

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

DEPT: Chief Executive Office

BOARD AGENDA # B-8

Urgent

Routine

AGENDA DATE October 20, 2015

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval to Develop Design-Build Documents and to Prepare a Final Financing Plan for the Community Services Facility, Heating, Ventilation and Air Conditioning Project, Adjust the Budget and Related Actions

STAFF RECOMMENDATIONS:

1. Approve proceeding to develop the Community Services Agency, Heating, Ventilation, and Air Conditioning (HVAC) Project to be returned to the Board of Supervisors for final approval.
2. Authorize the Project Manager to Enter into an Agreement with the previously selected Capital Engineering Consultants, Inc. to perform architectural and engineering services through the design-build phase for the Community Services Facility Heating, Ventilation and Air Conditioning (HVAC) System Replacement Design-Build Project

(Continued on Page 2)

FISCAL IMPACT:

On August 26, 2008, following approval of the Board of Supervisors, the County entered into an agreement with Capital Engineering Consultants, Inc., for professional services related to the analysis of the heating, ventilation and air conditioning (HVAC) system and preparation of a recommendation to repair and/or replace the HVAC system for the Stanislaus County Community Services Facility, which houses the Community Services Agency, Department of Child Support Services, Alliance Worknet and Health Services Agency.

(Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2015-480

On motion of Supervisor O'Brien, Seconded by Supervisor Monteith

and approved by the following vote.

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

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:

ATTEST:

  
CHRISTINE FERRARO TALLMAN, Clerk

File No.

**STAFF RECOMMENDATIONS: (Continued)**

3. Authorize the Project Manager to engage KNN Public Finance to develop a financing plan for the Community Services Facility HVAC System Replacement Project and refer the matter to the Debt Advisory Committee.
4. Increase appropriations and estimated revenue in the Chief Executive Office – Plant Acquisition budget by \$100,000 as reflected in the Budget Journal form, funded from existing departmental appropriations.
5. Authorize the Project Manager to issue a Request for Statement of Qualifications (RFSOQ) for the pre-qualification of design-build teams for the Community Services Facility HVAC System Replacement Project, the bridging design for which was prepared by the Capital Engineering Consultants, Inc. design team.
6. Authorize the Project Manager to retain Stradling Yocca Carlson & Rauth to prepare a Reimbursement Resolution providing for reclamation and reimbursement of interest on a quarterly basis and providing for reimbursement recovery over the 15-year life of the asset and providing for reimbursement of all expenses incurred up to 60 days prior to close of funding.
7. Authorize Project Manager to take such other and further actions necessary to advance the financing and procurement of the HVAC repair project.
8. Direct the Project Manager to return to the Board of Supervisors with a final design and financing plan for consideration by the Board of Supervisors.

**FISCAL IMPACT: (Continued)**

The initial engineering reports were not further pursued due to the cost of the project as well the County's inability to find funds and a financing approach to implement the project. The County was also challenged in the past to find a financing approach that was not only affordable but that allowed for maximum reimbursement by Federal and State sources.

Back In 2009, the State of California and the County of Stanislaus were responding to the economic recession. The Departments located within the Community Services Facility – Community Services Agency, Department of Child Support Services, Alliance Worknet and the Health Services Agency – were struggling with funding challenges to meet daily operating needs, and did not have sufficient fund balance savings to fund the HVAC project. The County was in the process of implementing various strategies to reduce costs countywide that did not include incurring additional debt and the work on to repair or replace the Community Services Facility HVAC system did not move forward at that time.

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Since that time, the HVAC system has continued to worsen in its condition and the consistent challenges require a full-time assignment of staff from General Services Agency Facilities Maintenance Division, to ensure the system operates as best as possible. Even these measures have been insufficient, as noted by the failure of portions of the system during this summer's hottest days. The system has nearly outlived its useful life.

Since that time, the issue of reimbursement of Federal and State funds needed for this project has been fully resolved to the County's advantage. Recently, given the worsening condition of the system, the Project Manager requested that Capital Engineering re-examine the HVAC system and update their original report, within the terms of the 2008 agreement.

Prior to the actual system being designed, the update report suggests a possible range of \$10 million to \$11.5 million for a **total project Cost**. This estimate is very preliminary given the need to design the actual replacement project.

The programs offered at the Community Services Facility are primarily federally funded, in order to fully claim the cost of the replacement including any interest, the funding for the HVAC system replacement project must come from a bona fide third party such as a bank or a public bond offering. The County would not be able to fund the cost of the project with the expectation of being repaid with interest. The use of Tobacco Securitization funds also does not meet the third party requirement.

For the next recommended phase of work, design and finance planning, it is estimated that \$100,000 is needed for these costs. As a result, an increase in appropriations and estimated revenue is recommended at \$100,000 in the Chief Executive Office Plant Acquisition budget; to be funded by the Departments housed in the Community Services Facility and is reflected in the sources and uses charts below.

<b>Community Services Facility HVAC Replacement Project</b>	<b>Sources</b>
Community Services Agency	\$ 76,240
Department of Child Support Services	\$ 12,350
Alliance Worknet	\$ 7,600
Health Services Agency	\$ 3,810
<b>Total</b>	<b>\$100,000</b>

<b>Community Services Facility HVAC Replacement Project</b>	<b>Uses</b>
Administration, Construction Management	\$ 40,000
Architecture and Engineering	\$ 25,000
Supplies & Services, Finance, Legal, Inspection Services	\$ 35,000
<b>Total</b>	<b>\$100,000</b>

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Staff will recommend the establishment of the full project budget at the time of award of the construction contract for the Community Services Facility HVAC System Replacement Project.

**DISCUSSION:**

**Background**

Constructed in 1994, the Community Services Facility (CSF) is a two-story, steel-framed, office and administration facility and includes 252,000 square feet of space which was considered to be a state-of-the-art facility when the doors opened to Stanislaus County residents. The building is comprised of four major modules or pods. Current building tenants include 1,300 employees of the Community Services Agency (CSA), Department of Child Support Services (DCSS), Alliance Worknet and the Health Services Agency (HSA) Women, Infants, and Children (WIC) and Nutrition Education programs. Every day approximately 1,200 customers are served by County employees in the facility. The facility must remain in operation during normal business hours Monday through Friday, 6:00 AM to 6:00 PM to serve public customers.

After years of continuous service, the HVAC system at the Stanislaus County Community Services Facility is not working properly and has significant challenges. It is necessary to repair and/or replace the system as soon as practical. It is significant to note that the system has reached the end of its useful life cycle.

Currently, there are many challenges to maintain a comfort level within the building. The existing HVAC units consist of 11 large custom-built rooftop Direct Expansion (DX) air-cooled HVAC units. Each unit serves approximately 10% of the building area. The 11 custom built rooftop units are in need of replacement. The County has replaced numerous reciprocating compressors over the past years. County maintenance believes the failures of those compressors may be due to factory control integration problems between the building automatic temperature control system and the factory installed unit control system.

Conditioned air is distributed from the roof top HVAC Units through sheet metal ducts using variable air volume (VAV) boxes with hot water reheat coils to control the flow of air. The main supply air trunk duct distribution uses medium pressure ducting upstream to the zone boxes and low-pressure down-stream of the VAV zone boxes. The majority of the return air is ducted. A small area of the ceiling serves as a return air plenum. Return air is ducted to the rooftop HVAC equipment.

At this time an unknown number of VAV zone boxes and heating water valves are failing. As a result, the ambient temperature within the system cannot be maintained as needed. The VAV zone boxes and heating water valves will have to be repaired or replaced. The replacement of the VAV boxes will require removing the existing

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boxes and replacing them with new boxes to match the existing supply air zone cubic feet per meter (CFM) and re-heat coil capacities. The system will also require re-balancing of the HVAC air and water systems.

The temperature of the air within the facility is controlled through a combination of pneumatic and direct digital control (DOC). The temperature control system is 1980's technology and is suspect of being a main source of the problems with the HVAC system.

The building has two Bryant natural gas fired heating hot water boilers, model RV500- W-FD6-WLX-LH with an output of 4,000 million British thermal units per hour (MBTUH), each located on the ground level. The boilers are plumbed together via a single manifold. Two local hot water pumps circulate hot water through the boilers and two system pumps circulate hot water to the building distribution piping system. The boilers supply heated hot water to the warm-up coils in each Miller-Picking/York units and to the exterior VAV zone boxes. The County maintenance staff believes the warm- up cycle hot water coils lack the capacity to properly heat the building during the warm- up cycle time limits.

The County also suspects the hot water piping may be corroding and must do forensic testing to check for deterioration of the steel and copper pipes.

### **Past Efforts**

The 2008-2009 Adopted Proposed Budget identified the HVAC system within the Community Services Facility as failing and close to the end of its useful life. The budget included recommendations for follow-up analysis, resulting in a Request for Proposals (RFP) that was issued on July 17, 2008 for Professional Consulting/Engineering Services to evaluate and analyze the system and identify a range of options for repairs or replacement of the HVAC system at the Community Services Facility. As a result of the RFP, on August 26, 2008, the Board of Supervisors authorized the Chief Executive Office to enter into an agreement with Capital Engineering Consultants, Inc. for professional services to evaluate, engineer and plan for the repair or replacement of the HVAC system at the CSF.

Capital Engineering completed its analysis of the system and in a report dated January 26, 2009, reflected that the cost of any repair or replacement project would exceed the preliminary budget estimates the County had developed prior to the RFP process. In 2009, the State of California and the County of Stanislaus were responding to the economic recession. The Departments located within the Community Services Facility were struggling with funding challenges to meet daily operating needs, and did not have sufficient fund balance savings to fund the HVAC repair project at that time. Also, the County was in the process of implementing various strategies to reduce costs countywide that did not include incurring additional debt. The work to repair or replace the Community Services Facility HVAC system did not move forward.

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**Current Activities**

Since that time, the HVAC system has continued to have challenges that require a full-time assignment of staff from General Services Agency Facilities Maintenance Division, to ensure it operates as best as possible. Even these measures have been insufficient, as noted by the failure of portions of the system during this summer's hottest days.

In view of improvements in the economic climate and the County's success in reducing the amount of its overall debt, the Project Manager requested that Capital Engineering re-examine the HVAC system and update their original report, within the terms of the 2008 agreement. Based on the updated report, the projected costs to replace the HVAC system are estimated to range from \$10 million to \$11.5 million. As the Departments within the Community Services Facility provide programs and services that are primarily federally funded, in order to fully claim the cost of the replacement, including any interest, the funding for the HVAC system replacement project must come from a bona fide third party such as a bank or a public bond offering. The County would not be able to fund the cost of the project with the expectation of being repaid with interest. The use of Tobacco Securitization funds also does not meet the third party requirement.

The County would need to use an independent financing to finance the costs associated with the project, with an expected term of 15 years. The County likely will pledge an existing County asset as collateral for the financing, in order to avoid having to incur capitalized interest for the financing. This would effectively minimize the amount borrowed and the overall cost of the financing.

The County also consulted with KNN Public Finance, the County's financial advisor, who provided staff with a briefing that described municipal finance processes in general and a review of Stanislaus County's debt program. KNN has evaluated two alternative financing approaches. The first is a public sale of Certificates of Participation (COPs). This would require the County to obtain ratings, fund a debt service reserve fund, prepare a preliminary and final official statement and sell the COPs by way of either a competitive or negotiated method of sale.

The second approach is a Direct Purchase of the COP/lease financing by a commercial bank (i.e., a private placement). The bank would be selected by way of an RFP process. The Direct Purchase involves lower overall costs of issuance, as no ratings, official statement or underwriter is required. Also, most Direct Purchase transactions do not require the funding of a debt service reserve fund. However, there may be a limited universe of banks willing to purchase a lease transaction with a final maturity of 15 years; moreover, the selected bank may require terms that the County may not wish to agree to; thus, the Direct Purchase approach may involve greater execution risk than a public sale.

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While it is the County's current preference to pursue the Direct Purchase approach, the County's financial advisor will evaluate the relative economics and feasibility of the two approaches again, closer to the time of the financing and will present their recommendations to the County's Debt Advisory Committee.

Overall, the County has a low level of debt remaining, attributed to a disciplined effort by the Board of Supervisors to reduce the County's debt load and to pay off debt early, where possible. In Fiscal Year 2011-2012, the County retired its 1997 COPs three months early. In Fiscal Year 2012-2013, the County refunded its 2004 Series A and B COPs, paying down approximately \$8.1 million early and shortening the final maturity of the financing from 25 years to 13 years. In Fiscal Year 2013-2014, the County paid off its Pension Obligation Bonds, freeing up approximately \$11.43 million of annual debt service. In Fiscal Year 2017-2018, the County will be able to pay off its 2007 COPs one year early, by using the proceeds in the debt service reserve fund.

The County currently has outstanding only three COP issues, all of which will be paid off by the end of Fiscal Year 2018-2019, in addition to a small amount of internal loans from the County's Tobacco Endowment. The County's debt ratios currently qualify the County for a "very strong" Debt and Contingent Liability Score in the Standard & Poor's GO Rating Methodology, and the proposed new debt for the HVAC Project should not change that scoring. This is the most favorable scoring possible for that portion of the rating, reflecting the County's low level of debt outstanding.

### **Next Steps**

There are several steps recommended at this time to move forward with the Community Services Facility HVAC System Replacement Project.

- Authorize the Project Manager to contract with Capital Engineering Consultants, Inc. to perform architectural and engineering services through the Design-Build (bridging) design phase for the Community Services Facility HVAC System Replacement Project.
- Authorize the Project Manager to engage KNN Public Finance and Stradling Yocca Carlson & Rauth to develop a financing plan for the Project, and refer the matter to the Debt Advisory Committee, prior to returning to the Board of Supervisors.
- Authorize the Project Manager to issue a RFSOQ to pre-qualify design-build teams for the project.

On September 29, 2015, the Project Manager briefed the Board of Supervisors' Capital Facilities Committee comprised of Supervisors O'Brien and Monteith on this important effort. The Committee recommended moving the project forward for the full Board of Supervisors' consideration.

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**POLICY ISSUE:**

The recommended actions support the Board's priorities of A Healthy Community, Efficient Delivery of Public Services and Effective Partnerships by ensuring staff and community members have a sound physical environment in which to conduct business.

**STAFFING IMPACT:**

The County anticipates substantial review and interaction between the Community Services Facility tenants, the Community Services Agency, the Alliance Worknet, the Department of Child Support Services and the Health Services Agency, along with the General Services Agency Facilities Maintenance Division and the Chief Executive Office Capital Projects team on this project.

The Project Manager anticipates the use of a personal services agreement for construction management activities on this project, funded within the project budget.

**CONTACT:**

Patricia Hill Thomas, Chief Operations Officer/Project Manager. Telephone: (209) 525-6333



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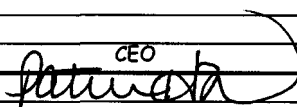
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Explanation: Establish initial design budget for CSF HVAC Replacement Project, BOS October 20, 2015

Requesting Department		Data Entry		Auditors Office Only	
Cynthia Thomlison	 Supervisor's Approval 10/14/15 Date	Keyed by	Prepared By	Approved By	
Prepared by		Date	Date	Date	Date
10/16/2015					
Date		Date	Date	Date	Date

**AGREEMENT  
FOR  
PROFESSIONAL SERVICES**

This Agreement for Professional Services is made and entered into by and between the County of Stanislaus ("County") and KNN Public Finance LLC, a California Limited Liability Company (Consultant), on July 12, 2016 (the "Agreement").

**Introduction**

WHEREAS, the County has a need for services involving for actions related to the financing of the Community Services Facility HVAC Rooftop Control Replacement Project.

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

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

**Terms and Conditions**

1. **Scope of Work**

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

1.2 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. 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.

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

1.4 The Consultant shall provide services and work under this Agreement consistent with the requirements and standards established by applicable federal, state and County laws, ordinances, regulations and resolutions. The Consultant represents and warrants that it will perform its work in accordance with generally accepted industry standards and practices for the profession or professions that are used in performance of this Agreement and that are in effect at the time of performance of this Agreement. Except for that representation and any representations made or contained in any proposal submitted by the Consultant and any reports or opinions prepared or issued as part of the work performed by the Consultant under this Agreement, Consultant makes no other warranties, either express or implied, as part of this Agreement.

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

## 2. Consideration

2.1 The Consultant shall be compensated on either a time and materials basis or a lump sum basis, as provided in Exhibit A attached hereto.

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

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

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

## 3. Term

3.1 The term of this Agreement shall be from the date of this Agreement until completion of the agreed upon services unless sooner terminated as provided below or unless some other method or time of expiration is listed in Exhibit A.

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

3.3 The County may terminate this agreement upon 30 days prior written notice. Termination of this Agreement shall not affect the County's obligation to pay for all fees earned and reasonable costs necessarily incurred by the Consultant as provided in Paragraph 2 herein, subject to any applicable setoffs.

3.4 This Agreement shall terminate automatically on the occurrence of (a) bankruptcy or insolvency of either party, or (b) sale of Consultant's business.

## 4. Required Licenses, Certificates and Permits and Compliance with Laws

Any licenses, certificates or permits required by the federal, state, county or municipal governments

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

Consultant shall comply will all applicable local state and Federal Laws rules and regulations.

5. Office Space, Supplies, Equipment, Etc.

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

6. Insurance

Coverage Required: Contractor shall obtain, and maintain at all times during the term of this Agreement, insurance coverage in the amounts and coverage specified in the attached "Exhibit B."

7. Defense and Indemnification

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

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

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

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

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

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

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

## 8. Status of Consultant

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

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

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

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

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

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

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

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

## 9. Records and Audit

9.1 Consultant shall prepare and maintain all writings, documents and records prepared or

compiled in connection with the performance of this Agreement for a minimum of four (4) years from the termination or completion of this Agreement. This includes any handwriting, typewriting, printing, photostatic, photographing and every other means of recording upon any tangible thing, any form of communication or representation including letters, words, pictures, sounds or symbols or any combination thereof.

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

#### 10. Confidentiality

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

#### 11. Nondiscrimination

11.1 During the performance of this Agreement, Contractor and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any Federal, State or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, genetic information, pregnancy related condition, marital status, gender/sex, sexual orientation, gender identity, gender expression, age (over 40), political affiliation or belief, or military and veteran status. Contractor and its officers, employees, agents, representatives or subcontractors shall comply with all applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the County's non-discrimination 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.

11.2 Consultant shall include the non-discrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.

11.3 Consultant shall provide a system by which recipients of service shall have the opportunity to express and have considered their views, grievances, and complaints regarding Consultant's delivery of services.

#### 12. Assignment

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

#### 13. Waiver of Default

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

14. Notice

Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which Consultant or County shall be required or may desire to make shall be in writing and shall be personally served or, alternatively, sent by prepaid first class mail to the respective parties as follows:

To County:	To Consultant:
Stanislaus County Purchasing Agent	KNN Public Finance
1010 10 <sup>th</sup> Street, Suite 5400	1300 Clay Street, Ste. 1000
Modesto, CA 95353	Oakland, CA 94612

15. Conflicts

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

16. Severability

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

17. Amendment

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

18. Entire Agreement

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

19. Advice of Attorney

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

20. Construction

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

21. Governing Law and Venue

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


*(signatures on the next page)*

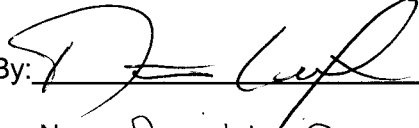


IN WITNESS WHEREOF, the parties or their duly authorized representatives have executed this Agreement on the day and year first hereinabove written.

**COUNTY OF STANISLAUS**

**KNN Public Finance LLC**

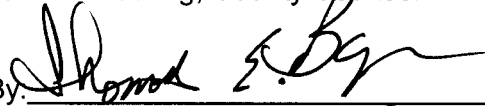
By:   
Patricia Hill Thomas Chief Operations Officer,

By: 

"County"

Name David Leifer  
Title Senior Managing Director  
"Consultant"

APPROVED AS TO FORM:  
John P. Doering, County Counsel

By:   
Thomas E. Boze, Deputy County Counsel  
*Ass. 5/6/16*

## **EXHIBIT A**

### **A. SCOPE OF WORK**

The Consultant shall provide the following services under this Agreement:

1. Assist the County in assembling a financing team, as necessary. (i.e., Bond/Tax Counsel, Placement Agent, Direct Purchase Bank, Trustee, Escrow Agent, Verification Agent, etc.).
2. Assist the County in coordination of financing activities between representatives of County offices, including the County Executive, Treasurer-Tax Collector, Auditor-Controller, County Counsel, etc., as needed.
3. Prepare a financing schedule and distribution list and update as necessary.
4. Attend meetings as requested by the County to discuss and formulate plans about proposed financing. This may include public hearings and meetings of the County's Board of Supervisors and Debt Advisory Committee meetings.
5. Evaluate alternative methods of sale and recommend a method of sale (private placement/direct purchase, competitive sale, or negotiated sale) for the COPs/lease.
6. Assist Placement Agent in the drafting of the direct purchase investor RFP, as necessary.
7. Assist in review of direct purchase investor RFP responses, if Direct Purchase method of sale is used.
8. Prepare various debt service and structuring analyses for the financing, including analyses under different market conditions, terms and debt structures.
9. Assist in effectuating the defeasance of the County's 2007 Certificates of Participation.
10. Assist with the review and negotiation of all bond documents, including but not limited to the Board of Supervisors Resolution, Financing Authority Resolution, Facilities Lease/Purchase Agreement, Facilities Sublease, Assignment Agreement, etc.
11. Coordinate the closing of the transaction, including the transfer of funds.
12. Be available to the County staff after the financing closing to answer questions regarding the transaction.

### **B. Compensation**

1. For services set forth above, Consultant shall be paid the following fixed transaction fees, contingent on the successful closing of the financing: \$80,000 for a financing sold by way of direct purchase.

### **C. Expenses**

1. Consultant's compensation provided above does not include, and Consultant shall be reimbursed by County for reasonable direct expenses related to Consultant's performance of services under this Agreement with a not-to-exceed cap of \$2,500. Such expenses are to be reimbursed upon presentation of an invoice, in arrears, upon proof of incurrence satisfactory to County.
2. Travel cost, including meals, the use of personal automobiles at 54.0 cents per mile, rental vehicles, and hotel costs.
3. Courier and delivery services, postage, laser, color, photographic offset printing and reproduction costs, use of company materials and supplies, document production, copying and binding, facsimile transmission, telephone, conference call, \$550 for data information services which includes Bloomberg and TM3, and computer/graphics usage.
4. Otherwise reasonable expenses directly related to the satisfactory performance of requested work.
5. Consultant's expenses to be reimbursed by the County are subject to approval by County, as shall be deemed reasonable for carrying out the Scope of Work herein contained in the Agreement.

### **D. INVOICE TO:**

Invoices shall be submitted to:

Stanislaus County  
Attn: Patricia Hill Thomas  
1010 10<sup>th</sup> Street, Suite 5400  
Modesto, CA 95354

## EXHIBIT B

### Insurance Requirements for Professional Services

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

#### MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** If the Consultant or the Consultant's officers, employees, agents, representatives or subcontractors utilize a motor vehicle in performing any of the work or services under the Agreement Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation insurance** as required by the State of California, with Statutory Limits, and **Employer's Liability Insurance** with limit of no less than \$1,000,000 per accident for bodily injury or disease.  
(Not required if consultant provides written verification it has no employees)
4. **Professional Liability (Errors and Omissions) Insurance** appropriate to the Consultant's profession, with limits not less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the Consultant maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

#### *Application of Excess Liability Coverage*

Consultants may use a combination of primary, and excess insurance policies which provide coverage as broad as ("follow form" over) the underlying primary policies, to satisfy the Required Insurance provisions.

#### *Other Insurance Provisions*

The insurance policies are to contain, or be endorsed to contain, the following provisions:

***Additional Insured Status***

The County, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Consultant including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Consultant's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).

***Primary Coverage***

For any claims related to this contract, the Consultant's insurance coverage shall be primary insurance primary coverage at least as broad as ISO CG 20 01 04 13 as respects the County, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, agents or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

Reporting: Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials, employee's, agents or volunteers.

***Notice of Cancellation***

Each insurance policy required above shall state that coverage shall not be canceled, except with notice to the County.

***Waiver of Subrogation***

Consultant hereby grants to County a waiver of any right to subrogation which any insurer of said Consultant may acquire against the County by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

***Self-Insured Retentions***

Self-insured retentions must be declared to and approved by the County. The County may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or County.

***Acceptability of Insurers***

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the County.

***Claims Made Policies***

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

***Verification of Coverage***

Consultant shall furnish the County with a copy of the policy declaration and endorsement page(s), original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

***Subcontractors***

Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that County is an additional insured on insurance required from subcontractors.

***Special Risks or Circumstances***

County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

***Insurance Limits***

The limits of insurance described herein shall not limit the liability of the Consultant and Consultant's officers, employees, agents, representatives or subcontractors. Consultant's obligation to defend, indemnify and hold the County, its officers, officials, employees, agents and volunteers harmless under the provisions of this paragraph is not limited to or restricted by any requirement in the Agreement for Consultant to procure and maintain a policy of insurance.

APPROVED AS TO INSURANCE CONTENT:

Stanislaus County

Chief Executive Office – Risk Management Division

By: Kevin Watson

Name: KEVIN WATSON

Title: LIABILITY & INSURANCE MANAGER

Date: 7-27-2016

AGREEMENT FOR LEGAL SERVICES

RE LEASE FINANCING OF COMMUNITY SERVICES FACILITY IMPROVEMENTS

THIS AGREEMENT, made as of this 1 day of July, 2016, by and between STANISLAUS COUNTY, a body politic and corporate of the State of California (herein the "County"), and STRADLING, YOCCA, CARLSON & RAUTH, a Professional Corporation (herein "Special Counsel"):

R E C I T A L S :

A. The County desires to retain Special Counsel to do the legal work hereinafter outlined, upon the terms and conditions hereinafter set forth, related to the financing of capital improvements to the heating, ventilation and air conditioning systems at the County's Community Services Facility (the "Project"); and

B. The County acknowledges, notwithstanding the date this Agreement is entered into, that Special Counsel has been performing work related to this Agreement prior to its date; and

C. Special Counsel represents that it is ready, willing and able to perform said legal work;

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

1. The County retains Special Counsel to provide, and Special Counsel will provide, legal services in connection with the financing of the Project and the defeasance of the County's Refunding Certificates of Participation Series A of 2007 (the "2007 Certificates") which is expected to be accomplished through a direct lease arrangement with Bank of the West (the "Purchaser"). Special Counsel agrees to consult with and advise County officials as to the best legal method of accomplishing the financing of the Project, including the defeasance of the 2007 Certificates. Such services shall include, but not be limited to, the drafting of resolutions, notices, agreements and other documents required for the financing of the Project and the defeasance of the 2007 Certificates and

the rendering of one or more legal opinions (hereinafter called “the opinions”) pertaining to transaction to the effect that:

- a. The leases related to the financing of the Project have been properly authorized, executed and delivered and are valid and binding obligations;
- b. The interest component of the lease payments from the County under the lease is exempt from California personal income taxation and is excluded from gross income for purposes of federal income taxes; and
- c. The leases have been validly assigned to the Purchaser.

Special Counsel’s services will also include compiling a sufficient record justifying the opinion by:

- i. Researching applicable laws and ordinances relating to the financing of the Project;
- ii. Attending conferences and consulting with County staff and counsel regarding such laws, and the need for amendments thereto, or additional legislation;
- iii. Participating with the County’s financial advisor and other experts retained by the County in structuring the financing of the Project;
- iv. Supervising and preparing documentation of certain steps to be taken through the financing of the Project including:
  - a. Drafting all resolutions, notices, rules and regulations, and other legal documents relating to the financing of the Project, in consultation with County, its counsel, financial advisors, underwriters and other experts;
  - b. Preparing the record of proceedings for the authorization and execution and delivery of the documents required to accomplish the financing of the Project;
  - c. Attending informational meetings and other conferences scheduled by the County, the financial advisors or the underwriters;



- d. Consulting with counsel to County concerning any legislation or litigation during the course of the financing of the Project; and
- e. Delivering a defeasance opinion regarding the 2007 Certificates and a Termination Agreement for the leases related to the 2007 Certificates;

2. This contract shall be administered by the Chief Executive Officer, or his designee. The Chief Executive Officer, or his designee, will provide overall coordination and guidance of the services to be performed hereunder and will address policy issues as necessary and appropriate.

3. The County agrees to accept, and Special Counsel agrees to provide, the services to be performed hereunder primarily through Robert J. Whalen and Carol L. Lew, who will be assisted by Reed Glycer. The County reserves the right to review and approve all staff changes proposed by Special Counsel which will affect key personnel and positions assigned to provide services to the County under this Agreement. The County's approval of such staff changes shall not be unreasonably withheld.

4. For services rendered under paragraph 1 of this Agreement, the County agrees to pay Special Counsel a fee of \$32,000. Payment of such fee is contingent upon the completion of the financing of the Project. It is agreed that Special Counsel's representation of the County with respect to matters related to the financing of the Project will terminate on the date that the financing of the Project is funded through the execution and delivery of an assignment and purchase agreement with the Purchaser.

5. In the event that the County desires to engage Special Counsel to perform additional work outside of that described in paragraph 1, such as work related to litigation, work on legislation, work with the Internal Revenue Service related to proposed regulations, letter rulings or other matters, post-closing work related to the financing of the Project, or other studies or analyses requested by the County related to the County's lease and debt financings, Special Counsel will be paid additional compensation therefor at the customary hourly rate of the attorney performing such services, which rate in no event will exceed \$525 per hour. Legal services to be rendered by Special Counsel under this paragraph shall be undertaken only at the written direction of the Chief Executive

Officer, or his written designee. Fees for legal services rendered pursuant to this paragraph 5 will be billed monthly and shall be payable by the County within thirty (30) days following the receipt of each invoice.

6. In addition to the fees set forth in paragraphs 4 and 5, Special Counsel shall be reimbursed by the County for the actual cost of any out-of-pocket expenses reasonably incurred by Special Counsel in the course of its employment, such as document reproduction, overnight delivery and messenger charges, telecommunications charges, printing costs, filing fees, long distance telephone calls, travel at the request of the County, and similar items of expense incurred by Special Counsel with respect to third parties who are not parties to this Agreement.

Reasonable and necessary travel and lodging expenses will be paid only as incurred and at the actual cost incurred. Such costs are subject to County approval and shall not exceed \$2,000. The County shall reimburse Special Counsel for travel, lodging and meals within 30 days of submission of an actual receipt for travel and lodging expenses, or submission of an itemized invoice for reimbursement of the cost of meals.

Reimbursement of travel, lodging and meals shall be made in accordance with the following requirements:

Lodging: Lodging charges shall be limited to reasonable and necessary costs for moderate accommodations. Actual receipt is required for reimbursement.

Air Travel: Air travel charges will be limited to coach or corporate rates; first class air fare will not be reimbursed. Reservations must be made as early as possible for cost savings. Actual receipt is required for reimbursement.

Meals: Reimbursement for meals shall not exceed \$50.00 per day. The County will reimburse for the actual cost of meals, not to exceed \$50.00 per day. No receipt is required, but the invoice requesting reimbursement shall provide information concerning the reimbursement requested, including the name of the person, the date and the location where the meals were purchased.

The County will not reimburse for personal expenses, laundering, tips, alcoholic beverages, pay TV, faxes or phone calls not related to the work for Stanislaus County.

7. The fee schedule set forth in paragraph 4 hereof assumes that the financing of the Project will be completed by December 31, 2016. If the financing of the Project is not completed within that time, Special Counsel reserves the right to make such modifications to the fee set forth in paragraph 4 as the County and Special Counsel agree, as justified by reason of increased costs to Special Counsel, if any, and the then prevailing fee schedule for transactions such as the one proposed for the financing of the Project.

8. This Agreement may be terminated without cause by the County or Special Counsel upon thirty (30) days' advance written notice to the other party. Such notification shall state the effective date of the termination of this Agreement.

9. During the performance of this Agreement, Special Counsel agrees as follows:

(a) In connection with the execution of this Agreement, Special Counsel shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. Such actions shall include, but not be limited to, the following: employment, promotion, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for employment.

(b) Special Counsel will comply with all federal regulations relative to nondiscrimination in federally-assisted programs.

(c) Special Counsel will comply with all applicable statutes and regulations relating to the Fair Political Practice Commission and further agrees to report to the County any and all benefits received by Special Counsel from other participants in the borrowing.

10. Special Counsel agrees to keep adequate documentation of each transaction to permit the determination of allowability of expenditures to be reimbursed by the County. If the allowability of expenditures cannot be determined because records of Special Counsel are inadequate, Special Counsel agrees that the questionable cost shall be disallowed by the County; provided, however, Special Counsel shall have the right to appeal findings of disallowed costs.

11. All invoices for payment, progress reports and other official communications relating to this Agreement shall be mailed to:

Stanislaus County  
Attention: Chief Executive Officer  
1010 10th Street, Suite 6800  
Modesto, California 95354

12. Special Counsel and the employees of Special Counsel, in performance of the Agreement, shall act in an independent capacity and not as officers or agents of the County.

13. Without the written consent of the County, this Agreement is not assignable by Special Counsel in whole or in part.


14. No alteration or variation of the terms of this Agreement shall be valid unless in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

15. Special Counsel shall make staff available to the County for meetings which the County may find necessary.

16. Special Counsel shall maintain, during the term of this Agreement, professional liability insurance covering negligent acts, errors or omissions of Special Counsel, the limits of which shall not be less than \$1,000,000 combined single limit per occurrence and annual aggregate. Upon request, Special Counsel will deposit with the County certificates of insurance necessary to satisfy the County that such professional liability insurance provisions have been complied with, and shall keep such insurance in effect during the term of this Agreement. Special Counsel shall provide County thirty (30) days' written notice of any reduction in the amount of such insurance.

IN WITNESS WHEREOF, as of the date first hereinabove written, the County has caused this instrument to be executed by its Chief Executive Officer; and Special Counsel has caused this instrument to be executed on its behalf and in its name by an authorized officer of Special Counsel.

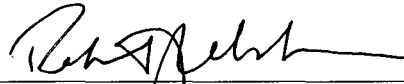
STANISLAUS COUNTY

By:   
Chief Executive Officer  
*operation*

APPROVED AS TO FORM:

By:   
Deputy County Counsel

STRADLING, YOCCA, CARLSON & RAUTH,  
a Professional Corporation

By:   
Robert J. Whalen

**APPROVAL TO DEVELOP DESIGN-BUILD  
DOCUMENTS AND TO PREPARE A FINAL  
FINANCING PLAN FOR THE COMMUNITY  
SERVICES FACILITY HEATING, VENTILATION  
AND AIR CONDITIONING PROJECT, ADJUST  
THE BUDGET AND RELATED ACTIONS**

Stanislaus County Board of Supervisors  
Agenda Item B-8, October 20, 2015



# Project Manager

- Patricia Hill Thomas
  - Stanislaus County Chief Operations Officer



# Community Services Facility

- Constructed in 1994, the facility is a two-story, steel-framed office and administration facility
- Houses 1,300 employees in 252,000 square feet of space in four modules or pods
- Approximately 1,200 customers enter the facility daily, Monday through Friday.





# Community Services Facility

- The facility houses four County departments:
  - Community Services Agency, 76.2%
  - Department of Child Support Services, 12.4%
  - Alliance Worknet, 7.6%
  - Health Services Agency Nutrition Education and Women, Infant, Children (WIC) programs, 3.8%



# Background

- The Community Services Facility Heating, Ventilation and Air Conditioning (HVAC) System is near or at the end of its useful life-cycle.
  - The system is original to the building, circa 1994.
  - Was state-of-the-art at the time, now facing significant challenges.
  - General Services Agency Facilities Maintenance staff on-site full-time.



# Past Efforts

- Capital Engineering Consultants, Inc. was engaged in August, 2008 to evaluate and analyze system, identify range of options.
- Report issued in January, 2009 indicated the need to have significant repair or replace entire system.
- No action was taken at that time as a result of funding challenges.



# Current Activities

- HVAC system continues to have major challenges.
- Project Manager re-engaged Capital Engineering Consultants to re-examine the system and update their report.
- Replacement and repair of system is necessary to protect employees, customers and the building.



# HVAC System

- Recommended work includes replacement of eleven (11) existing large custom-built Variable Air Volume (VAV) air conditioning units ranging in size from 7,000 to 28,000 cubic feet per minute (CFM) of airflow.
- Units will be custom-built to fit on existing roof curbs.



# HVAC System

- Approximately 400 existing Variable-air-volume (VAV) boxes will be refurbished and upgraded.
- The new units and refurbished VAV boxes will be provided with new direct digital controls.
- New space sensors for each zone will be provided.



# HVAC System

- New controls will be provided to serve the existing two central heating hot water boilers.
- All HVAC controls will be graphically displayed on a new building automation system front-end that is compatible with existing County systems.



# HVAC System

- Zoning improvements will be incorporated where space changes have occurred since the original design of the building.
- Work is anticipated to occur mostly after normal working hours, to minimize disruption of normal operations.





# Federal and State Reimbursement

- Programs provided at the Community Services Facility are primarily State and Federally funded.
- Federal and State regulations require funding for capital projects to come from a “Bona Fide Third Party,” such as a bank or a public bond offering, in order to claim full reimbursement of costs over the life of the equipment – in this case, 15 years.



# County Financial Advisor

- David Leifer, KNN Public Finance





# Stanislaus County

Presentation to the Board of Supervisors

Proposed HVAC Financing Plan

Tuesday, October 20, 2015



1300 Clay Street, Suite 1000, Oakland, CA 94612  
phone 510-839-8200 fax 510-208-8282

A Division of Zions Public Finance, Inc.



# Overview of County's Debt



1300 Clay Street, Suite 1000, Oakland, CA 94612  
phone 510-839-8200 fax 510-208-8282

A Division of Zions Public Finance, Inc.

# Effective Debt Management

- Due to the diligence of Board and staff efforts, the County has retired debt early, or shortened the maturity of its debt, on several occasions in the past four years.
  - In Fiscal year 2011-2012, the County paid off its 1997 Series B Certificate of Participation three months prior to the final maturity date.
  - In Fiscal year 2012-2013, the County refunded its 2004 Series A and B Certificates of Participation. In connection with the refunding, the County paid off approximately \$8.1 million of the COPs early and significantly shortened the term of the financing from 25 years to 13 years.



# Effective Debt Management

- In Fiscal Year 2014-2015, the Board of Supervisors approved the transfer of \$3.98 million of Unassigned Fund Balance and \$1.77 million of Assigned Other Fund Balance to the Sheriff Coroner's Facility Capital Project Fund and the Capital Acquisition account, respectively, in order to repay the original cash drawn from the 2006 Tobacco Endowment Fund.
- In Fiscal year 2017-2018, the County will be able to pay off its 2007 Series A Certificates of Participation one year early, by using the proceeds in the debt service reserve fund.



# Effective Debt Management

- In Fiscal year 2013-2014, the County also made its final Pension Obligation Bond payment, freeing up approximately \$11.43 million in annual debt service.
- The County has not issued new money debt since 2011\*, when it borrowed internally from Tobacco Endowment Funds to finance AB 900 Phase II Jail Construction and for the Coroner's Re-Use of the Medical Arts Building.

\*Assumes Internal Loan is dated 12/13/2011  
(when financing plan was approved).



# Outstanding Debt Issues

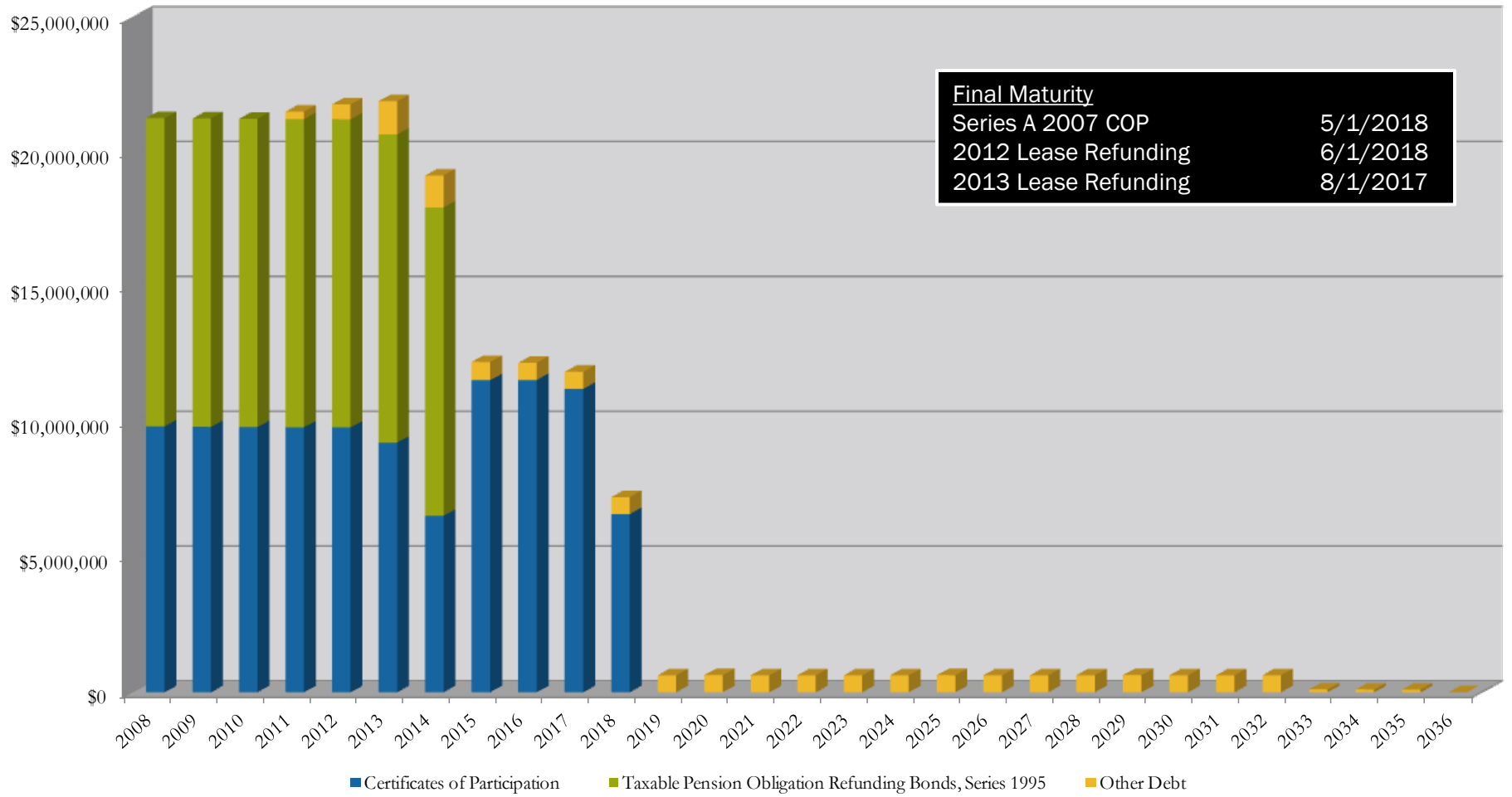
<b>Debt Type</b>	<b>Purpose</b>	<b>Amount Outstanding as of 6/30/2015</b>	<b>Annual Debt Service as of 6/30/2015</b>	<b>Final Maturity Date</b>
COP Series A 2007	Construct Public Safety Center and Community Services Building.	\$11,725,000	\$4,960,288	5/1/2018
2012 Lease Refunding	Refunded 1998 Series A COPS; originally funded the construction of a portion of the 10th Street Place building with the City of Modesto.	\$4,594,972	\$1,579,859	6/1/2018
2013 Lease Refunding	Refunded 2004 A & B COPS; originally funded the construction of Gallo Center for the Arts, 12th Street office building and parking garage.	\$14,765,000	\$5,032,287	8/1/2017





# Annual Net Debt Service- COPs and POB

- The majority of the County's outstanding debt will be retired by FY 2018.



\* Assumes that 2007 COPs' debt service reserve fund will be used to pay off final principal and interest payment; observed in FY 18/19



# HVAC Project



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A Division of Zions Public Finance, Inc.

# Proposed HVAC Financing

- The County will use a lease financing to finance the costs associated with the HVAC project, with an expected term of 15 years and an expected par amount of approximately \$10 million.
- The County likely will pledge an existing County asset as collateral for the financing, in order to avoid having to incur capitalized (i.e. borrowed) interest for the financing. This will minimize the amount borrowed and the overall cost of the financing.



# Proposed HVAC Financing

- KNN has evaluated two alternative financing approaches.
  1. The first is a public sale of Certificates of Participation (COP). This would require the County to obtain ratings, fund a debt service reserve fund, prepare a preliminary and final official statement and sell the COPs by way of either a competitive or negotiated method of sale.



# Proposed HVAC Financing

2. The second approach is a Direct Purchase of the COP/lease financing by a commercial bank (i.e., a private placement). The bank would be selected by way of an RFP process. The Direct Purchase generally involves lower overall costs of issuance but also introduces execution risk. Also, most Direct Purchase transactions do not require the funding of a debt service reserve fund.
- The County's current preference is to pursue the Direct Purchase approach but both options will be evaluated closer to the sale date.

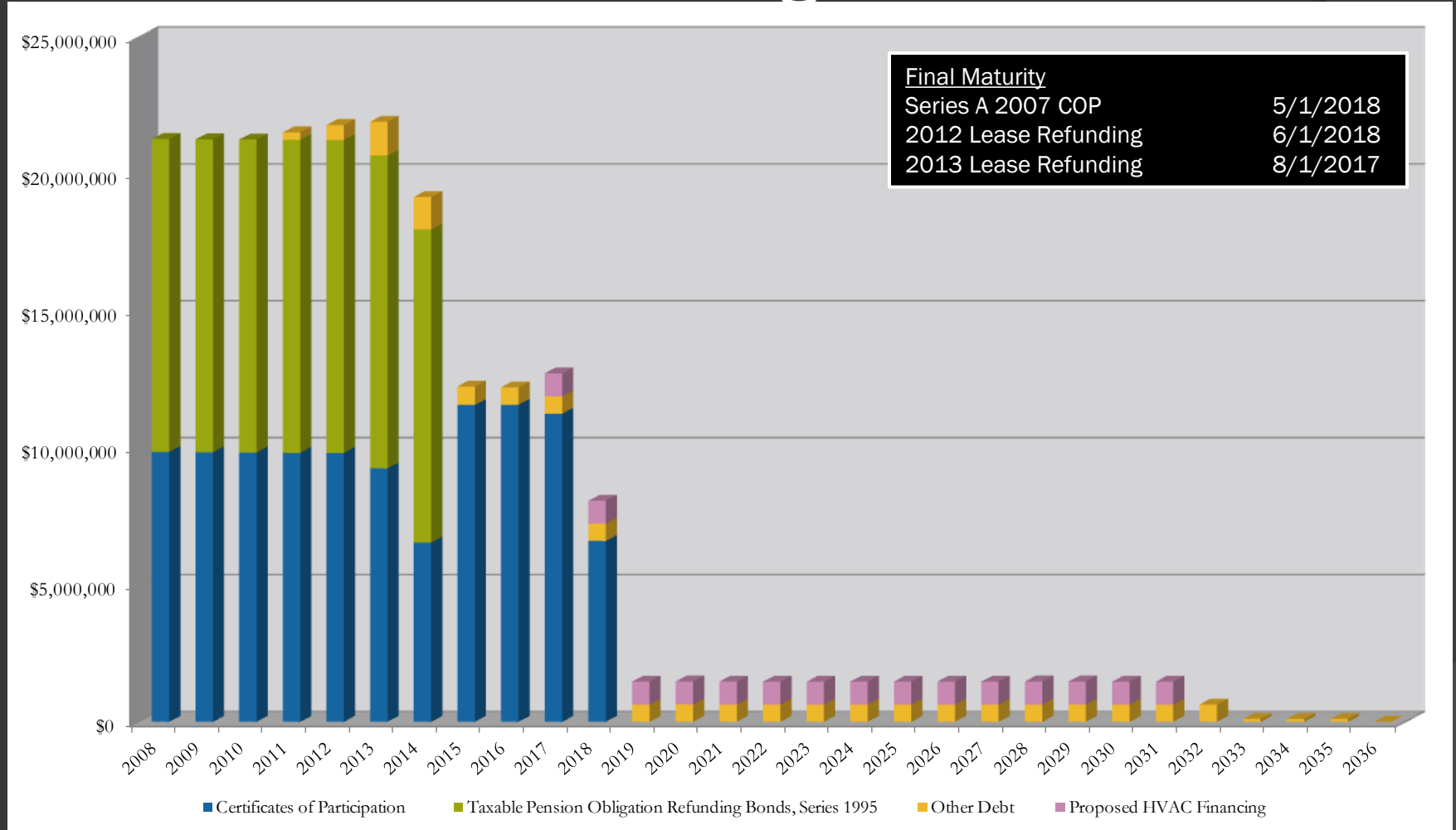


# Potential Financing Scenarios

**Stanislaus County**  
**Summary of Proposed HVAC Construction Project**

	Scenario 1	Scenario 2
Issuance Date:	April 1, 2016	April 1, 2016
Sale Type:	Public Sale	Direct Purchase- Non-Bank Qualified
Term:	15 years	15 years
Par Amount:	\$9,620,000	\$9,850,000
Bond Premium:	\$1,285,642	-
Child Support Available General Fund Cash:	\$1,300,000	\$1,300,000
Total Sources	\$12,205,642	\$11,150,000
Project Deposit:	\$11,000,000	\$11,000,000
Cost of Issuance: <sup>1</sup>	\$225,000	\$150,000
Underwriter's Discount: <sup>2</sup>	\$48,100	-
Capitalized Interest Fund: <sup>3</sup>	-	-
Deposit to Reserve Fund: <sup>4</sup>	\$929,500	-
Additional Proceeds:	\$3,042	-
Total Uses	\$12,205,642	\$11,150,000
All-In T.I.C.: <sup>5</sup>	3.60%	3.40%
Estimated Average Annual Debt Service:	\$926,883	\$836,444
Total Gross Debt Service:	\$13,903,250	\$12,546,667
Average Coupon:	5.00%	3.19%
First Interest Payment:	October 1, 2016	October 1, 2016
First Principal Payment:	April 1, 2017	April 1, 2017

# Annual Net Debt Service After Additional Bonding



\*Assumes that 2007 COPs' debt service reserve fund will be used to pay off final principal and interest payment; observed in FY 18/19

# Impact to County Debt Ratios

	FY 13-14 <sup>4</sup>	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19
Existing General Fund Debt Service (Existing COPs and Internal Tobacco Loans) <sup>1,5,6</sup>	\$22,247,706	\$12,248,103	\$12,214,496	\$11,885,961	\$10,284,630	\$631,413
Estimated New Debt Service <sup>2</sup>	\$0	\$0	\$0	\$839,215	\$837,468	\$835,242
Total Estimated Debt Service	\$22,247,706	\$12,248,103	\$12,214,496	\$12,725,176	\$11,122,098	\$1,466,654
Net Direct Debt (Existing COPs and Internal Tobacco Loans) <sup>1,5,6</sup>	\$55,788,470	\$39,184,972	\$28,049,218	\$16,902,703	\$7,065,000	\$6,695,000
Estimated Net Direct Debt <sup>2</sup>	\$0	\$0	\$0	\$9,325,000	\$8,785,000	\$8,230,000
Total Net Direct Debt	\$55,788,470	\$39,184,972	\$28,049,218	\$26,227,703	\$15,850,000	\$14,925,000
Existing Governmental Funds Debt Service <sup>1</sup>	\$22,247,706	\$12,248,103	\$12,214,496	\$11,885,961	\$10,284,630	\$631,413
Total Governmental Funds Expenditures <sup>3</sup>	\$762,953,710	\$785,842,321	\$809,417,591	\$833,700,119	\$858,711,122	\$884,472,456
Total General Fund Expenditures <sup>3</sup>	\$179,194,321	\$184,570,151	\$190,107,255	\$195,810,473	\$201,684,787	\$207,735,331
Total Governmental Funds Revenues <sup>3</sup>	\$760,756,248	\$783,578,935	\$807,086,304	\$831,298,893	\$856,237,859	\$881,924,995
Total Governmental Funds Debt Service as a % of Total Governmental Funds Expenditures	2.92%	1.56%	1.51%	1.43%	1.20%	0.07%
Total General Fund Debt Service as a % of Total General Fund Expenditures	12.42%	6.64%	6.43%	6.50%	5.51%	0.71%
Net Direct Debt as % of Total Governmental Funds Revenue	7.33%	5.00%	3.48%	3.16%	1.85%	1.69%



# Observations

- The County has a low level of outstanding debt.
- County's debt ratios are considered very strong based on S&P's U.S. Local Governments G.O. Ratings Methodology and Assumptions' debt and contingent liabilities criteria.
- It is estimated that additional bonding will not adversely impact the County's very strong debt and contingent liabilities score.
- It is important to remember that the majority of the County's outstanding debt burden, i.e. 2007 COPs, 2012 Lease Refunding and 2013 Lease Refunding, will be paid in full in Fiscal Year 2017-2018.



# Project Funding

- The recommended phase of work includes design and finance planning and is estimated at \$100,000, funded from existing departmental appropriations.

Community Services Facility HVAC Replacement Project	Sources
Community Services Agency	\$76,240
Department of Child Support Services	\$12,350
Alliance Worknet	\$7,600
Health Services Agency	\$3,810
<b>Total</b>	<b>\$100,000</b>



# Capital Facilities Committee

- On September 29, 2015, the Project Manager briefed the Board of Supervisors' Capital Facilities Committee on this effort.
- The Committee recommended moving the project forward for the full Board of Supervisors' consideration.



# Recommendations

1. Approve proceeding to develop the Community Services Agency Heating, Ventilation, and Air Conditioning (HVAC) Project to be returned to the Board of Supervisors for final approval.



# Recommendations

2. Authorize the Project Manager to enter into an agreement with the previously selected Capital Engineering Consultants, Inc. to perform architectural and engineering services through the design-build phase for the Community Services Facility HVAC System Replacement Design-Build Project.



# Recommendations

3. Authorize the Project Manager to engage KNN Public Finance to develop a financing plan for the Community Services Facility HVAC System Replacement Project and refer the matter to the Debt Advisory Committee.



# Recommendations

4. Increase appropriations and estimated revenue in the Chief Executive Office – Plant Acquisition budget by \$100,000 as reflected in the Budget Journal form, funded from existing departmental appropriations.



# Recommendations

5. Authorize the Project Manager to issue a Request for Statement of Qualifications (RFISOQ) for the pre-qualification of design-build teams for the Community Services Facility HVAC System Replacement Project, the bridging design for which was prepared by the Capital Engineering Consultants, Inc. design team.





# Recommendations

6. Authorize the Project Manager to retain Stradling Yocca Carlson & Rauth to prepare a Reimbursement Resolution providing for reclamation and reimbursement of interest on a quarterly basis and providing for reimbursement recovery over the 15-year life of the asset and providing for reimbursement of all expenses incurred up to 60 days prior to close of funding.



# Recommendations

7. Authorize Project Manager to take such other and further actions necessary to advance the financing and procurement of the HVAC repair project.
8. Direct the Project Manager to return to the Board of Supervisors with a final design and financing plan for consideration by the Board of Supervisors.



Questions?

