

**REQUEST FOR PROPOSALS
FOR
AS NEEDED GRANT WRITING SERVICES**



**CITY OF PETALUMA
11 English Street
Petaluma, California 94952**

**Telephone: (707) 779-8542
cityofpetaluma.org**

Released on January 25th, 2021

CITY OF PETALUMA
NOTICE INVITING PROPOSALS, RFP for
AS NEEDED GRANT WRITING SERVICES

PUBLIC NOTICE IS HEREBY GIVEN that sealed proposals will be received by the City of Petaluma ("City") at the office of the City Clerk located at 11 English Street, Room 4, Petaluma, California, 94952-2610, until 3:00 PM on Thursday, February 25th, for As Needed Grant Writing Services. Proposals received after this date will be rejected by the City. Emailed proposals will be accepted as long as they are emailed to azavala@cityofpetaluma.org prior to 3:00 PM on Thursday, February 25th.

The City is requesting proposals to provide: "on-call" as-needed, professional Grant Writing services.

The award of this contract is subject to available budget adequate to carry out the provisions of the proposed agreement including the identified scope of work. The City reserves the right to reject any or all proposals determined not to be in the best interest of the City.

Interested proposers may download copies of the Request for Proposals ("RFP") by visiting the City's web site, <https://cityofpetaluma.org/bid-opportunities-2/>. For more information regarding the RFP, please contact:

Aaron Zavala, Senior Management Analyst

azavala@cityofpetaluma.org

(707) 779-8542

**CITY OF PETALUMA
REQUEST FOR PROPOSALS**

I. BACKGROUND AND INTRODUCTION

The City of Petaluma is soliciting proposals from qualified consultants to provide the City of Petaluma with “on-call” as-needed, professional Grant Writing services. The City of Petaluma intends to select a list of qualified Grant Writers to complete various “on-call” grant writing services, which will be distributed among the selected Grant Writers at the discretion of the City.

The City of Petaluma is seeking Grant Writers with expertise in the areas including, but not limited to:

1. Capital Improvement and Public Works Infrastructure Development Projects
2. Active Transportation / Mobility / Bike and Pedestrian
3. Traffic Engineering
4. Public Safety
5. Energy Efficiency and Sustainability
6. Economic Development
7. Parks and Recreation Programs
8. Housing Programs
9. Technology
10. Homelessness Solutions
11. Airport
12. Marina and Waterways
13. Water, Waste Water, Recycled Water
14. Flooding & Storm Water
15. Emergency Management
16. Climate Change, Mitigation and Sequestration
17. Transit

The City generally pursues public grants. The grant writing needs are expected initially for public grants; however the City of Petaluma is looking to expand the number of private foundation opportunities that it pursues.

The City of Petaluma will have sole discretion as to which projects, if any, will be assigned to the selected Grant Writers. While we understand that a firm may have a topical area of expertise listed in this RFP, and the City wishes to pursue a grant application with the appropriate firm, the City reserves the right to utilize the selected “on-call” Grant Writers for any project it deems appropriate.

The Office of the City Manager is responsible for selecting Grant Writing services for selected City projects. The City is aiming to select at least one firm as an On-Call Grant Writer.

The City of Petaluma is a full-service charter city, administered by a Council/Manager form of government, encompassing an area of 14.52 square miles with a population of just under 62,000. The total annual City budget is approximately \$229 million for Fiscal Year 2020/2021, with the General Fund portion of the budget totaling approximately \$54 million.

II. SCHEDULE OF EVENTS

The process will be governed by the following schedule:

Release of RFP	01-25-2021
Deadline for Written Questions	02-08-2021
Responses to Questions Posted Online	02-15-2021
Proposals Due by 3:00 PM	02-25-2021
Proposal Evaluation Completed	03-11-2021
Approval of Contract (tentative)	April/May 2021

The above scheduled dates are tentative and City retains the sole discretion to adjust the above schedule. Nothing set forth herein shall be deemed to bind City to award a contract for the above-described Professional Services and City retains the sole discretion to cancel or modify any part of or all of this RFP at any time.

III. REQUEST FOR PROPOSALS

A. Scope of Services

The Grant Writer will provide professional Grant Writing services, on an “on-call,” as needed, basis for all assigned projects. Assistance to various City departments includes, but is not limited to:

- Developing overall grant outline; working with appropriate City department/staff and team to determine writing assignments, including providing an estimate of how much City staff time will be needed.
- Preparing a strategic work plan for the development of the proposed program underlying the grant application, and for production of the application itself, including key dates, responsible personnel, and specific deliverables.
- Taking the lead in scheduling meetings, bringing together stakeholders and obtaining relevant information from multiple stakeholders.
- Ensuring that all required components of each proposal are included in submission; ensuring adherence to grant evaluation criteria, and ensuring each entire grant package is timely and correctly prepared in accordance with the requirements and restrictions of its respective funders’ portal and technical submission requirements.
- Providing budget guidance and justifications in alignment with City policies and personnel guidelines and in conformance with grant solicitation requirements. Discuss with granting agency to understand emphasis of grant.
- Attend grant overview webinars or seminars to understand grant requirements, scoring

rubrics, background, and any other publicly available grantor presented information.

- Editing draft proposals for consistency of messaging, ensuring integration of grant requirements and succinctness prior to City final review and submittal to funder.
- Organizing facts, data, statistics and narrative collected and written as apart of assigned projects, developing tabular or graphic data displays as appropriate, and making those items available to the City for future use.
- Proposed fees and costs, although the City is not bound to select the Grant Writer who proposes the lowest fee. The City reserves the right to negotiate fees with the selected individual or firm.

B. City Contact for this RFP

Questions about this RFP must be directed in writing, via e-mail to:

Aaron Zavala, Senior Management Analyst
azavala@cityofpetaluma.org

From the date that this RFP is issued until a firm is selected and the selection is announced, firms are not allowed to communicate for any reason with any City employee other than the contracting officer listed above regarding this RFP, except during the preproposal conference.

C. Requests for Clarification

All questions, requests for interpretations or clarifications, either administrative or technical must be requested in writing and directed to the City Contact for this RFP, identified above.

All written questions, if answered, will be issued to all prospective proposers via the city web site as an issued addendum or online Q & A. Oral statements regarding this RFP by any persons should be considered unverified information unless confirmed in writing. To ensure a response, questions must be received in writing by 3:00 p.m. local time on the date identified in the Schedule of Events. Each Proposer is responsible for ensuring that it has received all addenda, clarifications, supplemental information and responses to questions prior to submitting a proposal.

D. Content and Format of Proposal

Proposals shall be concise, well organized and demonstrate qualifications and applicable experience. Proposals should be typed and should contain no more than 20 typed pages using a 12-point font size, including transmittal letter. The Index/Table of Contents, tables, charts, graphic exhibits and resumes of key staff are excluded from the page count limit.

Each Proposal will adhere to the following order and content of sections. Proposals should be straightforward, concise and provide “layman” explanations of technical terms that are used. Emphasis should be concentrated on conforming to the RFP instructions, responding to the RFP requirements, and on providing a complete and clear description of the offer. Proposals, which appear unrealistic in terms of commitments, lack of technical competence or are indicative of failure to comprehend the complexity of this contract, may be rejected.

Proposals may submit electronic copies along with the hard copies by way of flash drive or emailed to city contact, Aaron Zavala, in PDF file format. Proposals must include a table of

contents and page numbers for all pages in the proposal. The following Proposals sections shall also be included in the bidder's response:

1. Cover Letter

Cover letter should not exceed three pages in length and should summarize key elements of the proposal. An individual authorized to bind the consultant must sign the letter. The letter must stipulate that the proposal price will be valid for a period of at least 180 days. Indicate the address and telephone number of the contractor's office located nearest to Petaluma, California and the office from which the project will be managed. Letter shall also indicate the legal name and address of the company including the legal form of the company (LLC, partnership, etc.). If company is a wholly owned subsidiary of a "parent company," identify the "parent company."

2. Background and Project Summary Section

The Background and Project Summary Section should describe your understanding of the City of Petaluma, the work to be done, and the objectives to be accomplished. Refer to Scope of Work of this RFP.

3. Methodology Section

Provide a detailed description of the approach and methodology to be used to accomplish the Scope of Work of this RFP. The Methodology Section should include:

1. An implementation plan that describes in detail (i) the methods, including controls by which your firm manages projects of the type sought by this RFP; (ii) methodology for soliciting and documenting views of internal and external stakeholders; (iii) and any other project management or implementation strategies or techniques that the respondent intends to employ in carrying out the work.
2. Detailed description of efforts your firm will undertake to achieve client satisfaction and to satisfy the requirements of the "Scope of Work" section.
3. Detailed project schedule, identifying all tasks and deliverables to be performed, durations for each task, and overall time of completion.
4. Detailed description of specific tasks you will require from City staff. Explain what the respective roles of City staff and your staff would be to complete the tasks specified in the Scope of Work.

4. Staffing

Provide a list of individual(s) who will be working on this project and indicate the functions that each will perform. Include a resume for each designated individual. Upon award and during the contract period, if the consultant chooses to assign different personnel to the project, the consultant must submit their names and qualifications including information listed above to the City for approval before they begin work.

5. Qualifications

The information requested in this section should describe the qualifications of the firm, key staff and sub-contractors performing projects within the past five years that are similar in

size and scope to demonstrate competence to perform these services. Information shall include:

1. Names of key staff that participated on named projects and their specific responsibilities with respect to this scope of work.
2. A summary of firm's demonstrated capability, including length of time that your firm has provided the services being requested in this Request for Proposal.
3. The Grant Writer's writing samples including but not limited to: quality, cohesiveness, persuasiveness, compelling nature, succinctness, logic, ease of comprehension, attention to detail, clear and consistent formatting, skillful graphic displays of data, and correct and meaningful application of facts and statistics.
4. Provide answers to the following questions:

Describe delegation of responsibilities of key personnel, if any. Identify any subject matter experts on staff.

Describe 1) the method that you would use to organize facts, data, statistics, and narrative that you collect and write and 2) the method that you would use to make those items available to the City for future use.

Describe an approach you might take if you are having trouble obtaining relevant information from a stakeholder.

Describe the timeline for how long it would take from the City reaching out to the consultant to the consultant providing a proposal.

5. The Grant Writer's processes for engaging a writing team and preparing a proposal as well as other engagement with the City and relevant stakeholders.
6. The Grant Writer's experience that prepares them to successfully produce complete, competitive federal, state, and foundation grant applications, including by electronic or online application processes.
7. The Grant Writer's familiarity with current procedures for submission of applications under grants.gov, including the use of Workspace, preparation of SF-424s and other relevant Federal forms, and similar knowledge of FEMA and other portal requirements, requirements of SAM.gov, FFATA, eRA Commons, etc.
8. Describe percentage of your past projects were: Federal / State / Private Foundation / Corporate / Technical Assistance? (Example: 70% Federal, 10% State, 5% Private Foundation / 10% Corporate / 5% Technical Assistance.)
9. A summary of the firm's technical competence through the description of in-house resources (i.e., computer capabilities, software applications, modem protocol, modeling programs, etc.) and the ability to draw upon multi-disciplinary staff to address the Services requested in this RFP. (this maybe fits with my comment about the subcontractors)
10. Describe local experience and knowledge of the City of Petaluma.

11. Provide at least five references that received similar services from your firm. The City of Petaluma reserves the right to contact any of the organizations or individuals listed. Information provided shall include:
 - *Client Name*
 - *Project Description*
 - *Dollar amount of project*
 - *Project start and end dates*
12. Fiscal Stability:
 - a. The Proposer should be able to provide evidence of corporate financial capability to perform, therefore, may require you to provide sufficient data to allow for an evaluation of your firm's financial capabilities.

Information regarding any of the above may, at the sole discretion of the City, be deemed to indicate an unsatisfactory record of performance.

6. Fee Proposal:

Grant Writers are required to submit a fee proposal which includes the following:

Flat rate fee proposal – discuss how a flat rate fee is developed for a grant application. (ex: per project flat fee and method of determination)

A detailed hourly rate schedule; and/or other basis for fee

The City reserves the right to negotiate the fees or rates and payment schedules with the successful Grant Writer(s) either at the time of selecting a grant writer for the 'on call' list or at the time of initiating grant application work.

7. Insurance:

See the Agreement, attached hereto as **Exhibit "A"**, for a description of the insurance requirements.

8. Litigation:

Provide litigation history for any claims filed by your firm or against your firm related to the provision of Services in the last five (5) years.

9. Other Information:

This section shall contain all other pertinent information regarding the following:

Demonstration of record of staffing tasks efficiently and completing projects on time and within the allocated budget.

Description of community involvement.

Description of any previous involvement with the City.

A statement that the Proposer has not conflicts of interest in connection with providing the Services.

Connections to foundations, other governmental agencies providing grant opportunities, professional affiliations, certifications, board memberships

10. Appendices

No Deviations from the RFP

In submitting a proposal in response to this RFP, Proposer is certifying that it takes no exceptions to this RFP including, but not limited to, the Agreement (provide a copy of our PSA in the appendices). As such, Proposer is directed to carefully review the proposed Agreement and, in particular, the insurance and indemnification provisions therein.

E. Selection Process

1. The City will evaluate proposals based on the following criteria:
 - a. Clarity, responsiveness, and compliance with RFP requirements.
 - b. Understanding of the project.
 - c. Recent experience in conducting similar scope and complexity of work.
 - d. Team members' experience and performance in conducting similar scope of work, including educational background.
 - e. Fee proposal.
 - f. Comments by references, including the City of Petaluma related to any conflict of interest.

2. During the evaluation process, the City reserves the right, where it may serve the City's best interest, to request additional information or clarifications from Proposers, or to allow corrections of errors or omissions.

3. It is the City's intent to select a Proposer best evidencing demonstrated competence and professional qualification to perform the Services. The City reserves the right to reject all proposals, select by proposal review only or interview as needed. Certain Proposers may be selected to make a brief presentation and oral interview after which a final selection will be made. The successful Proposer will be selected on the basis of information provided in the RFP, in-person presentations, and the results of the City's research and investigation. Upon selection of a Proposer, the City will endeavor to negotiate a mutually agreeable Agreement with the selected Proposer. In the event that the City is unable to reach agreement, the City will proceed, at its sole discretion, to negotiate with the next Proposer selected by the City. The City reserves the right to contract for services in the manner that most benefits the City including awarding more than one contract if desired.

4. After negotiating a proposed Agreement that is fair and reasonable, City staff will make the final recommendation to the required awarding authority concerning the proposed Agreement who will have the final authority to approve or reject the Agreement.

F. Protests

1. Protest Contents: Protests based on the content of the RFP shall be submitted to the City no later than ten (10) calendar days prior to the scheduled proposal submittal deadline. If necessary, the proposal submittal deadline may be extended pending a resolution of the protest. Proposer may protest a contract award if the Proposer believes that the award was inconsistent with City policy or this RFP is

not in compliance with law. A protest must be filed in writing with the City (email is not acceptable) within five (5) business days after receipt of notification of the contract award. Any protest submitted after 5 p.m. of the fifth business day after notification of the contract award will be rejected by the City as invalid and the Proposer's failure to timely file a protest shall waive the Proposer's right to protest the contract award. The Proposer's protest must include supporting documentation, legal authorities in support of the grounds for the protest and the name, address and telephone number of the person representing the Proposer for purposes of the protest. Any matters not set forth in the protest shall be deemed waived.

2. City Review: The City will review and evaluate the basis of the protest, provided that the protest is filed in strict conformity with the foregoing. The City shall provide the Proposer submitting the protest with a written statement concurring with or denying the protest. Action by the City relative to the protest will be final and not subject to appeal or reconsideration. The procedure and time limits set forth in this section are mandatory and are the Proposer's sole and exclusive remedy in the event of protest. Failure to comply with these procedures shall constitute a waiver of any right to further pursue the protest, including filing a Government Code claim or legal proceedings.

G. Submittal Requirements

1. General: It is strongly recommended that the Proposer submit proposals in the format identified in this RFP to allow the City to fully evaluate and compare the proposal. All requirements and questions in the RFP should be addressed and all requested data shall be supplied. The City reserves the right to request additional information which, in the City's opinion, is necessary to assure that the Proposer's competence, number of qualified employees, business organization, and financial resources are adequate to perform according to the Agreement.
2. Preparation: Proposals should be prepared in such a way as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of this RFP. Responses should emphasize the Proposer's demonstrated capability to perform the Services. Expensive bindings and promotional materials, etc., are not necessary or desired. However, technical literature that supports the approach to providing the Services and work plan should be forwarded as part of the proposal. Emphasis should be concentrated on completeness, approach to the work and clarity of proposal.
3. Authorization: The proposal shall be signed by an individual, partner, officer or officers authorized to execute legal documents on behalf of the Proposer.
4. Confidentiality of Proposal: Pursuant to *Michaelis, Montanari, & Johnson v. Superior Court* (2006) 38 Cal.4th 1065, proposals submitted in response to this RFP shall be held confidential by City and shall not be subject to disclosure under the California Public Records Act (Cal. Government Code section 6250 *et seq.*) until after either City and the successful Proposer have completed negotiations and entered into an Agreement or City has rejected all proposals. All correspondence with the City including responses to this RFP shall become the exclusive property of the City and shall become public records under the California Public Records Act. Furthermore, the City shall have no liability to the Proposer or other party as a result of any public disclosure of any proposal or the Agreement.

If a Proposer desires to exclude a portion of its proposal from disclosure under the California Public Records Act, the Proposer must mark it as such and state the specific provision in the California Public Records Act which provides the exemption as well as the factual basis for claiming the exemption. For example, if a Proposer submits trade secret information, the Proposer must plainly mark the information as "Trade Secret" and refer to the appropriate section of the California Public Records Act which provides the exemption as well as the factual basis for claiming the exemption. Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the City may not be in a position to establish that the information that a Proposer submits is a trade secret. If a request is made for information marked "Confidential", "Trade Secret" or "Proprietary" ("Proprietary Information"), the City will provide Proposers who submitted the information with reasonable notice to seek protection from disclosure by a court of competent jurisdiction. Proposer shall have five (5) working days after receipt of such notice to give City written notice of Proposer's objection to the City's release of Proprietary Information. Proposer shall indemnify, defend and hold harmless the City, and its officers, directors, employees, and agents from and against all liability, loss, cost or expense (including attorney's fees) arising out of a legal action brought to compel the release of Proprietary Information.

Proposals which indiscriminately identify all or most of the proposal as exempt from disclosure without justification may be deemed unresponsive and disqualified from further participation in this procurement.

5. Submittal Instructions

Complete written proposals must be submitted and received by the City of Petaluma ("City") at the office of the City Clerk, located at 11 English Street, Room 4, Petaluma, California, 94952-2610, for As Needed Grant Services, or submitted electronically via email to Aaron Zavala at azavala@cityofpetaluma.org.

The City shall not be responsible for proposals that are delinquent due to any technological malfunction on Proposers equipment, delinquent in mail delivery, lost, incorrectly marked, and sent to an address other than that given herein, or sent by mail or courier service and not signed for by the City.

H. General Conditions

1. Amendments to RFP: The City reserves the right to amend the RFP and issue to all Proposers an addendum.
2. Amendments to Proposals: Unless specifically requested by the City, no amendment, addendum or modification shall be accepted after a proposal has been submitted to City. If a change to a proposal that has been submitted is desired, the submitted proposal must be withdrawn and the replacement proposal submitted prior to the deadline stated herein for receiving proposals.
3. Non-Responsive Proposals: A proposal may be considered non-responsive if conditional, incomplete, or if it contains alterations of form, additions not called for, or other irregularities that may constitute a material change to the proposal.
4. Costs for Preparing: The City shall not compensate any Proposer for the cost of preparing any proposal, and all materials submitted with a proposal shall become the property of the City. The City will retain all proposals submitted and may use any idea in a proposal regardless of whether that proposal is selected.

5. Cancellation of RFP: City reserves the right to cancel this RFP at any time prior to contract award without obligation in any manner for proposal preparation, interview, fee negotiation or other marketing costs associated with this RFP.
6. Price Validity: Prices provided by Proposers in response to this RFP are valid for 180 days from the proposal due date. The City intends to award the contract within this time but may request an extension from the Proposers to hold pricing, until negotiations are complete and the contract is awarded.
7. No Commitment to Award: Issuance of this RFP and receipt of proposals does not commit the City to award a contract. City expressly reserves the right to postpone the proposal for its own convenience, to accept or reject any or all proposals received in response to this RFP, to negotiate with more than one Proposer concurrently, or to cancel all or part of this RFP.
8. Right to Negotiate and/or Reject Proposals: City reserves the right to negotiate any price or provision, task order or service, accept any part or all of any proposals, waive any irregularities, and to reject any and all, or parts of any and all proposals, whenever, in the sole opinion of City, such action shall serve its best interests and those of the tax-paying public. The Proposers are encouraged to submit their best prices in their proposals, and City intends to negotiate only with the Proposer(s) whose proposal most closely meets City's requirements at the lowest estimated cost. The Agreement, if any is awarded, shall go to the Proposer whose proposal best meets City's requirements.
9. Non-Discrimination: The City does not discriminate on the basis of race, color, national origin, religion, age, ancestry, medical condition, disability or gender in consideration for an award of contract.

EXHIBIT A

PROFESSIONAL SERVICES AGREEMENT

(Title of Project)

FY _____ Fund # _____ Cost Center _____ Object Code _____ Project # _____ Amount \$ _____

For multi-year contracts or contracts with multiple accounts:

FY _____ Fund # _____ Cost Center _____ Object Code _____ Project # _____ Amount \$ _____

FY _____ Fund # _____ Cost Center _____ Object Code _____ Project # _____ Amount \$ _____

FY _____ Fund # _____ Cost Center _____ Object Code _____ Project # _____ Amount \$ _____

FY _____ Fund # _____ Cost Center _____ Object Code _____ Project # _____ Amount \$ _____

FY _____ Fund # _____ Cost Center _____ Object Code _____ Project # _____ Amount \$ _____

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is entered into and effective as of _____, 20____ (“Effective Date”), by and between the City of Petaluma, a
(city use only)

municipal corporation and a charter city (“City”) and _____, a _____ (“Contractor”) (collectively, the “Parties”).

WHEREAS, the Parties enter into this Agreement for the purpose of Contractor providing professional services to City under the terms and conditions set forth herein.

THEREFORE, in consideration of the mutual covenants contained in this Agreement, the Parties agree as follows:

1. **Services.** Contractor shall provide the services as described in and in accordance with the schedule set forth in Exhibit “A” attached hereto and incorporated herein (“Services”).
2. **Compensation; Business Tax Certificate.**
 - A. For the full performance of the Services as described herein, City shall compensate Contractor in accordance with the rates specified in Exhibit A.
 - B. Contractor shall submit detailed monthly invoices reflecting all services performed during the preceding month and including a revised schedule for performance and additional documentation requested by City, as applicable.
 - C. Contractor shall be compensated for services in addition to those described in Exhibit A, only if Contractor and City execute a written amendment to this Agreement describing the additional services to be performed and the compensation to be paid for such services. In no case shall the total compensation under this Agreement exceed \$ _____ without prior written authorization of the City Manager. Further, no compensation for a section or work program component attached with a specific budget shall be exceeded without prior written authorization of the City Manager.
 - D. Notwithstanding any provision herein, Contractor shall not be paid any compensation until such time as Contractor has on file with the City Finance Department a current W-9 form available from the IRS website (www.irs.gov) and has obtained a currently valid Petaluma business tax certificate.

- E. City's obligation to pay compensation to Contractor as provided herein is contingent upon Contractor's performance of the Services pursuant to the terms and conditions of this Agreement and any amendments thereto.
3. **Term.** The term of this Agreement commences on the Effective Date and terminates on _____, unless sooner terminated in accordance with Section 4. Upon termination, any and all of City's documents or materials provided to Contractor and any and all of the documents or materials prepared for City or relating to the performance of the Services, shall be delivered to the City as soon as possible, but not later than fourteen (14) days after termination of the Agreement.
 4. **Termination.** City may terminate this Agreement without cause upon ten (10) days' written notice. City may immediately terminate or suspend this Agreement for cause. Cause for immediate termination or suspension shall include, but not be limited to, any breach of this Agreement by Contractor or Contractor's bankruptcy or insolvency. Upon receipt of notice of termination or suspension for cause, Contractor shall immediately stop all work in progress under this Agreement. In the event of early termination of this Agreement by City, Contractor shall be entitled to payment for all Services performed to the date of termination to the extent such Services were performed to the satisfaction of City in accordance with the terms and conditions of this Agreement. If City terminates this Agreement for cause, Contractor shall be liable to City for any excess cost City incurs for completion of the Services.
 5. **Contractor's Representation; Independent Contractor.** Contractor represents that Contractor possesses distinct professional skills in performing the Services. City has relied upon said representation as a material inducement to enter into this Agreement. Contractor shall, therefore, provide properly skilled professional and technical personnel to perform all Services under this Agreement. It is expressly understood that Contractor and its agents and employees, shall act in an independent capacity and as an independent contractor and not as officers, employees or agents of City. This Agreement shall not be construed as an agreement for employment.
 6. **Facilities and Equipment.** Contractor shall, at its sole cost and expense, furnish all facilities and equipment that may be required for furnishing Services pursuant to this Agreement. City shall furnish to Contractor no facilities or equipment, unless the City otherwise agrees in writing to provide the same.
 7. **Licenses, Permits, Etc.** Contractor shall, at Contractor's sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits or other such approvals which are legally required for performing the Services.
 8. **Time.** Contractor shall devote such time to the performance of the Services as may be reasonably necessary for satisfactory performance of Contractor's obligations pursuant to this Agreement.
 9. **Inspection.** Contractor shall provide the City every reasonable opportunity to ascertain that the Services are being performed in accordance with the requirements and intentions of this Agreement. All work done, and materials furnished, if any, shall be subject to

inspection and approval by the City. The inspection of such work shall not relieve Contractor of any of its obligations pursuant to this Agreement.

10. **Progress Reports.** Upon the City's request, Contractor shall provide, in a form acceptable to City, written progress reports of all oral and written observations, opinions, recommendations, analyses, progress and conclusions related to Contractor's performance of the Services.
11. **Confidentiality.** In the course of Contractor's employment, Contractor may have access to trade secrets and confidential information, disclosure of which is protected or limited by law. Contractor shall not directly or indirectly disclose or use any such confidential information, except as required for the performance of the Services.
12. **Conflict of Interest.** Contractor represents that it presently has no interest, and covenants that it shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the Services hereunder. Contractor further covenants that, in the performance of this Agreement, it shall not employ any subcontractor or person having such a conflict of interest. Contractor represents that no one who has or will have any financial interest under the Agreement is an officer or employee of City. If such conflict of interest arises during this Agreement or any extension, Contractor will immediately advise City and City may, at its sole discretion, immediately terminate this Agreement. Certain Contractors are subject to the requirements, including the disclosure and reporting requirements, of the City's Conflict of Interest Code adopted pursuant to the Political Reform Act. Such Contractors subject to the City's Conflict of Interest Code include those whose work may involve: making government decisions regarding approval or adoption of rates, rules, or regulations, action on permits or other applications, authorization to enter into or modify contracts, or approval of plans, designs, reports, or studies. Contractor agrees to comply fully with all such requirements to the extent they apply to Contractor's performance of the Services.
13. **Contractor No Agent.** Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.
14. **Standard of Performance.** Contractor shall perform all the Services in a manner consistent with the standards of Contractor's profession. All instruments of service of whatsoever nature, which Contractor delivers to City pursuant to this Agreement, shall be prepared in a substantial, workmanlike manner and conform to the standards of Contractor's profession. All such instruments of service shall become the sole and exclusive property of City upon delivery of the same.
15. **Assignment/Transfer.** No assignment or transfer in whole or in part of this Agreement shall be made without the prior written consent of City.
16. **Subcontractors.** Contractor shall directly perform all Services, and shall not subcontract any portion of performance of the Services without the prior written consent of City. Any such subcontractors shall be required to comply, to the full extent applicable, with

the terms and conditions of this Agreement, including but not limited to, procuring and maintaining insurance coverage as required herein and which shall name City as an additional insured.

17. **Compliance With All Laws.** Contractor shall fully comply with all applicable local, state and federal rules, laws, regulations and ordinances pertaining to the performance of the Services required hereunder, including but not limited to, the California Building Standards Code as in effect in the City, the Americans with Disabilities Act, and any laws and regulations related to any copyright, patent, trademark or other intellectual property right involved in performance of the Services. Contractor's failure to comply with any law(s) or regulation(s) applicable to the performance of the Services hereunder shall constitute a material breach of this Agreement. To the extent that any other government agency or entity provides compensation for any Services, Contractor shall comply with all rules and regulations applicable to such fiscal assistance.
18. **Living Wage Ordinance.** Without limiting the foregoing Section 17, Contractor shall comply fully with all applicable requirements of Petaluma Municipal Code, Chapter 8.36, Living Wage (the "Living Wage Ordinance"), as the same may be amended from time to time. Upon the City's request Contractor shall promptly provide to the City documents and information verifying Contractor's compliance with the requirements of the Living Wage Ordinance, and shall within fifteen (15) calendar days of the Effective Date of this Agreement, notify each of its affected employees as to the amount of wages and time off that are required to be provided to them pursuant to the Living Wage Ordinance. The Acknowledgement and Certification Pursuant to City of Petaluma Living Wage Ordinance, attached to this Agreement as Exhibit _____, shall be a part of this Agreement for all purposes, and Contractors that are subject to Living Wage Ordinance requirements, as determined by the City, must provide a properly completed Exhibit _____ in accordance with the requirements of the Living Wage Ordinance. Contractor's noncompliance with the applicable requirements of the Living Wage Ordinance shall constitute cause for City's termination of this Agreement pursuant to Section 4 hereof.
19. **Discrimination.** During the performance of this Agreement, Contractor shall not discriminate against any employee or applicant for employment because of race, religion, creed, color, national origin, ancestry, gender, sexual orientation, age or physical or mental disability in violation of any applicable law.
20. **Notice.** Except as otherwise specified in this Agreement, all notices to be sent pursuant to this Agreement shall be made in writing and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other Party in accordance with this Section. All such notices shall be sent by:
 - (i) personal delivery, in which case notice is effective upon delivery;
 - (ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered on receipt if delivery is confirmed by a return receipt;
 - (iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service; or

- (iv) facsimile transmission, in which case notice shall be deemed delivered upon transmittal, provided that (a) a duplicate copy of the notice is promptly delivered by first-class or certified mail or by overnight delivery, or (b) a transmission report is generated reflecting the accurate transmission thereof. Any notice given by facsimile shall be considered to have been received on the next business day if it is received after 5:00 p.m. recipient’s time or on a nonbusiness day.

City: City Clerk
City of Petaluma
Post Office Box 61
Petaluma, California 94953
Phone: (707) 778-4360
Fax: (707) 778-4554
Email: cityclerk@ci.petaluma.ca.us

And:

Phone: _____
Fax: _____
Email: _____

Contractor: _____

Phone: _____
Fax: _____
Email: _____

21. **Ownership of Documents.** All original papers, documents or computer material on disk or microfilm, and copies thereof, produced as a result of this Agreement, shall be the property of City and may not be used by Contractor without the written consent of City. Copies of such documents or papers shall not be disclosed to others without the written consent of the City Manager or his or her designated representative.
22. **Indemnification.** To the maximum extent permitted by law, Contractor shall, at its own expense, indemnify, defend with counsel acceptable to the City, (which acceptance will not be unreasonably withheld), and hold harmless City and its officers, officials, employees, agents and volunteers (“Indemnitees”) from and against any and all liability, loss, damage, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, civil penalties and fines, expenses and costs (including, without limitation, claims expenses, attorney’s fees and costs and fees of litigation) (collectively, “Liability”) of every nature, whether actual, alleged or threatened, arising out of or in connection with the Services or Contractor’s failure to comply with any of the terms of this Agreement, regardless of any fault or alleged fault of the Indemnitees.

The Contractor's obligation to indemnify, defend and hold harmless under this provision shall not be excused because of the Contractor's inability to evaluate Liability, or because the Contractor evaluates Liability and determines that the Contractor is not or may not be liable. The Contractor must respond within 30 calendar days to any tender for defense and indemnity by the City, unless the time for responding has been extended by an authorized representative of the City in writing. If the Contractor fails to accept tender of defense and indemnity within 30 calendar days, in addition to any other remedies authorized by law, so much of the money due or that may become due the Contractor under this Agreement as shall reasonably be considered necessary by the City, may be retained by the City until disposition has been made of the matter subject to tender, or until the Contractor accepts the tender, whichever occurs first. In the event that the City must file responsive documents in a matter tendered to Contractor prior to Contractor's acceptance of tender, Contractor agrees to fully reimburse all costs, including but not limited to attorney's fees and costs and fees of litigation, incurred by the City in filing such responsive documents.

The Contractor waives any and all rights to express or implied indemnity against the Indemnitees concerning any Liability of the Contractor arising out of or in connection with the Services or Contractor's failure to comply with any of the terms of this Agreement. The defense and indemnification obligations of this Agreement shall no way be limited by, the insurance obligations that apply to this Agreement pursuant to Section 23.

Notwithstanding the foregoing, to the extent this Agreement is a "construction contract" as defined by California Civil Code Section 2783, as may be amended from time to time, Contractor's duty to indemnify under this provision shall not apply when to do so would be prohibited by California Civil Code Section 2782, as may be amended from time to time.

Notwithstanding the foregoing, to the extent that the Services include design professional services subject to California Civil Code Section 2782.8, as may be amended from time to time, Contractor's duty to indemnify shall only be to the maximum extent permitted by California Civil Code Section 2782.8.

23. **Insurance.** Contractor shall comply with the "Insurance Requirements for Contractors" in Exhibit B, attached hereto and incorporated herein by reference.

City reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. City's failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or City's failure to identify any insurance deficiency shall not relieve Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

24. **Amendment.** This Agreement may be amended only by a written instrument executed by both Parties.

25. **Litigation.** If litigation ensues which pertains to the subject matter of Contractor's services hereunder, Contractor, upon request from City, agrees to testify therein at a reasonable and customary fee.
26. **Construction.** This Agreement is the product of negotiation and compromise on the part of both Parties and that the Parties agree that, notwithstanding Civil Code Section 1654, any uncertainty in the Agreement shall not be construed against the drafter of the Agreement.
27. **Governing Law; Venue.** This Agreement shall be enforced and interpreted under the laws of the State of California and the City of Petaluma. Any action arising from or brought in connection with this Agreement shall be venued in a court of competent jurisdiction in the County of Sonoma, State of California.
28. **Non-Waiver.** The City's failure to enforce any provision of this Agreement or the waiver thereof in a particular instance shall not be construed as a general waiver of any part of such provision. The provision shall remain in full force and effect.
29. **Severability.** If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.
30. **No Third-Party Beneficiaries.** The Parties do not intend to create, and nothing in this Agreement shall be construed to create any benefit or right in any third party.
31. **Mediation.** The Parties agree to make a good faith attempt to resolve any dispute arising out of this Agreement through mediation prior to commencing litigation. The Parties shall mutually agree upon the mediator and shall divide the costs of mediation equally.
32. **Contractor's Books and Records.**
 - A. Contractor shall maintain any and all ledgers, books of accounts, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to the City for a minimum period of three (3) years or for any longer period required by law, from the date of final payment to Contractor pursuant to this Agreement.
 - B. Contractor shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of three (3) years or for any longer period required by law, from the date of termination or completion of this Agreement.
 - C. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the City Manager, City Attorney, City Finance Director, or a designated representative of these officers. Copies of such documents shall be provided to the City for inspection at Petaluma City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Contractor's address indicated for receipt of notices in this Agreement.

D. Where City has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of Contractor's business, City may, by written request by any of the above-named officers, require that custody of the records be given to the City and that the records and documents be maintained in Petaluma City Hall. Access to such records and documents shall be granted to any party authorized by Contractor, Contractor's representatives, or Contractor's successor in interest.

33. **Headings.** The headings used in this Agreement are for convenience only and are not intended to affect the interpretation or construction of any provisions herein.

34. **Survival.** All obligations arising prior to the termination or expiration of this Agreement and all provisions of this Agreement allocating liability between City and Contractor shall survive the termination or expiration of this Agreement.

35. **Entire Agreement.** This Agreement, including the exhibits attached hereto and incorporated herein, constitutes the entire agreement between the Parties with respect to the Services, and supersedes all prior agreements or understandings, oral or written, between the Parties in this regard.

IN WITNESS WHEREOF, the parties hereto have executed this document the day, month and year first above written.

CITY OF PETALUMA

CONTRACTOR

City Manager

By _____
Name

ATTEST:

Title

City Clerk

Address

APPROVED AS TO FORM:

City State Zip

City Attorney

Taxpayer I.D. Number

Petaluma Business Tax Certificate Number

file name: