

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

DEPT: Planning and Community Development

BOARD AGENDA:5.D.1  
AGENDA DATE: March 27, 2018

**SUBJECT:**

Approval to Submit a Financial Assistance Application to the State's Clean Water State Revolving Fund Program for the Environmental, Design, and Construction of the West Modesto Sewer Infrastructure Project; and, Approval to Negotiate and Enter into an Agreement with Self-Help Enterprises for their Assistance in Applying for State Funding

**BOARD ACTION AS FOLLOWS:**

**RESOLUTION NO. 2018-0143**

On motion of Supervisor Olsen Seconded by Supervisor Withrow  
and approved by the following vote,

Ayes: Supervisors: Olsen, Chiesa, Withrow, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

- 1)  Approved as recommended
- 2)  Denied
- 3)  Approved as amended
- 4)  Other:

**MOTION:**

ATTEST: Elizabeth A. King  
ELIZABETH A. KING, Clerk of the Board of Supervisors

File No.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
AGENDA ITEM**

DEPT: Planning and Community Development

BOARD AGENDA:5.D.1  
AGENDA DATE: March 27, 2018

CONSENT:

CEO CONCURRENCE:

4/5 Vote Required: No

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**SUBJECT:**

Approval to Submit a Financial Assistance Application to the State's Clean Water State Revolving Fund Program for the Environmental, Design, and Construction of the West Modesto Sewer Infrastructure Project; and, Approval to Negotiate and Enter into an Agreement with Self-Help Enterprises for their Assistance in Applying for State Funding

**STAFF RECOMMENDATION:**

1. Adopt a resolution to authorize the Director of Public Works to apply for, enter into, and sign the Financial Assistance Application for the Clean Water State Revolving Fund (CWSRF) Program from the California State Water Resources Control Board (SWRCB) for the environmental, design, and construction of the West Modesto Sewer Infrastructure Project.
2. Authorize the Director of Planning and Community Development and the Director of Public Works to negotiate and enter into an Agreement with Self-Help Enterprises (SHE) to conduct environmental assessment, co-facilitate a community engagement strategy, and apply for funding from the California State Water Resources Control Board for the West Modesto Sewer Infrastructure Project.
3. Authorize the Director of Planning and Community Development and the Director of Public Works to take any appropriate action necessary to carry out the purpose and intent of these recommendations.

**DISCUSSION:**

On March 28, 2017, the Board of Supervisors approved the prioritization model for the allocation of federal Housing and Urban Development (HUD) Community Development Block Grant (CDBG) funds which identified the top three priority areas needing sanitary sewer infrastructure as the Spencer/Marshall area, the Beverly/Waverly area, and the Rouse/Colorado area, all located in west Modesto. See Attachment 1, West Modesto CDBG Project Area Map.

The top three priority areas together have now been identified as the West Modesto Sewer Infrastructure Project, which includes approximately 1,038 residential, commercial and mixed-use parcels. These parcels currently rely on septic tanks for treatment of sewage. The Project's purpose is to provide a sanitary sewer system that

will allow property owners to abandon their existing failing septic tanks and connect to a public sewer system.

On January 30, 2018, the Board of Supervisors approved to award a contract in the amount of \$1,328,383.96 for engineering services to O'Dell Engineering for the West Modesto Sewer Infrastructure Project. The design, engineering, and construction of this project are expected to occur in multiple phases. The design for the first project phase, the Spencer/Marshall area, is anticipated to be completed by winter of 2019 with construction commencing in the spring of 2019. The County has recently designed and constructed similar natured projects that were funded by a combination of CDBG and California State Water Resource Control Board (SWRCB) Clean Water State Revolving Fund (CWSRF) funding. It is County staff's intention to apply for the same CWSRF grant to help fund the project, while utilizing CDBG funds for the local match.

This request includes Board of Supervisors authorization for staff to prepare and submit a Financial Assistance Application to the SWRCB's CWSRF program for funding of sewer infrastructure, including environmental, design, and construction of the West Modesto Sewer Infrastructure Project. The County will submit this funding application with Self-Help Enterprise's assistance, where needed and beneficial to the County's efforts.

This project requires the preparation of State and Federal environmental assessment documentation in compliance with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA).

Independent of the County's project, Self-Help Enterprises (SHE), a community development non-profit organization, applied for and received Proposition 1 Technical Assistance (TA) funding from the SWRCB to carry-out a Work Plan that enables SHE to assist Stanislaus County in preparing and submitting a regional planning application to construct sewer infrastructure in the unincorporated island communities located in west Modesto. See Attachment 2 - Proposition 1 Technical Assistance Work Plan No. 5635-A.

SHE has indicated its interest and ability to utilize its \$60,400 in TA funding to assist the County in its application for SWRCB funding and the preparation of the required environmental assessment for the top three priority areas. As part of this agenda item, staff is further requesting authorization to negotiate and enter into an agreement with SHE to formalize their involvement and partnership in pursuing additional SWRCB funding and applying Proposition 1 TA awarded funding to this project.

Specifically, this request includes Board of Supervisors authorization to the Director of Planning and Community Development and Director of Public Works to negotiate and enter into an agreement with SHE to address the following terms:

- 1) Preparation of the CEQA and NEPA documents for the West Modesto Sewer Infrastructure Project to be conducted and paid for by SHE through their contracted environmental consultant. The County will maintain project management and certification authority of the environmental documents. The

environmental review process will be completed in a timely manner, but no later than June 15, 2018.

- 2) SHE and the County will partner in conducting public outreach to keep residents and property owners in the West Modesto Sewer Infrastructure Project area apprised of project status. Outreach with the residents and property owners of the Spencer/Marshall area has already been conducted and there is support for the project. SHE will assist in outreach efforts in the Beverly/Waverly and Rouse/Colorado areas, to work with residents and property owners to verify interest in sewer infrastructure development prior to any engineering or construction being undertaken by the County. Public outreach will also include distribution of information on the process and cost for hook-up to the sewer system and financial assistance for hook-up costs for those meeting income qualifications.
- 3) SHE will assist the County, as needed, in applying for SWRCB CWSRF funding for environmental, design, and construction of the West Modesto Sewer Infrastructure Project.

Once constructed, the new sewer infrastructure will be connected to the existing sewer system owned and maintained by the City of Modesto. Prior to construction of the project, the County will enter into an agreement with the City of Modesto for ownership, operation, and maintenance of the constructed sewer improvements. Staff will return to the Board for consideration of an agreement with the City of Modesto that will transfer ownership of the improvements to the City once they are completed. Upon acceptance of the improvements, the City of Modesto will own and maintain all future sewer improvements constructed by this project. Connection of the proposed sewer infrastructure to the City of Modesto is subject to approval of the Local Agency Formation Commission (LAFCO).

**POLICY ISSUE:**

Board of Supervisors authorization is needed for staff to apply for State funding programs and to enter into partnership agreements with outside agencies. Approval of this item supports the Board of Supervisors' priorities of delivering efficient public services and community infrastructure to benefit residents. It will also enable the County to partner with a community organization to create a healthier community through improved infrastructure.

**FISCAL IMPACT:**

The total estimated cost at full build-out of the West Modesto Sewer Infrastructure Project, including environmental, design, and construction, is \$15,500,000. The project costs of the West Modesto Sewer Infrastructure Project will be phased over several years to allow use of Community Development Block Grant (CDBG) and SWRCB funding as they may be available.

While \$1,052,436 in CDBG funding is currently allocated for design and construction purposes, environmental assessment of the project must first be completed in order for project costs to be covered as project delivery costs and not administrative costs. The County's administrative costs are capped at 20% of its overall annual allocation, which is not part of the current design and construction allocation. The County Planning and Community Development Department has the administrative funding available to cover environmental assessments cost for the West Modesto Sewer Infrastructure Project area; however, independent of the County, SHE has already contracted with Dokken Engineering, an environmental consulting firm contracted by the Planning and Community Development Department for on-call environmental services, to conduct the CEQA and NEPA review for the entire West Modesto Sewer Infrastructure Project.

If this item is approved, the County will partner with SHE to utilize \$30,000 of its State TA grant to fund the environmental assessment costs. The balance of the TA grant to SHE will be used to pay for public outreach, and to assist the County in applying for SWRCB funding.

Once the environmental assessment is completed and funding released by HUD, subsequent project costs, such as design and construction, can be treated as project delivery costs. Staff will apply for financing assistance from the State and will carefully coordinate and track project costs to meet HUD funding requirements and avoid any financial liability to the County's General Fund.

**BOARD OF SUPERVISORS' PRIORITY:**

The recommended actions are consistent with the Board's priority of Delivering Efficient Public Services and Community Infrastructure by providing a sewer system that County residents can connect to in response to the health and safety concerns of failing septic systems.

**STAFFING IMPACT:**

Existing Public Works Department and Planning and Community Development Department staff is overseeing this project.

**CONTACT PERSON:**

Matt Machado, Public Works Director

Telephone: (209) 525-4153

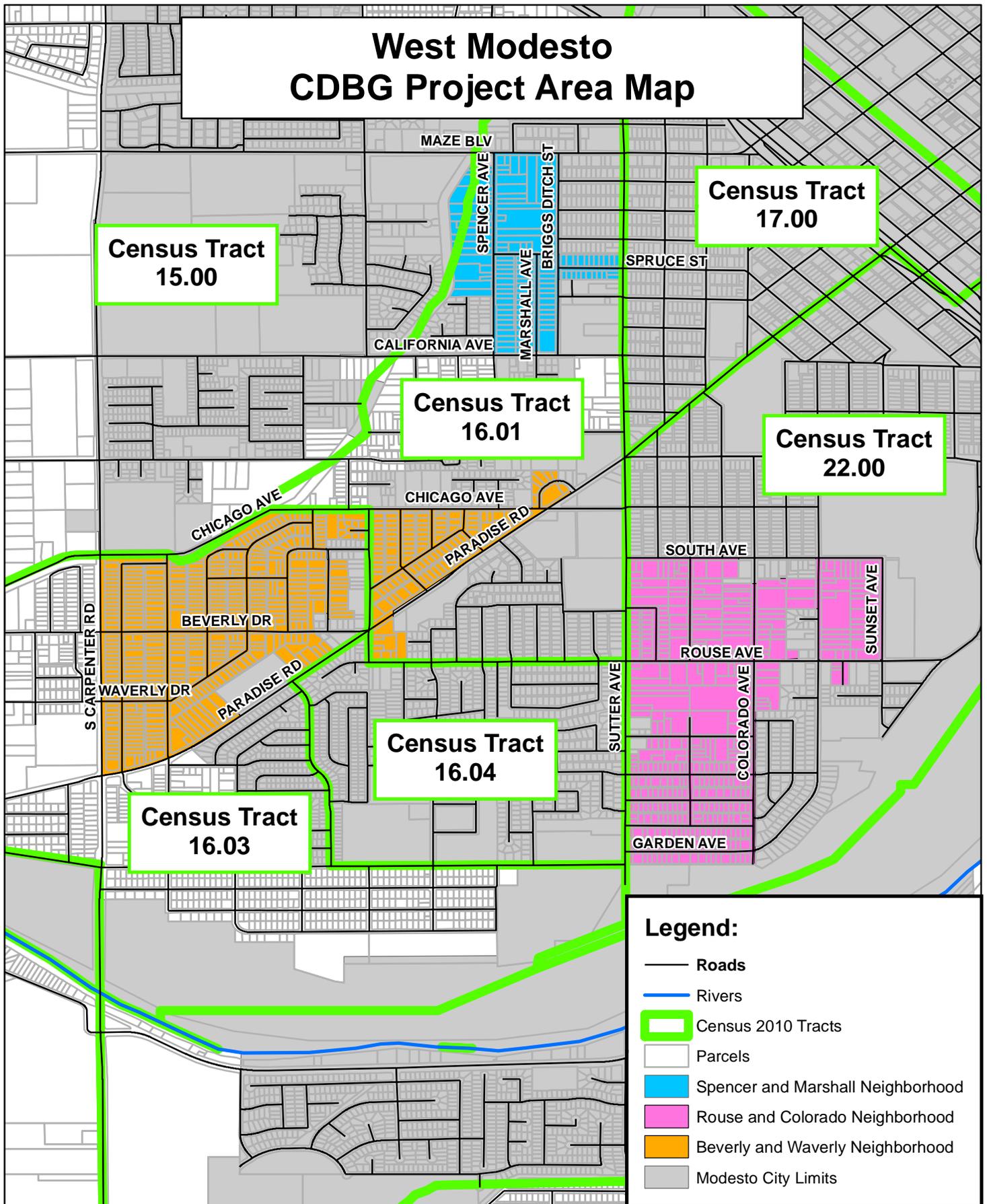
Angela Freitas, Planning & Community  
Development Director

Telephone: (209) 525-6330

**ATTACHMENT(S):**

1. West Modesto CDBG Project Area Map
2. Proposition 1 Technical Assistance Work Plan No. 5635-A
3. West Modesto Sewer Resolution 3-27-18

# West Modesto CDBG Project Area Map



## Legend:

- Roads
- Rivers
- Census 2010 Tracts
- Parcels
- Spencer and Marshall Neighborhood
- Rouse and Colorado Neighborhood
- Beverly and Waverly Neighborhood
- Modesto City Limits





## PROPOSITION 1 TECHNICAL ASSISTANCE WORK PLAN

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SELF-HELP ENTERPRISES (SHE)  
AND  
CALIFORNIA STATE WATER RESOURCES CONTROL BOARD  
COMMUNITY DEVELOPMENT AND TECHNICAL ASSISTANCE PROGRAM

AGREEMENT NO. D16-12802

### **TA WORK PLAN NO. 5635-A** **DATED AS OF 1/22/18**

AMOUNT: \$60,400

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Whereas through the passage of various bond acts, including Proposition 1 in November 2014, the State Water Resources Control Board (State Water Board) is authorized to make available certain general obligation bond proceeds (GO Bond Proceeds) for projects meeting certain criteria; and

Whereas the State Water Board has determined that this Project is eligible for certain GO Bond Proceeds;

Therefore, the parties mutually agree to amend the Agreement, originally executed on August 25, 2016 and incorporated herein, to add:

**TA WORK PLAN NO. 5075-A** (4 pages attached) \*\*

\*\* Entire Exhibit added

All other terms and conditions shall remain the same.

#### **RECIPIENT:**

By: \_\_\_\_\_  
Name: Thomas J. Collishaw  
Title: President/CEO

Date: \_\_\_\_\_

#### **STATE WATER RESOURCES CONTROL BOARD:**

By: \_\_\_\_\_  
Name: Leslie Laudon  
Title: Acting Deputy Director, Division of Financial Assistance

Date: \_\_\_\_\_

**Proposition 1 Technical Assistance (TA) Work Plan**

**TA Type:**                     Drinking Water     Wastewater     Storm Water     Groundwater

**Grant Agreement No.:**                    D16-12802

**TA Start Date:**                                1/22/2018

**TA Recipient(s):**                              Stanislaus County

**Community/System**

**Contact:**                                        Stanislaus County Public Works, Miguel Galvez, galvezm@stancounty.com, 209-525-6330

**Additional Community/  
System Contact (if  
applicable):**                                      \_\_\_\_\_

**Additional Community/  
System Contact (if  
applicable):**                                      \_\_\_\_\_

**Work Plan ID No.:**                              5635-A

**Work Plan Title:**                                Spencer Marshall Waste Water Project

**Work Plan Submittal Date:**                January 26, 2018

**Scope of Technical Assistance**

Stanislaus County has three county island communities within the City of Modesto that rely on individual septic tanks with either leach fields or seepage pits. Stanislaus County would like to eliminate the potential for community exposure to surfacing septic system effluent and reduce the potential for groundwater degradation. Each island is surrounded by the City of Modesto waste water collection system which provides an opportunity to consolidate with the City of Modesto.

The goal of the proposed TA is to assist Stanislaus County to prepare and submit a construction application along with the corresponding documentation needed to bring these communities off of their septic systems to connect to the existing nearby sewer system. Self-Help Enterprises (SHE) will work with the SWRCB and Stanislaus County to prepare and submit a Spencer Marshall construction application.

A. Summary of Proposed Deliverables and Activities

	<b>Deliverable</b>	<b>Notes and Details Regarding Related Activities</b>	<b>Lead TA Provider staff (also list consultants, if applicable)</b>	<b>Due Date</b>
1	Needs Assessment and Work Plan Preparation/Submittal		CD Specialist	Complete
2	Prepare CEQA & NEPA Environmental Documentation	Assist Stanislaus County in preparing environmental documentation for Spencer/Marshall, Rouse/Colorado & Beverly/Waverly communities.	CD Manager, CD Specialist, Project Tech, Engineering/Environmental Consultants	6/30/18
3	Complete SWRCB Construction Application	Assist Stanislaus County to prepare and submit application through FFAST for the Spencer/Marshall, community ready to progress into implementation.	CD Manager, CD Specialist, Project Tech, Engineering consultants	6/30/18
4	Coordinate Consolidation with City of Modesto Sewer System	Assist Stanislaus County in initiating and carrying out discussions with City of Modesto regarding consolidation as well as coordinate and develop the consolidation effort.	CD Manager, CD Specialist, Project Tech, engineering consultants	Ongoing until 12/31/18
5	Community Education and Outreach	Assist Stanislaus County in gathering community input and providing information to residents, including community meetings.	CD Specialist, Project Tech, CD Manager	Ongoing until 12/31/18

B. Estimated Budget (Direct costs, including fringe) per State Fiscal Year (SFY) \*

Budget Category	SFY 2016/17	SFY 2017/18	SFY 2018/19	Total Amount Requested
A. Personnel	\$0	\$11,400	\$15,100	\$26,500
B. Expenses and Supplies	\$0	\$1,800	\$300	\$2,100
C. Equipment	\$0	\$0	\$0	\$0
D. Travel	\$0	\$600	\$1,200	\$1,800
E. Professional and Consultant Services	\$0	\$30,000	\$0	\$30,000
<b>Total Costs</b>	<b>\$0</b>	<b>\$43,800</b>	<b>\$16,600</b>	<b>\$60,400</b>

\* Costs may be shifted between SFYs but costs within each budget category may not exceed the total amount requested. Any costs exceeding the total amount requested in each budget category will not be permitted unless the Division approves an amendment to this TA Work Plan.

**California Environmental Quality Act (CEQA) Certification**

Please indicate if all the work you will implement in connection with this work plan is consistent with one of the following CEQA exemptions:

- Feasibility and planning studies with no ground disturbing activities (CCR, Title 14, Article 18, Section 15262)
- Also includes information collection via pilot studies, test wells, boreholes, etc. (CCR, Title 14, Article 19, Section 15306)

If proposed work includes ground disturbing activities in an area(s) with a potential for environmental impacts, including riparian habitat, wetland, endangered species habitat or sensitive cultural resources areas, you must notify your GM of the nature and scope of such work and receive approval prior to commencing ground disturbing activities.

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
STATE OF CALIFORNIA

2018-0143

Date: March 27, 2018

On motion of Supervisor Olsen Seconded by Supervisor Withrow  
and approved by the following vote,

Ayes: Supervisors: Olsen, Chiesa, Withrow, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

Item # 5.D.1

THE FOLLOWING RESOLUTION WAS ADOPTED:

**AUTHORIZE THE DIRECTOR OF PUBLIC WORKS TO APPLY FOR, ENTER INTO, AND SIGN FINANCIAL ASSISTANCE APPLICATIONS FOR THE CLEAN WATER STATE REVOLVING FUND PROGRAM FROM THE STATE WATER RESOURCES CONTROL BOARD FOR THE PLANNING, DESIGN, AND CONSTRUCTION OF THE WEST MODESTO SEWER INFRASTRUCTURE PROJECT**

WHEREAS, the West Modesto Sewer Infrastructure Project includes approximately 1,038 residential, commercial, and mixed-use parcels that rely on septic tanks for treatment of sewage. Failing septic tanks within the neighborhoods are threatening the local water supplies and pose a public health risk; and

WHEREAS, the State Water Resources Control Board offers unique funding programs for disadvantaged neighborhoods with debt forgiveness of up to 100% depending on the neighborhood's Median Household Income; and

WHEREAS, the Clean Water State Revolving Fund Program (CWSRF) requires a Board approved Resolution be included with the financial assistance application.

BE IT RESOLVED by Stanislaus County Board of Supervisors that the Director of Public Works, or designee, is hereby authorized and directed to sign and file, for and on behalf of Stanislaus County, Financial Assistance Applications, as necessary, for a financing agreement from the State Water Resources Control Board for the planning, design, and construction of the West Modesto Sewer Infrastructure Project; and

Now, Therefore BE IT RESOLVED that the Stanislaus County Board of Supervisor hereby agrees and further does authorize the aforementioned representative or his/her designee to certify that the Agency has and will comply with all applicable state and federal statutory and regulatory requirements related to any financing or financial assistance received from the State Water Resources Control Board; and

BE IT FURTHER RESOLVED that the Director of Public Works or his/her designee of Stanislaus County is hereby authorized to negotiate and execute financial assistance agreements from the State Water Resources Control Board and any amendments or change orders thereto and certify financing agreement disbursements on behalf of Stanislaus County.

ATTEST: **ELIZABETH A. KING, Clerk**  
**Stanislaus County Board of Supervisors,**  
**State of California**



File No.

BOS 2017-363  
2018-143



**DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT**

1010 10<sup>TH</sup> Street, Suite 3400, Modesto, CA 95354  
Planning Phone: (209) 525-6330 Fax: (209) 525-5911  
Building Phone: (209) 525-6557 Fax: (209) 525-7759

**INTERDEPARTMENTAL  
MEMORANDUM OF UNDERSTANDING  
FOR SERVICES RELATED TO THE  
WEST MODESTO SEWER INFRASTRUCTURE PROJECT  
(FUNDING PROCUREMENT, ENGINEERING DESIGN,  
PROJECT MANAGEMENT, AND CONSTRUCTION MANAGEMENT)**

This Memorandum of Understanding (MOU) is made and entered into as of the date set forth below and by and between the Stanislaus County Department of Planning and Community Development (hereinafter referred to as "Planning") located at 1010 10th Street, Suite 3400, 3rd Floor, Modesto CA, 95354, and the Stanislaus County Department of Public Works (hereinafter referred to as "Public Works") located at 1716 Morgan Road, Modesto, CA 95358.

**INTRODUCTION**

WHEREAS, Stanislaus County, as a member, and lead entity, of the Stanislaus Urban County has received a Community Development Block Grant ("CDBG") from the U.S. Department of Housing and Urban Development ("HUD") under Title I of the Housing and Community Development Act of 1974, as amended (42 USC 5301 et seq.; the "Act"); and

WHEREAS, pursuant to such grant and to the Board of Supervisors Board Resolution No. 2017-363, authorizing expenditure of funds for the West Modesto Sewer Infrastructure Project, Planning has the need for services involving engineering, design, and contract and construction management for the above referenced project;

WHEREAS, Public Works has the qualified staff with the experience and availability to perform such services; and

WHEREAS, pursuant to Board of Supervisors Board Resolution No. 2018-143, Public Works has been authorized to submit a Financial Assistant Application to the State's Clean Water State Revolving Fund Program for the environmental, design, and construction of the West Modesto Sewer Infrastructure Project, both Public Works and Planning have a need to align efforts in implementation of the West Modesto Sewer Infrastructure Project;

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. Public Works shall furnish to Planning those services and work set forth in the attached Exhibit "A", entitled "Scope of Services", hereby incorporated and made a part of this MOU.

### 2. WORK SCHEDULE:

- 2.1. Public Works agrees to perform in a timely manner, those services outlined in Exhibit "A", within the dates specified on said exhibit and titled "Work Schedule"
- 2.2. Subcontractors. If Public Works deems it appropriate to employ a consultant or other expert(s) in connection with the performance of the services under this Agreement, Public Works will so advise Planning and seek Planning's prior approval of such employment. Any consultant or expert employed by Public Works will be the agent of Public Works, not of Planning. Public Works shall require all its subcontractors to comply with the insurance and indemnity requirements stated herein, or shall include subcontractors as additional insureds under its insurance policies

### 3. COMPENSATION:

- 3.1. Planning agrees to compensate Public Works for those services outlined in Exhibit "A" using the method defined in said exhibit and titled "Compensation."
- 3.2. **Invoices.** Public Works shall provide Planning with a monthly statement, as services warrant, fees earned and costs incurred for services provided during the billing period, which Planning shall pay in full within 30 days of the date each invoice is approved by Planning. 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. All invoices, also referred to as Requests for Funds (RFF) shall only be submitted on Planning's approved RFF Form.

Invoices shall identify and disaggregate eligible costs by the following criteria:

- a) By Program funding (Community Development Block Grant or State's Clean Water Revolving Fund);
- b) By project area (7: Spencer-Marshall; 9: Beverly/Waverly; or 21: Rouse/Colorado);
- c) By Fiscal Year in which the service(s) were rendered;
- d) By staff, consultant, or expert name, title, and weighted labor rate; and
- e) Identifying job task performed

All invoices shall be supported by expense documentation (e.g.: Time cards, Time studies, Oracle/Peoplesoft reports, consultant invoices, etc.) attached to the RFF form.

3.3. **Certification of Expenses.** In every case, funds will be dispersed to Public Works subject to receipt of RFF specifying and certifying that such expenses are in conformance with this Agreement, and that Public Works is entitled to receive the amount requisitioned under the terms of this Agreement. With each RFF, an official authorized to bind Public Works, shall certify that *"By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."*

**4. TERM:**

4.1. The term of this MOU shall be from the dates outlined in Exhibit A and any amendments or changes thereof.

**5. AMENDMENTS:**

5.1. This MOU may be amended or terminated by the mutual consent of the parties hereto if such request for amendment or termination is in written form and executed with the same formalities as this MOU and attached to the original to maintain continuity.

5.2. Without written consent of the Planning and Community Development Department, this Agreement is not assignable by Public Works, either in whole or in part.

**6. ENTIRE UNDERSTANDING:**

6.1. This MOU contains the entire understanding of the parties and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated here by reference shall be of any force or effect.

6.2. **Provisions Required by Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Memorandum of Understanding shall be deemed to be inserted herein, and the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Memorandum of Understanding shall forthwith be physically amended to make such insertion or correction.

**7. PROGRAM COMPLIANCE:**

7.1. **Change Order Process.** The process to move forward on any changes to the project's; design, programmatic structure, financial, etc. is outlined in Exhibit "B".

7.2. **HUD Requirements.** Public Works will meet all CDBG requirements as stated in Exhibit "C". This includes ensuring that all subcontractors also meet all CDBG requirements as stated in Exhibit "C".

7.3. **Monitoring.** Planning shall perform a minimum of two monitoring visits per year with Public Works to review contract scope of work progress. If at the time of monitoring Planning determines that insufficient progress has been made, it will include such information in its monitoring documentation and identify a corrective action plan. The corrective action plan shall include communication with Public Works to ensure that all services will be delivered. If Planning communicates scope of work delivery concerns to Public Works, and Public Works is not sufficiently able to ensure a plan that will deliver the contracted scope of work, then Planning may recapture and reallocate funds to another service provider. If a monitoring visit results in sufficient evidence of adequate progress toward meeting the scope of work, then Planning will record that there is such progress in monitoring documentation forwarded to Public Works.

**8. ADMINISTRATION:**

8.1. **Authorization.** For purposes of this MOU, the Parties hereby designate as their respective Party Representatives the person named below. The designated Party Representatives, or their respective designees, shall administer the terms and conditions of the MOU on behalf of their respective Party. Each of the persons signing below on behalf of a Party represents and warrants that they are authorized to sign this MOU on behalf of such Party.

PUBLIC WORKS: Christopher Brady  
Deputy Director  
Stanislaus County Public Works  
1716 Morgan Road  
Modesto, CA 95358

COUNTY: Miguel Galvez  
Deputy Director  
Stanislaus County Planning Department  
1010 10<sup>th</sup> Street Suite 3400  
Modesto, CA 95354

IN WITNESS WHEREOF, the PARTIES hereto have caused this MOU to be executed by their duly authorized representatives and affixed as of the date of signature of the PARTIES:

EXECUTED THIS 3rd DAY OF August, 2018.

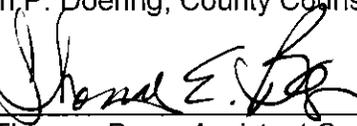
DEPARTMENT OF PLANNING AND  
COMMUNITY DEVELOPMENT

By:   
Angela Freitas, Director

DEPARTMENT OF PUBLIC WORKS

By:   
David Leamon, Interim Director

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

BY:   
Thomas Boze, Assistant County Counsel

## EXHIBIT A – SCOPE OF SERVICES

### 1. Services

Public Works shall provide all aspects of engineering, design, construction contracting, and construction management services necessary for completion of the West Modesto Sewer Infrastructure Project directly or through subcontractors, as approved by the Stanislaus County Board of Supervisors on January 18, 2018 (Resolution No. 2018-62).

### 2. Work Schedule

This Scope of Services shall cover authorized services undertaken by Public Works and their contractors beginning on August 3, 2018, and ending when a Notice of Completion is issued by Stanislaus County for the last Project phase. Project phasing will occur by the neighborhoods referenced below and further depicted in a map attached as Attachment 1.

#### **Phase 1 – Spencer/Marshall Neighborhood**

- Financial Assistance Application to be completed by December 31, 2018.
- 100% Engineering Design to be completed by June 30, 2019.
- Construction to be started by July 1, 2019 and completed by June 30, 2020 (pending available funding).

#### **Phase 2 – Rouse/Colorado Neighborhood**

- Financial Assistance Application to be completed by June 30, 2019.
- 100% Engineering Design to be completed by June 30, 2020.
- Construction to be started by July 1, 2020 and complete by June 30, 2022 (pending available funding)

#### **Phase 3 – Beverly/Waverly Neighborhood**

- Financial Assistance Application to be completed June 30, 2020.
- 100% Engineering Design to be completed by June 30, 2021.
- Construction to be started by July 1, 2022 and complete by June 2025 (pending available Funding)

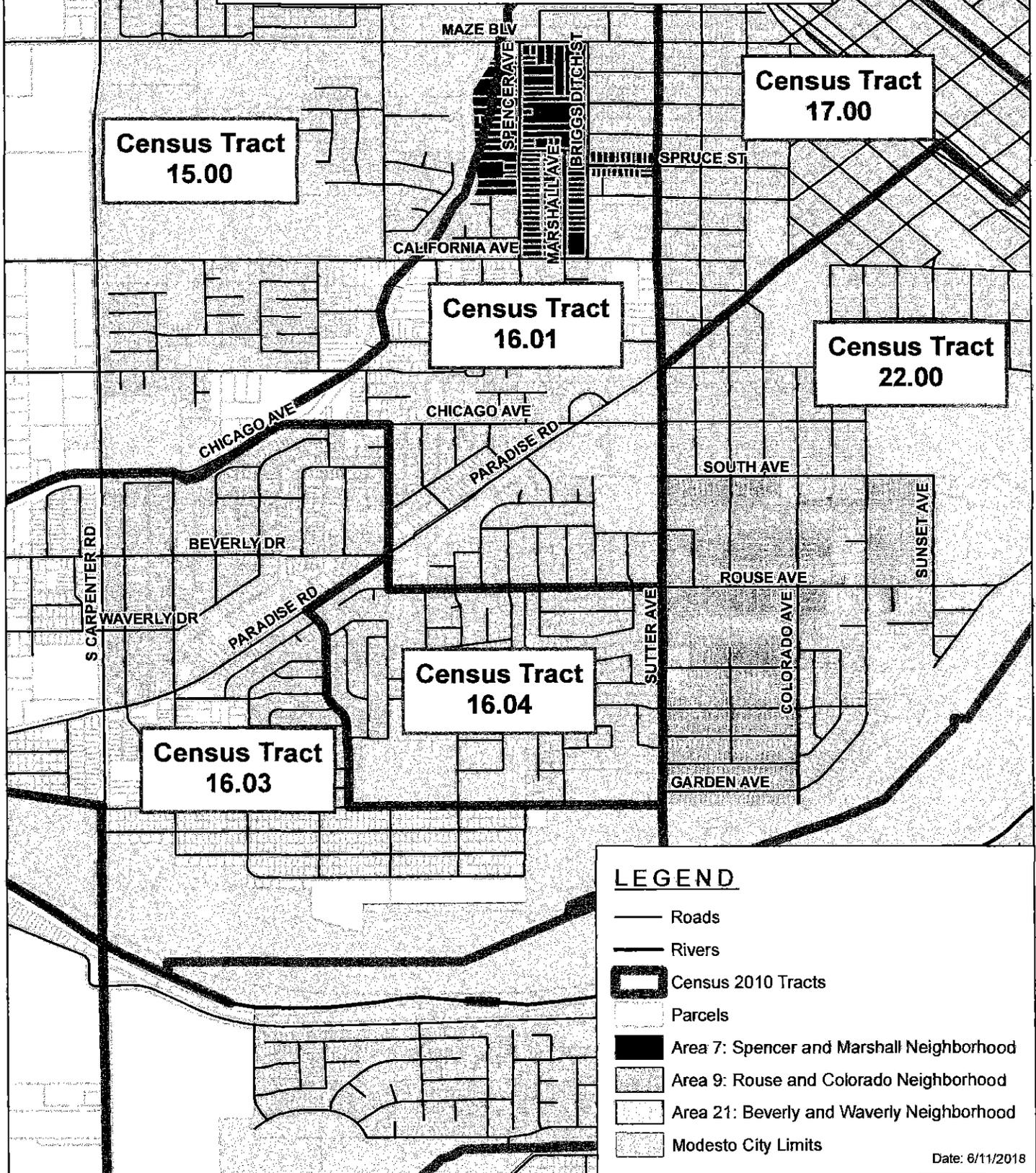
### 3. Compensation

Public Works and its consultants will be compensated on a time and material basis, based on the actual hours worked by Public Works staff at the hourly rates based upon actual costs in effect at the time of performance of the work. Any contractor hired by Public Works to perform services will be compensated per the contract bid documents approved by the Board of Supervisors. The parties hereto acknowledge the maximum amount to be paid by Planning for the services provided shall not exceed the amount authorized by the Board of Supervisors, listed below:

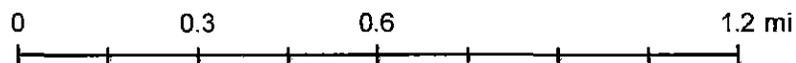
- West Modesto Sewer Infrastructure Project Phase I, 2, and 3 – Design and Engineering (FY 2018-2019) \$1,721,085

The compensation listed above shall be amended annually, based on Board of Supervisors authorization and HUD funding awards.

# West Modesto Sewer Infrastructure Project Area Map



Date: 6/11/2018



## EXHIBIT B - CHANGE ORDERS

The Public Works Department may order changes as necessary and as deemed appropriate by the Public Works Director. Orders for such changes will be in writing and provided to the Planning and Community Development Director. Any changes in excess of Contract Time and/or Contract Amount will be adjusted, by mutual written agreement of both departments.

### Signatures

A Change Order Request must be signed by the Public Works Director. Final authorization to proceed with Change Order Request will require approval from the Director of Planning and Community Development.

The Public Works Department will provide a copy of the proposed change order to the Planning and Community Development Department. The change order will provide an explanation of what extra work (i.e. change) is to be performed and what will be expected of the contractor. The total estimated cost of the change order shall include:

### Cost Estimate

Provide a summary of any of the following as they may apply:

- Increased Contract Items,
- Negotiated Amount/Time and Materials Items,
- Decreased Contract Items,
- Negotiated Credits Distribution of Funds,
- Amended timing for completion of work.

### Impact Delay Analysis

An impact delay analysis shall be provided with each change order request to include a revised construction schedule to reflect changes associated with the anticipated delay.

## **EXHIBIT C - FEDERAL REQUIREMENTS GOVERNING THE USE OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS**

### **1. USE OF FUNDS**

1.1 **General Use of Funds.** Use of funds received pursuant to this Agreement shall be in accordance with the requirements of the Housing and Community Development Act of 1974 (as amended), 24 CFR Part 570, and other regulations governing the Block Grant Program, and any amendments or policy revisions thereto which shall become effective during the term of this Agreement. Further, any funded activity must be designed or so located as to principally benefit low/moderate income persons, aid in the prevention or elimination of slums or blight, or meet urgent community development needs, as defined in the program regulations.

1.2 **Compliance with Local Code.** Public Works agrees to implement all activities supported with CDBG grant funds in compliance with all local codes and ordinances, including obtaining all necessary permits for such activities.

### **2. DATA COLLECTION, REPORTING & MAINTAINENCE OF RECORDS**

2.1 **Documentation.** Implementation of program activities, including determinations of eligibility, evidence of eligible activity costs, fiscal management, and CDBG contract and subcontract records shall be documented.

2.2 **General Records.** Public Works shall keep and maintain all project records, books, papers and documents for a period of not less than five (5) years, after the project terminates Public Works agrees to keep all necessary books and records, including property, personnel and financial records, in connection with the operations and services performed under this Agreement, and shall document all transactions so that all expenditures may be properly audited. Planning or any authorized representative shall have access to and the right to examine all records, books, papers or documents related to the project for the purposes of making audit, evaluation, examination, excerpts and transcripts during normal business hours and during the period such records are to be maintained by Public Works. Further, Planning has the right at all reasonable times to audit, inspect or otherwise evaluate the work performed or being performed under this Agreement.

### **3. UNIFORM ADMINISTRATIVE REQUIREMENTS**

3.1 **General Uniform Administrative Requirements.** Public Works shall comply with 24 CFR 570.502- Uniform Administrative Requirements and the requirements and standards of OMB Circular No. A-87, "Cost State, Local, and Indian Tribal Governments".

3.2 **Reasonable Grant Costs.** Planning and Public Works reserve the right to determine whether or not a request for CDBG grant fund reimbursement is reasonable. A cost is considered to be reasonable if, in its nature or amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the costs. In determining the reasonableness of a given cost, consideration shall be given to: (1) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the public works project or the performance of the award; (2) The restraints or requirements

imposed by such factors as generally accepted sound business practices, arms-length bargaining, Federal and State laws and regulations, and terms and conditions of the award; (3) Whether the individuals concerned acted with prudence in the circumstances, considering their responsibilities to the Public Works, its members, employees, and clients, the public at large, and the Federal Government. (4) Significant deviations from the established practices of the Public Works which may unjustifiably increase the award costs.

**3.3 Allocable Grant Costs.** Planning reserves the right to determine whether or not a request for CDBG grant fund reimbursement is allocable. A cost is considered to be allocable if it: (1) Is incurred specifically for the award; (2) Benefits both the award and other work and can be distributed in reasonable proportion to the benefits received; or (3) Is necessary to the overall operation of the public works project, although a direct relationship to any particular cost objective cannot be shown.

#### **4. NON-DISCRIMINATION & EQUAL OPPORTUNITY**

**4.1 Compliance with Fair Housing and Civil Rights Laws.** During the performance of this Agreement, Public Works and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental handicap, medical condition (including genetic characteristics), marital status, age, political affiliation or sex:

(1) Public Works agrees to comply with all applicable fair housing, non-discrimination and civil rights requirements including all applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation; (a) the County's nondiscrimination policy; (b) the California Fair Employment and Housing Act (California Government Code sections 12900 et seq.); (c) Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended; (d) California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; (e) Section 504 of the Rehabilitation Act of 1973; (f) Section of Title I of the Housing and Community Development Act of 1974; (g) Title II of the Americans with Disabilities Act of 1990; (h) Section 24 CFR 5.105 of the Code of Federal Regulations 24 CFR 5.105; (i) all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations.

(2) Public Works agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(3) Public Works will, in all solicitations or advertisements for employees placed by or on behalf of Public Works, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, handicap, sexual orientation, ancestry, national origin, familial status, or any other basis prohibited by applicable law.

(4) If the procedures that the grantee intends to use to make known the availability of services are unlikely to reach persons of any particular race, color, religion, sex, age, national origin, familial status, or disability who may qualify for such services, then Public Works must establish additional procedures that will ensure that such

persons are made aware of the services.

**4.2 Equal Participation of Religious Organizations.** Under CDBG, religious organizations retain their independence from federal, state, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct CDBG funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Faith-based organizations may use space in their facilities to provide CDBG-funded services, without removing religious art, icons, scriptures, or other religious symbols. If CDBG funds are to be used to acquire, construct, rehabilitate or renovate a structure which will be used for both grant eligible and inherently religious activities, CDBG funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities. In addition, a CDBG-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization mission statements and other governing documents. An organization that participates in the CDBG program shall not, in providing program assistance, discriminate against a program participant or prospective program participant on the basis of religion or religious belief.

**4.3 Section 3 Compliance.** Public Works agrees to comply with the rules and regulations set forth under Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u), as amended, and the HUD regulations issued pursuant thereto under 24 CFR Part 135. This act requires that, to the greatest extent feasible, opportunities for training and employment be directed to low and very-low income persons, particularly those recipients of government assistance for housing, and to business concerns that provide economic opportunities to low and very-low income persons.

**4.4 Americans with Disabilities Act (ADA) of 1990 and Architectural Barriers Act of 1968.** Public Works shall comply with the Architectural Barriers Act of 1968 (42 U.S.C. § 4151, et seq.), which insures that all federally funded facilities be designed, constructed, or altered to insure accessibility and use by disabled persons, and the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. § 12101, et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines.

**4.5 Labor Standards and Davis-Bacon and Related Act Requirements.** Public Works shall comply with all applicable federal labor standards, as set forth in section 101(a) of Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301, et seq.) and Davis Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5.

**4.6 Displacement, Relocation, Acquisition & Replacement of Housing.** Consistent with 24 CFR 570.606 and the Stanislaus Urban County's Anti-Displacement and Relocation Policy Plan, Public Works shall take all reasonable steps to minimize the displacement of all persons as a result of project activities.

**4.7 Eligibility Restrictions.** Public Works agrees to comply with applicable eligibility restrictions for certain resident aliens, as set forth in 24 CFR 570.613 and 24 CFR Part 49.

## 5. CONFLICTS OF INTEREST

5.1 **Hatch Act Incorporated.** Neither Public Works services nor the funds provided therefore, nor the personnel employed in the administration of the program shall be in any way or to any extent engaged in the conduct of political activities in contravention of the Hatch Act (Chapter 15 of Title 5, United States Code).

5.2 **Conflict of Interest.** Public Works shall comply with 24 CFR 84.42, which prohibits any employee, officer, or agent of Public Works from participating in the selection, award, or administration of a federally funded contract if a real or apparent conflict of interest would be involved. With respect to all other decisions involving the use of CDBG funds, the following restriction shall apply: No person who is an employee, agent, consultant, officer, or elected or appointed official of the Public Works and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.

5.3 **Lobbying and Disclosure Requirements.** Public Works certifies that no State or Federal appropriated funds have been paid, or will be paid for lobbying activities, in contravention of the Byrd Amendment (31 U.S.C. 1352) and its implementing regulations at 24 CFR part 87. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence this Agreement, Public Works shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

5.4 **Campaign Contribution Disclosure.** Public Works certifies that it has complied with the campaign contribution disclosure provisions of the California Levine Act (Government Code § 84308) and has provided the appropriate disclosures to County.

## 6. DRUG-FREE WORK PLACE

6.1 **Drug-free Workplace.** Public Works will maintain a drug free work place and will comply with the Drug-Free Workplace Act of 1988 (41 U.S.C. 701, et seq.) and HUD's implementing regulations at 24 CFR part 21.

## 7. LEAD BASED PAINT POISONING PREVENTION

7.1 **Lead Poisoning Prevention Act.** Public Works agrees to uphold the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.), as amended by the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 et seq.) and implementing regulations at 24 CFR part 35, subparts A, B, M, and R.

## 8. TERMINATION OF SERVICES & REVERSION OF ASSETS

8.1 **Termination of Contract and Reversion of Assets.** It is expressly understood and agreed that either party shall have the right to terminate this Agreement upon fifteen (15) days written notice to the other party. (1) Public Works may not

terminate an Assignment of Proceeds and Grant of Lien without written consent of Planning Staff. All reports or accounting provided for herein shall be rendered whether or not falling due within the Agreement period. (2) Planning staff reserves the right to terminate this Agreement or to reduce the Agreement compensation amount under the following conditions: (a) Failure of Public Works to file required reports; (b) Failure of Public Works to meet project dates; (c) Expenditure of funds under this Agreement for ineligible activities, services or items; (d) Failure to comply with written notice from Planning staff of substandard performance in scope of services under the terms of this Agreement. (3) Should Planning staff choose to terminate this Agreement the following steps shall be followed: (a) Written warning to Public Works by County including steps to bring project into compliance with time frame; (b) Written notification by Planning staff that said project has been determined deficient and that continued support of the project is not providing an adequate level of services to low/moderate income people; (c) Written notification from Planning Staff that said Agreement is to be terminated and program funds curtailed, withdrawn, or otherwise restricted. (4) Upon expiration or termination of this Agreement, Public Works shall transfer to the Planning and Community Development Department any CDBG funds on hand at the time of expiration or termination and any accounts receivable attributable to the use of CDBG funds.

8.2 **Insolvency.** If the Public Works becomes insolvent, all unused CDBG funds shall be returned to the Planning and Community Development Department for disposition.

## 9. GENERAL TERMS AND CONDITIONS

9.1 **Other program requirements.** Public Works agrees to carry out each activity in compliance with all Federal laws and regulations described in subpart K of 24 CFR 570, except that: (1) Public Works does not assume Planning and Community Development Department environmental responsibilities described within 24 CFR 570.604; and (2) Public Works does not assume Planning staff responsibility for initiating the process of reviewing federal financial assistance programs under the provisions of 24 CFR 52.