-810-6346 for assistance. Proposer may call (916) 440-0539 for web or download assistance.
- B. Access the CUCP database from the Department of Transportation, Civil Rights, Business Enterprise Program web site at: <http://www.dot.ca.gov/hq/bep/>.
 - Click on the link in the left menu titled *Disadvantaged Business Enterprise*
 - Click on *Search for a DBE Firm* link
 - Click on *Access to the DBE Query Form* located on the first line in the center of the page
 - Searches can be performed by one or more criteria
 - Follow instructions on the screen
- C. How to Obtain a List of Certified DBEs without Internet Access

D. DBE Directory: If you do not have Internet access, Caltrans also publishes a directory of certified DBE firms extracted from the online database. A copy of the directory of certified DBEs may be ordered at: <http://caltrans-opac.ca.gov/publicat.htm>

6. MATERIALS OR SUPPLIES PURCHASED FROM DBES COUNT TOWARDS DBE CREDIT, AND IF A DBE IS ALSO A UDBE, PURCHASES WILL COUNT TOWARDS THE UDBE GOAL UNDER THE FOLLOWING CONDITIONS:

- A. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Agreement and of the general character described by the specifications.
- B. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Agreement are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.
- C. If the person both owns and operates distribution equipment for the products, any Supplementing of regular dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not UDBE regular dealers within the meaning of this section.
- D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

7. FOR DBE TRUCKING COMPANIES: CREDIT FOR DBES WILL COUNT TOWARDS DBE CREDIT, AND IF A DBE IS A UDBE, CREDIT WILL COUNT TOWARDS THE UDBE GOAL UNDER THE FOLLOWING CONDITIONS:

- A. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular Agreement, and there cannot be a contrived arrangement for the purpose of meeting the UDBE goal.
- B. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the Agreement.
- C. The DBE receives credit for the total value of the transportation services it provides on the Agreement using trucks it owns, insures, and operates using drivers it employs.
- D. The DBE may lease trucks from another DBE firm including an owner-operator who is certified as a DBE. A DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Agreement.
- E. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. A DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. A DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by the DBE.
- F. For the purposes of this Section D, a lease must indicate that the DBE has exclusive use and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, as long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

EXHIBIT 10-01 Local Agency Proposer UDBE Commitment (Consultant Contracts)

NOTE: PLEASE REFER TO INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM

LOCAL AGENCY: _____ LOCATION: _____

PROJECT DESCRIPTION: _____

PROPOSAL DATE: _____

PROPOSER'S NAME: _____

CONTRACT UDBE GOAL (%): _____

WORK ITEM NO.	DESCRIPTION OR SERVICES TO BE SUBCONTRACTED (or contracted if the proposer is a UDBE)	UDBE CERT NO. AND EXPIRATION DATE	NAME OF EACH UDBE (Must be certified at the time proposals are due - include UDBE address and phone number)	PERCENT PARTICIPATION OF EACH UDBE

For Local Agency to Complete:

Local Agency Proposal Number: _____

Federal-Aid Project Number: _____

Federal Share: _____

Proposal Date: _____

Local Agency certifies that the UDBE certifications have been verified and all information is complete and accurate/unless noted otherwise.

Print Name Signature Date
Local Agency Representative

(Area Code) Telephone Number: _____

Total Claimed UDBE Commitment	_____ %
_____ Signature of Proposer	
_____ Date	_____ (Area Code) Tel. No.
_____ Person to Contact (Please Type or Print)	

Local Agency Proposer UDBE Commitment (Consultant Contracts)
(Rev 6/27/09)

Distribution: (1) Original - Local agency files

**INSTRUCTIONS – LOCAL AGENCY PROPOSER UDBE COMMITMENT
(CONSULTANT CONTRACTS)**

ALL PROPOSERS:

PLEASE NOTE: It is the proposer's responsibility to verify that the UDBE(s) falls into one of the following groups in order to count towards the UDBE contract goal: 1) African Americans; 2) Asian-Pacific Americans; 3) Native Americans; 4) Women. This information must be submitted with your proposal. Failure to submit the required UDBE commitment will be grounds for finding the proposal nonresponsive.

A "UDBE" is a firm meeting the definition of a DBE as specified in 49 CFR and is one of the following groups: African Americans, Native Americans, Asian-Pacific Americans, or Women.

The form requires specific information regarding the consultant contract: Local Agency, Location, Project Description, Proposal Date, Proposer's Name, and Contract UDBE Goal.

The form has a column for the Work Item Number and Description or Services to be subcontracted to UDBEs (or performed if the proposer is a UDBE). The UDBE prime contractors shall indicate all work to be performed by UDBEs including work to be performed by its own forces, if a UDBE. The UDBE shall provide a certification number to the Consultant and notify the Consultant in writing with the date of decertification if their status should change during the course of the contract. Enter UDBE prime consultant and subconsultant certification numbers. The form has a column for the Names of certified UDBEs to perform the work (must be certified on the date proposals are due and include UDBE address and phone number).

There is a column for the percent participation of each UDBE. Enter the Total Claimed UDBE Participation percentage of items of work submitted with proposal pursuant to the Special Provisions. (If 100% of item is not to be performed or furnished by the UDBE, describe exact portion of time to be performed or furnished by the UDBE.) See "Notice to Proposers Disadvantaged Business Enterprise Information," (Exhibit 10-I) to determine how to count the participation of UDBE firms. **Note:** If the proposer has not met the contract goal, the local agency must evaluate the proposer's good faith efforts to meet the goal in order to be considered for award of the contract.

Exhibit 10-01 must be signed and dated by the consultant submitting the proposal. Also list a phone number in the space provided and print the name of the person to contact.

For the Successful Proposer only, local agencies should complete the Proposal Number, Federal-aid Project Number, Federal Share, and Proposal Date fields and verify that all information is complete and accurate before filing.

EXHIBIT 10-02 Local Agency Proposer DBE Information (Consultant Contracts)

NOTE: PLEASE REFER TO INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM

LOCAL AGENCY: _____ LOCATION: _____

PROJECT DESCRIPTION: _____

TOTAL CONTRACT AMOUNT (\$): _____

PROPOSER'S NAME: _____

WORK ITEM NO.	DESCRIPTION OR SERVICES TO BE SUBCONTRACTED (or contracted if the proposer is a DBE)	DBE CERT NO. AND EXPIRATION DATE	NAME OF EACH DBE (Must be certified at the time proposals are due - include DBE address and phone number)	DOLLAR AMOUNT OF EACH DBE

<p>For Local Agency to Complete:</p> <p>Local Agency Contract Number: _____</p> <p>Federal-Aid Project Number: _____</p> <p>Federal Share: _____</p> <p>Contract Award: _____</p> <p>Local Agency certifies that the DBE certifications have been verified and all informations is complete and accurate.</p> <p>_____ Print Name Signature Date Local Agency Representative</p> <p>(Area Code) Telephone Number: _____</p> <p>For Caltrans Review:</p> <p>_____ Print Name Signature Date Caltrans District Local Assistance Engineer</p>	<p style="text-align: center;">Total Claimed DBE Participation</p> <p style="text-align: center;">\$ _____</p> <p style="text-align: center;">_____ %</p> <p>_____ Signature of Proposer</p> <p>_____ Date (Area Code) Tel. No.</p> <p>_____ Person to Contact (Please Type or Print)</p> <p style="text-align: center; font-size: small;">Local Agency Proposer DBE Information (Consultant Contracts) (Rev 6/27/09)</p>
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Distribution: (1) Copy - Fax or scan a copy to the Caltrans District Local Assistance Engineer (DLAE) within 15 days after contract execution.
Failure to send a copy to the DLAE within 15 days after contract execution may result in deobligation of funds for this project.
(2) Original - Local agency files

**INSTRUCTIONS - LOCAL AGENCY PROPOSER DBE INFORMATION
(CONSULTANT CONTRACTS)**

SUCCESSFUL PROPOSER:

The form requires specific information regarding the consultant or other contract: Local Agency, Location, Project Description, Total Contract Amount, Proposal Date, and successful Proposer's Name.

The form has a column for the Work Item Number and Description or Services to be Subcontracted to DBEs. The prime consultant shall indicate all work to be performed by DBEs including, if the prime consultant is a DBE, work performed by its own forces, if a DBE. The DBE shall provide a certification number to the prime consultant. Enter DBE prime consultant's and subconsultant's certification number. The form has a column for the Names of DBE certified contractors to perform the work (must be certified on or before the proposals are due and include DBE address and phone number).

Enter the Total Claimed DBE Participation dollar amount of items of work in the total DBE Dollar Amount column. (If 100% of item is not to be performed by the DBE, describe exact portion of time to be performed by the DBE.) See "Notice to Proposers Disadvantaged Business Enterprise Information," (Exhibit 10-I) to determine how to count the participation of DBE firms.

Exhibit 10-O2 must be signed and dated by the successful proposer at contract execution. Also list a phone number in the space provided and print the name of the person to contact.

Local agencies should complete the Contract Number, Federal-aid Project Number, Federal Share, and Contract Award fields and verify that all information is complete and accurate before signing and sending a copy of the form to the District Local Assistance Engineer within 15 days of contract execution. Failure to submit a completed and accurate form within the 15-day time period may result in the deobligation of funds on this project.

District DBE Coordinator should verify that all information is complete and accurate. Once the information has been verified, the **District Local Assistance Engineer** signs and dates the form.

(Attachment)

Prompt Payment of Withheld Funds to Subcontractors

Federal regulation (49 CFR 26.29) requires one of the following three methods be used in federal-aid contracts to ensure prompt and full payment of any retainage kept by the prime contractor or subcontractor to a subcontractor.

Please check the box of the method chosen by the local agency to ensure prompt and full payment of any retainage.

- Method 1:** No retainage will be held by the agency from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
- Method 2:** No retainage will be held by the agency from progress payments due the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor in 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
- Method 3:** The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

SAMPLE

STANISLAUS COUNTY PROFESSIONAL DESIGN SERVICES AGREEMENT

This Agreement is made and entered into by and between the County of Stanislaus, a political subdivision of the State of California, hereinafter referred to as "County" and INSERT CONSULTANT'S NAME, hereinafter referred to as "Consultant".

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0 PROFESSIONAL SERVICES TO BE PROVIDED BY CONSULTANT

1.1. Scope of Services: Consultant shall provide the professional services described in the County's Request for Proposal ("RFP") attached hereto as Exhibit "A" and incorporated herein by reference and Consultant's Response to County's RFP (the "Response"). A copy of said Response is attached hereto as Exhibit "B" and incorporated herein by this reference.

1.2. Professional Practices: All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also represents that it is familiar with all laws that may affect its performance of this Agreement and shall advise County of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Representations: Consultant represents that it has reviewed the RFP and that in its professional judgment the services to be performed under this Agreement can be performed within the maximum fee set forth herein below and within the time specified in the Project Schedule attached hereto. Consultant represents that it is qualified to perform the professional services required by this Agreement and possesses the necessary licenses and permits required to perform said services. Consultant represents that it has no interest and shall not acquire any interest direct or indirect which conflicts, or has the appearance of conflicting, in any manner or degree with the performance of the work and services under this Agreement.

1.4. Compliance with Laws. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement.

1.5. Non-Discrimination. During the performance of this Agreement, Consultant and its officers, employees, agents, representatives or subcontractors shall not unlawfully

SAMPLE

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. 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.

1.6. Non-Exclusive Agreement. Consultant acknowledges that County may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of County. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

2.0 COMPENSATION AND BILLING

2.1. Compensation. Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "C", attached hereto and made a part of this Agreement (the "Fee Schedule"). Consultant's compensation shall in no case exceed Insert Amount - spelled out and (\$)

2.2. Reimbursements. In addition to the aforementioned fees, Consultant will be reimbursed for any expenses specifically set forth in a Project Scope of Work. All such reimbursement amounts are limited to those costs and expenses that are reasonable, necessary and actually incurred by the Consultant in connection with the services provided. The County shall not pay a mark up on any item of reimbursement. The County shall not pay for any item of overhead such as telephone, facsimile, postage, etc. All requests for reimbursement shall be accompanied by a copy of the original invoice.

2.3. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in Exhibits A and B unless the County or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

SAMPLE

2.4. Method of Billing. Consultant may submit invoices to County's Project Manager for approval on a progress basis, but no more often than once each calendar month. Said invoice shall be based on the total of all Consultants' services that have been completed to County's sole satisfaction. County shall pay Consultant's invoice within forty-five (45) days from the date County receives said invoice. Each invoice shall describe in detail, the services performed and the associated percentage of tasks completed. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.5. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to County or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the termination of this Agreement.

3.0 TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days after County delivers its Notice to Proceed. Said services shall be performed in strict compliance with the Project Schedule approved by County as set forth in Exhibit "D", attached hereto and incorporated herein by this reference. The Project Schedule may be amended by mutual agreement of the parties. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

4.0 TERM OF CONTRACT AND TERMINATION

4.1. Term. This Agreement shall commence upon approval by the County's Board of Supervisors and continue until the work required herein is completed, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The County reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of

SAMPLE

termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the County.

4.3. Compensation. In the event of termination, County shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of County's written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth in Exhibit "C". In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the County or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the County within ten (10) days of delivery of termination notice to Consultant, at no cost to County. Any use of uncompleted documents without specific written authorization from Consultant shall be at County's sole risk and without liability or legal expense to Consultant.

5.0 INSURANCE REQUIREMENTS

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain and maintain during the life of this Agreement all of the following insurance coverage:

- (a) Comprehensive general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury with a policy limit of not less than Two Million Dollars (\$2,000,000.00), combined single limits, per occurrence and aggregate. 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.
- (b) Automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate.
- (c) Workers' compensation insurance as required by the State of California.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than Two Million Dollars (\$2,000,000.00), combined single limit for each occurrence. If Consultant cannot provide an occurrence policy, Consultant shall provide insurance covering claims made as a result of performance of Work on this Project and shall maintain such insurance in effect for not less than three years following Final

SAMPLE

Completion of the Project.

5.2. Endorsements. The Consultant shall obtain a specific endorsement to all required insurance policies, except 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 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.
- (e) For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County, 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 Consultant.

5.3. Deductibles: 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 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 retentions, 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.

5.4. Certificates of Insurance: At least ten (10) days prior to the date the Consultant begins performance of its obligations under this Agreement, Consultant 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 Consultant. 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.

5.5. Non-limiting: Nothing in this Section or the insurance described herein shall be construed as limiting in any way, the indemnification provisions contained in this Agreement, or the liability of Consultant and Consultant's officers, employees, agents, representatives or subcontractors for payments of damages to persons or property.

5.6. Primary Insurance: The Consultant's insurance coverage shall be primary

SAMPLE

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

5.7. Cancellation of Insurance: 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 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. Consultant shall maintain such coverage in effect for three (3) years after substantial completion of the project to the extent it is commercially available at reasonable rates.

5.8. California Admitted Insurer: 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.

5.9. Subcontractors: 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.

6.0 INDEMNIFICATION

6.1. 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.

6.2. 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

SAMPLE

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.

6.3. 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.

6.4. 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.

7.0 GENERAL PROVISIONS

7.1. Entire Agreement: This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

7.2. Representatives. The Director of the Stanislaus County Department of Public Works, or his designee, shall be the representative of County for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the County, called for by this Agreement, except as otherwise expressly provided in this Agreement. Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

7.3. Project Managers. County shall designate a Project Manager to work directly with Consultant in the performance of this Agreement. Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with County during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by County.

SAMPLE

7.4. Designated Personnel: A material covenant of this agreement is that the Consultant shall assign the individuals designated below to perform the functions designated so long as they continue in the employ of the Consultant. The designated individuals shall, so long as their performance continues to be acceptable to County, remain in charge of the services for the Project from beginning through completion of services.

- a. Project Manager: _____; and
- b. Lead/Manager: _____

7.5. Removal of Personnel or Sub-Consultants: If the County, in its sole discretion at any time during the term of this agreement, desires the removal of any person or sub-consultant assigned by Consultant to perform services, then the Consultant shall remove such person or consultant immediately upon receiving notice from the County.

7.6. Notices: Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

If to County:

Stanislaus County
Department of Public Works
Attn:
1716 Morgan Road
Modesto, California 95358

If to Consultant:

7.7. Attorneys' Fees: In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

7.8. Governing Law: This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Stanislaus County, California.

7.9. Assignment: Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without County's prior written consent. Any attempted assignment, transfer, subletting or encumbrance

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shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of County's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

7.10. Independent Contractor: Consultant is and shall be acting at all times as an independent contractor and not as an employee of County. Consultant shall secure, at his expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. 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.

7.11. Confidentiality: The Consultant 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.

7.12. Ownership of Documents: Any interest, including copyright interests, of Consultant or its contractors or subconsultants in studies, reports, memoranda, computational sheets, drawings, plans or any other documents, including electronic data, prepared in connection with the Services, shall be the property of County. To the extent permitted by law, work product produced under this Agreement shall be deemed works for hire and all copyrights in such works shall be the property of the County. In the event that it is ever determined that any works created by Consultant or its subconsultants under this Agreement are not works for hire, Consultant hereby assigns to County all copyrights to such works. With the County's prior written approval, Consultant may retain and use copies of such works for reference and as documentation of experience and capabilities.

7.13. Reuse of Design Documents: Should the County desire to reuse the documents specified above and not use the services of the Consultant, then the County agrees to require the new consultant to assume any and all obligations for the reuse of the documents, and the County releases Consultant and its subconsultants from all liability associated with the reuse of such documents.

7.14. Public Records Act Disclosure: Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, and provided to County may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualifies as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs County of such trade secret.

SAMPLE

The County will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The County shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

7.15. Responsibility for Errors: Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the County's representative, regarding any services rendered under this Agreement at no additional cost to County. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to County, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of County and to participate in any meeting required with regard to the correction.

7.16. Order of Precedence: In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of the RFP or the Response, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over both the Response and the RFP and the Response shall govern over the RFP.

7.17. Costs: Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

7.18. No Third Party Beneficiary Rights: This Agreement is entered into for the sole benefit of County and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

7.19. Construction: The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

7.20. Amendments: This Agreement may be amend only by a writing executed by the parties hereto or their respective successors and assigns.

7.21. Waiver: The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative

SAMPLE

of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

7.22. Severability: If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party is materially impaired, which determination as made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

7.23. Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

7.24. Corporate Authority: The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so, the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers:

COUNTY OF STANISLAUS

INSERT NAME OF COMPANY

By: _____
Matt Machado, Director
Department of Public Works

By: _____
(Insert Name)
(Insert Title)

Approved: BOS Resolution # _____

Dated: _____

APPROVED AS TO FORM:

John P. Doering
County Counsel

By: _____
Thomas E. Boze
Deputy County Counsel

SAMPLE

EXHIBIT A

COUNTY'S REQUEST FOR PROPOSAL

SAMPLE

EXHIBIT B

CONSULTANT'S RESPONSE TO COUNTY'S REQUEST FOR PROPOSAL

SAMPLE

EXHIBIT C

CONSULTANT'S FEE SCHEDULE

SAMPLE

EXHIBIT D

PROJECT SCHEDULE

Senate Bill No. 972

CHAPTER 510

An act to amend Section 2782.8 of the Civil Code, relating to indemnity.

[Approved by Governor September 29, 2010. Filed with
Secretary of State September 29, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 972, Wolk. Indemnity: design professionals.

Existing law provides, for all contracts, and amendments to contracts, entered into on or after January 1, 2007, with a public agency for design professional services, all provisions, clauses, covenants, and agreements contained in, collateral to, or affecting these contracts, that purport to indemnify, including the cost to defend, the public agency by a design professional against liability for claims against the public agency, are unenforceable, except for claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional.

This bill would provide, with respect to contracts and amendments to contracts entered into on or after January 1, 2011, with a public agency for design professional services, that all provisions, clauses, covenants, and agreements contained in, collateral to, or affecting these contracts or amendments to contracts that purport to require the design professional to defend the public agency under an indemnity agreement, including the duty and the cost to defend, are unenforceable, except for claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional. The bill would provide that all contracts and all solicitation documents between a public agency and a design professional are deemed to incorporate these provisions by reference.

The people of the State of California do enact as follows:

SECTION 1. Section 2782.8 of the Civil Code is amended to read:

2782.8. (a) For all contracts, and amendments thereto, entered into on or after January 1, 2007, with a public agency for design professional services, all provisions, clauses, covenants, and agreements contained in, collateral to, or affecting any such contract, and amendments thereto, that purport to indemnify, including the duty and the cost to defend, the public agency by a design professional against liability for claims against the public agency, are unenforceable, except for claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional. The duty to indemnify, including the duty and the cost to defend, is limited as provided in this section. This section shall not be waived

or modified by contractual agreement, act, or omission of the parties. Contractual provisions, clauses, covenants, or agreements not expressly prohibited herein are reserved to the agreement of the parties.

(b) All contracts and all solicitation documents, including requests for proposal, invitations for bid, and other solicitation documents, between a public agency and a design professional, are deemed to incorporate by reference the provisions of this section.

(c) For purposes of this section, the following definitions apply:

(1) "Public agency" includes any county, city, city and county, district, school district, public authority, municipal corporation, or other political subdivision, joint powers authority, or public corporation in the state. Public agency does not include the State of California.

(2) "Design professional" includes all of the following:

(A) An individual licensed as an architect pursuant to Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code, and a business entity offering architectural services in accordance with that chapter.

(B) An individual licensed as a landscape architect pursuant to Chapter 3.5 (commencing with Section 5615) of Division 3 of the Business and Professions Code, and a business entity offering landscape architectural services in accordance with that chapter.

(C) An individual registered as a professional engineer pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, and a business entity offering professional engineering services in accordance with that chapter.

(D) An individual licensed as a professional land surveyor pursuant to Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code, and a business entity offering professional land surveying services in accordance with that chapter.

(d) This section shall only apply to a professional service contract, or any amendment thereto, entered into on or after January 1, 2007.

(e) The amendments made to this section by the act adding this subdivision shall apply to services offered pursuant to a design professional contract, or any amendment thereto, entered into on or after January 1, 2011.

(f) Nothing in this section shall abrogate the provisions of Section 1104 of the Public Contract Code.

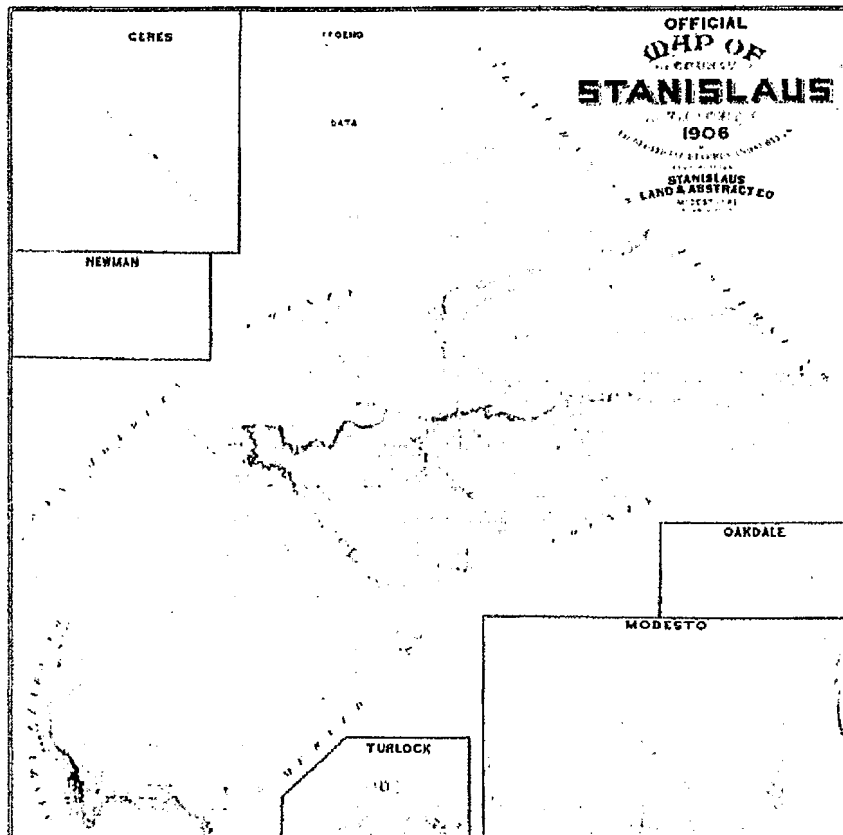
EXHIBIT B
Master Agreement

CONSULTANT'S RESPONSE TO COUNTY'S REQUEST FOR PROPOSAL



Stanislaus County

Proposal for: On-Call Land Surveyor Services for



Submitted By:

ASPEN SURVEY
COMPANY, INC.

1121 Oakdale Road, Suite 6
Modesto, CA 95355-4000
(209) 526-9724



INTRODUCTION

Aspen Survey Company, Inc. is pleased to submit this Statement of Qualifications to Stanislaus County for on-call surveying services.

Our company has been established in Stanislaus County for over 20 years and is certified by the State of California as a Small Business (Micro Business). The following pages will be a testimony to our experience in all fields of surveying.

We are located here, in the county seat. We have access to on-line research through the county website as well as other websites. We are able to access maps as well as deeds and other documents on-line for project research. All of which enables us to respond to your surveying needs in an expedient manner.

We, here at Aspen Survey Company, Inc., are very confident that we can perform all tasks required and look forward to being of service to you.

ASPEN SURVEY COMPANY, INC.

ASPEN SURVEY COMPANY INC.

1121 Oakdale Road, Suite 6

Modesto, CA 95355

davidh_aspen@sbcglobal.net

COMPANY PROFILE:

Aspen Survey Company Inc. was originally founded in 1989 as DLH Surveys and began operations as a home-based business. The firm quickly grew and was renamed Aspen Survey Company. Aspen Survey Company opened its first office in Oakdale, CA. In an effort to better serve the public, Aspen Survey Company moved its location to Modesto, CA (the county seat of Stanislaus County).

Aspen Survey Company has enjoyed great success at its strategic location and serves the Stanislaus, San Joaquin, Merced, Madera, Fresno, Tulare, Monterey, Santa Clara, Alameda, Contra Costa and Sonoma Counties.

In 2009, Aspen Survey Company became incorporated and has now obtained certification from the State of California as a Small Business Enterprise (Micro Business). We continue to enjoy the success of serving the Northern California Region.

LAND SURVEYING:

Aspen Survey Company Inc. offers a full range of land survey, Global Positioning (GPS) and mapping services. Our staff includes professional land surveyors and computer drafting specialists.

We are focused on making a strong connection between Municipal requirements and zoning regulations, assuring that each project meets the client's needs and standards.

Our field technicians are equipped with the latest in electronic survey and GPS equipment, allowing them to gather precise, accurate information in a more expedient, cost-effective manner. From field surveying and construction staking, to office mapping, Aspen Survey Company Inc. is your complete surveying and mapping solution.

OUR SERVICES:

Topographic Mapping
Construction Staking
Record of Survey Maps
GPS Surveys
Geodetic Control
Real Time Kinematic Surveys

A. L. T. A. Surveys
Elevation Certificates
Subdivisions
Final Maps
Parcel Maps
Lot Line Adjustments

1121 OAKDALE ROAD, SUITE 6
MODESTO, CA 95355

PHONE: (209) 526-9724 FAX: (209) 526-0472 TOLL FREE: 1-800-526-9724

RESUME FOR DAVID L. HARRIS, L.S.

TITLE:

Vice-President of Aspen Survey Company Incorporated, Principal Surveyor

FIRM:

Aspen Survey Company Incorporated

LICENSES:

Surveyor, State of California, L.S. 5443

DUTIES (Include but are not limited to):

Field Management
Proposals
Contract Administration
Map/Plat Drafting
Drafting Supervision
Legal Description Preparation
Equipment Maintenance
Purchasing

EDUCATION:

1986 - 1987 University of the Pacific, Stockton, CA
Surveying, Engineering

1976 - 1977 Modesto Junior College, Modesto, CA
Surveying

1973 - 1975 Hartnell Community College, Salinas, CA
Graphics & Design

WORK EXPERIENCE:

Present Aspen Survey Company Inc.

1991 - 2009 David L. Harris, dba Aspen Survey Company

1990 - 1991 Duane C. Kimball, LLS

1989 - 1990 C & G Engineering

1985 - 1989 R. W. Siegfried & Associates

1980 - 1985 Lew & Associates

1977 - 1979 Mid Valley Engineering (Merced)

1976 - 1977 Tawalimni Engineering

1974 - 1976 Jorgensen - Tolladay Engineering

RESUME FOR ESPERANZA HARRIS

TITLE:

President of Aspen Survey Company Incorporated

FIRM:

Aspen Survey Company Incorporated

DUTIES (Include but are not limited to):

Office Management
Benefits Administration
Contract Administration
Payroll Administration
Accounts Receivable
Accounts Payable
Purchasing

EDUCATION:

1990 - 1991 Valley Commercial College, Modesto, CA
Legal Secretary, Accounting

1974 - 1978 Tracy Joint Union High School, Tracy, CA
General Education

LICENSES:

Notary Public, State of California, Commission No. 1814070

WORK EXPERIENCE:

Present Aspen Survey Company Incorporated

1994 - 2009 David L. Harris dba Aspen Survey Company

1991 - 1994 Law Offices of Strauss, Neibauer, Anderson & Ramirez

1987 - 1991 Kragen Auto Parts

BOUNDARY SURVEYS

Aspen Survey Company, Inc. has performed numerous boundary surveys for both public and private sectors. Our boundary survey projects have included basic residential boundaries, multi-sectional properties, county line surveys and sectional boundaries. We have performed boundary surveys on residential lots of less than an acre and properties of 1700 acres and larger.

We begin our boundary survey projects with comprehensive research. We interpret historical reference documents including patents, maps and deeds.

RIGHT-OF-WAY SURVEYS

Aspen Survey Company, Inc. has performed right-of-way surveys for the the private sector for residents such as Nick Blom, former Stanislaus County Supervisor and Leon Compton, City Administrator for the City of Ripon.

We have also performed right-of-way surveys for public agencies. Aspen Survey Company, Inc. has been very instrumental in preparing relinquishment and acquisition legal descriptions and plats for the Jack Tone Overpass and Doak Boulevard in The City of Ripon. We also performed the field surveys to obtain necessary information/data to complete the projects.

TOPOGRAPHIC SURVEYS AND MAPPING

Aspen Survey Company, Inc. has extensive experience performing topographic surveys. We performed and extremely intensive topography for the Tuolumne River Regional Park project and a comprehensive ALTA survey for the Pamela Monterosso Park, in the City of Modesto. Both projects included the field topography survey and plat drafting services.

We have also performed topographic surveys for commercial properties such as Kamps Propane, Sutter Home Winery and The Wine Group. These topographies were performed for new site construction as well as expansion of existing sites.

RECORD OF SURVEYS

Aspen Survey Company, Inc. is well versed in the preparation of Record of Surveys. We have prepared Record of Surveys for the private sector as well as several public agencies, the largest being the city-wide survey for The City of Ripon which included the placement of monuments at grid points and noting the horizontal and vertical control for each monument.

Aspen Survey Company, Inc. also provided the drafting services for the Record of Survey plats for County Surveys #1771 and #1772 for Stanislaus County.

LEGAL DESCRIPTIONS AND PLAT MAPS

Aspen Survey Company, Inc. has prepared numerous legal descriptions and map plats. They have been prepared within the scope of lot line adjustments, right-of-way acquisitions and relinquishments and easements.

CONSTRUCTION STAKING

Aspen Survey Company, Inc. has completed many construction staking projects throughout the Central Valley. We utilize both GPS equipment and conventional equipment in our staking. We have staked subdivisions, commercial buildings, well sites as well as street alignments and railcar distribution centers. Locally, we completed the construction staking for the remodeled Target store on McHenry Avenue.

SETTING OF MONUMENT WELLS

In addition to preparing the Record of Survey for The City of Ripon's city-wide survey, Aspen Survey Company, Inc. also set the monuments (to City of Ripon Standards) that are now in use in the city GIS system. We utilized the Continuous Operating Reference Stations of California and also provided a second order vertical network based upon NAVD 88 Datum.

ASPEN SURVEY COMPANY, INC.

City Wide Survey – City of Ripon



Location

Ripon, California

Services

GPS Control Network
(C.O.R.S.) Station Reference
Record of Survey of
High Premium Control

Client/Owner

City of Ripon
259 N. Wilma Avenue
Ripon, CA
Matt Machado
City Engineer
(209) 599-2108

Project Value

\$250k

Project Duration

2004 - 2005

Project Background:

The City of Ripon was experiencing natural and man made water flows, causing saturation in some neighborhoods.

Define the Issues:

As the City of Ripon continued to grow, the need for a city-wide network became apparent. City networks are used for infrastructure inventory, the creation of utility mapping and for flood control studies.

Services Provided:

Aspen Survey Company, Incorporated provided a high precision network utilizing the Continuous Operating Reference Stations (C.O.R.S.) of California. ASC Inc. also provided a second order vertical network based upon NAVD 88 Datum. Monuments were placed at half-mile increments throughout the city and outward to the current City of Ripon sphere of influence. A Record of Survey was filed to document and make public all of the information.

Project Challenges:

Many survey control monument positions requested by the scope were in high road traffic areas. Existing monumentation was not satisfactory to hold high precision datum. Many proposed positions were not previously marked, requiring additional survey work and interpretation.

Solutions Provided by Aspen Survey Company Inc.:

New accessible monuments were set at each grid point. The horizontal and vertical network, provided by ASC, Inc., became a useful tool for the City GIS. City Public Works was able to analyze datum for design of future sanitary sewer and storm drain systems.

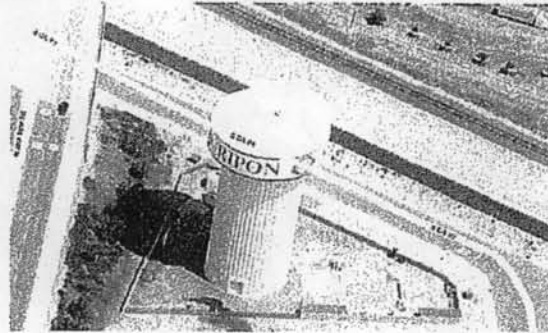
ASC, Inc. Project Staff/Office Location – Role

David L. Harris, PLS – Modesto, CA – Project Manager
David L. Jacques – Modesto, CA – GPS Datum Analysis
J. Jack Cabral – Modesto, CA – GPS Technician
Brandon M. Becker – Modesto, CA – GPS Technician
Amaro Morais – Modesto, CA - Monument Placement Technician
Esperanza Harris – Modesto, CA – Project Administrator

ASPEN SURVEY COMPANY, INC.



City of Ripon - Well Site #12



Location

Ripon, California

Services

Records Research
Boundary Control Survey
Right-of-Way Acquisition
Exhibits & Lease Parcel Exhibits
Legal Descriptions
Ground Topography
Utility Location
Well Site Construction Staking

Client/ Developer

City of Ripon
259 N. Wilma Avenue
Ripon, CA 95366
Matt Machado, City Engineer
(209) 599-2108

Project Value

\$2.7 Million

Project Duration

2001 - 2005

Project Background:

New growth in the northwest portion of the city made it necessary to install a new well to serve the public.

Define the Issues:

The need for a new well came with the requirement for a suitable well location.

Services Provided:

The Aspen Survey Company, Inc. survey team worked with the design engineering team for the project. ASC, Inc. provided a ground topography for engineering design. ASC, Inc. also provided a boundary survey of the well site area in conformance with record information of surrounding properties. Legal descriptions for the right-of-way acquisition and for the well site lease agreements were also prepared.

Project Challenges:

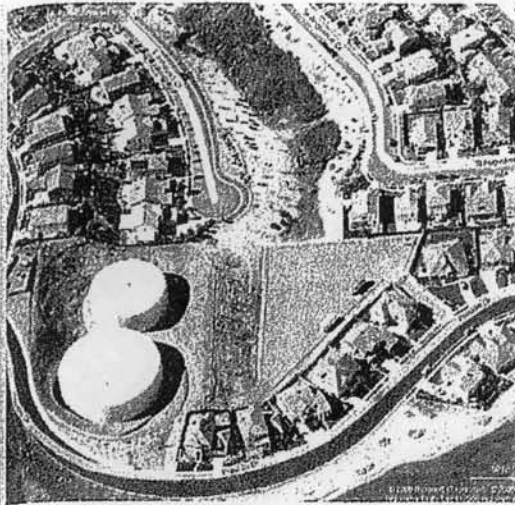
The chosen site was situated adjacent to the Jack Tone Road overpass, crossing Highway 99 and also just south of the South San Joaquin Irrigation District canal right-of-way. Access to the site was restricted and the overpass embankments slope had to be mitigated.

Solutions Provided by Aspen Survey Company Inc.:

In conjunction with the project engineers design, right-of-way acquisition plats for access and service utilities to the site were prepared from the site topography by ASC, Inc. To resolve the overpass embankment slope, ASC, Inc. measured the encroaching slope and provided documents to mitigate the slope occupancy. ASC, Inc. also prepared exhibits for the well site lease area. Construction staking was provided by ASC, Inc. to complete the project.

ASC, Inc. Project Staff/Office Location – Role

David L. Harris, PLS – Modesto, CA – Project Manager/Surveyor
David L. Jacques – Modesto, CA – Cadd Specialist
Rob Johnston – Modesto, CA – Senior Party Chief
Matt Saarloos – Modesto, CA – Survey Technician
Esperanza Harris – Modesto, CA – Senior Project Administrator



ASPEN SURVEY COMPANY, INC.

City of Brentwood - Well Site

Project Background:

Population growth in the west portion of Brentwood required the addition of a new well site to the city of Brentwood's well network.

Define the Issues:

The City of Brentwood must choose a new well site that will meet the demands of new city growth as well as serve a proposed multi-use recreational area zone. A site was chosen between an approved residential project and a proposed golf course.

Services Provided:

The Aspen Survey Company, Inc. survey team worked with the design engineering team for the project. ASC, Inc. performed records research of the site and surrounding area. ASC, Inc. survey team provided a ground topography covering the site and surrounding areas to the nearest public access. ASC, Inc. also provided a boundary control survey of well site.

Project Challenges:

The chosen well site was on a hillside slope with limited access. The site must be modified to accommodate the double tank design. Adjacent hillsides must be stabilized to protect the facilities and a temporary service access must be acquired until approved developments are complete.

Solutions Provided by Aspen Survey Company Inc.:

ASC, Inc. provided a full ground and utility topography covering adjacent hillsides and extending to the nearest existing public access. In accordance with complex engineering site plans, ASC, Inc. provided stakes for tank pads, new utilities, hill-slope stabilization, i.e., crib walls and access roads. Split level pads for the approved adjacent subdivision were also staked. Plat exhibits and legal descriptions were provided for the temporary maintenance access easement and permanent easements were drafted for main water delivery lines.

ASC, Inc. Project Staff/Office Location – Role

David L. Harris, PLS – Modesto, CA – Project Manager/Surveyor
David L. Jacques – Modesto, CA – Field operations
Matt Saarloos – Modesto, CA – Survey Technician
Esperanza Harris – Modesto, CA – Senior Project Administrator

Location

Brentwood, California

Services

Site Control Survey
Ground Topography
Utility Locations
Site Construction Stakes

Client

City of Brentwood
500 Chestnut Street
Brentwood, CA 94513
John Stevenson,
Development Engineer
(510) 634-6905

Project Owner

City of Brentwood
500 Chestnut Street
Brentwood, CA 94513

Project Value

\$1.2 Million

Project Duration

1995 - 1996

ASPEN SURVEY COMPANY, INC.



Wilbur Avenue, Antioch, CA - Topography

Location

Antioch, California

Services

Site Control Survey
Ground Topography
Utility Locations

Client

Advanced Design Group, Inc.
1128 Sixth Street
Modesto, CA 95354
Elwyn V. Heinen, PE
Project Engineer
(209) 577-3108

Project Owner

JKC3H8
9811 Moffat Boulevard
Manteca, CA 95336

Project Value

\$400k

Project Duration

2009

Project Background:

Business growth in the industrial area of north Antioch, made it necessary to modify Wilbur Avenue

Define the Issues:

Wilbur Avenue is a high speed, two-lane conduit that is shared by residential traffic and commercial vehicles. The avenue needed to be modified to improve traffic flow and safety.

Services Provided:

The Aspen Survey Company, Inc. survey team worked with the engineering design team and the City of Antioch Traffic Department. ASC, Inc. performed records research of the site and surrounding area. The ASC, Inc. survey team provided a ground topography covering the site and surrounding areas to the nearest public access. ASC, Inc. also provided a boundary control survey of the site.

Project Challenges:

Wilbur Avenue had been poorly maintained for decades. Many undocumented utility features existed at surface or subsurface. The existing drainage system was full of sand and debris. Careful considerations had to be applied for the reconstruction and improvements of Wilbur Avenue.

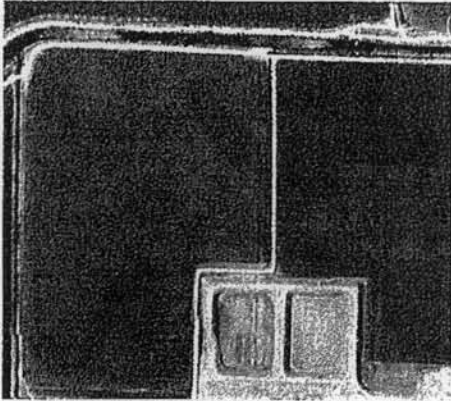
Solutions Provided by Aspen Survey Company Inc.:

ASC, Inc. provided a thorough ground topography survey of the Wilbur Avenue right-of-way. The ASC, Inc. survey team utilized markings placed by Underground Service Alert and also used additional equipment to locate undocumented surface utilities. ASC, Inc. provided a detailed topography plat and electronic files to the design engineer.

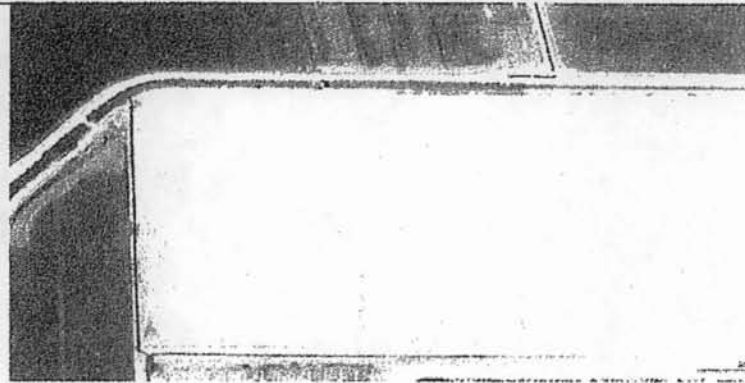
ASC, Inc. Project Staff/Office Location – Role

David L. Harris, PLS – Modesto, CA – Project Manager/Surveyor
David Mayer – Modesto, CA – Survey Technician
Tracy Wimberley – Modesto, CA – CADD Drafting Technician
Esperanza Harris – Modesto, CA – Senior Project Administrator

ASPEN SURVEY COMPANY, INC.



Sutter Home Winery - Sycamore Slough



Location

Lodi, California

Services

GPS Control Network
Ground Topography
Ground Water Monitoring Well
Control
Utility Location
Bathymetric Survey

Client

Sutter Home Winery
18667 N. Jacob Brack Road
Lodi, CA 95240
Eric Jensen – Project Manager

Project Owner

Trincherro Family Farms

Project Value

\$3 Million

Project Duration

2008 - 2009

Project Background:

Sutter Home Winery is developing a processing facility in and near a flood plane area, which is not suitable for vineyard production.

Define the Issues:

The site is adjacent to the Sycamore Slough, a tidal slough that is part of the Delta waterways system. Recent changes in sea level may affect water levels in the slough, possibly endangering the facility.

Services Provided:

Aspen Survey Company, Incorporated provided a GPS network using current FEMA Vertical Datum. A topography was performed for ground, utilities and existing facilities. A bathymetric survey of the Sycamore Slough was performed and existing levee banks were measured.

Project Challenges:

The banks of the Sycamore Slough are nearly vertical, making some areas inaccessible. The slough had not been maintained, allowing for the growth of reeds and vines on the banks.

Solutions Provided by Aspen Survey Company Inc.:

ASC, Inc. utilized a small raft carefully launched into the slough. Measurements were taken in the slough using GPS RTK method. Location datum was provided for the ground water monitoring wells (by others) so that changes in ground water and water volumes in the slough can be monitored. Information will be used to determine future modifications of the Sycamore Slough levee system to protect the facility.

ASC, Inc. Project Staff/Office Location – Role

David L. Harris, PLS – Modesto, CA – Project Manager
Brandon Becker – Modesto, CA – Senior Party Chief
David Mayer – Modesto, CA – GPS Technician / Watercraft
Tracy Wimberley – Modesto, CA – Cadd Specialist
Esperanza Harris – Modesto, CA – Senior Project Administrator

ASPEN SURVEY COMPANY, INC.



Location

Modesto, California

Services

GPS Control Network
Aerial Flight Control
Utility Location
Boundary Research
Bridge Location
Easement Location
Master Topography Plat

Client

EDAW Inc.
150 Chestnut Street
San Francisco, CA 94111
Alma DuSolier, Proj. Mgr.
(415) 433-1484

Owner

City of Modesto
Parks & Recreation
1010 - 10th Street, Suite
Modesto, CA 95354
Julie G. Hannon
(209) 577-5344

Project Value

Unknown

Project Duration

2003 - 2004

City of Modesto – Tuolumne River Regional Park



Project Background:

In the 1920's, a concept for a regional park along the Tuolumne River was begun. In 1933, Dennett Dam was built and a 90-acre "Lake Modesto" was created. In 1940, a flood destroyed the Dennett Dam and Lake Modesto was destroyed. The land reverted to agriculture use. Funding for a new park became available in 2003.

Define the Issues:

Since the initial construction of 1933 and the ultimate destruction of Dennett Dam and Lake Modesto, the physical geography of the park area has been significantly changed. The introduction of utilities for farming, public utilities for waste and storm disposal, as well as the addition of the Ninth Street Bridge, created cause for the park site to be redesigned in conformance with environmental regulations.

Services Provided:

ASC, Inc. provided a GPS Network for property control and aerial survey support. Ground topography and bathymetric measurement were provided for the Tuolumne River, Dry Creek and their confluence. Measurements for the creek and river banks and flood protection levees were obtained. All site trees were identified for typed and "Tagged" with eco-friendly material. Utility locations were provided. An approximate count of homeless population was also provided.

Project Challenges:

Due to its proximity, access to the site was restricted by locked gates. Several markers which denote sub-surface utilities were removed by vandals. Ground paneling material was often removed by the homeless population for alternative uses. During the bathymetric survey of the water courses, the upstream dam was opened causing a great rise in water level and flow.

ASPEN SURVEY COMPANY, INC.

Ground topography was hindered due to debris from homeless camps along tree covered areas. Great care was necessary during sub-surface storm and sanitary sewer measurements due to ignition devices placed inside of manholes by the homeless population (candles, flares, etc.).

Solutions Provided by Aspen Survey Company Inc.:

ASC, Inc. Performed a bathymetric survey of the risen creek using watercraft, GPS and subsurface sonar. ASC, Inc. also provided a comprehensive site topography plan which included contours, tree location/type, underground utilities and surface facilities. ASC, Inc. also provided a river bottom contour direction map for flow-erosion determination.

ASC, Inc. Project Staff/Office Location – Role

David L. Harris, PLS – Modesto, CA – Project Manager/Surveyor

J. Jack Cabral – Modesto, CA – Lead Party Chief

Brad Marxmiller – Modesto, CA – Water Vehicles/Arbor Identification

Tracy Wimberley – Modesto, CA – Cadd Specialist

Esperanza Harris – Modesto, CA – Senior Project Administrator

LAND SURVEY EQUIPMENT

GPS Equipment:

Trimble 4700 dual frequency receiver
Trimble 4000ssi dual frequency receivers (3)
Trimble 4600 receiver w/ Microcenter antenna
Trimble 4000se single frequency receivers (2)

Trimble dual frequency geodetic antennas (2)
Trimble dual frequency geodetic micro center antennas (2)
Trimble compact dome single frequency antennas (2)

Trimble TSC1 data loggers/Controllers (3)
Trimble TDC1 data loggers/Controllers (2)

GPS may be used for Static or real time survey applications

LAND INSTRUMENTS:

Topcon 6005 (prismless) total station 1 second accuracy
Topcon GTS3B total station 3 second accuracy
Topcon ATF1 32 power level
David White AL8 26 power level

VEHICLES:

Dodge 4wd Utility truck with lift and 1 ton suspension package.
Polaris Quad with equipment racks (1)
Yamaha Kodiak Quad with equipment racks (1) winch and 12v power supply
Hauling trailer
Small quad trailer (for supplies etc)
Ford mini-pickup for transport and additional staff

EXCAVATION EQUIPMENT:

Wakker brand electric jackhammer with digging and driving accessories
Chicago HD electric jackhammer with large digging accessories
Chicago 1 hp hammer drill with accessories (2)
3500 watt Coleman Generator
1000 watt Honda Generator
1200 watt Coleman power inverter
6 ft digging/driving bar
4 ft digging/driving bar
Std. pick maddox (3)
Square point Shovels,
Round point Shovels
Post hole diggers
misc chisels and other small hand digging tools.

TOOLS:

Poulan 14" gas chain saw
Craftsman 12" electric chain saw
Makita reciprocating saw
Garden lopping shears
Machettes
Brush axe
Cordless power drill/ driver
Large pipe cutters
Large Bolt cutters
Small Bolt cutters
Truck mount vice
Hack saws

EXHIBIT C
Master Agreement

CONSULTANTS FEE SCHEDULE



STANDARD FEE SCHEDULE

OFFICE:

PRINCIPAL-REGISTERED PROFESSIONAL.....\$ 75.00 PER HOUR
DRAFTSMAN/DESIGNER.....65.00 PER HOUR
CLERICAL.....42.00 PER HOUR

FIELD:

1-MAN SURVEY CREW*.....95.00 PER HOUR
2-MAN SURVEY CREW*.....155.00 PER HOUR
*Includes Vehicle, Normal Supplies, Stakes & Flagging
IRON PIPE MONUMENTS OR RENTALS.....ACTUAL COST

OTHER FEES:

**MILEAGE IN EXCESS OF 60 MILES PER DAY.....0.50 PER MILE
TELEPHONE AND FAX SERVICES.....ACTUAL COST
FEES PAID ON BEHALF OF CLIENT.....COST PLUS 10%
REPRODUCTIONS & BLUEPRINTS.....COST PLUS 10%
OUTSIDE CONSULTANTS AND SERVICES.....COST PLUS 10%
COURT APPEARANCES.....200.00 PER HOUR

**Mileage rates are per the IRS Standard Mileage Rates and are subject to change.

NOTE: Said Hourly Fees shall be valid through December 31, 2012, at which time they shall be revised per cost of living adjustments.



PREVAILING WAGE RATE SCHEDULE

FIELD:

1-MAN SURVEY CREW*.....	132.74 PER HOUR
2-MAN SURVEY CREW*.....	185.60 PER HOUR
3-MAN SURVEY CREW*.....	241.34 PER HOUR

*Includes Vehicle, Normal Supplies, Stakes & Flagging

NOTE: Prevailing Wage Rates shall be valid through February 28, 2011, at which time said rates may be revised pursuant to the Director of Industrial Relations.

PROJECT SCOPE OF WORK
Project No. 000?
[To be prepared for each project.]

1. Except as hereinafter provided, the services provided by the Consultant under this Project Scope of Work (hereinafter referred to as "P.S.W.") shall be subject to the terms and conditions set forth in the Professional Design Services Master Agreement made and entered into by and between the County of Stanislaus ("County") and [Company Name] ("Contractor"), on [Insert Date], 2011.
2. The Consultant shall provide services under the Master Agreement and this P.S.W. as set forth in the Master Agreement Exhibits A and B and/or the Consultant's Proposed Project Scope of Work dated [Insert Date], 2011, attached hereto as Exhibit 1 and, by this reference, made a part hereof.
3. Consultant will be compensated for the services described herein in accordance with the Section 2.0 of the Master Agreement. The maximum amount to be paid by the County for services provided under this P.S.W. shall not exceed \$?00,000, including, without limitation, the cost of any subcontractors, consultants, experts or investigators retained by the Consultant to perform or to assist in the performance of its work under this P.S.W.
4. The term of this P.S.W shall commence as stated in the Project Notice to Proceed and continue until all services described herein are completed, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties. Consultant's services described herein shall be performed in strict compliance with the Project Schedule approved by County as set forth in Exhibit 2, attached hereto and incorporated herein by this reference.

IN WITNESS WHEREOF, the parties hereto have caused this Project Scope of Work, Project No. 000? to be executed by and through their respective authorized officers:

COUNTY OF STANISLAUS

CONSULTANT

By: _____
Matt Machado, Director
Department of Public Works

By: _____
Name & Title

APPROVED AS TO FORM:
John P. Doering
County Counsel

By: _____
Thomas E. Boze
Deputy County Counsel