



C o u n t y o f S a n L u i s O b i s p o

General Services Agency

Janette D. Pell, General Services Agency Director

Helen McCann, Department Administrator

REQUEST FOR QUALIFICATIONS PS-#1057 ENGINEERING/CONSTRUCTION SERVICES

December 22, 2009

The County of San Luis Obispo is currently soliciting Statements of Qualifications (SOQs) to create a pool of qualified consultants for various projects as noted herein. The pool will remain in place during the period of March 1, 2010 through February 28, 2012.

Each SOQ shall specify each and every item as set forth in the attached specifications. Any and all exceptions must be clearly stated in the SOQ. Failure to set forth any item in the specifications shall be grounds for rejection. The County of San Luis Obispo reserves the right to reject all SOQ's and to waive any informalities.

If your firm is interested and qualified, please submit five (5) copies of your SOQ and include any additional information requested, by 3:00 p.m. on January 27, 2010 to:

County of San Luis Obispo
Debbie Belt, GSA - Purchasing
1087 Santa Rosa Street
San Luis Obispo, CA 93408

Questions of a technical nature shall be directed to Dave O'Halloran, County Department of Public Works, Construction Division Manager (805) 781-4387 or Fax (805) 788-2332.

Any questions concerning this RFQ process should be directed to Debbie Belt (805) 781-5903

DEBBIE BELT
Buyer – GSA - Purchasing
dbelt@co.slo.ca.us

STATEMENT OF QUALIFICATIONS SUBMITTAL AND SELECTION

1. All SOQ's, consisting of five (5) copies, must be received by mail, recognized carrier, or hand delivered no later than 3:00 p.m. on January 27, 2010. Late SOQ's will not be considered.
2. All correspondence should be directed to:

San Luis Obispo County
Department of General Services
1087 Santa Rosa Street
San Luis Obispo CA 93408
ATTENTION: DEBBIE BELT
Telephone: (805) 781-5903
3. Costs of preparation of SOQ's will be borne by the applicant.
4. It is preferred that all SOQ's be submitted on recycled paper, printed on two sides. Limit your SOQ to 15 pages (10pt. font), exclusive of charts, resumes, graphics or required forms.
5. Selection of qualified consultants will be by an approved County procedure for awarding professional contracts.
6. This request does not constitute an offer of employment or to contract for services.
7. The County reserves the option to reject any or all SOQ's, wholly or in part, received by reason of this request.
8. The County reserves the option to retain all SOQ's, whether selected or rejected.
9. All SOQs shall remain firm for the period you remain in the pool.
10. The County reserves the right to award the contract to the firms who presents the proposal's, which in the judgement of the County, best accomplishes the desired results.
11. Selection will be made on the basis of the SOQ's as submitted. The Selection Committee may deem it necessary to interview applicants. The County retains the right to interview applicants as part of the selection process.
12. The proceedings of the Selection Committee are confidential. Members of the Selection Committee are not to be contacted by the applicants. All communication between applicant and the County shall be through Debbie Belt.

13. Insurance and Indemnification

- A. The selected consultant will be required to provide commercial general liability insurance coverage in the amount of \$1,000,000 and \$1,000,000 of Professional Liability Insurance. This amount of insurance coverage shall be reflected in your estimated professional fees.
- B. The consultant shall provide within five (5) days after the Notice of Award is issued a certificate of liability insurance naming the County of San Luis Obispo and its employees and officers as additionally named insured. This shall be maintained in full force and effect for the duration of the contract and must be in an amount and format satisfactory to the County.
- C. The selected consultant will be required to defend, indemnify and save harmless the County, its employees, officers, agents, from any and all claims, demands, damages, costs, expenses, judgements or liability of any nature whatsoever which may result from this contract except for claims, demands, damages, costs, expenses or judgements resulting solely from the negligence or willful misconduct of the County.
- D. Attachment A is a sample of a typical County contract agreement for engineering consulting services. All awards must contain the majority of the County's standard contract clauses.

SCOPE OF WORK

SUMMARY

The San Luis Obispo County Engineering Department seeks to create a pool of qualified, professional, as-needed, engineering consultants to provide engineering, construction management, inspection and materials testing for a variety of public works construction projects. The professional services shall include, but not be limited to, the following: resident engineer services, engineering, construction management, inspection, surveying, materials testing, contract administration, and project records services.

Possible projects requiring the engineering consultant services include new bridge construction, waterline replacement, road and miscellaneous construction projects. Design of these projects is underway by County Department of Public Works staff and/or outside consultants and will generally be scheduled to be initiated on various dates during the period March 1, 2010 through February 28, 2012. Consulting contracts will be awarded among firms by the County Department of Public Works or Board of Supervisors during this period only. Only consultants participating and qualified under this Request for Qualifications No. 1057 will be considered. Any project started within this period will continue through completion. All SOQ's shall remain firm through February 28, 2012, the time period for which this consultant pool is valid.

To qualify for admission to the pool, consultant teams must demonstrate knowledge and experience in performing all management, engineering, surveying, engineering inspection and materials testing work required for compliance with the construction documents for each project. In addition, consultants are required to follow Federal guidelines for Underutilized/Disadvantaged Business Enterprise participation on Federally funded projects.

Once competitively selected from this qualifications based selection process for the as-needed consultant pool, the best qualified consultants will negotiate contracts to provide professional services for each specific project.

BACKGROUND

The San Luis Obispo County Department of Public Works is requesting Statements of Qualifications for Engineering/Construction Services for various projects funded through various programs including the American Recovery and Reinvestment Act (ARRA), Highway Bridge Replacement and Rehabilitation Funds (HBRR), Emergency Relief Projects (ER funds), State Transportation Improvement Program (STIP), and local matching funds.

County Expenditure of State Funds

This selection process and work performed hereunder shall be completed in accordance with the requirements of State Law of California, California Transportation Commission, and CalTrans.

County Expenditure of Federal Funds

- A. This selection process and work performed hereunder shall be completed in accordance with the requirements of the State of California and Federal Laws and Regulations.
- B. It is the County's intention to make a good faith effort to solicit participation from Underutilized/Disadvantaged Business Enterprises through all phases of its projects from Environmental Analysis, Preliminary Engineering, Final Design and Construction. Firms responding to the RFQ will be required to make a good faith effort to secure the participation of Underutilized/Disadvantaged Business Enterprises, as required by Federal Law.

It is anticipated that the County will staff the construction phase of these projects with consultant and/or a combination of County staff and consultant personnel to provide construction management and inspection duties of the work load. Consultants will be expected to perform Resident Engineer and or inspection duties in accordance with CalTrans procedures.

The purpose of this Request for Qualifications process is to establish the ability to obtain timely and efficient consultant assistance to address the County's construction management and inspection needs. To minimize response time and to meet legal deadlines, all-inclusive actual cost plus fixed fee contracts will be negotiated proactively and thus consultant help will be available to meet such needs as they arise.

County may expend as much as \$3,000,000 during the term in which the qualified pool is valid. The County assumes no obligation to expend the entire amount or to award work equally.

Contract Award Dollar Amounts

Awards based upon this RFQ will be in amounts both below and above \$25,000 and both above and below \$50,000.

Actual Cost Plus Fixed Fee

This method is most commonly used. The consultant is reimbursed for actual costs incurred and receives an additional predetermined amount as a fixed fee. The fixed fee is not adjustable for the life of the contract except where there is a significant change in the scope of the work, in which case the fee may be renegotiated.

This method of payment is appropriate when the extent, scope, complexity, character, or duration of work cannot be precisely predicted. Fixed fees apply to the total direct and indirect costs.

DETAILED SCOPE OF WORK

The following is a list of the projects that our consulting services may be used for:

1. Price Canyon Road Bridge Widening
2. San Simeon Creek Bridge
3. Main Street Bridge at Santa Rosa Creek
4. Willow Road Interchange
5. Price Canyon Bikelanes
6. Willow Road Extension
7. Pomeroy and Augusta Road Project
8. Miscellaneous Project

The scope of the work involved in each of these projects may include, but is not limited to, the following tasks:

1. Construction Bidding Phase: Consultant will assist the County in reviewing all bids and making recommendations to the County Department of Public Works for acceptance.
2. Pre-Construction Phase: Consultant will attend a preconstruction meeting with a successful construction contractor upon notification by the County.
3. Construction Inspection and Contract Administration: Consultant will review and coordinate all plans with the designer and the Contractor. Consultant will set up project records in accordance with the County and CalTrans/FHWA Standard Policies. Consultant shall prepare the final "Record Drawing Plans" and County and Local Assistance Final Reports. For bridge projects, consultant will provide a resident engineer and bridge representative or a resident engineer with bridge construction experience with a recent bridge construction management and inspection experience (minimum five years) for the inspection and administration of bridge construction projects.

FORMAT AND CONTENT OF SOQ

To respond to this RFQ, submit five (5) copies of the SOQ on or before the submission deadline. The SOQ may not exceed the 15 pages in length. The SOQ must be signed by a person authorized to bind the proposing firm to the representations, commitments and statements contained in this statement. The statement must contain the following information and documents:

- ▶ A cover letter summarizing the key points of the SOQ (2 pages max).
- ▶ Description of Firm. A description of the firm's organizational structure, the jurisdiction in which the firm is organized and a date of such organization. In addition, provide a brief description of the firm's qualifications and experience on projects of similar nature to those described in this RFQ as well as projects/clients where consultant has performed as an extension of staff.
- ▶ Authorized representative of the firm.
- ▶ The name, address, telephone number, facsimile, and email address of the person authorized to represent the firm with all respect to all notices, negotiations, discussions and other communication relating to this RFQ, to any negotiation relating to the contract.
- ▶ Staffing. Provide an organizational chart identifying: 1) the project manager for the work; 2) each key person who would be assigned to carry out the work, and their respective roles in performing the work. Provide a separate description of the experience and qualifications of such manager and key persons, including a summary of experience on similar projects to those described in this RFQ. Resumes should be included for all key individuals as an appendix to the submittal.
- ▶ A list of references for the firm and subconsultants, including the names, address and telephone numbers of recent clients, preferably other public agencies and a listing of the specific projects and key individuals that have participated in them. Include the dollar value related to the participation. Identify how much experience the firm and subconsultant has had with public agencies.
- ▶ Scope. A clear concise statement of the firm's understanding of the nature and the extent of the services required and a specific outline to demonstrate how personnel would be organized to handle these services.

REQUIRED ATTACHMENTS

2. Resumes. In the Appendix, the firm shall include resumes for all key personnel, the specific projects and roles of the individuals, specialty licenses, certificates or relevant training. List all similar work.

SCHEDULE

The contracts are scheduled to be issued as soon as possible. A tentative schedule of the events follows:

- ▶ RFQ is advertised and issued by December 23, 2009.
- ▶ SOQ's due January 27, 2010.
- ▶ Consultant interviews may be conducted.
- ▶ Contract negotiations to be determined by project requirements beginning on or about March 1, 2010, with the submittal of fee and pricing schedules. Accepted firms will be required to submit summary sheets which detail the billing rates for each firm's key individuals, other positions overhead rate and other costs. Include any and all other costs for office, vehicle, per diem, etc. This material will not be a basis for selecting consultants for participation into the pool.
- ▶ County approval and contract execution to be determined by project requirements.

SELECTION FOR CONSULTANT POOL/CONTRACT AWARDS

The consultant teams, determined to be qualified to perform work, will be included in the pool. The County Public Works Department will initiate contract negotiations based on project requirements. If a satisfactory contract cannot be negotiated in a reasonable time, County at its sole discretion may terminate negotiations at any time during the process.

Any contract awarded as a result of this RFQ will be awarded without discrimination based on race, color, religion, sex or national origin.

RESERVATIONS OR RIGHTS BY THE COUNTY

The County reserves the right to postpone selection for its own convenience, to withdraw this RFQ at any time, to reject any SOQ without indicating a reason for such rejection or to negotiate with any or none of the respondents. As a function of the negotiation process, the County reserves the right to remedy technical errors, modify the published scope of services and approve or disapprove the use of all subconsultants. In addition, this RFQ does not commit the County to negotiate a contract. The issuance of this RFQ does not constitute an agreement by the County that any subsequent selection processes will occur, or that any contract will be entered into by the County. SOQ's and other materials submitted will not be returned unless portions of submittals are designated as proprietary at the time of submittal and requested to be returned.

The County has the right to use any or all ideas or concepts presented in any SOQ or interview without restriction, without conversation to the applicants. As a corollary, selection of a consultant does not constitute County acceptance of all of the particulars of its SOQ.

PERFORMANCE OF SERVICES

Task Orders. Performance of as-needed services by consultants will be by project. At the time a consultant is selected for a specific project, consultant will be asked to prepare an estimate of the various jobs listed by the project specific task order.

CONSULTANT SELECTION PROCESS

A. Selection of Consultants for the Pool

As there is no specific project upon which the SOQ should be based, the consultant submittal will be a general statement of qualifications. Although the general nature of the construction projects indicates the expertise which is needed, each firm shall choose a team that demonstrates professional capabilities and prior experience necessary to provide the services listed in this RFQ. The consultant shall prepare a written statement that complies with the requirements of the terms and conditions of this RFQ.

B. Selection Committee

A selection committee will evaluate written SOQ's and other submitted documentation based on the criteria below. Firms may be invited to oral interviews before the selection committee. If interviews are required, only the specifically identified project team members, led by the designated project manager, will be asked to appear.

Evaluation Criteria	Weight
Understanding of scope of work	20%
Firm's experience with similar work	20%
Qualifications and experience of key staff	30%
Familiarity with state and federal procedures	20%
Demonstrated technical ability	10%
Total	100%

C. Cost and Contract Negotiations

Once a consultant is accepted for the pool, the County will conduct negotiations to set hourly billing rates and classifications, overhead rates and other compensation. In addition, consultants will be expected to accept the standard County contract language for engineering consulting services agreements (see Attachment A).

D. Final Selection

Final selection of the consultant for any project will be made by the Director of Public Works, based on the selection committee's evaluation of their SOQ submittals, the results of the possible oral interview, and terms of contract language negotiated with the County.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS

The consultant or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The provisions of Title 49, Part 23, Code of Federal Regulations (49 CFR 23) require that DBE's have an opportunity to participate in contract funded through the Federal Highway Administration (FHWA).

The County of San Luis Obispo has established an Underutilized/Disadvantaged Business Enterprise (UDBE) goal of 6.5%. In order to meet the above stated requirements, the following criteria have been established, and must be addressed prior to execution of a contract for the services requested in the subsequent site specific RFP:

1. In order to be considered responsible and responsive, the consultant must make good faith efforts to meet the UDBE goal. If the goal is not met, the consultant must document adequate good faith efforts prior to award of the contract. Only UDBE participation will be counted towards the contract goal; however, all DBE participation shall be collected and reported. See "Notice to Proposers Disadvantaged Business Enterprise Information" included with Attachment A.
2. The consultant must submit a "UDBE Commitment" form and a "DBE Information" form prior to award of the contract. See "UDBE Commitment" and "DBE Information" forms included with Attachment A.
3. Upon completion of the contract, regardless of whether DBE participation is obtained, the consultant must submit form: "Final Report – Utilization of Disadvantaged Business Enterprise (DBE) First-Tier Subcontractor" included with Attachment A.

ATTACHMENT A - SAMPLE COUNTY CONTRACT

**AGREEMENT FOR
ENGINEERING CONSULTING SERVICES
(FEDERAL FUNDING)**

THIS AGREEMENT, entered into this ____ day of _____, 20____, by and between the COUNTY OF SAN LUIS OBISPO, a political subdivision of the State of California, herein called "COUNTY," and _____, a corporation whose address is _____, herein called 'ENGINEER.'

The COUNTY department responsible for administering this AGREEMENT is the Department of Public Works, and all written communications hereunder with the COUNTY shall be addressed to the Director of Public Works.

WHEREAS, the COUNTY has need for special services and advice with respect to the work described herein; and

WHEREAS, ENGINEER warrants that it is specially trained, experienced, expert and competent to perform such special services;

NOW, THEREFORE, IT IS AGREED by the parties hereto as follows:

1. **Scope of Work.** ENGINEER shall, at its own cost and expense, provide all the services, equipment and materials necessary to complete the work described in Exhibit A, which is attached hereto and incorporated herein by this reference. All work shall be performed to the highest professional standard.

2. **Time for Completion of Work.** No work shall be commenced prior to ENGINEER'S receipt of the COUNTY'S Notice to Proceed. All work shall be completed no later than _____, _____, 20____, provided, however, that extensions of time may be granted in writing by the Director of Public Works of San Luis Obispo County, which said extensions of time, if any, shall be granted only for reasons attributable to inclement weather, acts of God, or for other cause determined in the sole discretion of the Director of Public Works of San Luis Obispo County to be good and sufficient cause for such extensions.

3. **Payment for Services:**

a. **Compensation.** COUNTY shall pay to ENGINEER as compensation in full for all work required by this Agreement a sum not to exceed the total Agreement amount of \$_____. ENGINEER'S compensation shall be based on actual services performed and costs incurred at the rates set forth for each task in the ENGINEER'S Cost Proposal attached hereto as Exhibit B, and incorporated herein by this reference. Progress payments will be made as set forth below based on compensable services provided and allowable costs incurred pursuant to this Agreement.

b. **Reports and Billing Invoices.** ENGINEER shall submit to the COUNTY, on a monthly basis, a detailed statement of services performed and work accomplished during that preceding period, including the number of hours of work performed and the personnel involved. Billing invoices shall be based upon the ENGINEER'S cost proposal attached hereto as Exhibit B. For the purpose of timely processing of invoices, the ENGINEER'S invoices are not regarded as received until the monthly report is submitted. Any anticipated problems in performing any future work shall be noted in the monthly reports. The ENGINEER shall also promptly notify the County of any perceived need for a change in the scope of work or services.

c. **Federal Acquisition Regulations.** ENGINEER understands and agrees that the costs, principles and procedures set forth in the Federal Acquisition Regulations, Title 48, Chapter 1, Part 31, of the Code of Federal Regulations (CFR) are applicable to this Agreement. The ENGINEER 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. Any costs for which payment has been made to ENGINEER that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq., or 49 CFR, Part 18, Uniform Administrative Requirements for Grants and cooperative Agreements to State and Local Governments, are subject to repayment by ENGINEER to COUNTY. Any subcontract, entered into as a result of this contract, shall contain the provisions of this paragraph.

4. **Accounting Records:**

a. ENGINEER shall maintain accounting records in accordance with generally accepted accounting principles. ENGINEER shall obtain the services of a qualified bookkeeper or accountant to ensure that accounting records meet this requirement. ENGINEER shall maintain acceptable books of accounts which include, but are not limited to, a general ledger, cash receipts journal, cash disbursements journal, general journal and payroll journal.

b. ENGINEER shall record costs in a cost accounting system which clearly identifies the source of all costs. Agreement costs shall not be co-mingled with other project costs, but shall be directly traceable to contract billings to the COUNTY. The use of worksheets to produce billings shall be kept to a minimum. If worksheets are used to produce billings, all entries should be documented and clearly traceable to the ENGINEER'S cost accounting records.

c. All accounting records and supporting documentation shall be retained for a minimum of five (5) years or until any audit findings are resolved, whichever is later. ENGINEER shall safeguard the accounting records and supporting documentation.

d. ENGINEER shall make accounting records and supporting documentation available on demand to the COUNTY and its designated auditor for inspection and audit. Disallowed costs shall be repaid to the COUNTY. The COUNTY may require having the ENGINEER'S accounting records audited, at ENGINEER'S expense, by an accountant licensed by the State of California. The audit shall be presented to the County Auditor-Controller within thirty (30) days after completion of the audit.

e. The State, the State auditor, FHWA or any authorized representative of the Federal Government having jurisdiction under Federal law or regulations (including the basis of Federal Funding in whole or in part) shall have access to any book, record, any documents of the ENGINEER that are pertinent to the contract for audits, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. The ENGINEER must also maintain records for five years from the date of final payment.

f. Any subcontract entered in to as a result of this Agreement, shall contain all of the provisions of this article 4.

5. Non-Assignment of Agreement. Inasmuch as this Agreement is intended to secure the specialized services of the ENGINEER, ENGINEER may not assign, transfer, delegate or sublet any interest herein without the prior written consent of COUNTY and any such assignment, transfer, delegation, or sublease without the County's prior written consent shall be considered null and void. This includes revisions to the project team as described in the organization chart (See Exhibit C).

6. Insurance. ENGINEER, at its sole cost and expense, shall purchase and maintain the insurance policies set forth below on all of its operations under this Agreement. Such policies shall be maintained for the full term of this Agreement and the related warranty period (if applicable) and shall provide products/completed operations coverage for four (4) years following

completion of ENGINEER's work under this Agreement and acceptance by the County. Any failure to comply with reporting provisions(s) of the policies referred to above shall not affect coverage provided to the County, its officers, employees, volunteers and agents. For purposes of the insurance policies required hereunder, the term "County" shall include officers, employees, volunteers and agents of the County of San Luis Obispo, California, individually or collectively.

A. **MINIMUM SCOPE AND LIMITS OF REQUIRED INSURANCE POLICIES**

The following policies shall be maintained with insurers authorized to do business in the State of California and shall be issued under forms of policies satisfactory to the County:

1. **COMMERCIAL GENERAL LIABILITY INSURANCE POLICY ("CGL")**

Policy shall include coverage at least as broad as set forth in Insurance Services Office (herein "ISO") Commercial General Liability coverage. (Occurrence Form CG 0001) with policy limits not less than the following:

\$1,000,000 each occurrence (combined single limit);
\$1,000,000 for personal injury liability;
\$1,000,000 aggregate for products-completed operations; and
\$1,000,000 general aggregate.

The general aggregate limits shall apply separately to ENGINEER's work under this Agreement.

2. **BUSINESS AUTOMOBILE LIABILITY POLICY ("BAL")**

Policy shall include coverage at least as broad as set forth in Insurance Services Office Business Automobile Liability Coverage, Code 1 "Any Auto" (Form CA 0001). This policy shall include a minimum combined single limit of not less than One-million (\$1,000,000) dollars for each accident, for bodily injury and/or property damage. Such policy shall be applicable to vehicles used in pursuit of any of the activities associated with this Agreement. ENGINEER shall not provide a Comprehensive Automobile Liability policy which specifically lists scheduled vehicles without the express written consent of County.

3. **WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE POLICY ("WC / EL")**

This policy shall include at least the following coverages and policy limits:

1. Workers' Compensation insurance as required by the laws of the laws of the State of California; and
2. Employer's Liability Insurance Coverage B with coverage amount not less than one-million (\$1,000,000) dollars each accident / Bodily Injury (herein "BI"); one-million (\$1,000,000) dollars policy limit BI by disease; and, one-million (\$1,000,000) dollars each employee BI disease.

4. **PROFESSIONAL LIABILITY INSURANCE POLICY ("PL")**

This policy shall cover damages, liabilities, and costs incurred as a result of ENGINEER's professional errors and omissions or malpractice. This policy shall include a coverage limit of at least One-Million Dollars (\$1,000,000) per claim, including the annual aggregate for all claims (such coverage shall apply during the performance of the services under this Agreement and for two (2) years thereafter with respect to incidents which occur during the performance of this Agreement). ENGINEER shall notify the County if any annual aggregate is eroded by more than seventy-five percent (75%) in any given year.

B. **DEDUCTIBLES AND SELF-INSURANCE RETENTIONS**

Any deductibles and/or self-insured retentions which apply to any of the insurance policies referred to above shall be declared in writing by ENGINEER and approved by the County before work is begun pursuant to this Agreement. At the option of the County, ENGINEER shall either reduce or eliminate such deductibles or self-insured retentions as respect the County, its officers, employees, volunteers and agents, or shall provide a financial guarantee satisfactory to the County guaranteeing payment of losses and related investigations, claim administration, and/or defense expenses.

C. **ENDORSEMENTS**

All of the following clauses and endorsements, or similar provisions, are required to be made a part of insurance policies indicated in parentheses below:

1. A "Cross Liability", "Severability of Interest" or "Separation of Insureds" clause (CGL & BAL);
2. The County of San Luis Obispo, its officers, employees, volunteers and agents are

ENGINEERING/CONSTRUCTION SERVICES

hereby added as additional insureds with respect to all liabilities arising out of ENGINEER's performance of work under this Agreement (CGL & BAL);

3. If the insurance policy covers an "accident" basis, it must be changed to "occurrence" (CGL & BAL)
4. This policy shall be considered primary insurance with respect to any other valid and collectible insurance County may possess, including any self-insured retention County may have, and any other insurance County does possess shall be considered excess insurance only and shall not be called upon to contribute to this insurance (CGL, BAL, & PL);
5. No cancellation or non-renewal of this policy, or reduction of coverage afforded under the policy, shall be effective until written notice has been given at least thirty (30) days prior to the effective date of such reduction or cancellation to County at the address set forth below (CGL, BAL, WC /EL & PL);
6. ENGINEER and its insurers shall agree to waive all rights of subrogation against the County, its officers, employees, volunteers and agents for any loss arising under this Agreement (CGL); and
7. Deductibles and self-insured retentions must be declared (All Policies).

D. **ABSENCE OF INSURANCE COVERAGE**

County may direct ENGINEER to immediately cease all activities with respect to this Agreement if it determines that ENGINEER fails to carry, in full force and effect, all insurance policies with coverage's at or above the limits specified in this Agreement. Any delays or expense caused due to stopping of work and change of insurance shall be considered ENGINEER's delay and expense. At the County's discretion, under conditions of lapse, the County may purchase appropriate insurance and charge all costs related to such policy to ENGINEER.

E. **PROOF OF INSURANCE COVERAGE AND COVERAGE VERIFICATION**

Prior to commencement of work under this Agreement, and annually thereafter for the term of this Agreement, ENGINEER, or each of ENGINEER's insurance brokers or companies, shall provide County a current copy of a Certificate of Insurance, on an Accord or similar form, which includes complete policy coverage verification, as evidence

ENGINEERING/CONSTRUCTION SERVICES

of the stipulated coverage's. All of the insurance companies providing insurance for ENGINEER shall have, and provide evidence of, a Best Rating Service rate of A VI or above. The Certificate of Insurance and coverage verification and all other notices related to cancellation or non-renewal shall be mailed to:

{Insert Project Mgr.}, Public Works Department
Room 207, County Government Center
San Luis Obispo CA 93408

7. Indemnification:

a. ENGINEER shall defend, indemnify and hold harmless the County, its officers and employees from all claims, demands, damages, costs, expenses, judgments, attorney fees, liabilities or other losses (hereafter, collectively "claims") that may be asserted by any person or entity, and that arise out of , pertain to, or relate to the negligence, recklessness, or willful misconduct of the ENGINEER. The parties acknowledge that, in addition to whatever other acts or omissions may constitute negligence under applicable law, any act or omission of ENGINEER which constitutes a breach of any duty or obligation under, or pursuant to, this Agreement shall at a minimum constitute negligence, and may constitute recklessness or willful conduct if so warranted by the facts.

b. The preceding paragraph applies to any and all such claims, regardless of the nature of the claim or theory of recovery. For purposes of the paragraphs found in this section 7 of the AGREEMENT, 'ENGINEER' shall include the ENGINEER, and/or its agents, employees, sub-contractors, or other independent contractors hired, by, or directly responsible to, ENGINEER.

c. It is the intent of the parties to provide the COUNTY the fullest indemnification, defense, and "hold harmless" rights allowed under the law. If any word(s) contained herein are deemed by a court to be in contravention of applicable law, said word(s) shall be severed from this contract and the remaining language shall be given full force and effect. Nothing contained in the foregoing indemnity provisions shall be construed to require ENGINEER to indemnify COUNTY against any responsibility or liability in contravention of Civil Code 2782 or 2782.8.

8. ENGINEER's Responsibility For Its Work.

a. ENGINEER has been hired by the COUNTY because of ENGINEER's specialized expertise in performing the work described in the attached Exhibit A. ENGINEER shall be solely responsible for such work. The COUNTY's review, approval and/or adoption of any designs, plans, specifications or any other work of the ENGINEER shall be in reliance on ENGINEER's

ENGINEERING/CONSTRUCTION SERVICES

specialized expertise and shall not relieve the ENGINEER of its sole responsibility for its work. The COUNTY is under no duty or obligation to review or verify the appropriateness, quality or accuracy of any designs, plans, specifications or any other work of the ENGINEER, including but not limited to, any methods, procedures, tests, calculations, drawings or other information used or created by ENGINEER in performing any work under this Agreement.

b. All information which ENGINEER receives from COUNTY should be independently verified by ENGINEER. ENGINEER should not rely upon such information unless it has independently verified its accuracy. The only exception to the foregoing arises when the COUNTY has expressly stated in writing that certain information may be relied upon by the ENGINEER without the ENGINEER's independent verification. In such event, the ENGINEER is still obliged to promptly notify the COUNTY whenever the ENGINEER becomes aware of any information that is inconsistent with any information which the COUNTY has stated may be relied upon by the ENGINEER.

9. Insurance and Indemnification as Material Provisions. The parties expressly agree that the indemnification and insurance clauses in this Agreement are an integral part of the performance exchanged in this Agreement. The compensation stated in this Agreement includes compensation for the risks transferred to ENGINEER by the indemnification and insurance clauses.

10. ENGINEER'S Endorsement on Reports, etc. ENGINEER shall endorse all reports, maps, plans, documents, materials and other data in accordance with applicable provisions of the laws of the State of California.

11. Documents, Information and Materials Ownership. All documents, information and materials of any and every type prepared by the ENGINEER pursuant to this Agreement shall be the property of the COUNTY. Such documents shall include but not be limited to data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the ENGINEER in performing work under this Agreement, whether completed or in process. The ENGINEER shall assume no responsibility for the unintended use by others of any such documents, information, or materials on project(s) which are not related to the scope of services described under this Agreement.

12. Termination of Agreement Without Cause. COUNTY may terminate this Agreement at any time by giving the ENGINEER 20 days written notice of such termination. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. Other than payments for services

satisfactorily rendered prior to the effective date of said termination, ENGINEER shall be entitled to no further compensation or payment of any type from the COUNTY.

13. Termination of Agreement for Cause. If ENGINEER fails to perform ENGINEER'S duties to the satisfaction of the COUNTY, or if ENGINEER fails to fulfill in a timely and professional manner ENGINEER'S obligations under this Agreement or if ENGINEER shall violate any of the terms or provisions of this Agreement or if ENGINEER, ENGINEER'S agents or employees fail to exercise good behavior either during or outside of working hours that is of such a nature as to bring discredit upon the COUNTY, then COUNTY shall have the right to terminate this Agreement effective immediately upon the COUNTY giving written notice thereof to the ENGINEER. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. ENGINEER shall be paid for all work satisfactorily completed prior to the effective date of such termination. If COUNTY'S termination of the Agreement for cause is defective for any reason, including but not limited to COUNTY'S reliance on erroneous facts concerning ENGINEER'S performance, or any defect in notice thereof, this Agreement shall automatically terminate without cause on the twentieth day following the COUNTY'S written notice of termination for cause to the ENGINEER, and the COUNTY'S maximum liability shall not exceed the amount payable to ENGINEER under paragraph 12 above.

14. Compliance with Laws: ENGINEER shall comply with all Federal, State, and local laws and ordinances that are applicable to the performance of the work of this Agreement.

15. Covenant Against Contingent Fees: ENGINEER warrants that it has not employed or retained any company or person, other than a bona fide employee working for ENGINEER, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percent, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making this Agreement. For breach or violation of this warranty, COUNTY shall have the right to annul this Agreement without liability, or, in 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.

16. Nondiscrimination: ENGINEER shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.

17. Disputes & Claims:

a. Notice of Potential Claim. The ENGINEER shall not be entitled to the payment of any additional compensation for any act, or failure to act, by the COUNTY, or for the happening of any event, thing, occurrence, or other cause, unless ENGINEER has provided the COUNTY with timely written Notice of Potential Claim as hereinafter specified. The written Notice of Potential Claim shall set forth the reasons for which the ENGINEER believes additional compensation will or may be due, the nature of the cost involved, and, insofar as possible, the amount of the potential claim. The said notice as above required must have been given to the COUNTY prior to the time that the ENGINEER shall have performed the work giving rise to the potential claim for additional compensation, if based on an act or failure to act by the COUNTY, or in all other cases within 15 days after the happening of the event, thing, occurrence, or other cause, giving rise to the potential claim. It is the intention of this paragraph that differences between the parties relating to this Agreement be brought to the attention of the COUNTY at the earliest possible time in order that such matters may be settled, if possible, or other appropriate action promptly taken. The ENGINEER hereby agrees that it shall have no right to additional compensation for any claim that may be based on any such act, failure to act, event, thing, or occurrence for which no written Notice of Potential Claim as herein required was filed with the COUNTY Director of Public Works.

b. Processing of Actual Claim. In addition to the above requirements for Notice of Potential Claim, a detailed, Notice of Actual Claim must be submitted in writing to the COUNTY on or before the date of final payment under this Agreement. All such claims shall be governed by the procedures set forth in section 20104.2 and 20104.4 of the Public Contract Code, except that the word "claim" as used in said sections shall be construed as referring to any claim relating to this Agreement. The ENGINEER shall not be entitled to any additional compensation unless ENGINEER has (1) provided the COUNTY with a timely written Notice of Actual Claim and (2) followed the procedures set forth in Public Contract Code section 20104.2 and 20104.4.

c. Claim is No Excuse. Neither the filing of a Notice of Potential Claim or of a Notice of Actual Claim, nor the pendency of a dispute or claim, nor its consideration by the COUNTY, shall excuse the ENGINEER from full and timely performance in accordance with the terms of this Agreement.

18. ENGINEER is an Independent Contractor. It is expressly understood that in the performance of the services herein provided, ENGINEER shall be, and is, an independent

contractor, and is not an agent or employee of COUNTY. ENGINEER has and shall retain the right to exercise full control over the employment, direction, compensation, and discharge of all persons assisting ENGINEER in the performance of the services rendered hereunder. ENGINEER shall be solely responsible for all matters relating to the payment of his employees, including compliance with Social Security, withholding, and all other regulations governing such matters.

19. Entire Agreement and Modification. This Agreement constitutes the entire understanding of the parties hereto. ENGINEER shall be entitled to no other compensation and/or benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties. Any changes increasing ENGINEER'S compensation and/or benefits must be approved by the COUNTY'S Board of Supervisors; any other changes may be signed by the County Director of Public Works on behalf of the COUNTY. ENGINEER specifically acknowledges that in entering into and executing this Agreement, ENGINEER relies solely upon the provisions contained in this Agreement and no others.

20. Enforceability. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

21. Warranty of ENGINEER. ENGINEER warrants that ENGINEER and each of the personnel employed or otherwise retained by ENGINEER for work under this Agreement are properly certified and licensed under the laws and regulations of the State of California to provide the special services herein agreed to.

22. Subcontractors

a. Other than work designated in Exhibits A and B to be performed by other persons, the ENGINEER shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted without written authorization by the COUNTY.

b. Any subcontract entered into by ENGINEER relating to this Agreement shall contain all the provisions contained in this Agreement.

c. Any substitution of subcontractors must be approved in writing by the COUNTY in advance of assigning work to a substitute subcontractor.

23. Applicable Law and Venue. This Contract has been executed and delivered in the State of California and the validity, enforceability and interpretation of any of the clauses of this

Contract shall be determined and governed by the laws of the State of California. All duties and obligations of the parties created hereunder are performable in San Luis Obispo County and such County shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Contract.

24. Notices. Any notice required to be given pursuant to the terms and provisions hereof shall be in writing and shall be sent by first class mail to the County at:

Mr. Paavo Ogren, Director
San Luis Obispo County
Department of Public Works
County Government Center, Room 207
San Luis Obispo, CA 93408

and to the ENGINEER:

25. Cost Disclosure - Documents and Written Reports. Pursuant to Government Code section 7550, if the total cost of this Agreement is over \$5,000, the ENGINEER shall include in all final documents and in all written reports submitted a written summary of costs, which shall set forth the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of such documentation or written report. The Agreement and subagreement numbers and dollar amounts shall be contained in a separate section of such document or written report.

26. Findings Confidential. No reports, maps, information, documents, or any other materials given to or prepared by ENGINEER under this Contract which COUNTY requests in writing to be kept confidential, shall be made available to any individual or organization by ENGINEER without the prior written approval of COUNTY.

27. Restrictive Covenant. ENGINEER agrees that he will not, during the continuance of this Agreement, perform or otherwise exercise the services described in Exhibit A for anyone except for the COUNTY, unless and until said COUNTY waives this restriction.

ENGINEERING/CONSTRUCTION SERVICES

28. Certifications. A "Certification of Consultant" and a "Certification of Local Agencies Highway Department" are attached hereto as Exhibits D and E respectively, and are incorporated by reference and made a part of this agreement.

29. Disadvantage Business Enterprise Considerations. ENGINEER must give consideration to Disadvantaged Business Enterprise (DBE) firms as specified in 23 CFR 172.5(b) and meet requirements shown in Exhibits F and G.

30. Quality Control and Quality Assurance. The ENGINEER shall provide a description of its Quality Control procedure. The process shall be implemented for all facets of work and a QC-QA statement and signature shall be placed on all submittals to the COUNTY.

IN WITNESS THEREOF, COUNTY and ENGINEER have executed this Agreement on the day and year first hereinabove set forth.

IN WITNESS THEREOF, the parties hereto have executed this Agreement, and this Agreement shall become effective on the date shown signed by the County of San Luis Obispo.

COUNTY OF SAN LUIS OBISPO

Date: _____, 20__

ATTEST:

County Clerk and Ex-Officio Clerk of the
Board of Supervisors, County of San Luis Obispo,
State of California

Date: _____

By: _____

Chairperson of the Board
County of San Luis Obispo
State of California

ENGINEER

Date: _____, 20__

By: _____

Title: _____

APPROVED AS TO FORM AND LEGAL EFFECT:

WARREN R. JENSEN

County Counsel

By: _____

Deputy County Counsel

Date: _____