



CITY OF SONOMA
REQUEST FOR PROPOSAL
ON-CALL GEOTECHNICAL ENGINEERING AND MATERIAL TESTING SERVICES
MARCH 27, 2024

Prospective Consultants:

The City of Sonoma (City) is interested in receiving proposals from qualified firms and/or individuals (Consultants) to provide on-call geotechnical engineering and material testing services for Capital Improvement Program (CIP) projects and plan checking/peer review services on geotechnical aspects of private development projects. Anticipated services are more fully described in this Request for Proposal (RFP).

Schedule of Events from Issuance of the RFP to Award of Contract:

RFP Distributed	March 27, 2024
Questions Due	April 10, 2024
Responses to Questions	April 16, 2024
Proposals Due	April 24, 2024
Contract Authorization	May 15, 2024 (anticipated)

City Point of Contact:

The sole source of contact regarding this RFP is Mike Berger, Public Works Director. Individuals or firms interested in submitting a proposal shall not contact other members of the City of Sonoma staff or Council members in connection with the RFP prior to the announcement of the Consultant selected.

Pre-Proposal Questions:

Questions regarding this RFP must be submitted to Mike Berger at mberger@sonomacity.org. Questions received by any other means will not receive a response. Questions will only be accepted until 5:00 p.m. on April 10, 2024. A single response document to all submitted questions will be provided no later than 5:00 p.m. on April 16, 2024.

Proposal Closing Date: 5:00 p.m. on April 24, 2024

Four (4) bound hardcopies and one (1) unbound hardcopy of Consultant's proposal must be received by the City not later than 5:00 p.m. on April 24, 2024. Proposals not received by this time and date will not be accepted. All proposals will become part of the official files of the City of Sonoma and will not be returned.

CITY OF SONOMA PUBLIC WORKS DEPARTMENT
CITY HALL, NO. 1 THE PLAZA, SONOMA, CA 95476

CITY OF SONOMA REQUEST FOR PROPOSAL

ON-CALL GEOTECHNICAL ENGINEERING AND MATERIAL TESTING SERVICES

MARCH 27, 2024

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CITY OF SONOMA
REQUEST FOR PROPOSAL
ON-CALL GEOTECHNICAL ENGINEERING AND MATERIAL TESTING SERVICES

I. PROJECT INFORMATION

A. COMMUNITY & CITY ORGANIZATION OVERVIEW

The City of Sonoma is located in the southernmost end of Sonoma County, about 22 miles south of Santa Rosa and 45 miles north of San Francisco. The City was incorporated in 1883 and encompasses about 2.7 square miles within the Sonoma Valley. The mediterranean climate makes the valley not only one of the world's finest grape-growing regions and a wonderful place to live for the City's nearly 11,000 residents. The City has more than 1,300 businesses that serve as the economic hub for the greater Sonoma Valley.

The City of Sonoma is a full-service general law city governed by a Council-Manager form of government. The City Council serves as the policy-making board for the municipality, and the City Manager is considered the Chief Executive Officer (CEO) of the municipal corporation. The City has 45 employees in several key departments including City Manager's Office/Administrative Services, Public Works, and Community Development (Planning & Building). The City contracts for police and fire protection services. The City's Capital Improvement Program (CIP) includes major repair and reconstruction of buildings, streets and bridges, parks, storm drainage, and water storage and delivery systems.

B. PURPOSE

The intent of this RFP is to select and enter into an agreement with one or more Consultants to be available to provide geotechnical engineering and material testing services should the City need such services. The City's CIP includes various projects on which the City will likely use consultant geotechnical engineering services for geotechnical investigation and design recommendations, material testing, inspection, as well as review of geotechnical aspects of private development projects.

Typical projects may include maintenance, reconstruction, or new construction of:

- Water and storm drain pump stations, structures and pipe installation;
- Retaining walls;
- Building and bridge foundations;
- Street resurfacing and reconstruction;
- Park improvements, including play fields and courts, pathways, buildings, and field lighting; and

- Peer review of geotechnical aspects of private land development projects.

More detail on the Scope of Services is provided in the following section.

C. SCOPE OF SERVICES

Anticipated project tasks and services may include, but are not necessarily limited to, the following:

1. Geotechnical engineering & design services for public works projects
 - a. Literature review of geotechnical reports and maps
 - b. Site reconnaissance
 - c. Underground service alert coordination
 - d. Subsurface soil sampling
 - e. Boring logs
 - f. Geotechnical engineering analyses
 - g. Seismicity
 - h. Geotechnical design recommendation for grading, foundations, pipe bedding and retaining walls
2. Pavement evaluation and design
 - a. Pavement corings
 - b. Deflection testing
 - c. Pavement analysis per Caltrans methodology
3. Geotechnical observation and testing, materials testing and special inspection
 - a. Acceptance Testing for the City of various construction materials, including but not limited to asphalt concrete, aggregate base, subgrade, concrete and more
 - b. Field sampling/testing/observation, including compaction testing
 - c. Plant inspection
 - d. Laboratory testing
 - e. Laboratory certification (Caltrans, AMRL, etc.)
4. Geotechnical review services
 - a. Review of geotechnical reports
 - b. Review of grading and foundation plans
 - c. Coordination with planning and building staff
 - d. Turn around schedule for development project plan checking: Ten (10) working days for first plan check; five (5) working days for each subsequent plan check.

D. AGREEMENT / TASK ORDER APPROACH

The City of Sonoma intends to award an On-Call Master Agreement with one or more Consultants who will be available to provide geotechnical engineering and material testing services on an as-needed basis. Consultants may submit proposals to provide only geotechnical engineering services or material testing services, or both. Services will be provided pursuant to a task order approach under which the Consultant will prepare a detailed scope of work (including schedule

and deliverables) based on the City's requested need along with a proposed cost based on the Consultant's hourly rate schedule. The City Engineer or Public Works Director will review and approve the Task Order and designate the appropriate funding source(s). Work may begin once the Task Order is signed by the City and Consultant. The total amount for all task orders shall not exceed \$200,000 annually. Execution of an On-Call Master Agreement does not guarantee that any Task Orders will be initiated during the life of the agreement. The term of the agreement shall be for a period of three (3) years from the date that the agreement is signed. The City may, at its discretion, extend the agreement for up to two (2) additional years. After the first year of the agreement and annually thereafter, the Consultant may request and submit justification for a reasonable increase in hourly billing rates. Such request, if made, is not guaranteed to be approved although the City will negotiate in good faith.

E. MINIMUM QUALIFICATIONS

Consultants must meet the following minimum qualifications to be considered responsive to this RFP:

- a. A minimum of three (3) years of experience satisfactorily providing the same or similar services requested under this RFP.
- b. Geotechnical engineering services must be managed/supervised by a registered professional Geotechnical Engineer in good standing with the California Board for Professional Engineers, Land Surveyors, and Geologists.
- c. Materials testing must be staffed with registered professional (i.e., Certified Engineering Geologist or Geotechnical Engineer in good standing with the California Board for Professional Engineers, Land Surveyors, and Geologists) and technicians experienced in such said required materials testing.

II. GENERAL CONDITIONS AND INSTRUCTIONS

The following general conditions and instructions apply to this RFP:

A. GENERAL REQUIREMENTS

Pre-Contractual Expenses

Pre-contractual expenses are defined as expenses incurred by the Professional Services Consultant (Consultant) in:

- Preparing a proposal in response to this RFP;
- Submitting that proposal to the City of Sonoma;
- Negotiating with the City of Sonoma on any matter related to this RFP, proposal and/or contractual agreement; and
- Any other expenses incurred by the Consultant prior to the date of an executed contract.

The City of Sonoma shall not, in any event, be liable for any pre-contractual expenses incurred by any Consultant. In addition, no Consultant shall include any such expenses as part of the price proposed to conduct the scope of work for this project.

Authority to Withdraw RFP and/or Not Award Contract

The City of Sonoma reserves the right to withdraw this RFP at any time without prior notice. Further, the City makes no representations that any agreement will be awarded to any Consultant responding to this RFP. The City expressly reserves the right to postpone the opening of proposals for its own convenience and to reject any and all proposals in response to this RFP without indicating any reasons for such rejection(s).

The City reserves the right, at its sole discretion, to determine whether any aspect of the proposal response satisfactorily meets the criteria established in the RFP. The City reserves the right to seek additional information and/or clarification from the prospective Consultant, the right to confer with any prospective Consultant and the right to reject any or all responses with or without cause. In the event that the RFP is withdrawn by the City for any reason, the City shall have no liability to any prospective Consultants for any costs or expense incurred with the preparation of proposals in response to this RFP. The City reserves the right, at its sole discretion, to waive any irregularities or informality.

Right to Reject Proposals

The City of Sonoma reserves the right to reject any or all proposals submitted. Any award made for this engagement will be made to the Consultant(s) which, in the opinion of the City, is best qualified to conduct the project.

Ownership of Deliverables

All materials prepared under the contract become the sole property of the City of Sonoma and may not be reproduced without permission by the City.

Proposal Evaluation Criteria

Proposals will be evaluated on the basis of the response to all provisions of this RFP. The City of Sonoma may use some or all of the following criteria in its evaluation and comparison of proposals submitted. The criteria listed are not necessarily an all-inclusive list. The order in which they appear is not intended to indicate their relative importance:

- a. Qualifications and experience of team members;
- b. Experience in completing projects similar in size, scope and purpose;
- c. Understanding of the services requested;
- d. Demonstrated record of success on work previously performed for the City or similar work performed for others;
- e. Team member availability to provide the requested services;
- f. Approach to delivering the requested services;
- g. Ability to work effectively with City staff, other public agencies and related parties as directed during the course of the design, study or other services;

- h. Pertinent new ideas which may be presented during the course of the selection process.
- i. Availability, experience and knowledge of any subconsultants, if used, to provide the requested services; and
- j. Overall quality of response to the RFP.

Standard Agreement and Insurance Coverage

The selected Consultant will be required to enter into an agreement based on the City's Standard Professional Services Agreement (refer to Attachment #1). Prior to commencement of any project activities, the Consultant must secure worker's compensation insurance and comprehensive general liability insurance, including auto and contractual liability coverage, as noted in the Standard Professional Services Agreement.

Prevailing Wages

Consultants are advised to consider whether services to be performed include classifications subject to state or federal prevailing wage requirements. Certain professional service providers such as, but not limited to, surveyors, field soils material testers, construction inspectors, and specialty inspectors are subject to prevailing wages. The prevailing wages applicable to this procurement are available on the DIR web page at www.dir.ca.gov. It is the Proposer's sole responsibility to incorporate the cost of complying with all prevailing wage and labor compliance requirements and all applicable laws for this Project. The successful Proposer and its subcontractors of any tier, if any, shall maintain active registration with DIR, as appropriate, for the duration of this Project. The City assumes no responsibility for Consultant's failure to properly pay prevailing wages in accordance with applicable laws.

Business License Requirement

All Consultants doing business with the City of Sonoma must have a current, valid business license issued by the City. If the selected Consultant does not have a current business license, the Consultant will be required to obtain one prior to contract award. The cost of obtaining a business license with the City is considered a pre-contractual expense as discussed in this RFP. Business license information may be obtained on the City's website at <https://www.sonomacity.org>.

Non-Discrimination

Consultant agrees that in carrying out its responsibilities under this agreement, and in particular with regard to the employment of persons and sub-Consultants working on the project, it will not discriminate on the basis of race, color, creed, national origin, religion, sex, age, or handicap. In the event any of the work performed by Consultant hereunder is sub-contracted to another person or firm (with approval of the City as required herein), sub-contract shall contain a similar provision.

B. PROPOSAL FORMAT AND CONTENT

Proposals should be typed as brief as possible. They should not include any elaborate or unnecessary promotional material. The following order and content of proposal sections should be adhered to by each Consultant.

Cover Letter

Provide a brief cover letter not to exceed two pages and include the following content:

- a. Brief statement of the Consultant's understanding of the project, and summary of key elements of the proposal.
- b. Brief summary of the Consultant's key qualifications and ability to provide the requested products and services.
- c. Statement confirming that the Consultant has the availability and time to dedicate the personnel and resources necessary to provide the requested on-call services.
- d. Statement confirming that the Consultant has the minimum qualifications required by this RFP.
- e. Statement that the proposal shall remain valid for a period of not less than 90 calendar days from the date of submittal.
- f. The address and telephone number of the Consultant's office from which services will be provided and contact information for the person who will serve as the Consultant's primary contact for this engagement.
- g. Signature by an individual authorized to bind the Consultant.

Company Profile

Provide a brief description of the firm, including business structure, address, the total number of employees, overall industry experience, certifications, affiliations, and relevant experience. Support your capacity to perform the services requested in this RFP.

Company Organization and Staffing

Describe who will manage and work on this project. Identify the Project Manager who will be the key contact with the City of Sonoma. Describe the responsibilities of each person on the project team. Provide brief descriptions of the qualifications of key personnel including their responsibilities on this project and experience on other similar projects. Include team member resumes.

Qualifications

Provide an outline of the organization qualifications indicating relevant background experience and capabilities for this work. Give examples of work accomplished that is similar in size and content to the Scope of Services. If available, give examples of other on-call services contracts. Provide proof of required licenses and registration.

Project Approach

Describe your understanding of the City, the work to be done, and the objectives to be accomplished. Describe your approach to providing the requested services and communicating progress/status with the City.

Client References

Provide at least three (3) but not more than five (5) client references for similar services provided within the past five (5) years. For each reference, provide: a) client organization name and

address; b) client contact name, title, phone number and email address; c) a brief description of the services provided and timeframe that services were provided; e) names of the Consultant's team members who worked on the reference engagements, as well as their respective responsibilities. Also, provide a complete list of other municipalities in California utilizing your geotechnical engineering services and materials testing services over the past five (5) years.

Proposed Fee Schedule

Prospective Consultants shall provide a fee schedule in a **separate, sealed envelope**; it shall **not** be included under the same cover as the Consultant's proposal. The fee schedule shall show the Consultant's hourly billing rates by job title/role.

Statement of Compliance

Consultants must submit a Statement of Compliance with all parts of the Request for Proposal and the City's Standard Professional Services Agreement (refer to Attachment #1) terms and conditions. The Statement of Compliance must declare either:

- a. This proposal is in strict compliance with the Request for Proposal and the City's Standard Professional Services Agreement and no exceptions to either are proposed; or
- b. This proposal is in strict compliance with the Request for Proposal and the City's Standard Professional Services Agreement except for the items listed. For each exception and/or suggested change, the Consultant must include: 1) the suggested change in the RFP or proposed rewording of the contractual obligations; 2) reasons for submitting the proposed exception or change; and 3) any impact the change or exception may have on project costs, scheduling or other considerations.

Conflict of Interest

Consultants shall disclose to the City any interest, direct or indirect, which could conflict in any manner or degree with the performance of services required. At the City's discretion, a potential conflict of interest, to the extent it is waivable, may be waived or factored into the final award decisions and/or a modified Scope of Work.

Other Information

Include any other information you consider to be relevant to the proposal. However, choose the additional information carefully, because this section of the proposal should not constitute the bulk of your submission.

ATTACHMENT 1
STANDARD PROFESSIONAL SERVICES AGREEMENT

**CITY OF SONOMA
PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT is entered into as of the _____ day of _____, 20__, by and between the CITY OF SONOMA herein called the “City,” and [INSERT CONTRACTOR NAME], herein called the “Contractor.”

Recitals

WHEREAS, City desires to obtain services listed in Exhibit B; and

WHEREAS, Contractor hereby warrants to the City that Contractor is skilled and able to provide such services described in Section 1 of this Agreement; and

WHEREAS, City desires to retain Contractor pursuant to this Agreement to provide the services described in Section 1 of this Agreement.

Agreement

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1. Scope of Services. Subject to such policy direction and approvals as the City through its staff may determine from time to time, Contractor shall perform the services set out in the Request for Proposal (RFP) which was sent by email and incorporated herein by reference.

2. Time of Performance. The services of Contractor are to commence upon receipt of a written notice to proceed from City, but in no event prior to receiving a fully executed agreement from City and obtaining and delivering the required insurance coverage, and satisfactory evidence thereof, to City. Contractor shall perform its services not later than [INSERT START DATE] and be completed not later than [INSERT COMPLETION DATE]. Any changes to these dates must be approved in writing by the City Manager or his or her representatives.

3. Standard of Quality. City relies upon the professional ability of Contractor as a material inducement to entering into this Agreement. All work performed by Contractor under this Agreement shall be performed 1) with due diligence, using its best efforts to perform and coordinate all activities in a timely manner; 2) in accordance with all applicable legal requirements; and 3) with the standard of quality ordinarily expected of competent professionals in Contractor’s field of expertise. Contractor shall correct, at its own expense, all errors made in the provision of services under this Agreement. In the event that Contractor fails to make such correction in a timely manner, City may make the correction and charge the cost thereof to Contractor.

4. Compensation and Method of Payment.

A. Compensation. The compensation to be paid to Contractor, including both payment for professional services and reimbursable expenses, shall be at the rate and schedules more particularly described in Exhibit B, in accordance with the terms and conditions included therein. However, in no event shall the amount City pays to Contractor exceed _____ Dollars (\$ _____). City’s obligation to pay compensation to Contractor as provided herein is contingent upon Contractor’s compliance with the terms and conditions of this Agreement and any amendments thereto. Payment by City under this Agreement shall not be deemed a waiver of

defects, even if such defects were known to the City at the time of payment.

B. Timing of Payment. Billing and payment for said services shall be as set forth in Exhibit A, attached hereto and incorporated herein.

C. Changes in Compensation. Contractor will not undertake any work that will incur costs in excess of the amount of set forth in Section 4(A) of this Agreement without prior written amendment to this Agreement. City shall have the right to amend the Scope of Work within the Agreement by written notification to the Contractor. In such event, the compensation and time of performance shall be subject to renegotiation upon written demand of either party to the Agreement. Contractor shall not commence any work exceeding the Scope of Work without prior written authorization from the City. Failure of the Contractor to secure City's written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the contract price or time due, whether by way of compensation, restitution, *quantum meruit*, etc. for work done without the appropriate City authorization.

D. Taxes. Contractor shall pay all taxes, assessments, and premiums under the federal Social Security Act, any applicable unemployment insurance contributions, Workers Compensation insurance premiums, sales taxes, use taxes, personal property taxes, or other taxes or assessments now or hereafter in effect and payable by reason of or in connection with the services to be performed by Contractor.

E. No Overtime or Premium Pay. Contractor shall receive no premium or enhanced payment for work normally understood as overtime, i.e., hours that exceed forty (40) hours per work week, or work performed during non-standard business hours, such as in the evenings or on weekends. Contractor shall not receive a premium or enhanced payment for work performed on a recognized holiday.

F. Litigation Support. Contractor agrees to testify at City's request if litigation is brought against City in connection with Contractor's work product. Unless the action is brought by Contractor or is based upon Contractor's negligence, City will compensate Contractor for the preparation and the testimony at Contractor's standard hourly rates, if requested by City and not part of the litigation brought by City against Contractor.

5. Inspection. Contractor shall furnish City with every reasonable opportunity for City to ascertain the services of Contractor are being performed in accordance with the requirements and intentions of this Agreement. All work done and all materials furnished, if any, shall be subject to the Project Manager's inspection and approval. The inspection of such work shall not relieve Contractor of any of its obligations to fulfill the requirement of this Agreement.

6. Ownership of Documents. Title, including the copyright and all intellectual property rights, all plans, specifications, maps, estimates, reports, manuscripts, drawings, descriptions, designs, data, photographs, reports and any other final work products compiled, prepared, or obtained by the Contractor under the Agreement shall be vested in City, none of which shall be used in any manner whatsoever, by any person, firm, corporation, or agency without the expressed written consent of the City. Contractor shall assume no responsibility for the unintended use by others of such final work products which are not related to the scope of the services described under this Agreement. Basic survey notes and sketches, charts, computations, and other data prepared or obtained under the Agreement shall be made available, upon request, to City without restriction or limitations on their use. Contractor may retain copies of the above-described information but agrees not to disclose or discuss any information gathered, discussed or generated in any way through this Agreement without the written permission of City during the term of this Agreement, unless required by law.

7. Employment of Other Contractors, Specialists, or Experts. Contractor will not employ or otherwise incur an obligation to pay other Contractors, specialists, or experts for services in connection with this Agreement without the prior written approval of the City.

8. Conflict of Interest.

A. Contractor (including principals, associates, and professional employees) covenants and represents that it does not now have any investment or interest in real property and shall not acquire any interest, direct or indirect, in the area covered by this contract or any other source of income, interest in real property or investment which would be affected in any manner or degree by the performance of Contractor's services hereunder. Contractor further covenants and

represents that in the performance of its duties hereunder no person having any such interest shall perform any services under this contract. Contractor agrees at all times to avoid conflicts of interest, or the appearance of any conflicts of interest, with the interests of the City in the performance of the Agreement.

9. Interest of Members and Employees of City. No member of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the carrying out of any project to which this Agreement pertains, shall have any personal interest, direct or indirect, in this Agreement, nor shall any such person participate in any decision relating to this Agreement which affects his/her personal interests or the interest of any corporation, partnership, or association in which he/she is directly or indirectly interested.

10. Liability of Members and Employees of City. No member of the City and no other officer, elected official, employee, or agent of the City shall be personally liable to Contractor or otherwise in the event of any default or breach of the City, or for any amount which may become due to Contractor or any successor in interest, or for any obligations directly or indirectly incurred under the terms of this Agreement. The City has no liability or responsibility for any accident, loss, or damage to any work performed under this Agreement whether prior to its completion or acceptance or otherwise.

11. Indemnity.

A. Indemnification. To the fullest extent permitted by law, Contractor shall, at its own expense, indemnify, protect, defend (by counsel reasonably satisfactory to the City) and hold harmless City and any and all of its officers, officials, employees, agents and volunteers ("Indemnified Parties") from and against any and all liability (including liability for claims, demands, damages, obligations, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged, or threatened), which arise out of, pertain to, or relate to the performance pursuant to, or failure to comply, with this Agreement, regardless of any fault or alleged fault of the Indemnified Parties.

For design professionals (as that term is defined by statute) acting within the scope of their professional capacity, to the fullest extent permitted by law, Contractor shall, at its own expense, indemnify, protect, defend (by counsel reasonably satisfactory to the City), and hold harmless any Indemnified Parties from and against any and all Liability, whether actual, alleged, or threatened, which arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, or as may be provided by statute in Civil Code § 2782.8, as may be amended from time to time.

The only exception to Contractor's responsibility to indemnify, protect, defend, and hold harmless the Indemnified Parties from Liability is due to the active negligence or willful misconduct of City or its elective or appointive boards, officers, agents, and employees.

B. Scope of Obligation. Contractor's duty to indemnify, protect, defend, and hold harmless as set forth in this Section 12 shall include the duty to defend (by counsel reasonably satisfactory to the City) as set forth in California Civil Code § 2778. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable by or for Contractor under worker's compensation, disability, or other employee benefit acts or the terms, applicability, or limitations of any insurance held or provided by Contractor and shall continue to bind the parties after termination/completion of this agreement. This indemnification shall be regardless of and not in any way limited by the insurance requirements of this contract. This indemnification is for the full period of time allowed by law and shall survive the termination of this agreement. Contractor waives any and all rights to express or implied indemnity against the Indemnified Parties concerning any Liability of the Contractor arising out of or in connection with the Agreement or Contractor's failure to comply with any of the terms of this Agreement.

Contractor's duty to indemnify, protect, defend, and hold harmless as set forth in this Section 12 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 thirty (30) calendar days to any tender 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 timely accept such tender, in addition to any other remedies authorized by law, as much of the money due or that may become due to 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. 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 responding to matters prior to Contractor's acceptance of the tender.

12. Contractor Not an Agent of City. City retains all rights of approval and discretion with respect to the projects and undertakings contemplated by this Agreement. Contractor, its officers, employees, and agents shall not have any power to bind or commit the City to any decision.

13. Independent Contractor. It is expressly agreed that the Contractor, in the performance of the work and services agreed to be performed by Contractor, shall act as and be an independent contractor and not an agent or employee of City and shall have responsibility for and control over the details and means of providing its services under this Agreement. Contractor shall furnish, at its own expense, all labor, materials, equipment, tools, transportation, and services necessary for the successful completion of the services under this Agreement. As an independent contractor, Contractor shall obtain no rights to retirement benefits or other benefits which accrue to City's employees, and Contractor hereby expressly waives any claim to may have to any such rights. Contractor, its officers, employees, and agents shall not have any power to bind or commit the City to any decision. Contractor shall not receive payment for time off for days not worked, whether it be in the form of sick leave, administration leave, or for any other form of absence.

14. Compliance with Laws.

A. General. Contractor shall use the standard of care in its profession to comply with all applicable federal, state, and local laws, codes, ordinances, and regulations. Contractor represents and warrants to City that it has all licenses, permits, qualifications, insurance, and approvals of whatsoever nature which are legally required for Contractor to practice its profession. Contractor represents and warrants to City that Contractor shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, insurance, and approvals which are legally required for Contractor to practice its profession. City is not responsible or liable for Contractor's failure to comply with any or all of the requirements contained in this paragraph or in this Agreement.

B. Workers' Compensation. Contractor certifies that it is aware of the provisions of the California Labor Code which require every employee to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and Contractor certifies that it will comply with such provisions before commencing performance of this Agreement and at all times in the performance of the Agreement.

C. Prevailing Wage. Contractor and Contractor's subContractors (if any) shall, to the extent required by the California Labor Code, pay not less than the latest prevailing wage rates to workers and professionals as determined by the Director of Industrial Relations of the State of California pursuant to California Labor Code, Part 7, Chapter 1, Article 2.

D. Injury and Illness Prevention Program. Contractor certifies that it is aware of and has complied with the provisions of California Labor Code Section 6401.7, which requires every employer to adopt a written injury and illness prevention program.

E. City's Living Wage Ordinance. Unless otherwise exempt in accordance with the provisions of the Ordinance, this contract is subject to the applicable provisions of the Living Wage Ordinance (LWO) of the City as amended from time to time and can be found at <https://www.sonomacity.org/living-wage-law/> and is incorporated by reference into and made a part of this Agreement.

(1) The Contractor assures payment of a minimum wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of benefits as defined in the LWO.

(2) The Contractor, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the City with regard to the employer's compliance or anticipated compliance with the LWO.

(3) Any Subcontract entered into by the Contractor relating to this Agreement shall be subject to the provisions of the LWO.

(4) The Contractor shall, immediately upon execution of Contract, provide notification to all affected employees of the wage required to be paid pursuant to the LWO.

(5) The Contractor shall provide, upon demand by City, documents and information verifying compliance with the requirements of the LWO.

(6) The City shall have the authority, under appropriate circumstances, to terminate this contract and otherwise pursue legal remedies that may be available if the City determines that the subject Contractor has violated provisions of the LWO.

F. Business Licenses. Except as otherwise allowed by City in its sole discretion, Contractor and all subcontractors shall have acquired, at Contractor's expense, a business license from the City in accordance with Chapter 5.04 of the Sonoma Municipal Code, prior to City's issuance of an authorization to proceed with the Services. Such license(s) shall be kept valid throughout the term of this Agreement. City may withhold compensation from Contractor until such time as Contractor complies with this section.

G. City Not Responsible. The City is not responsible or liable for Contractor's failure to comply with any and all of said requirements.

15. Confidential Information. All data, documents, discussions, or other information developed or received by or for Contractor in performance of this Agreement are confidential and not to be disclosed to any person except as authorized by City, or as required by law.

16. Assignment; Subcontractors; Employees

A. Assignment. Contractor shall not assign, delegate, transfer, or convey its duties, responsibilities, or interests in this Agreement or any right, title, obligation, or interest in or to the same or any part thereof without the City's prior written consent, which shall be in the City's sole and absolute discretion. Any assignment without such approval shall be void and, at the City's option, shall immediately cause this Agreement to terminate.

B. Subcontractors; Employees. Contractor shall be responsible for employing or engaging all persons necessary to perform the services of Contractor hereunder. No subcontractor of Contractor shall be recognized by the City as such; rather, all subcontractors are deemed to be employees of the Contractor, and Contractor agrees to be responsible for their performance. Contractor shall give its personal attention to the fulfillment of the provisions of this Agreement by all of its employees and subcontractors, if any, and shall keep the work under its control. If any employee or subcontractor of Contractor fails or refused to carry out the provisions of this Agreement or appears to be incompetent or to act in a disorderly or improper manner, it shall be discharged immediately from the work under this Agreement on demand of the Project Manager.

17. Insurance.

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

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL)**: Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.
4. **Professional Liability (Errors and Omissions):** Insurance appropriate to the Contractor's profession, with limit no less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. *(If applicable – see footnote next page)*

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

Other Insurance Provisions

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

Additional Insured Status

The City, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used).

Primary Coverage

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

Notice of Cancellation

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

Waiver of Subrogation

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

Self-Insured Retentions

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

Acceptability of Insurers

Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

Claims Made Policies (note – should be applicable only to professional liability, see below)

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

1. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided **for at least five (5) years after completion of the contract of work.**
3. If coverage is canceled or non-renewed, and not replaced **with another claims-made policy form with a Retroactive Date prior to** the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of **five (5) years** after completion of work.

Verification of Coverage

Contractor shall furnish the City with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to City before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Special Risks or Circumstances

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

18. **Assignment Prohibited.** Neither the City nor Contractor may assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation hereunder shall be void and of no effect.

19. **Termination of Agreement.**

A. This Agreement and all obligations hereunder may be terminated at any time, with or without cause, by the City to the Contractor upon 5 days' written notice.

B. If Contractor fails to perform any of its obligations under this Agreement within the time and in the manner herein provided or otherwise violates any of the terms of this Agreement, in addition to all other remedies provided by law, City may terminate this Agreement immediately upon written notice. In such event, Contractor shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred hereunder, an amount which bears the same ratio to the total fees specified in the Agreement as the services satisfactorily rendered hereunder by the Contractor bear to the total services otherwise required to be performed for such total fee; provided, however, that the City shall deduct from such amount the amount of damages, if any, sustained by City by virtue of the breach of the Agreement by the Contractor.

C. In the event this Agreement is terminated by the City without cause, Contractor shall be entitled to any compensation owing to it hereunder up to the time of such termination, it being understood that any payments are full compensation of services rendered prior to the time of payment.

D. Upon termination of this Agreement with or without cause, Contractor shall turn over to the City Manager immediately any and all copies of studies, sketches, drawings, computations, and other data, whether or not completed, prepared by the Contractor or its subcontractors, if any, or given to Contractor or its subcontractors, if any, in connection with this Agreement. Such materials shall become the permanent property of the City. Contractor, however, shall not be liable for the City's use of incomplete materials nor for the City's use of complete documents if used for other than the project contemplated by this Agreement.

20. **Suspension.** The City shall have the authority to suspend this Agreement and the services contemplated herein, wholly or in part, for such period as it deems necessary due to unfavorable conditions or to the failure on the part of the Contractor to perform any provision of this Agreement. Contractor will be paid for satisfactory services performed prior to the date of suspension. During the period of suspension, Contractor shall not receive any payment for services or expenses incurred by Contractor by reason of such suspension.

21. **Merger; Amendment.** This Agreement constitutes the complete and exclusive statement of the Agreement between City and Contractor and shall supersede all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument, signed by both the City and Contractor. All provisions of this Agreement are expressly made conditions.

22. **Interpretation.** This Agreement shall be interpreted as though it was a product of a joint drafting effort and no provisions shall be interpreted against a party on the ground that said party was solely or primarily responsible for drafting the language to be interpreted.

23. **Litigation Costs.** If either party becomes involved in litigation arising out of this Agreement or the

30. Non-Exclusive Agreement. This is a non-exclusive agreement. City reserves the right to provide, and to retain other Contractors to provide, services that are the same or similar to the services described in this Agreement.

31. City Not Obligated to Third Parties. The City shall not be obligated or liable for payment hereunder to any party other than Contractor.

32. Remedies/Waiver. No failure on the part of either party to exercise any term, covenant, condition, right, or remedy hereunder shall operate as a waiver of any other term, covenant, condition, right, or remedy that party may have hereunder. All remedies permitted or available under this Agreement, or at law or in equity, are cumulative and alternative. As a condition precedent to commencing legal action involving a claim or dispute against the City arising from this Agreement, the Contractor must present a written claim to City in accordance with the Sonoma Municipal Code.

33. Exhibits. The following exhibits are attached to this Agreement and incorporated herein by this reference:

Exhibit A – Compensation/Fee Schedule

Exhibit B – Scope of Services

Exhibit C – 2010 Plaza Park Inventory and Assessment

34. Execution. This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

35. News Releases/Interviews. All Contractor and subcontractor news releases, media interviews, testimony at hearings, and public comment shall be prohibited unless expressly authorized by the City.

36. Applicable Law; Venue. This Agreement shall be construed and interpreted according to California law. In the event that suit shall be brought by either party hereunder, the parties agree that a trial of such action shall be held exclusively in a state court in the County of Sonoma, California.

37. Authority. Each individual executing this Agreement on behalf of one of the parties represents that he or she is duly authorized to sign and deliver the Agreement on behalf of such party and that this Agreement is binding on such party in accordance with its terms.

38. Statement of Economic Interest. If City determines Contractor comes within the definition of Contractor under the Political Reform Act (Government Code § 87100), Contractor shall complete and file and shall require any other person doing work under this Agreement to complete and file a “Statement of Economic Interest” with the Clerk of the City of Sonoma disclosing Contractor and/or such other person’s financial interests.

IN WITNESS WHEREOF, the City and Contractor have executed this Agreement as of the date first above written.

CITY OF SONOMA

CONTRACTOR

By: _____

By: _____

Title

Title

Federal Tax Identification Number or
Social Security Number

FOR CITY USE ONLY

Account No.

Project Manager

**EXHIBIT A
COMPENSATION/FEE SCHEDULE**

Work Item	Unit	Unit Price (\$)	Total Price (\$)

EXHIBIT B
SCOPE OF SERVICES