

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

DEPT: Public Works *Ad*

BOARD AGENDA # *C-2

Urgent Routine

AGENDA DATE February 11, 2014

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval to Award a Contract for Design and Architectural Services to LDA Partners of Stockton, California, for the Public Works Maintenance/Repair Shop and Office Space

STAFF RECOMMENDATIONS:

1. Award a contract for design and architectural services to LDA Partners of Stockton, California, in the amount of \$1,045,000, for the Public Works Maintenance/Repair Shop and Office Space.
2. Authorize the Director of Public Works to execute a contract with LDA Partners in the amount of \$1,045,000, and to sign necessary documents, including any amendments to the contract, not to exceed 10%.
3. Authorize the Auditor Controller to increase appropriations in the Road and Bridge Operations budget in the amount of \$685,000, per the attached financial transaction sheet.

FISCAL IMPACT:

The total contract for design and architectural services is \$1,045,000. Funding for the design of the project is from three sources: Congestion Mitigation and Air Quality (CMAQ), Morgan Shop, and Road and Bridge Operations. CMAQ funds have been approved for up to \$240,000. The remaining amount is funded through both the Morgan Shop fund balance of \$120,000 and the Road and Bridge fund balance of \$685,000. Funding for the CMAQ and Morgan Shop portion was requested and approved in March 2013. A request is included to increase appropriations in the Road and Bridge Operations budget for the remaining \$685,000. (CONTINUED ON PAGE 2)

BOARD ACTION AS FOLLOWS:

No. 2014-53

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

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

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 to Award a Contract for Design and Architectural Services to LDA Partners of Stockton, California, for the Public Works Maintenance/Repair Shop and Office Space

FISCAL IMPACT (continued):

The design of the project will allow for phased construction. The Heavy Equipment Shop/Road Operations portion of the proposed project is estimated to cost \$5.5 million and would be funded with existing fund balance (Morgan Shop, and Road and Bridge Operations), and CMAQ funds are programmed in Federal Fiscal Year 2016-2017.

The Administration/Engineering portion of the proposed project is estimated to cost \$7.6 million. This phase would be constructed as funding is identified/available. Potential funding sources are Road and Bridge fund balance, Public Facilities Fees, and internal financing.

DISCUSSION:

In July 2010, the Board of Supervisors approved the Public Works Master Plan/Needs Assessment including the purchase of a modular building. The Assessment addresses, among other things, the need to replace aging facilities, which are becoming increasingly overcrowded and less functional (the Consultant's findings were that 11 of 16 Morgan Road facilities have exceeded their normal lifespan). Implementing the Public Works Facilities Master Plan entails the following:

1. Co-locating of all Public Works Administrative and Engineering functions (except Transit Administration) at the Morgan Road site.
2. Carrying out a three-phased redevelopment of the existing Morgan Road Headquarters site.
3. Establishing two additional satellite facilities for Roads Operations (in the outer years of the plan).
4. Relocating the existing two satellite facilities in Patterson and Oakdale to more appropriately situated and sized sites.

Co-locating of all Public Works Administrative and Engineering functions was completed in the summer of 2010. The modular buildings from the Patterson and Oakdale satellite facilities were brought to the Morgan Road yard to house the Roads Division supervisors and Construction Inspection Division staff. A new modular building was purchased (\$69,000) to house the road crews.

In Fiscal Year 2012-2013, \$75,000 was approved for an additional modular building to replace the dilapidated modular building that came from the Oakdale satellite facility. After further consideration, it was decided to move construction inspection staff into the administration building as a temporary arrangement and save that money for the new administration building.

Approval to Award a Contract for Design and Architectural Services to LDA Partners of Stockton, California, for the Public Works Maintenance/Repair Shop and Office Space

The Public Works administration building suffers from overcrowding, general disrepair, and security concerns. The following are only some of the issues currently faced:

- The reduced staff levels are crammed into the building leaving no room for the additional staff needed to address the increasing project loads.
- The roof eaves have severe dry rot throughout and are in need of replacement.
- HVAC systems are extremely imbalanced and routinely fail.
- Special care must be taken with the use of the building because it has asbestos containing materials (ACM) and lead.
- The potable water system is aged and rapidly deteriorating.
- Plans for lobby security were shelved because at \$50,000 they were deemed too costly an upgrade for the existing, failing facility.

The existing heavy equipment shop, bridge department warehouse, sign shop, and administration building construction were completed and the buildings were occupied in July of 1958. Although the facility has served the Public Works Department well, more than 55 years has passed and time has taken its toll. The shop is inadequate for maintaining a modern fleet and the hazardous material (lead, asbestos) containing facilities are rapidly deteriorating.

The Public Works Department has a fleet of approximately 200 vehicles with 23% of the fleet being compressed natural gas (CNG) vehicles. Additionally, the Department services heavy equipment for the Department of Environmental Resources (Landfill), Parks and Recreation, Agricultural Commissioner, Sheriff's Office, Cooperative Extension, Turlock Mosquito Abatement (CNG), and the City of Newman (CNG). In total, the Department services 80 CNG vehicles in a facility that was constructed long before any CNG vehicles existed.

California Building Code Section 2211 dictates the requirements for repair garages that service vehicles fueled with lighter-than-air fuels (CNG). The requirements for a compliant facility include:

- Mechanical or natural integrated ventilation by design;
- Failsafe gas detection and automatic ventilation systems including audible and visual alarms;
- Closed transfer defueling system; and
- Exclusion of ignition sources from critical areas by sound industrial design practices.

In addition, a new repair facility must anticipate the County's potential future transit needs. Currently, Storer maintains our transit fleet under contract. As the transit fleet grows, the

Approval to Award a Contract for Design and Architectural Services to LDA Partners of Stockton, California, for the Public Works Maintenance/Repair Shop and Office Space

needs of that fleet may be better served by capable, in-house staff and a facility that has the capability to provide transit maintenance and repair service.

The current repair facility does not meet the above criteria and all of the previously mentioned buildings have succumbed to age. Metal roofs have rusted through and bay doors leak during storms flooding work areas. Water lines have rusted through and been abandoned, while critical water supply has been rerouted on interior walls. The restrooms are extremely outdated with no female facilities and are not Americans with Disabilities Act (ADA) compliant.

The master plan estimates that the total non-escalated capital cost of implementing this master plan is \$48.2 million. Redeveloping the Morgan Road site would cost \$42.6 million and entail replacing all existing structures over time, with the exception of the Hazardous Waste facility. Each new satellite yard would cost \$1.4 million, or a total of \$5.6 million for all four satellite facilities. Costs by phase were estimated as follows:

Phase 1 (2014).....	\$14,527,805
Phase 2 (2019).....	\$17,457,112
Phase 3 (2024).....	\$10,566,844
Total	\$42,551,761

The Morgan Road Operations Yard Facility Master Plan was included in the Fiscal Year 2009-2010 Capital Improvement Plan (CIP) with an anticipated cost of \$17 million. Upon receipt of the completed Master Facility Plan, the project was updated in the proposed Fiscal Year 2010-2011 CIP to reflect only phase one costs of \$14.5 million. This project was listed as a D category-“Future Project/Pending Analysis” due to funding constraints.

In September 2013, a request for qualifications was advertised to design a CNG compliant repair facility. Nine responses were received in October 2013 and a panel of five staff evaluated the responses and interviewed three consultant architects: WMB Architects of Stockton, CA; Kappe + Du of San Rafael, CA; and LDA Partners of Stockton, CA. Based on the results of the interviews LDA Partners was selected as the most qualified to design the facility.

Staff initially negotiated a \$325,000 contract with LDA Partners for the design of the repair shop facility, which was less than anticipated. Staff continued contract negotiations to include design of the sign shop and administration facility, saving costs through economy of scale. The total proposed negotiated contract of \$1,045,000 includes \$815,000 for design services, \$165,000 for construction administration, and \$65,000 for contingencies. The estimated construction cost of the combined facility is \$13 million. Funding is available to construct the repair shop facility and may be available to construct the

Approval to Award a Contract for Design and Architectural Services to LDA Partners of Stockton, California, for the Public Works Maintenance/Repair Shop and Office Space

administration facility at the time of construction; however, the buildings will be designed such that the facility can be constructed in two phases.

LDA Partners has a history of delivering projects with Stanislaus County and staff has negotiated a favorable contract. Staff recommends that the Board award a contract to LDA Partners in the amount of \$1,045,000 for design and construction support services for the Maintenance/Repair Shop and Administration Facility Project (Revised Phase 1).

Work would begin immediately on the design and staff anticipates completion by October 2014.

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 a compliant repair and administration facility to maintain our Public Works fleet and operations for planning and delivery of various transportation projects in Stanislaus County.

STAFFING IMPACT:

There are no staffing impacts associated with this item.

CONTACT PERSON:

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

Database
Balance Type
Data Access Set

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Budget
County of Stanislaus

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	1101	0040300	80310	0000000	000000	000000	00000	685000		Capital Project-New	
Totals:									685000	0	

Tip: This is not the end of the Template. Unprotect the sheet and insert as many rows as needed.

Explanation: Contract award for the Public Works Maintenance/Repair Shop

Requesting Department	CEO	Data Entry	Auditors Office Only
Diane Haugh	<i>[Signature]</i>	Keyed by	<i>[Signature]</i>
Prepared by	Supervisor's Approval	Date	Prepared By
2/6/2014	2/6/14		2/7/2014
Date	Date	Date	Date

**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 LDA Partners, LLP, hereinafter referred to as "Consultant".

WHEREAS, County, by its Resolution No. 2014-53 adopted on the 11th day of February, 2014, awarded to Consultant the following Contract:

Maintenance/Repair Shop and Operations Office Space
Contract Number 9457
Federal Aid Project CML-5938(209)

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 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. 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 One Million Forty-Five Thousand Dollars (\$1,045,000). 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. The Fee Schedule rates include direct salary costs, employee benefits, and overhead. The rates stated in the Fee Schedule are not adjustable during the term of this Agreement. 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 each 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.

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 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), 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), 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 One Million Dollars (\$1,000,000), 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 and Workers Compensation 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 carried 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 (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, 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 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: Eric W. Wohle
- 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 Public Works
Attn: Colt Esenwein, PE, Deputy Director, Engineering/Operations
1716 Morgan Road
Modesto, CA 95358

If to Consultant: LDA Partners, LLP
Attn: Eric W. Wohle, A.I.A., LEED
4 South Central Court
Stockton, CA 95204

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, unless such disclosure is required by law.

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.

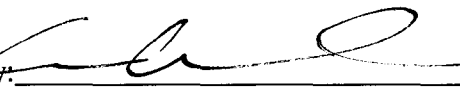
(SIGNATURES ON THE NEXT PAGE)

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

COUNTY OF STANISLAUS

LDA PARTNERS, LLP

By: 
Matt Machado, Director
Department of Public Works

By: 
Eric W. Wohle, A.I.A., LEED
Partner

APPROVED AS TO FORM:

John P. Doering
County Counsel

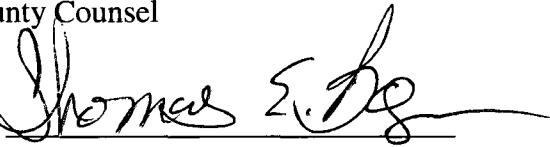
By: 
Thomas E. Boze
Deputy County Counsel

EXHIBIT A
COUNTY'S REQUEST FOR PROPOSAL

REQUEST FOR QUALIFICATIONS

PROFESSIONAL CONSULTING SERVICES

ARCHITECTURAL AND ENGINEERING DESIGN SERVICES FOR

Maintenance/Repair Shop and Operations Office Space

Project No.: 9457

Federal Aid Project CML-5938(209)

September 20, 2013

Stanislaus County
Department of Public Works
1716 Morgan Road
Modesto, CA 95358



REQUEST FOR QUALIFICATIONS (RFQ)

INTRODUCTION

The Stanislaus County Department of Public Works (County DPW) is seeking Statement of Qualifications (SOQ) from Architectural and Engineering design firms/teams (Consultant) for services to design the new Heavy Equipment Repair Shop and Operations Building located at the County's existing Corporation Yard on Morgan Road in Modesto.

PROPOSAL DUE DATE

Interested firms shall submit five (5) bound copies and one (1) CD disk in PDF format of their qualifications package, each with original signatures, in a sealed envelope marked: **"Request for Qualifications in Response to Project Number 9457, Federal Aid Project CML-5938(209)"** to the following office no later than 3:00 PM on Friday, October 11, 2013:

Stanislaus County Department of Public Works
Attn: Colt Esenwein, P.E.
1716 Morgan Road
Modesto, CA 95358

The County reserves the right to amend this RFQ by addendum prior to the final submittal date. Consultants shall acknowledge receipt of all addenda in the cover letter. Consultants shall be responsible for checking Modesto Reprographics website, (www.modestoplanroom.com), for any addenda issued. Any questions concerning this RFP must be in writing. Written questions will be accepted by the County DPW no later than 5:00 PM on Monday September 30, 2013. The County DPW will not respond to any questions received after this date and time. Written questions must be sent via electronic communication (e-mail) to: esenwein@stancounty.com. All questions submitted via e-mail shall contain in the Subject line: **"Request for Qualifications Project No. 9457 - Proposer Questions."** No telephone questions will be accepted. County DPW is not bound by any oral interpretations, clarifications, or changes made to this RFQ by County DPW. Any clarification or change to the RFQ will be provided in writing. No oral communication regarding this RFQ is allowed.

The selection process shall consist of a review and ranking of the qualifications by an evaluation panel consisting of representatives from the Public Works Department. The evaluation of submittals will be based solely on the qualifications of the Consultant. Once ranked by the panel, a short list of firms will be selected for an interview. At this time, the anticipated number of firms selected for an interview will be three (3), but the final number will be at the County's discretion. The selected firm will meet all the criteria described herein and be determined by the evaluation committee during the interview phase to be the best qualified firm for this particular project.

The SOQ from the Consultant shall contain the information identified in this RFQ. Late submittals, submittals to the wrong location, or submittals with inadequate copies are considered non-responsive and will be rejected. Submittal of additional information after the due date will not be allowed.

Each respondent will be responsible for all his/her expenses incurred during the RFQ process.

All consultants that submitted an SOQ will be notified of the results of the review. The notification will also identify the consultants that will be requested to attend interviews.

Firms selected for an interview will receive existing as-built drawings in Adobe PDF form of the existing site, and a copy of the Public Works Facilities Master Plan document and have the opportunity to tour the existing facility/site in advance of their interview. The interviews will be limited to 45 minutes (30 minutes of presentation and 15 minutes for questions, answers, and discussion). The firms selected for an interview are encouraged to bring no more than four (4) individuals to the presentation and focus on the scope of work identified herein and their qualifications to deliver.

Following the interview, the highest ranked firm will be notified in writing and by telephone to provide a detailed scope of work and fee for review and discussion. If Stanislaus County Department of Public Works fails to conclude a satisfactory agreement with the top-ranked firm, a new negotiation will be initiated with the next highest ranked firm. This process may be repeated until a contract is successfully negotiated.

Upon successful negotiations with the design consultant, the Professional Services Agreement, attached as Appendix A, will be presented to the Board for approval and execution, at which time the consultant's services will begin immediately.

This RFQ does not commit the County to enter into an agreement, to pay any costs incurred in the preparation of a response to this request, or to procure or contract for services. The County reserves the right to accept or reject any or all submissions received as a result of the request, to negotiate with any qualified firm, or to modify or cancel in part or in its entirety this RFQ if it is in the best interest of the County to do so.

PROJECT DESCRIPTION

The objective of this RFQ is to obtain Statements of Qualifications (SOQ's) from interested firms with extensive experience in fleet maintenance and heavy equipment maintenance facilities.

The heavy equipment repair shop building is comprised of specialized vehicle service bays and associated equipment areas, and will serve as the department's central location for the repair and general maintenance of Public Works vehicles and equipment, and increasingly those of other County department's vehicles. Approximate square footage is 16,800.

The staff support office space, which will be attached to the repair shop building, will be comprised of dedicated staff assembly rooms used by each of the department's four "field" units. Activities within these rooms include daily briefings, shift training, report writing, and other clerical type functions. In addition, office space for each unit's manager will be included, and staff amenities such as a shared break room and shower/locker room facilities will be provided. A mezzanine deck for storage will be provided over the office space. Approximate square footage is 7,200.

To make room for the new building, existing buildings on site will need to be demolished. Site work and utilities will need to be adjusted accordingly to accommodate the new building. The County intends to occupy the site for its normal business activities during construction.

The County anticipates delivering the project in a traditional design/bid/build method.

The County DPW staff will provide civil engineering consulting design services, including site survey and geotechnical report, to the selected firm. No need for landscaping is anticipated at this time.

The County DPW will not be requiring LEED certification for this project. However, energy conservation and sound green building design is desired and will be expected.

SCOPE OF WORK FOR CONSULTANT

The responsibilities of the Consultant will include all necessary tasks to develop construction plans and specifications along established industry guidelines, professional design standards, applicable regulatory and building code, and County standards. Comments from the County shall be incorporated into the project and the project must be within the County's budget of \$4,000,000.00. A partial list of expected responsibilities is as follows:

1. Review County furnished existing as-built drawings, the Public Works Facility Master Plan document, County furnished program documents, and meet with the County to verify all program information and update as appropriate.
2. Develop a design concept that incorporates all approved project scope items including demolition, new construction, and renovations to the existing site.
3. Prepare Schematic Design documents and a preliminary cost estimate.
4. Prepare the Design Development documents and update the cost estimate.
5. Prepare the Working Drawings (Construction Documents) and a final cost estimate. Adjust, revise, and correct the drawings and specifications as necessary to bring the project within budget. Submit and assist in obtaining building permit from County Building Department.
6. During the bidding period respond to questions and issue addenda(s).
7. Assist the County with bid evaluations to address any discrepancies or irregularities.
8. Provide Construction Administration phase services including responding to RFI's, submittal review, pay application review, and preparing any change orders.
9. Prepare Record Drawings from Contractor's As-Built drawings. Assist County with closing out the project.

At the end of each Phase of the project, the selected firm will be required to submit plans to the County DPW for review, comment, and written approval prior to proceeding to the next phase.

Tentative Project Schedule

Distribute RFQ:	September 20, 2013
Questions Deadline:	September 30, 2013
Last Addendum:	October 4, 2013
SOQ's Due:	October 11, 2013
SOQ's Ranked:	October 18, 2013
Short Listed Firms Notified:	October 18, 2013
Site Tours:	October 21 – October 25
Short Listed Interviews:	October 28 – November 1
Contract Negotiations with selected firm:	November 4 - November 19
County to Award Consultant Contract:	December 10, 2013

All of the above dates are tentative and subject to change by the County.

Content of Statement of Qualifications

The County is requesting an SOQ for the Scope of Work described herein. To simplify the selection process, the SOQ is not to exceed 20 pages single-sided or 10 pages double-sided, single space, no less than 11-pt font size, and the cover letter. Paper that is size 11x17 is acceptable and will count as one page, but splitting the 11x17 to be used as two normal pages, side-by-side, or column-style writing is not acceptable. Resumes shall be added as an Appendix to the SOQ. The use of the County logo is permissible. The SOQ should be to the point with submitted material focusing on the technical content that demonstrates the firm's design excellence, experience, capability, availability, and commitment to the proposed project. Overly elaborate SOQ's are neither expected nor desired.

Each SOQ shall include the following information:

1. **Cover Letter:** The Consultant shall submit a brief cover letter introducing the firm, indicating the general nature of services provided, and highlighting the qualifications of the likely project team envisioned working on preparing the maintenance facility project. The letter shall also indicate the firm's approach to performing the needed services, as well as the firm's commitment to providing those services.
2. **Firm Experience:** The Consultant's experience shall include, at a minimum, demonstrated competence in major construction projects in fleet maintenance design. Provide a chart that outlines the organizational approach and identify key personnel and their roles. For the prime consultant and any sub-consulting firms, please provide the following information:
 - a. Names of principals indicating experience, background, academic training, and any professional registrations or certifications
 - b. Length of time in business
 - c. Office address(es) from which services will be supported, percentage of work, and category of work to be performed in each office
 - d. Facilities and manpower of office in which work is to be performed
 - e. Listing of experience for at least five (5) projects completed in the last ten (10) years with similar or greater scope and complexity, including type, size, and cost of facility designed and constructed; completion date; and name, address and phone number of knowledgeable owner/client representative.
 - f. Key issues and challenges for each project, and how they were resolved
 - g. Specialty areas addressed and subconsultant involvement
3. **Proposed Project Manager:** The firm's Project Manager (PM) is defined to be the individual within the consultant's firm who is directly responsible for and engaged in leading the required services. The PM must be knowledgeable and experienced in all aspects of the services performed.

The SOQ shall include the following resume type information demonstrating the PM's knowledge, experience, and availability:

- a. Name and title, years of experience with the prime consultant's firm, and years of experience with other firms
- b. Education, degrees, specializations
- c. Active professional registrations, in what state, discipline

- d. **Representative experience** for not more than five (5) recently completed projects similar in scope, size, and complexity. In addition, provide information on all projects that are currently in progress to which the PM is committed. Information to include:
 - i. Owner, project description, size, location, and completion date.
 - ii. Name, address, and phone number of Owner/Client representative.
 - iii. Services for which the individual was directly responsible; services directly performed by the individual (not just job title).
 - iv. Firm with which the individual was employed during project experience.
4. **Key Project Staff and Subconsultants:** Project Architect and key personnel from sub-consultant engineering firms shall have design experience in fleet vehicle maintenance, operation, and office facility projects. Please provide for each individual the following resume type information:
 - a. Name and title, years of experience with the respective firm, and years of experience with other firms
 - b. Specific project responsibility and functions to be performed
 - c. Education, degrees, specializations
 - d. Active professional registrations, in what state, discipline
 - e. **Representative experience** for at least three (3) recently completed projects similar in scope, size, and complexity. In addition, provide information on all projects that are currently in progress to which the team member is committed. Information to include:
 - i. Owner, project description, size, location, and completion date.
 - ii. Name, address, and phone number of Owner/Client representative.
 - iii. Services for which the individual was directly responsible; services directly performed by the individual (not just job title).
 - iv. Firm with which the individual was employed during project experience.
5. **Additional Information:** This section may be used to provide any additional information regarding the firm's or sub-consultant firm's qualifications or experience that the consultant wishes to provide for consideration. Such information may include your firm's approach to providing services to the County DPW for this project including the ability to manage schedule, budget, quality control, problem solving, creativity, sustainable services, organizational chart, etc.
6. **Fee Schedule:** Attach Architectural and Consultants standard hourly rate Schedule. The Rate Schedules will not be part of the selection criteria.

Selection Criteria

The evaluation panel will rank the Statements of Qualifications using the following criteria:

1. Demonstrated competence in completing past projects of similar scope and budget within the last ten (10) years for a public sector client. (Weight = 20 pts)
2. Demonstrated experience of Proposed Project Manager on similar scope and budget projects within the last five (5) years for a public sector client. (Weight = 20 pts)
3. History of the firm/team including: Years in business, current number of professional personnel and current volume of projects in the design phase. (Weight = 10 pts)
4. Qualifications and workload of team members proposed to work on project. (Weight = 15 pts)

5. Related experience of sub-consultants and proposed staff as a "project team" .(Weight = 15 pts)
6. Client references with addresses and phone numbers. (Weight 20 pts)

DBE REQUIREMENTS

See Attachments.

Prior Litigation/Claims History

Firms are required to provide a list of past, current or pending litigation or claims filed by or against your firm in the past five (5) years resulting from the professional services rendered. If a decision was rendered by a court or an arbitrator or mediator, clearly state the results.

Indemnity

To the fullest extent permitted by law, the Consultant shall indemnify, defend and hold harmless the County, their respective officers, directors, members, consultants, agents, and employees (the indemnities') from and against all claims, losses, damages, liabilities, including reasonable attorney' fees, costs, and expenses, for bodily injury, sickness, or death, and property damage (other than to the Work itself), that may arise from the performance of or the failure to perform Services under the Agreement, but only to the extent caused by the negligent act or omissions of the Consultant, the Consultant's sub-consultants, or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable. Nothing in this indemnity shall be construed to limit the insurance obligation agreed to herein.

Insurance Requirements

The design professional shall maintain in effect all insurance coverage required below with insurance companies lawfully authorized to do business in the jurisdiction in which the Project is located and which is reasonably satisfactory to the County and Consultant.

Workers' Compensation and Employers' Liability Insurance shall be in accordance with the laws of the State of California. The Workers' Compensation policy shall provide for a waiver of subrogation in favor of the County. Employers' Liability coverage must have limits of liability of at least:

- \$1,000,000 bodily injury per accident.
- \$1,000,000 bodily injury by disease policy limit.
- \$1,000,000 bodily injury by disease per employee.

Commercial General Liability, including contractual liability insurance against the liability assumed by indemnity. The General Liability policy shall provide for an additional insured endorsement naming the County, which shall cover ongoing and completed operations, per project endorsement, primary/non-contributory endorsement, and a waiver of subrogation in favor of the County.

- \$1,000,000 per occurrence.
- \$2,000,000 general aggregate.
- \$2,000,000 products/completed operations aggregate.
- \$1,000,000 personal and advertising injury limit.

Policies written shall list the County as an additional insured, and such policies shall be primary over any other insurance carried by the County.

Business Automobile Liability

Combined Single Limit Bodily Injury and Property Damage \$1,000,000 per occurrence for any auto. The Consultant shall require its sub-consultants to provide the same indemnity and insurance coverage as provided herein.

Professional Liability Insurance

The Consultant and all sub-consultants retained by the Consultant shall obtain professional liability insurance for claims arising from the negligent performance of Services under the agreement, which shall be written for not less than Two Million dollars (\$2,000,000) per claim and in Four Million dollars in the aggregate with a deductible not to exceed one-hundred thousand dollars (\$100,000). The professional Liability Insurance shall contain prior acts coverage sufficient to cover all services performed by the consultant. These requirements shall be continued in effect for three (3) years after the Date of substantial Completion. The deductible shall be paid by the consultant.

The Consultant shall furnish to the County certificates of insurance evidencing the required coverage's listed in this section and a copy of its Professional Liability policy. No policy shall be cancelled or modified without thirty (30) days prior written notice to the County. Such requirement for prior written notice does not apply to modifications caused by claims made against the policy. The Consultant and its Professional Liability insurance carrier shall notify the County within thirty (30) days of any claims made or loss expenses incurred against the professional Liability policy. The County shall have the right to notify directly the Consultant's Professional Liability insurance carrier of a claim against the policy. The Professional Liability policies shall be continued in effect for three (3) years following final payment to the Consultant.

County shall be named as additional insured on all policies:

"Additional Insured: County of Stanislaus, its Board of Supervisors, officers, directors, employees, representatives, consultants, and agents, as additional insured, but only with respect to liability arising out of the activities of the named insured. Additional insured endorsements must at be at least as broad as the Insurance Services Office (ISO) forms CG 20 38 04 13 and CG 20 37 04 13."

End of Request for Qualifications

Attachments

DBE REQUIREMENTS

- Exhibit 10-I
- Exhibit 10-O1
- Exhibit 10-O2

EXHIBIT 10-I NOTICE TO PROPOSERS DBE INFORMATION

The Agency has established a DBE goal for this Contract of **15%**

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, Code of Federal Regulations (CFR), Part 26.5.
- 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 Contracts 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 Consultant must 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 must 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 DBE INFORMATION

Caltrans Exhibit 10-O1 Consultant Proposal DBE Commitment must be included in the Statement of Qualifications (SOQ). 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. All DBE participation will be counted towards the contract goal; therefore, all DBE participation shall be collected and reported.

For the highest ranked firm as a result of the interview, Exhibit 10-O2 *Consultant Contract DBE Information* must be included with your detailed scope of work and fee. 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 consultant, subconsultant, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A DBE 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 DBE and will meet the goal by performing work with its own forces.
 2. The proposer will meet the goal through work performed by DBE subconsultants, 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 subconsultant for each portion of work as defined in their proposal and all DBE subconsultants should be listed in the bid/cost proposal list of subconsultants.
- G. A prime consultant who is a certified DBE is eligible to claim all of the work in the Contract toward the DBE participation except that portion of the work to be performed by non-DBE subconsultants.

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.
- B. Access the CUCP database from the Department of Transportation, Office of Business and Economic Opportunity Web site at: <http://www.dot.ca.gov/hq/bep/>.
 1. Click on the link in the left menu titled *Disadvantaged Business Enterprise*;
 2. Click on Search for a DBE Firm link;
 3. 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.

6. MATERIALS OR SUPPLIES PURCHASED FROM DBES COUNT TOWARDS THE DBE 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 Contract 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 Contract 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 DBE 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.

EXHIBIT 10-01: LOCAL AGENCY CONSULTANT DBE COMMITMENT

(Inclusive of all DBEs at time of proposal)

NOTE: Please refer to instructions on the reverse side of this form.

Consultant to Complete this Section			
1. Local Agency Name: _____			
2. Project Location: _____			
3. Project Description: _____			
4. Consultant Name: _____			
5. Contract DBE Goal %: _____			
DBE Commitment Information			
6. Description of Services to be Provided	7. DBE Firm Contact Information	8. DBE Cert. Number	9. DBE %
Local Agency to Complete this Section			10. Total % Claimed
16. Local Agency Contract Number: _____			_____ %
17. Federal-aid Project Number: _____			
18. Proposed Contract Execution Date: _____			
Local Agency certifies that all DBE certifications are valid and the information on this form is complete and accurate:			11. Preparer's Signature
19. Local Agency Representative Name (Print)			12. Preparer's Name (Print)
20. Local Agency Representative Signature			13. Preparer's Title
21. Date			14. Date
22. Local Agency Representative Title			15. (Area Code) Tel. No.
23. (Area Code) Tel. No.			

Distribution: (1) Original – Submit with Award Package
(2) Copy – Local Agency files

INSTRUCTIONS - LOCAL AGENCY CONSULTANT DBE COMMITMENT

Consultant Section

The Consultant shall:

1. **Local Agency Name** - Enter the name of the local or regional agency that is funding the contract.
2. **Project Location** - Enter the project location as it appears on the project advertisement.
3. **Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc)..
4. **Consultant Name** - Enter the consultant's firm name.
5. **Contract DBE Goal %** - Enter the contract DBE goal percentage, as it was reported on the Exhibit 10-I form. See LAPM Chapter 10.
6. **Description of Services to be Provided** - Enter item of work description of services to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
7. **DBE Firm Contact Information** - Enter the name and telephone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and telephone number, if the prime is a DBE.
8. **DBE Cert. Number** - Enter the DBEs Certification Identification Number. All DBEs must be certified on the date bids are opened. (DBE subcontracted consultants should notify the prime consultant in writing with the date of the decertification if their status should change during the course of the contract.)
9. **DBE %** - Percent participation of work to be performed or service provided by a DBE. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
10. **Total % Claimed** - Enter the total participation claimed. If the Total % Claimed is less than item "6. Contract DBE Goal", a Good Faith Effort (GFE) is required.
11. **Preparer's Signature** - The person completing this section of the form for the consultant's firm must sign their name.
12. **Preparer's Name (Print)** - Clearly enter the name of the person signing this section of the form for the consultant.
13. **Preparer's Title** - Enter the position/title of the person signing this section of the form for the consultant.
14. **Date** - Enter the date this section of the form is signed by the preparer.
15. **(Area Code) Tel. No.** - Enter the area code and telephone number of the person signing this section of the form for the consultant.

Local Agency Section:

The Local Agency representative shall:

16. **Local Agency Contract Number** - Enter the Local Agency Contract Number.
17. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
18. **Contract Execution Date** - Enter the date the contract was executed and Notice to Proceed issued. See LAPM Chapter 10, page 23.
19. **Local Agency Representative Name (Print)** - Clearly enter the name of the person completing this section.
20. **Local Agency Representative Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
21. **Date** - Enter the date the Local Agency Representative signs the form.
22. **Local Agency Representative Title** - Enter the position/title of the person signing this section of the form.
23. **(Area Code) Tel. No.** - Enter the area code and telephone number of the Local Agency representative signing this section of the form.

EXHIBIT 10-02: LOCAL AGENCY CONSULTANT DBE INFORMATION

(Inclusive of all DBEs listed at bid proposal)

NOTE: Please refer to instructions on the reverse side of this form.

Consultant to Complete this Section			
1. Local Agency Name: _____			
2. Project Location: _____			
3. Project Description: _____			
4. Total Contract Award Amount: \$ _____			
5. Consultant Name: _____			
6. Contract DBE Goal %: _____			
7. Total Dollar Amount for <u>all</u> Subcontractors: \$ _____			
8. Total Number of <u>all</u> Subcontractors: _____			
Award DBE Information			
9. Description of Services to be Provided	10. DBE Firm Contact Information	11. DBE Cert. Number	12. DBE Dollar Amount
Local Agency to Complete this Section		13. Total Dollars Claimed \$ _____	14. Total % Claimed _____ %
20. Local Agency Contract Number: _____			
21. Federal-aid Project Number: _____		15. Preparer's Signature _____ 16. Preparer's Name (Print) _____ 17. Preparer's Title _____	
22. Contract Execution Date: _____			
Local Agency certifies that all DBE certifications are valid and the information on this form is complete and accurate:			
23. Local Agency Representative Name (Print) _____			
24. Local Agency Representative Signature _____	25. Date _____	18. Date _____ 19. (Area Code) Tel. No. _____	
26. Local Agency Representative Title _____	27. (Area Code) Tel. No. _____		
Caltrans to Complete this Section		17. Preparer's Title	
Caltrans District Local Assistance Engineer (DLAE) certifies that this form has been reviewed for completeness:		18. Date	
28. DLAE Name (Print) _____	29. DLAE Signature _____	19. (Area Code) Tel. No. _____	
30. Date _____			

Distribution: (1) Copy – Email a copy to the Caltrans District Local Assistance Engineer (DLAE) within 30 days of contract award. Failure to send a copy to the DLAE within 30 days of contract award may result in delay of payment.
 (2) Copy – Include in award package sent to Caltrans DLAE (3) Original – Local agency files

INSTRUCTIONS - LOCAL AGENCY CONSULTANT DBE INFORMATION

Consultant Section

The Consultant shall:

1. **Local Agency Name** – Enter the name of the local or regional agency that is funding the contract.
2. **Project Location** - Enter the project location as it appears on the project advertisement.
3. **Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc).
4. **Total Contract Award Amount** - Enter the total contract award dollar amount for the prime consultant.
5. **Consultant Name** - Enter the consultant's firm name.
6. **Contract DBE Goal %** - Enter the contract DBE goal percentage, as it was reported on the Exhibit 10-I form. See LAPM Chapter 10.
7. **Total Dollar Amount for all Subcontractors** – Enter the total dollar amount for all subcontracted consultants. SUM = (DBE's + all Non-DBE's). Do **not** include the prime consultant information in this count.
8. **Total number of all subcontractors** – Enter the total number of all subcontracted consultants. SUM = (DBE's + all Non-DBE's). Do **not** include the prime consultant information in this count.
9. **Description of Services to be Provided** - Enter item of work description of services to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
10. **DBE Firm Contact Information** - Enter the name and telephone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and telephone number, if the prime is a DBE.
11. **DBE Cert. Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened. (DBE subcontracted consultants should notify the prime consultant in writing with the date of the decertification if their status should change during the course of the contract.)
12. **DBE Dollar Amount** - Enter the subcontracted dollar amount of the work to be performed or service to be provided. Include the prime consultant if the prime is a DBE, and include DBEs that are not identified as subcontractors on the Exhibit 10-O1 form. See LAPM Chapter 9 for how to count full/partial participation.
13. **Total Dollars Claimed** – Enter the total dollar amounts for columns 12 and 13.
14. **Total % Claimed** – Enter the total participation claimed for columns 12 and 13. SUM = (item "14. Total Participation Dollars Claimed" divided by item "4. Total Contract Award Amount"). If the Total % Claimed is less than item "6. Contract DBE Goal", a Good Faith Effort (GFE) is required.
15. **Preparer's Signature** – The person completing this section of the form for the consultant's firm must sign their name.
16. **Preparer's Name (Print)** – Clearly enter the name of the person signing this section of the form for the consultant.
17. **Preparer's Title** - Enter the position/title of the person signing this section of the form for the consultant.
18. **Date** - Enter the date this section of the form is signed by the preparer.
19. **(Area Code) Tel. No.** - Enter the area code and telephone number of the person signing this section of the form for the consultant.

Local Agency Section:

The Local Agency representative shall:

20. **Local Agency Contract Number** - Enter the Local Agency Contract Number.
21. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
22. **Contract Execution Date** - Enter the date the contract was executed and Notice to Proceed issued. See LAPM Chapter 10, page 23.
23. **Local Agency Representative Name (Print)** - Clearly enter the name of the person completing this section.
24. **Local Agency Representative Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
25. **Date** - Enter the date the Local Agency Representative signs the form.
26. **Local Agency Representative Title** - Enter the position/title of the person signing this section of the form.
27. **(Area Code) Tel. No.** - Enter the area code and telephone number of the Local Agency representative signing this section of the form.

Caltrans Section:

Caltrans District Local Assistance Engineer (DLAE) shall:

28. **DLAE Name (Print)** – Clearly enter the name of the DLAE.
29. **DLAE Signature** – DLAE must sign this section of the form to certify that it has been reviewed for completeness.
30. **Date** - Enter the date that the DLAE signs this section the form.

**EXHIBIT B
CONSULTANT'S RESPONSE**

**EXHIBIT C
CONSULTANT'S FEE SCHEDULE**



10 December 2013

Mr. Colt Esenwein, P.E.
Public Works Deputy Director, Stanislaus County
1716 Morgan Road
Modesto, CA 95358-5805

Dear Mr. Esenwein:

Thank you for the opportunity to submit the enclosed proposal for architectural & engineering design and construction document services for the Stanislaus County Maintenance/Repair Shop & Operations Office.

Project Scope- Maintenance Facility (A):

Architectural & Engineering Design & Construction Documents for a new approx. 24,000-26,000 sf maintenance & office facility. The tentative project budget is approximately \$4.5-\$5.0 million. The project consists of approximately 7,000 sf of traditional office space with appropriate support areas, and 18,000 sf of shop space and corresponding equipment and systems. It is assumed at this time that the primary structural system will be a pre-engineered metal building frame. The shop space is subdivided into specialty areas for signage, welding, machining, vehicle repair and other misc. services. The facility will be designed to allow for maintenance and repair of CNG vehicles. All site civil engineering and design will be performed by the Owner (County of Stanislaus).

Project Scope- Administration Facility (B):

Architectural & Engineering Design & Construction Documents for a new, approx. 22,000 sf office & administration facility. It is assumed at this time that the primary structural system will be wood frame shear wall. The tentative project budget is approximately \$6.6 million. All site civil engineering and design will be performed by the Owner (County of Stanislaus).

Scope of work shall not include:

1. Soils Investigations, testing, or reports. To be provided by the Owner.
2. Hazardous materials investigations, surveys, remediation or removal.
3. Storm Drainage.
4. As-Built Drawings.
5. Landscape Design & Documents for the Maintenance Facility
6. Civil Engineering Design & Documents (site grading, surface improvements, topo, underground utility)
7. Exterior Vehicular Hardscape

I. Programming, Preliminary Design and Planning Services

1. Meet with Owner & design team in order to determine final design & program verification based upon the existing Public Works Master Plan Review and evaluation of the proposed building systems and structure.
2. Provide conceptual plan for review by Owner.

II. Design Development and Construction Document Services

1. Review existing information, project requirements & conditions, and schematic design with Owner to assure appropriate understanding of all project requirements.
2. Integrate desired design elements into Construction Documents.
3. Based upon an "approved" design, prepare construction documents consisting of the following:
 - Architectural and Construction Documents
 - Structural Design & Construction Documents
 - Mechanical/ Plumbing Design & Construction Documents
 - Electrical Design & Construction Documents
 - Vehicular Maintenance Systems Design & Construction Documents
 - Bridge Crane Design & Construction Documents
 - Building Commissioning for Cal-Green Building Code
 - Landscape Design & Documents for the Administration Facility only
4. Assist Owner in their responsibility for filing necessary documents to the County of Stanislaus for permit processing. Make any revisions, to our work, required thereby to obtain applicable permits.

III. Construction Administration Services

1. Provide construction administration services as follows, throughout construction. This proposal includes 300 hours of construction administration services. Should our services be required in addition to this allocation, all additional services will be provided on an hourly basis, in accordance with the enclosed schedule.
2. Provide construction administration services hourly, throughout construction in accordance with the fee schedule listed. Should our services be required in addition to this allocation, all additional services will be provided on an hourly basis, in accordance with the enclosed schedule. Services contemplated during construction:
 - Project site meetings
 - Submittal review
 - RFI Review
 - Pay Application Review
3. Provide project closeout services to assist Owner in approval of work installed, warranty, guarantees, lien protection assurances, etc. Proposal assumes project closeout services to be performed hourly. Services contemplated at closeout:
 - Final site review
 - Project punch list

Architectural services shall **not** include:

1. All reproduction costs. (To be included with the indicated allowance.)
2. Any fees required by this work.

3. Any revisions beyond those contemplated will be performed on an hourly basis, in accordance with the schedule listed herein.
4. Site investigation. We anticipate relying on information to be provided by the Owner for all existing facilities and boundary information.
5. Civil engineering services for topographic information, site improvements (parking areas, grading, drainage, underground utilities, sewer laterals to public utility, etc.). To be provided by the County.
6. Revisions to conceptual plans, design development drawings, or construction documents, beyond the initial revisions contemplated herein. Any revisions beyond those contemplated will be performed on an hourly basis, in accordance with the schedule listed herein.
7. On-site verification of utilities, building components. It is our intention to rely on the civil/topographic drawings provided by the County.
8. Construction administration services beyond those listed herein. (Additional services to be billed hourly)
9. Additional services beyond those listed herein.
10. LDA Partners, LLP cannot assume responsibility for construction means, methods, techniques, sequences or procedures, safety precautions, programs connected with the work, or for acts and omissions by the Contractor, subcontractors, or others.
11. Preparing as-built documents.
12. Additional services caused by project delays or interruption, or those listed herein.
13. Additional services caused by Contractor errors or default in executing the construction project in a proper or timely manner.
14. LDA Partners, LLP will not be providing inspections or testing before, during or after construction.
15. Asbestos and/or hazardous materials surveys and/or removal of asbestos or other hazardous materials.
16. Soils Investigations, testing, or reports. To be provided by the Owner.
17. Joint trench or dry utility to the building.
18. Signage.
19. LEED documentation or design.

Our fee schedule is broken up between the two main components of the overall project; A-Maintenance Facility and B-Administration Building

A- Proposed Fee for Design and Construction Documents Services for Maintenance Facility:

Phase I & IIA – Programming, Preliminary Design & Construction Documents

Architectural:	\$138,000
Structural:	\$ 40,000
Mechanical/ Plumbing:	\$ 60,000
Electrical:	\$ 45,000
Vehicle Maintenance Systems:	\$ 25,000
Bridge Crane:	\$ 5,000
Building Commissioning:	\$ 12,000
Total Phase I & IIA:	\$325,000

Phase IIIA – Construction Administration Allowance

To be billed hourly in accordance with time expended \$ 75,000

B- Proposed Fee for Design and Construction Documents Services for Administration Facility:

Phase I & IIB – Programming, Preliminary Design & Construction Documents

Architectural:	\$250,000
Structural:	\$ 75,000
Mechanical/ Plumbing:	\$ 75,000
Electrical:	\$ 60,000
Landscape:	\$ 15,000
Building Commissioning:	\$ 15,000
Total Phase I & IIB:	\$490,000

Phase IIIB – Construction Administration Allowance

To be billed hourly in accordance with time expended \$ 90,000

Additional Services Allowance / Contingency: \$ 50,000
To be billed hourly upon prior approval by the County

Reimbursable Allowance for A & B: \$ 15,000

Total Fee: \$1,045,000

Reimbursable expenses are in addition to the compensation for basic services and shall include the actual expenditures made by the Architect and his employees in the interest of the project, at cost. Reimbursable expenses shall be billed from a not to exceed allowance, and are itemized as follows:

Reproduction Costs
Shipping/Postage
Telephone Charges
Computer Plotting
Mileage/Travel

Unused portions of the reimbursable will be credited back to the Owner.

Should our services be required in addition to these allocations, all additional services will be provided on an hourly basis, in accordance with the following schedule:

Principal Architect:	\$200.00/hour
Project Architect / Manager:	\$165.00/hour
Draftsperson:	\$115.00/hour
Clerical/Staff:	\$ 85.00/hour

Other trades shall be billed out in accordance with the rate schedule indicated with the RFQ response.

Should the project be terminated or extended beyond ninety days from the date of this proposal, the Architect shall be compensated for all services performed to date. All work will be billed on a monthly basis for service performed to date.

Changes to the scope of work shall be subject to renegotiation. This proposal is subject to renegotiation if not agreed upon within ninety (90) days.

This proposal is based upon industry standard insurance limits of \$1,000,000 per occurrence / \$2,000,000 aggregate. The Owner agrees to defend, indemnify, and hold the Architect, his employees, and consultants harmless from any claim or third party claim related to services for the investigation of or remedial work related to asbestos, toxic, hazardous, and/or dangerous materials resulting from the services provided by the Architect pursuant to this Agreement.

The Americans with Disabilities Act is Federal legislation, not building code. The law provides for the enforcement through either private lawsuits or Justice Department action. Therefore, the compliance with the ADA is a legal matter, not a design responsibility. The design professional will endeavor to assist the County in their responsibility to comply with the requirements of the ADA throughout the design of the facility through California Title 24. However, the design professional is not responsible for failure to comply with these regulations.

Should any litigation be commenced between the parties hereto concerning any provision of this Agreement or the rights and obligations of either in relation thereto, the party, the Owner, or the Architect, prevailing in such litigation shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for attorney's fees and court costs as incurred in such litigation, as determined by a court of competent jurisdiction.

We look forward to continuing our relationship with the County of Stanislaus and a successful project. If you have any questions, please let me know.

Cordially,

Eric W. Wohle, A.I.A., LEED
Partner

**EXHIBIT D
PROJECT SCHEDULE**

County of Stanislaus

Public Works Maintenance & Administration Facility

DESIGN

Master Plan Verification / Programming:

Board Award Feb. 11, 2014

Notice to Proceed Feb. 13, 2014

- Site Utility Surveys / Research /Visit & observe existing spaces/facilities
- Verify Preliminary Program
- Interviews with staff and assessment of space needs – current & future
- Program Review & Comment by the County
- Preliminary Conceptual Space plan / Site Plan

Total

March 21, 2014

Schematic Design:

- Confirm program
- Finalize Conceptual Design Drawings, Space Plans
- Schematic Building systems layouts
- Material & Equipment Review

Total

April 25, 2014

Design Development:

- Utility Coordination
- Incorporate required changes from County Reviews
- Prepare Design Development drawings based upon the approved Plan
- Design Development drawings by Consultants
- Incorporation of County comments into Design Documents
- Draft Specifications
- Coordination of drawings

Total

June 6, 2014

Construction Documents:

- Finalize Offsite Utility Coordination
- Accessibility Review
- Finalize Construction Documents
- Finalize specifications
- Consultant Constructability Review
- Final Construction estimates
- Presentation of final Construction Documents and Specifications for Bid
- Submit Drawings to County Building Department

Total

Aug. 1, 2014

Design Contingency:

2 weeks - **Aug. 15, 2014**

Total Estimated Design Time + Contingency:

26 weeks
(6 months)

PLAN REVIEW

Plan Check Review:

- Anticipated County Plan Check Review 4 weeks-
- Plan Check Response 3 weeks

Total

Oct. 3, 2014

Plan Review Contingency

1 week – **Oct. 10, 2014**

Total Estimated Review Schedule:

Approx. 8 Weeks

STANISLAUS COUNTY
Addendum to Professional Design Services Agreement

Consultant: LDA Partners, LLP
Project: Maintenance/Repair Shop and Operations Office Space
Contract No. 9457
Federal Aid Project CML-5938(209)

In addition to, and notwithstanding, the requirements set forth in the Professional Design Services Agreement, CONSULTANT agrees to the following:

1. CERTIFICATION OF CONSULTANT, COMMISSIONS & FEES

Exhibit 10-F – (attachment)

2. CONFIDENTIALITY OF DATA

- A. All financial, statistical, personal, technical, or other data and information relative to the COUNTY's operations, which are designated confidential by the COUNTY and made available to the CONSULTANT in order to carry out this contract, shall be protected by the CONSULTANT from unauthorized use and disclosure.
- B. Permission to Disclose information on one occasion, or public hearing held by the COUNTY relating to the contract, shall not authorize the CONSULTANT to further disclose such information, or disseminate the same on any other occasion.
- C. The CONSULTANT shall not comment publicly to the press or any other media regarding the contract or the COUNTY's actions on the same, except to the COUNTY's staff, CONSULTANT's own personnel involved in the performance of this contract, at public hearings or in response to questions from a Legislative committee.
- D. The CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this contract without prior review of the contents thereof by the COUNTY, and receipt of the COUNTY's written permission.
- E. Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.

3. CONFLICT OF INTEREST

- A. The CONSULTANT shall disclose any financial, business, or other relationship with COUNTY that may have an impact upon the outcome of this agreement, or any ensuing COUNTY construction project. The CONSULTANT shall also list current clients who may have a financial interest in the outcome of this agreement, or any ensuing COUNTY construction project, which will follow.
- B. The CONSULTANT hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this agreement.
- C. Any subcontract in excess of \$25,000 entered into as a result of this agreement, shall contain all of the provisions of this Article.
- D. The CONSULTANT hereby certifies that neither CONSULTANT, nor any firm affiliated with the CONSULTANT will bid on any construction agreement, or on any agreement to provide construction inspection for any construction project resulting from this agreement. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.
- E. Except for subcontractors whose services are limited to providing surveying or materials testing information, no subcontractor who has provided design services in connection with this agreement shall be eligible to bid on any construction agreement, or on any agreement to provide construction inspection for any construction project resulting from this agreement.

4. CONSULTANT'S ENDORSEMENT OF PS&E/OTHER DATA:

- A. The CONSULTANT/engineer shall sign all Plans, Specifications and Estimates (PS&E) and engineering data furnished under the contract including registration number.

5. COST PRINCIPLES

- A. The CONSULTANT agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the allowability of cost individual items.
- B. The CONSULTANT also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

- C. Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONSULTANT to the COUNTY.

6. COST PROPOSAL

The Cost Proposal is subject to an audit or Certified Public Accountant (CPA) Indirect Cost (Overhead) Audit Workpaper Review. The Cost Proposal shall be adjusted by the CONSULTANT and approved by the COUNTY's Contract Manager to conform to the Workpaper Review recommendations or audit recommendations. The CONSULTANT agrees that individual terms of cost identified in the audit report shall be incorporated into the Agreement by this reference if directed by the COUNTY at its sole discretion. Refusal by the CONSULTANT to incorporate the Workpaper Review recommendations or audit recommendations will be considered a breach of the Agreement terms and cause for termination of the Agreement.

7. DEBARMENT AND SUSPENSION CERTIFICATION

- A. The CONSULTANT's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that the CONSULTANT has complied with Title 49, Code of Federal Regulations, Part 29, Debarment and Suspension Certificate, which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to the COUNTY.
- B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining CONSULTANT responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

8. FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES

Exhibit 17-F – (attachment)

9. EQUIPMENT PURCHASE

- A. Prior authorization, in writing, by the COUNTY shall be required before the CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or CONSULTANT services. The CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service or consulting work not covered in the CONSULTANT'S Cost Proposal and exceeding \$5,000 prior authorization by the COUNTY; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
- C. Any equipment purchased as a result of this agreement is subject to the following: "The CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, the COUNTY shall receive a proper refund or credit at the conclusion of the agreement, or if the agreement is terminated, the CONSULTANT may either keep the equipment and credit the COUNTY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established COUNTY procedures; and credit the COUNTY in an amount equal to the sales price. If the CONSULTANT elects to keep the equipment, fair market value shall be determined at the CONSULTANT'S expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by the COUNTY and the CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by the COUNTY."
- D. All subcontracts in excess \$25,000 shall contain the above provisions.

10. FUNDING REQUIREMENTS

- A. It is mutually understood between the parties that this contract may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the agreement were executed after that determination was made.
- B. This agreement is valid and enforceable only, if sufficient funds are made available to the COUNTY for the purpose of this contract. In addition, this agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature or COUNTY governing

board that may affect the provisions, terms, or funding of this contract in any manner.

- C. It is mutually agreed that if sufficient funds are not appropriated, this contract may be amended to reflect any reduction in funds.
- D. The COUNTY has the option to void the contract under the 30-day cancellation clause, or by mutual agreement to amend the contract to reflect any reduction of funds.

11. INSPECTION OF WORK

The CONSULTANT and any subcontractor shall permit the COUNTY, the state, and the FHWA if federal participating funds are used in this contract; to review and inspect the project activities and files at all reasonable times during the performance period of this contract including review and inspection on a daily basis.

12. NONDISCRIMINATION

- A. During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:
- B. Compliance with Regulations: The contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, “DOT”) Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter “FHWA”) Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- C. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color or national origin, sex, age, and disability/handicap and low income in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- D. Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contract for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor

or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap and low income.

- E. Information and Reports: The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the COUNTY or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the COUNTY, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
- F. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the COUNTY shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
- G. Withholding of payments to the contractor under the contract until the contractor complies, and/or
- H. Cancellation, termination or suspension of the contract, in whole or in part.
- I. Incorporation of Provisions: The contractor shall include the provisions of paragraphs 1 through 6 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the COUNTY or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that , in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the COUNTY to enter into such litigation to protect the interests of the COUNTY, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

13. PERFORMANCE PERIOD

- A. This agreement shall go into effect on February 11, 2014, contingent upon approval by the COUNTY, and the CONSULTANT shall commence work after notification to proceed by the COUNTY. The agreement shall end on October 10, 2014, unless extended by agreement amendment.

- B. The CONSULTANT is advised that any recommendation for agreement award is not binding on the COUNTY until the agreement is fully executed and approved by the COUNTY.

14. PROHIBITION OF EXPENDING LOCAL AGENCY, STATE OR FEDERAL FUNDS FOR LOBBYING CLAUS

- A. The CONSULTANT certifies to the best of his or her knowledge and belief that:
- B. No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of the CONSULTANT to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.
- C. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; the CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- D. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, US. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- E. The CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly.

15. REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION (LOBBYING CLAUSE)

- A. The CONSULTANT warrants that this agreement was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any COUNTY employee. For breach or violation of this warranty, COUNTY shall have the right in its discretion; to terminate the agreement without liability; to pay only for the value of the work actually performed; or to deduct from the agreement price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

16. REIMBURSEMENT OF TRAVEL & SUBSISTENCE

COUNTY agrees to pay pre-approved travel and subsistence expenses per the COUNTY's Travel Policy.

17. RETENTION OF RECORDS/AUDIT

- A. For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the contract pursuant to Government Code 8546.7; the CONSULTANT, subcontractors, and the COUNTY shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of the agreement, including but not limited to, the costs of administering the agreement. All parties shall make such materials available at their respective offices at all reasonable times during the agreement period and for three years from the date of final payment under the agreement. The state, the State Auditor, COUNTY, FHWA, or any duly authorized representative of the federal government shall have access to any books, records, and documents of the CONSULTANT that are pertinent to the agreement for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.
- B. Subcontracts in excess of \$25,000 shall contain this provision.

~~**18. SALARY ESCALATION**~~

~~The CONSULTANT will be allowed salary increases as shown in EXHIBIT C.~~

19. STATE PREVAILING WAGE RATES

- A. The CONSULTANT shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 177, and all federal, state, and local laws and ordinances applicable to the work.

- B. Any subcontract entered into as a result of this contract if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article.

20. SUBCONSULTANT DBE PARTICIPATION

Exhibit 10-J – (attachment)

21. SUBCONTRACTING

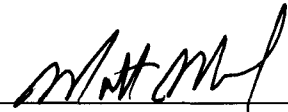
- A. The CONSULTANT shall perform the services with resources available within its own organization; and no portion of the work pertinent to this agreement shall be subcontracted without written authorization by the COUNTY, except that, which is expressly identified in the approved Cost Proposal.
- B. Any subcontract in excess of \$25,000 entered into as a result of this agreement, shall contain all the provisions stipulated in this agreement to be applicable to subcontractors.
- C. Any substitution of subcontractors must be approved in writing by the COUNTY.

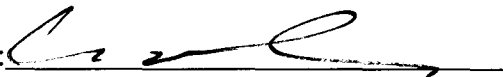
(SIGNATURES ON FOLLOWING PAGE)

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

COUNTY OF STANISLAUS

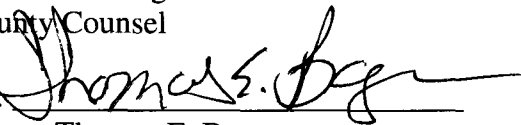
LDA Partners, LLP

By: 
Matt Machado, Director
Department of Public Works

By: 
Eric W. Wohle, A.I.A., LEED
Partner

APPROVED AS TO FORM:

John P. Doering
County Counsel

By: 
Thomas E. Boze
Deputy County Counsel

(END OF ADDENDUM)


EXHIBIT 10-F CERTIFICATION OF CONSULTANT, COMMISSIONS & FEES

I HEREBY CERTIFY that I am the Partner, and duly authorized representative of the firm of LDA Partners, LLP, whose address is 4 South Central Ct. Stockton, CA 95204, and that, except as hereby expressly stated, neither I nor the above firm that I represent have:

- (a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this contract; nor
- (b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract; nor
- (c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind, for or in connection with, procuring or carrying out this contract.

I acknowledge that this Certificate is to be made available to the California Department of Transportation (Caltrans) in connection with this contract involving participation of federal-aid highway funds, and is subject to applicable state and federal laws, both criminal and civil.

1.10.14
(Date)


(Signature)

Distribution: 1) Local Agency Project File (Original & Contract)
2) DLAE (with contract copy)

EXHIBIT 10-J STANDARD CONTRACT PROVISIONS FOR SUBCONSULTANT/DBE PARTICIPATION**1. Subconsultants**

- A. Nothing contained in this Contract or otherwise, shall create any contractual relation between the Agency and any subconsultants, and no subcontract shall relieve the Consultant of his/her responsibilities and obligations hereunder. The Consultant agrees to be as fully responsible to the Agency for the acts and omissions of its subconsultants and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Consultant. The Consultant's obligation to pay its subconsultants is an independent obligation from the Agency's obligation to make payments to the Consultant.
- B. Any subcontract in excess of \$25,000, entered into as a result of this Contract, shall contain all the provisions stipulated in this Contract to be applicable to subconsultants.
- C. Consultant shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to the Consultant by the Agency.
- D. Any substitution of subconsultants must be approved in writing by the Agency's Contract Administrator in advance of assigning work to a substitute subconsultant.

2. Disadvantaged Business Enterprise (DBE) Participation

- A. This Contract is subject to 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". Proposers who obtain DBE participation on this contract will assist Caltrans in meeting its federally mandated statewide overall DBE goal.
- B. If the contract has a DBE goal, the Consultant must meet the goal by committing DBE participation or document a good faith effort to meet the goal. If a DBE subconsultant is unable to perform, the Consultant must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met. A DBE is a firm meeting the definition of a DBE as specified in 49 CFR.
- C. DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of contracts financed in whole or in part with federal funds. The Consultant or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Consultant shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT- assisted agreements. Failure by the Consultant to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the local agency deems appropriate.
- D. Any subcontract entered into as a result of this Contract shall contain all of the provisions of this section.
- E. A DBE may be terminated only with prior written approval from the local agency and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting local agency consent for the termination, the prime consultant must meet the procedural requirements specified in 49 CFR 26.53(f).

3. Performance of DBE Consultant and other DBE Subconsultants/Suppliers

- A. A DBE performs a commercially useful function when it is responsible for execution of the work of the Contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible with respect to materials and supplies used on the Contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, evaluate the amount of work subcontracted, industry practices; whether the amount the firm is to be paid under the Contract is commensurate with the work it is actually performing; and other relevant factors.
- B. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, Contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- C. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its Contract with its own work force, or the DBE subcontracts a greater portion of the work of the Contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a commercially useful function.

4. Prompt Payment of Funds Withheld to Subconsultants

- A. Any subcontract entered into as a result of this Contract shall contain all of the provisions of this section.
(Local agency to include either B, C, or D below; delete the other two.)
- B. No retainage will be withheld by the Agency from progress payments due the prime Consultant. Retainage by the prime Consultant or subconsultants is prohibited, and no retainage will be held by the prime Consultant from progress due subconsultants. Any violation of this provision shall subject the violating prime Consultant or subconsultants 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 prime Consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime Consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime Consultants and subconsultants.
- C. No retainage will be held by the Agency from progress payments due the prime Consultant. Any retainage held by the prime Consultant or subconsultants from progress payments due subconsultants shall be promptly paid in full to subconsultants within 30 days after the subconsultant's work is satisfactorily completed. Federal law (49 CFR26.29) requires that any delay or postponement of payment over the 30 days may take place only for good cause and with the Agency's prior written approval. Any violation of this provision shall subject the violating prime Consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime Consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant, deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultant and subconsultants.

- D. The Agency shall hold retainage from the prime consultant 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 consultant based on these acceptances. The prime consultant, or subconsultant, shall return all monies withheld in retention from a subconsultant within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Federal law (49 CFR26.29) requires that any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of this provision shall subject the violating prime consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime Consultant, deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultant and subconsultants.

5. DBE Records

- A. The Consultant shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- B. Upon completion of the Contract, a summary of these records shall be prepared and submitted on the form entitled, "Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subconsultants," CEM-2402F (Exhibit 17-F, Chapter 17, of the LAPM), certified correct by the Consultant or the Consultant's authorized representative and shall be furnished to the Contract Administrator with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in 25 percent of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to the Consultant when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants" is submitted to the Contract Administrator.

6. DBE Certification and Decertification Status

If a DBE subconsultant is decertified during the life of the Contract, the decertified subconsultant shall notify the Consultant in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the Contract, the subconsultant shall notify the Consultant in writing with the date of certification. Any changes should be reported to the Agency's Contract Administrator within 30 days.

Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
**FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES
 (DBE), FIRST-TIER SUBCONTRACTORS**

ADA Notice
 For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814

CEM-2402F (REV 02/2008)

CONTRACT NUMBER		COUNTY	ROUTE	POST MILES	FEDERAL AID PROJECT NO.	ADMINISTERING AGENCY	CONTRACT COMPLETION DATE
PRIME CONTRACTOR			BUSINESS ADDRESS			ESTIMATED CONTRACT AMOUNT \$	
ITEM NO.	DESCRIPTION OF WORK PERFORMED AND MATERIAL PROVIDED	COMPANY NAME AND BUSINESS ADDRESS	DBE CERT. NUMBER	CONTRACT PAYMENTS			DATE OF FINAL PAYMENT
				NON-DBE	DBE	DATE WORK COMPLETE	
				\$	\$		
				\$	\$		
				\$	\$		
				\$	\$		
				\$	\$		
				\$	\$		
				\$	\$		
				\$	\$		
				\$	\$		
				\$	\$		
				\$	\$		
				\$	\$		
				\$	\$		
ORIGINAL COMMITMENT				\$	\$		
\$			TOTAL	\$	\$		

DBE

List all First-Tier Subcontractors, Disadvantaged Business Enterprises (DBEs) regardless of tier, whether or not the firms were originally listed for goal credit. If actual DBE utilization (or item of work) was different than that approved at time of award, provide comments on back of form. List actual amount paid to each entity.

I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT

CONTRACTOR REPRESENTATIVE'S SIGNATURE	BUSINESS PHONE NUMBER	DATE
TO THE BEST OF MY INFORMATION AND BELIEF, THE ABOVE INFORMATION IS COMPLETE AND CORRECT		
RESIDENT ENGINEER'S SIGNATURE	BUSINESS PHONE NUMBER	DATE

Copy Distribution-Caltrans contracts: **Original** - District Construction **Copy**- Business Enterprise Program **Copy**- Contractor **Copy** Resident Engineer

Copy Distribution-Local Agency contracts: **Original** - District Local Assistance Engineer (submitted with the Report of Expenditure) **Copy**- District Local Assistance Engineer **Copy**- Local Agency file

**FINAL REPORT – UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE), FIRST-TIER SUBCONTRACTORS
CEM 2402(F) (Rev. 02/2008)**

The form requires specific information regarding the construction project: Contract Number, County, Route, Post Miles, Federal-aid Project No., the Administering Agency, the Contract Completion Date and the Estimated Contract Amount. It requires the prime contractor name and business address. The focus of the form is to describe who did what by contract item number and descriptions, asking for specific dollar values of item work completed broken down by subcontractors who performed the work both DBE and non-DBE work forces. DBE prime contractors are required to show the date of work performed by their own forces along with the corresponding dollar value of work.

The form has a column to enter the Contract Item No. (or Item No's) and description of work performed or materials provided, as well as a column for the subcontractor name and business address. For those firms who are DBE, there is a column to enter their DBE Certification Number. The DBE should provide their certification number to the contractor and notify the contractor in writing with the date of the decertification if their status should change during the course of the project.

The form has six columns for the dollar value to be entered for the item work performed by the subcontractor.

The Non-DBE column is used to enter the dollar value of work performed for firms who are not certified DBE.

The decision of which column to be used for entering the DBE dollar value is based on what program(s) status the firm is certified. This program status is determined by the California Unified Certification Program by ethnicity, gender, ownership, and control issues at time of certification. To confirm the certification status and program status, access the Department of Transportation Civil Rights web site at: <http://www.dot.ca.gov/hq/bep> or by calling (916) 324-1700 or the toll free number at (888) 810-6346.

Based on this DBE Program status, the following table depicts which column to be used:

DBE Program Status	Column to be used
If program status shows DBE only with no other programs listed	DBE

If a contractor performing work as a DBE on the project becomes decertified and still performs work after their decertification date, enter the total dollar value performed by this contractor under the appropriate DBE identification column.

If a contractor performing work as a non-DBE on the project becomes certified as a DBE, enter the dollar value of all work performed after certification as a DBE under the appropriate identification column.

Enter the total of each of the six columns in Form CEM-2402(F).

Any changes to DBE certification must also be submitted on Form-CEM 2403(F).

Enter the Date Work Completed as well as the Date of Final Payment (the date when the prime contractor made the "final payment" to the subcontractor for the portion of work listed as being completed).

The contractor and the resident engineer sign and date the form indicating that the information provided is complete and correct.