



# **COMPREHENSIVE FEE STUDY, OVERHEAD COST ALLOCATION ANALYSIS, AND NEXUS STUDY FOR IMPACT FEES FOR PUBLIC FACILITIES AND SERVICES**

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**CITY OF SONOMA**  
**REQUEST FOR PROPOSALS**

**I. INTRODUCTION**

The City of Sonoma (“City”) requests proposals (“Proposals”) from qualified individuals or firms (individually, a “Respondent” and collectively, “Respondents”) for

1. Comprehensive Fee Study and Overhead Cost Allocation Analysis, **and**
2. Nexus Study for Impact Fees for Public Facilities and Services.

This Request for Proposals (RFP) describes the Scope of Services, the necessary components of the Statement of Qualifications, the consultant selection process, and a sample copy of the Standard Professional Services Agreement.

**II. BACKGROUND**

The City of Sonoma comprises 2.74 square miles within Sonoma Valley. The city is situated in the center of the approximately 17-mile-long Sonoma Valley, which is bounded by the Sonoma Mountains to the west, the Mayacamas Mountains to the east, San Pablo Bay to the south, and the city of Santa Rosa to the north. State Route (SR) 12 provides access through the central and northern portions of the Sonoma Valley. The City was incorporated on September 3, 1876, and is governed by five (5) Councilmembers elected at large, one of whom serves as Mayor. The City Council appoints the City Manager who implements policy set by the City Council. The City Council and City staff pride themselves on the high-quality delivery of services to residents. This is accomplished in part through shared values adopted by the City Council and staff that reflect commitment to the Sonoma community.

The City operates with 45 employees, serving a population of approximately 11,000 residents and more than 1,300 business establishments. Additional information about the City is available online at [www.sonomacity.org](http://www.sonomacity.org).

**III. OBJECTIVES**

The City is seeking a Professional to conduct an analysis of:

1. Citywide user fees and a full cost allocation plan for enhancing revenue and recovering cost. The services involve updating the Master Fee Schedule of each department, identifying additional service fees charged by other surrounding cities that are not currently part of the existing Master Fee Schedule, and developing a fully-burdened staff hourly rate. The City is seeking to engage the services of a qualified professional firm experienced in cost recovery to prepare both reports for all user fees. The last user fee study was performed in 2018 for the planning division fees.

**AND**

2. Developmental Impact fees (Impact Fees) and to complete associated Nexus Study(ies) in accordance with the California Mitigation Fee Act – AB 1600 (Act). The City desires to assess impact fees on new development to mitigate the fiscal impact on public facilities and services such as, streets, housing, police, park facilities and equipment. The City also desires assess certain fees to cover cost associated with implementing the City’s General Plan and Zoning Ordinance and Citywide Art and Beautification efforts.

#### **IV. SCOPE OF REQUEST FOR PROPOSALS AND QUALIFICATIONS**

Services to be provided by the selected consultant include the following:

##### **1. Cost Allocation Plan**

Prepare the City's fully-burdened Cost Allocation Plan, which may include the following elements. If the consultant feels that additional tasks are warranted, they must be clearly identified in the consultant's proposal.

1. Identify the total cost of providing each City service at the appropriate activity level and in a manner that is consistent with all applicable laws, statutes, rules and regulations governing the collection of fees, rates, and charges by public entities.
2. Determine the appropriate General and Administrative overhead allocations to City activities and applicable overhead rates for use in calculating the City's billable hourly rates. The requirements of the model should allow for:
  - a. Additions, revisions, or removal of direct and overhead costs so that the overhead cost allocation plan can be easily adapted to a range of activities, both simple and complex.
  - b. The ability of the City to continuously update the model and overhead cost allocation plan from year to year as the organization changes.
  - c. The addition of hypothetical service area information for future service enhancements, and the ability to calculate the estimated costs of providing the service under consideration (i.e. ad-hoc analysis).
3. Report on other matters that come to your attention in the course of your evaluation that in your professional opinion the City should consider.
4. Present the plan to the City's management group and make necessary adjustments as requested.
5. If called upon to do so, prepare and deliver presentations to the Council to facilitate their understanding of the plan and its implications to the City.
6. Provide the City with an electronic copy of the final comprehensive review, including related schedules and cost documentation in a format that can be edited and updated by City staff to accommodate changes in the organization or changes in cost.
7. Prepare a final report and provide a single Microsoft Word and PDF file of the Overhead Cost Recovery Plan that can be made available to City staff. Models, tables and graphs should be provided in Microsoft Excel as deemed appropriate. Any Cost Allocation Model revisions developed shall also be made available to the City in Microsoft Word and PDF formats, providing the ability to add, delete and/or update information as needed.
8. Provide a computer-based model for adjusting these fees and charges for the City's current and future needs and provide the City with an electronic copy of the final comprehensive study, including related schedules and cost documentation in a format that can be edited and updated by City staff to accommodate changes in the organization or changes in costs.
9. Consult with City staff should the need arise to defend the cost allocation plan as a result of audits or other challenges.
10. Update the plan annually and maintain accurate records of all correspondence, work papers, and other relative evidence during the contract period of five years.

## 2. User Fee Study

Prepare a User Fee Study for the City, which may include the following elements. If the consultant feels that additional tasks are warranted, they must be clearly identified in the consultant's proposal.

1. Conduct a comprehensive review of the City's existing fees, rates, and charges [City of Sonoma Fee Schedule Index - City of Sonoma \(sonomacity.org\)](http://sonomacity.org).
2. Identify the total cost of providing each City service at the appropriate activity level and in a manner that is consistent with all applicable laws, statutes, rules and regulations governing the collection of fees, rates, and charges by public entities including, but not limited to, Proposition 218.
3. Compare service costs with existing recovery levels. This should include any service areas where the City is currently charging for services as well as areas where perhaps the City should charge, in light of the City's practices, or the practices of similar or neighboring cities.
4. Recommend potential new fees and charges for services that the City currently provides but does not have any fees and/or charges established. Recommendations should be based on practices by surrounding cities that may charge for similar services, industry best practices, or the consultant's professional opinion.
5. Recommend appropriate fees and charges based on the firm's analysis together with the appropriate subsidy percentage for those fees where full cost recovery may be unrealistic.
6. Prepare a report that identifies each fee service, its full cost, and recommended and current cost recovery levels. The report should also identify the direct cost, the indirect cost, and the overhead cost for each service.
7. Prepare a report that identifies the present fees, recommended fees, percentage change, cost recovery percentage, revenue impact and fee comparison with other Sonoma County cities. A survey comparison of rates and fees with similar cities is for information only.
8. Report on other matters that come to the Consultant's attention in the course of the evaluation that, in the Consultant's professional opinion, the City should consider.
9. Provide a computer based model for adjusting these fees and charges for the City's current and future needs and provide the City with an electronic copy of the final comprehensive study, including related schedules and cost documentation in a format that can be edited and updated by City staff to accommodate changes in the organization or changes in costs. The requirements of the model should allow for:
  - a. Additions, revisions, or removal of direct and overhead costs so that the overhead cost allocation plan can be easily adapted to a range of activities, both simple and complex.
  - b. The ability of the City to continuously update the model and overhead cost allocation plan from year to year as the organization changes.
  - c. The addition of hypothetical service area information for future service enhancements, and the ability to calculate the estimated costs of providing the service under consideration (i.e. ad-hoc analysis).
10. Prepare and deliver presentations to the City Council to facilitate their understanding of the plan and its implications for the City and make necessary adjustments as requested.
11. Provide training to enable staff to update fees on an annual basis.
12. Prepare a final fee study report and provide a single Microsoft Word and PDF file of the User

Fee Study that can be made available to City staff. Models, tables and graphs should be provided in Microsoft Excel as deemed appropriate. Any revisions to the Master Fee Schedule shall also be made available to the City in Microsoft Word and PDF format, providing the ability to add or delete and/or update information as needed.

13. Consult with City staff should it become necessary to defend the City's User Fees as a result of any legal or other challenge.

### **3. Nexus Study for Impact Fees**

Prepare a Nexus Study for proposed Impact Fees for the City, which may include the following elements. If the consultant feels that additional tasks are warranted, they must be clearly identified in the consultant's proposal.

1. Provide sufficient information, as a completed Nexus Study, and the necessary findings to help the City update the Development Impact Fees (DIF) should budget meetings to present to Advisory Bodies and City Council.
2. Recommend best practices to help ensure effective and accurate assumptions for the Nexus Study, accurate DIF collections, and efficient tracking and reporting on DIF activities as required by AB 1600 and AB602.
  - a. Fee Accounting: The consultant shall evaluate the City's current system of fee accounting and administration and recommend an improved approach, if necessary, consistent with the Mitigation Fee Act and standard accounting principles.
  - b. Consistent with the City's overall funding and financing policies, the study should address credits and reimbursements for oversizing and recommend a policy for future Reimbursement Agreements.
  - c. The consultant should evaluate the City's current reporting practices and recommend best practices for annual reports to City Council.
  - d. Fee levels may increase each year to keep pace with inflation. The consultant should address whether the Consumer Price Index, California Construction Cost Index (CCCI), or another index should be the preferred basis for annual increases, consistent with State law.
3. Prepare a DIF Nexus Study and recommend DIF fee updates for submittal to the City Council containing background information, methodology, findings, and recommendations. More specifically, the consultant shall fulfill the following requirements, as a minimum:
  - a. Administrative Draft: The consultant will prepare and provide a comprehensive administrative draft, as well as technical reports for each fee category, including but not limited to methodology, findings, supporting justification, recommended DIF, recommendation for the elimination/consolidation of existing fees.
  - b. Creation of new fees, methodology for calculating and applying fee credits in each category, and calculations that provide the legal nexus between the fee recommendations and new development as required by law.
  - c. The consultant will document all work assumptions, analysis procedures, findings, graphics, impacts, and recommendations, with technical documentation in appendices. The administrative draft will include an executive summary and conclusion.
  - d. Generally, the administrative draft will consist of a discussion of the framework, project description, applicable statutory/legal framework, methodologies used, analysis, a list of projects to fund and their prioritization by type, and fee and fee credit methodology

recommendations.

- e. The administrative draft will include strategies and options for City Council consideration, including but not limited to incentives (fee deferrals or waivers) for affordable housing production. Impact fee revenue will likely be insufficient to address new development infrastructure needs, as envisioned. The consultant should anticipate working with City staff to refine the project lists and cost estimates and prioritize improvement items to balance revenue generation and economic feasibility considerations. The consultant will include strategies and options for City Council to keep fee levels reasonable and analyze how these options would impact the City's Capital Improvement Program.
- f. The consultant will revise the administrative draft according to one set of consolidated comments on the draft report from City staff.
- g. Public Review Draft: the consultant will develop and present a Public Review Draft a stakeholder, advisory body, and City Council meetings. The purpose of these meetings is to solicit community and stakeholder input. The consultant shall develop summary information such as visual presentations and printable handouts for these meetings that summarize the findings and analysis from the Public Review Draft.
- h. Final Draft: After incorporating input from the administrative and public review drafts, the consultant shall prepare a final report draft. The consultant will present the final study to the City Council during a public hearing and make any revisions requested by City Council. The consultant will assist staff and participate in the presentation to Council if any additional follow-up meetings are needed to complete the adoption of the DIF.
- i. The consultant shall prepare all required public notices and draft resolutions and ordinances required for City Council public hearings related to adopting the new fees.

#### **4. Meetings**

The consultant shall include rates of any additional meetings, should they be required.

1. A Kick-Off Meeting between consultant and City staff to review objectives of the study, agree to methodology, confirm project schedule and milestones, and discuss data needs.
2. Meet with staff and conduct interviews as needed to gain an understanding of the City's processes and operations.
3. Data collection and clarification meetings with City staff to obtain relevant information or clarify information required to complete the project(s).
4. Review findings with City staff. The consultant shall provide information supporting findings and proposed fees.
5. Attend up to three stakeholder meetings with interest groups.
6. Attend up to four meetings of Commissions and/or community to present Public Review Draft Nexus Study and Fee Updates and solicit input.
7. Attend City Council meeting to present Draft Nexus Study and Fee Updates. Discuss methodology and findings, provide a formal presentation, answer questions, and collect input to prepare the final draft.
8. Attend City Council meeting to follow up on the first meeting and present the final draft.

## **V. SUBMITTAL REQUIREMENTS AND QUALIFICATIONS**

Interested firms shall submit qualifications packets as comprehensive as possible. The nature and form of response is at the responder's discretion. It must not exceed a total of twenty-five (25) single-sided, 8.5" x 11" pages and a cover letter per submission. The hourly rate schedule, individual employee resumes, and cover letter are not counted towards the allotted number of pages. All packets should include the following minimum information:

1. A cover letter summarizing the key points of the firm's/individual's interests and qualifications, pertinent areas of expertise, and the individual or individuals responsible for the work to be performed. Contact information shall be included in the cover letter for the person or persons that will receive task orders and correspondence related to this RFP. Contact information shall include email address, phone number, fax number, and mailing address. (6) Respondent has read and understood the Professional Services Agreement and insurance requirements and affirms (1) the cost of providing such insurance has been incorporated in the Respondent's Proposal, and (2) Respondent will be able to obtain the required insurance coverage if awarded the contract.
2. A profile of the firm, including information regarding the key person or persons involved, detailing their qualifications, areas of expertise, past experience performing similar work, the firm's office location(s), and staffing, including assignments and sub-consultants (if any).
3. Briefly describe Respondent's proposed approach to providing the Services and how that approach will offer value to the City. Identify any proposed innovations that may be used to achieve more cost-effective delivery of the Services. Provide a work plan and proposed schedule for the tasks described in the Scope of Services.
4. A description of the consultant's project experience, including a list of recently performed relevant projects, past performance, individual or team accomplishments, and examples of similar experiences working for cities, counties or urban communities, including the names and contact information of references, including at least three (3) public agencies. The Selection Committee may contact any references listed in order to verify background and experience at any time during the selection process.
5. A clear and comprehensive fee schedule, including a detailed statement of hourly rates for all positions and classifications of individuals involved, including rates for sub-consultants and reimbursable expenses. Work progress estimation and billing methodology should also be clearly described.

Each applicant shall bear all costs associated with their proposal. All submitted proposals will become and remain the property of the City of Sonoma. Proposals or additional information received after the submittal deadline will not be considered in the selection process unless requested by the review panel. If in the City's opinion participation was not adequate, additional RFP's may be issued or the submittal deadline extended.

## **VI. ADDENDA**

City reserves the right to issue addenda to modify the terms and conditions of this RFP, including modifications to the Proposal Deadline or to the Attachments to this RFP. Addenda will be posted on the City's website at <https://www.sonomacity.org/bidsrfps/>. Each Respondent is solely responsible for checking the City's website for addenda, and for reviewing all addenda before submitting its Proposal.



## **VII. OTHER REQUIREMENTS**

All services shall be provided in accordance with the City's draft professional services agreement, a sample of which is provided for as Attachment A. The consultant must indicate in its proposal whether it will agree to these terms, or if not, the consultant must provide an explanation and proposed alternative language.

The contract shall have an original term of 1 year. In addition, the City shall have two (2) options to extend the term for a period of up to two (2) years each, which the City may exercise in its sole, absolute discretion.

Special requirements of the agreement include submittal of worker's compensation and liability insurance certification.

## **VIII. EVALUATION PROCESS**

The Consultant(s) will be selected based on qualifications and demonstrated competence as the agreement may not be awarded to the lowest responsible proposer. When selecting the Consultant, the skill and ability of the entity or individual performing the services is a key component of the selection criteria. The City will select a Consultant(s) based on demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. Cost will be only one factor in determining the selection. Consultants will be evaluated and selected based upon experience, price and schedule. Consultants should address these criteria in their proposal.

After the submittals are evaluated and ranked, the City, at its sole discretion, may elect to interview one or more respondents. Please note that respondents may be asked to submit additional documentation. In addition, the City reserves the right to select a proposal without conducting interviews.

If a recommended consultant(s) is identified, it will be the most qualified respondent Consultant(s) with whom City is able to successfully negotiate the compensation and terms and conditions of any and all agreements. Once the recommended Consultant(s) is selected, staff will make a recommendation to the City Council. Final selection of a Consultant(s), terms and conditions of any and all agreements, and authority to proceed with these services, shall be at the sole discretion of the City.

## **IX. INQUIRIES**

Inquiries concerning this request for proposal must be **submitted by June 21, 2024 at 5:00 PM** made in writing via email to:

Jennifer Gates, AICP  
Community Development Director  
City of Sonoma  
Email: [jgates@sonomacity.org](mailto:jgates@sonomacity.org)

## **X. CITY BUSINESS LICENSE**

A City of Sonoma Business License is required for work performed in the City of Sonoma. For information on how to apply for a license and associated fees, please go to the City's website at <https://www.sonomacity.org/business-licenses/>

## **XI. CITY OF SONOMA RIGHT OF REFUSAL**

The City of Sonoma reserves the right to accept or reject any or all proposals based solely on its analysis of the proposals received including the cost thereof.

## **XII. PROPOSAL SUBMITTAL**

Interested firms must submit an electronic submittal of their response to this Request for Proposals (RFP) including all items described under Submittal Requirements and Qualifications. All responses must be received **no later than 5:00 p.m., Wednesday, July 10, 2024**. Submittals received after this date and time will not be evaluated or considered, except in the event the City issues additional or subsequent RFPs.

Submittals shall be emailed, mailed or hand delivered to:

Jennifer Gates, AICP  
Community Development Director  
No. 1 The Plaza  
Sonoma, CA 95476  
[jgates@sonomacity.org](mailto:jgates@sonomacity.org)

## **XIII. APPENDICES**

Appendix A –Sample Professional Services Agreement

**PROFESSIONAL SERVICES AGREEMENT  
FOR CONSULTANT SERVICES**

(City of Sonoma / [Company or Individual])

**1. IDENTIFICATION**

This PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is entered into as of the last date indicated below by and between the City of Sonoma, a California municipal corporation (“City”), and \_\_\_\_\_ [enter consultant’s (company’s) name], a \_\_\_\_\_ [insert consultant’s state of incorporation] \_\_\_\_\_ [insert consultant’s legal status e.g., individual, partnership, corporation, nonprofit public benefit corporation, limited liability company, etc.] (“Consultant”) (collectively, “parties”).

**2. RECITALS**

**2.1** City has determined that it requires the following professional services from a consultant: \_\_\_\_\_ [insert description of consultant’s services].

**2.2** Consultant represents that it is fully qualified to perform such professional services by virtue of its experience and the training, education and expertise of its principals and employees. Consultant further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement.

**2.3** City has relied upon the professional ability and training of Consultant as a material inducement to enter into this Agreement. Consultant shall perform in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Consultant’s work by City shall not operate as a waiver or release. Consultant represents and warrants to City that (a) it has all licenses, permits, qualifications, insurance and approvals of whatever nature which are legally required for Consultant to practice its profession, and (b) it shall, at its sole cost, 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 Consultant to practice its profession. Consultant shall indemnify and hold

harmless the City from and against any and all claims or expenses caused or occasioned directly or indirectly by Consultant's failure to so perform.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, City and Consultant agree as follows:

### 3. DEFINITIONS

- 3.1 "Agreement Administrator" for this project means \_\_\_\_\_ [Name and title of City employee]. The Agreement Administrator shall be the principal point of contact at the City for this project. All services under this Agreement shall be performed at the request of the Agreement Administrator. The Agreement Administrator will establish the timetable for completion of services and any interim milestones. City reserves the right to change this designation upon written notice to Contractor.
- 3.2 "Approved Fee Schedule" means such compensation rates as are set forth in Consultant's \_\_\_\_\_ [insert date fee schedule submitted to City] fee schedule to City attached hereto as "Exhibit B" and fully incorporated herein by this reference. This fee schedule shall remain in effect for the duration of this Agreement unless modified in writing by mutual agreement of the parties.
- 3.3 "Commencement Date" means \_\_\_\_\_ [enter commencement date].
- 3.4 "Consultant Project Administrator" means \_\_\_\_\_ [enter name of Consultant's contact for purposes of Agreement]. The Consultant Project Administrator will be the principal point of contact for the Consultant.
- 3.5 "Maximum Amount" means the highest total compensation and costs payable to Consultant by City under this Agreement. The Maximum Amount under this Agreement is \_\_\_\_\_ Dollars (\$\_\_\_\_\_).
- 3.6 "Scope of Services" means such professional services as are set forth in Consultant's \_\_\_\_\_ [insert consultant's proposal date] proposal to City attached hereto as "Exhibit A" and fully incorporated herein by this reference.

3.7 "Termination Date" means \_\_\_\_\_ [enter termination date].

#### 4. TERM

The term of this Agreement shall commence at 12:00 a.m. on the Commencement Date and shall terminate at 11:59 p.m. on the Termination Date unless extended in writing by mutual agreement of the parties or terminated earlier in accordance with Section 18 ("Termination") below. Consultant may request extensions of time to perform the services required hereunder. Such extensions shall be effective if authorized in advance by City in writing and incorporated in written amendments to this Agreement.

#### 5. CONSULTANT'S SERVICES

5.1 Time is of the essence in Consultant's performance of services under this Agreement.

5.2 Consultant shall perform the services identified in the Scope of Services. City shall have the right to request, in writing, changes in the Scope of Services. Any such changes mutually agreed upon by the parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement. In performing services under this Agreement, Consultant shall coordinate all contact with City through its Agreement Administrator. All changes and/or extra work shall be performed and paid for in accordance with the following:

5.2.1 Only the City [enter department head] or City Council may authorize extra and/or changed work. Consultant expressly recognizes that other City personnel are without authorization to either order extra and/or changed work or waive contract requirements. Failure of Consultant to secure the Council's or City [enter department head]'s authorization for such extra and/or changed work shall constitute a waiver of any and all right to adjustment in the Maximum Amount due to such unauthorized work and Consultant thereafter shall be entitled to no compensation whatsoever for performance of such work.

5.2.2 If the Consultant is of the opinion that any work s/he has been directed to perform is beyond the scope of this Agreement and constitutes extra work, s/he shall promptly notify the Agreement Administrator of this opinion. The City shall make a determination

as to whether or not such work is, in fact, beyond the scope of this Agreement and constitutes extra work. In the event that the City determines that such work does constitute extra work, it shall provide extra compensation to the Consultant on a fair and equitable basis. A Supplemental Agreement providing for such compensation for extra work shall be negotiated between the City and the Consultant. Such Supplemental Agreement shall be executed by the Consultant and be approved by the City in accordance with its purchasing policy.

5.2.3 In the event City determines that such work does not constitute extra work, Consultant shall not be paid extra compensation above that provided herein and if such determination is made by City staff, this determination may be appealed to the City Council as long as a written appeal is submitted to the City Manager within five (5) days after the staff's determination is received by the Consultant. Any written appeal shall include a description of each and every ground upon which Consultant challenges the staff's determination. The City Council's decision shall be final.

5.3 In no event shall the total compensation and costs payable to Consultant under this Agreement exceed the Maximum Amount unless specifically approved in advance and in writing by City. Consultant shall notify the Agreement Administrator, in writing, when fees and expenses incurred under this Agreement have reached eighty percent (80%) of the Maximum Amount payable above. Consultant shall concurrently inform the Agreement Administrator, in writing, of Consultant's estimate of total expenditures required to complete its current assignments before proceeding, when the remaining work on such assignments would exceed the Maximum Amount payable above.

5.4 Consultant shall perform all work to the highest standards of Consultant's profession and in a manner reasonably satisfactory to City. Consultant shall comply with all applicable federal, state and local laws and regulations, including the conflict-of-interest provisions of Government Code Section 1090 and the Political Reform Act (Government Code Section 81000 et seq.).

5.5 Consultant shall obtain and maintain in force a City business license for the term of this Agreement.

- 5.6 Consultant represents that it has no known relationships with third parties, City Council Members, or employees of City which would (i) present a conflict of interest with the rendering of services under this Agreement under Government Code Section 1090, the Political Reform Act (Government Code Section 81000 et seq.), or other applicable law, (ii) prevent Consultant from performing the terms of this Agreement, or (iii) present a significant opportunity for the disclosure of confidential information.
- 5.7 During the term of this Agreement, Consultant shall not perform any work for another person or entity for whom Consultant was not working at the Commencement Date if both (i) such work would require Consultant to abstain from a decision under this Agreement pursuant to a conflict of interest statute and (ii) City has not consented in writing to Consultant's performance of such work.
- 5.8 This Agreement is subject to Government Code Section 84308, as amended by SB 1439. That statute requires Consultant to disclose any campaign contribution by the Consultant or the Consultant's agent to City Councilmembers or other City officials of more than two-hundred and fifty dollars (\$250) in the aggregate within the preceding twelve (12) months. Consultant shall provide a signed copy of the attached Campaign Contribution Disclosure Form, Exhibit C, with Consultant's execution of this Agreement.
- 5.9 Consultant's duties and services under this Agreement shall not include preparing or assisting the City with any portion of the City's preparation of a request for proposals, request for qualifications, or any other solicitation regarding a subsequent or additional contract with the City. The City entering this Agreement shall at all times retain responsibility for public contracting, including with respect to any subsequent phase of this project. Consultant's participation in the planning, discussions, or drawing of project plans or specifications shall be limited to conceptual, preliminary, or initial plans or specifications. Consultant shall cooperate with the City to ensure that all bidders for a subsequent contract on any subsequent phase of this project have access to the same information, including all conceptual, preliminary, or initial plans or specifications prepared by contractor pursuant to this Agreement.

- 5.10** Consultant represents that it has, or will secure at its own expense, all personnel required to perform the services identified in the Scope of Services. All such services shall be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. The Consultant Project Administrator shall have direct responsibility for management of Consultant's performance under this Agreement. No other person shall serve as Consultant Project Administrator without City's prior written consent.
- 5.11** This Agreement covers professional services of a specific and unique nature. Except as otherwise provided herein, Consultant shall not assign or transfer its interest in this Agreement or subcontract any services to be performed without amending this Agreement.
- 5.12** Consultant shall be responsible to City for all services to be performed under this Agreement. All subconsultants shall be approved by the Agreement Administrator and their billing rates identified in the Approved Fee Schedule, Exhibit B. City shall pay Consultant for work performed by its subconsultants (including labor) only at Consultant's actual cost plus an approved mark-up as set forth in the Approved Fee Schedule, Exhibit B. Consultant shall be liable and accountable for any and all payments, compensation, and federal and state taxes to all subconsultants performing services under this Agreement. City shall not be liable for any payment, compensation, or federal and state taxes for any subconsultants.
- 5.13** Consultant shall notify the Agreement Administrator, in writing, of any change in name, ownership or control of Consultant's firm or of any subconsultant. Change of ownership or control of Consultant's firm may require an amendment to the Agreement.
- 5.14** Prevailing Wage Notice.
- 5.14.1 This Agreement is subject to prevailing wage law, for all work performed under the Agreement for which the payment of prevailing wages is required under the California Labor Code. In particular, Consultant acknowledges that prevailing wage determinations are available for the performance of inspection and survey work.



5.14.2 In the event Consultant will perform inspection services, City or authorized representatives of the City shall have the right to inspect the work of such services whenever such representatives may deem such inspection to be desirable or necessary. Inspections by the City do not in any way relieve or minimize the responsibility of Consultant to conduct the inspections Consultant has expressly agreed to perform pursuant to this Agreement. Consultant shall be solely liable for said inspections performed by Consultant. Consultant shall certify in writing to the City as to the completeness and acceptability of each inspection of improvement or construction which Consultant agrees to inspect hereunder.

## 6. COMPENSATION

- 6.1 City agrees to compensate Consultant for the services provided under this Agreement and Consultant agrees to accept payment in accordance with the Approved Fee Schedule in full satisfaction for such services.
- 6.2 Consultant shall submit to City an invoice, on a monthly basis or less frequently, for services performed pursuant to this Agreement. Each invoice shall identify the Maximum Amount, the services rendered during the billing period, the amount due for the invoice, and the total amount previously invoiced. All labor charges shall be itemized by employee name and classification/position with the firm, the corresponding hourly rate, the hours worked, a description of each labor charge, and the total amount due for labor charges. Consultant shall include a copy of each subconsultant invoice for which reimbursement is sought in the invoice.
- 6.3 City shall not withhold applicable taxes or other payroll deductions from payments made to Consultant except as otherwise required by law. Consultant shall be solely responsible for calculating, withholding, and paying all taxes.
- 6.4 The parties agree to meet and confer at mutually agreeable times to resolve any disputed amounts contained in an invoice submitted by Consultant.

## 7. OWNERSHIP OF WRITTEN PRODUCTS

All reports, documents or other written material, and all electronic files, including computer-aided design files, developed by Consultant in the performance of

this Agreement (such written material and electronic files are collectively known as “written products”) shall be and remain the property of City without restriction or limitation upon its use or dissemination by City except as provided by law. Consultant may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by Consultant.

## **8. RELATIONSHIP OF PARTIES**

- 8.1** Consultant is, and shall at all times remain as to City, a wholly independent contractor. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise to act on behalf of City as an agent. Consultant, its officers, employees and agents shall not have any power to bind or commit the City to any decision or course of action, and Consultant, its officers, employees and agents shall not represent to any person or party that it or they are acting as agents of the City or that it or they have the power to bind or commit the City. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant’s employees, except as set forth in this Agreement. Consultant shall not represent that it is, or that any of its agents or employees are, in any manner employees of City.
- 8.2** Under no circumstances shall Consultant look to the City as its employer. Consultant shall not be entitled to any benefits. City makes no representation as to the effect of this independent contractor relationship on Consultant’s previously earned California Public Employees Retirement System (“CalPERS”) retirement benefits, if any, and Consultant specifically assumes the responsibility for making such a determination. Consultant shall be responsible for all reports and obligations including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, workers’ compensation, and other applicable federal and state taxes.

## **9. CONSULTANT PROJECT ADMINISTRATOR**

In performing services under this Agreement, Consultant shall coordinate all contact with City through its Agreement Administrator. City reserves the right to change this designation upon written notice to Consultant. All services under this Agreement shall be performed at the request of the Agreement Administrator, who will establish the timetable for completion of services and any interim milestones.

## **10. INDEMNIFICATION**

- 10.1** The parties agree that City, its officers, agents, employees, and volunteers should, to the fullest extent permitted by law, be protected from any and all loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, taxes, or any other cost arising out of or in any way related to the performance of this Agreement. Accordingly, the parties intend the provisions of this indemnity provision to be interpreted and construed to provide the City with the fullest protection possible under the law. Consultant acknowledges that City would not enter into this Agreement in the absence of Consultant's commitment to indemnify and protect City as set forth herein.
- 10.2** To the fullest extent permitted by law, Consultant shall indemnify, hold harmless, and when the City requests with respect to a claim provide a deposit for the defense of, and defend (with counsel satisfactory to City) City, its officers, agents, employees and volunteers from and against any and all claims, losses, costs and expenses for any damage due to death or injury to any person, whether physical, emotional, consequential or otherwise, and injury to any property arising out of or in connection with Consultant's alleged negligence, recklessness or willful misconduct or other wrongful acts, errors or omissions of Consultant or any of its officers, employees, servants, agents, or subconsultants, or anyone directly or indirectly employed by either Consultant or its subconsultants, in the performance of this Agreement or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which is caused by the sole active negligence or willful misconduct of the City. Such costs and expenses shall include reasonable attorneys' fees due to counsel of City's choice, expert fees and all other expenses of litigation. Consultant shall not be entitled to any refund of attorneys' fees, defense costs or expenses in the event that it is adjudicated to have been non-negligent.
- 10.3** City shall have the right to offset against any compensation due Consultant under this Agreement any amount due City from Consultant as a result of Consultant's failure to pay City promptly any indemnification arising under this Section 10 of this Agreement and any amount due City from Consultant arising from Consultant's failure either to (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.

- 10.4** The obligations of Consultant under this Section 10 of this Agreement are not limited by the provisions of any workers' compensation or similar statute. Consultant expressly waives its statutory immunity under such statutes as to City, its officers, agents, employees and volunteers.
- 10.5** Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in Section 10 of this Agreement from each and every subconsultant or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnity obligations from others, Consultant agrees to indemnify, hold harmless and defend City, its officers, agents, employees and volunteers from and against any and all claims, losses, costs and expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of Consultant's subconsultants or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of City's choice.
- 10.6** City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply whether or not any insurance policies apply to a claim, demand, damage, liability, loss, cost or expense.
- 10.7** In the event that Consultant or any employee, agent, or subconsultant of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or CalPERS to be eligible for enrollment in CalPERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for CalPERS benefits on behalf of Consultant or its employees, agents, or subconsultants, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.
- 10.8** Notwithstanding any federal, state, or local policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subconsultants providing service under this Agreement shall not

qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in CalPERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for CalPERS benefits.

## 11. INSURANCE

**11.1** During the term of this Agreement, Consultant shall carry, maintain, and keep in full force and effect insurance against claims for death or injuries to persons or damages to property that may arise from or in connection with Consultant's performance of this Agreement.

**11.2** Any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements or limits shall be available to City as an Additional Insured as provided below. Furthermore, the requirements for coverage and limits shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any Insurance policy or proceeds available to the named Insured.

**11.3** Insurance required under this Agreement shall be of the types set forth below, with minimum coverage as described:

**11.3.1** Comprehensive General Liability Insurance written on a per occurrence basis with coverage limits of not less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) general aggregate, including products and operations hazard, contractual insurance, broad form property damage, independent consultants, personal injury, underground hazard, and explosion and collapse hazard where applicable.

**11.3.2** Automobile Liability Insurance for vehicles used in connection with the performance of this Agreement with minimum limits of Two Million Dollars (\$2,000,000) per claimant and Two Million dollars (\$2,000,000) per incident. Automobile liability insurance shall be evidenced by ISO Form Number CA 0001 covering Code 1 (any auto) or, if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned).

- 11.3.3 Worker's Compensation insurance if and as required by the laws of the State of California.
- 11.3.4 Professional Errors and Omissions Insurance with coverage limits of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate. In the event Consultant's policy is a "claims made" policy only covering those claims made during the policy period, then Consultant agrees to maintain the professional liability insurance required hereunder and with respect to this project in effect for at least three (3) years after acceptance of the work. The retroactive date of the policy must be shown and must be before the Commencement Date of this Agreement. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date before the Commencement Date of this Agreement, the Consultant must purchase "extended reporting" coverage for a minimum of three (3) years after completion of work.
- 11.4 Consultant shall require each of its subconsultants to maintain insurance coverage that meets all of the requirements of this Agreement provided however, that the Agreement Administrator may waive the provision of Errors and Omissions Insurance by subconsultants in his or her sole discretion.
- 11.5 The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least A:VII in the latest edition of Best's Insurance Guide.
- 11.6 Consultant agrees that if it does not keep the insurance coverages required by this Agreement in full force and effect, City may either (i) immediately terminate this Agreement; or (ii) take out the necessary insurance and pay the premium(s) thereon at Consultant's expense.
- 11.7 At all times during the term of this Agreement, Consultant shall maintain on file with City's Risk Manager a certificate or certificates of insurance showing that the required coverages are in effect and naming City and its officers, employees, agents and volunteers as Additional Insureds. Prior to commencement of work under this Agreement, Consultant shall file with City's Risk Manager such certificate(s) and Forms CG 20 10 07 04 and CG

20 37 07 04 or the substantial equivalent showing City as an Additional Insured.

- 11.8** Consultant shall provide proof that policies of insurance required by this Agreement expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages.
- 11.9** The general liability and automobile policies of insurance required by this Agreement shall contain an endorsement naming City and its officers, employees, agents and volunteers as Additional Insureds. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty days' prior written notice to City. Consultant agrees to require its insurer to modify the certificates of insurance to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions.
- 11.10** The insurance provided by Consultant shall be primary to any other coverage available to City. Any insurance or self-insurance maintained by City and/or its officers, employees, agents or volunteers shall be in excess of Consultant's insurance and shall not contribute with it.
- 11.11** All insurance coverage provided pursuant to this Agreement shall not prohibit Consultant, and Consultant's employees, agents or subconsultants, from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against the City. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer. However, the Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Consultant, its employees, agents and subconsultants.
- 11.12** Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of City, Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to City,

or Consultant shall procure a bond in the amount of the deductible or self-insured retention to guarantee payment of losses and expenses.

**11.13** Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duties to indemnify, hold harmless and defend under Section 10 of this Agreement.

**11.14** Consultant may be self-insured under the terms of this Agreement only with express written approval from the City.

11.14.1 All self-insured retentions (SIR) must be disclosed to the City for approval and shall not reduce the limits of liability.

11.14.2 Policies containing any SIR provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named Insured or the City.

**11.15** City reserves the right to obtain a full certified copy of any Insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of the right to exercise later.

## **12. MUTUAL COOPERATION**

**12.1** City shall provide Consultant with all pertinent data, documents and other requested information as is reasonably available for the proper performance of Consultant's services under this Agreement.

**12.2** If any claim, action, or proceeding is brought against City relating to Consultant's performance in connection with this Agreement, Consultant shall render any reasonable assistance that City may require in the defense of that claim, action, or proceeding.

## **13. CONFIDENTIALITY**

All data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without prior written consent by City. City shall grant such consent if disclosure is legally required. Upon request, all City data shall be returned to City upon the termination or expiration of this Agreement.

## **14. RECORDS AND INSPECTIONS**



Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to Consultant under this Agreement. All such documents shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of City. City shall further have the right to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.

In addition, pursuant to Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars, all such documents and this Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under the Agreement.

## **15. PERMITS AND APPROVALS**

Consultant shall obtain, at its sole cost and expense, all permits and regulatory approvals necessary for Consultant's performance of this Agreement. This includes, but shall not be limited to, professional licenses, encroachment permits and building and safety permits and inspections.

## **16. NOTICES**

Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile or overnight courier service during Consultant's and City's regular business hours; (ii) the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the parties may, from time to time, designate in writing); or (iii) the day of delivery if emailed to the email address listed below and simultaneously deposited in the U.S. mail, postage prepaid, to the address(es) listed below (or to such other addresses as the parties may, from time to time, designate in writing).

If to City:

[Name]  
City of Sonoma  
[Department/Division]  
No. 1 The Plaza  
Sonoma, CA 95476  
Telephone: (707) 938-3681  
Facsimile: (707) [Fax Number]  
Email: [Insert]

If to Consultant:

[Name]  
[Company]  
[Address]  
[Address]  
Telephone: [Insert]  
Facsimile: [Insert]  
Email: [Insert]

With courtesy copy to:

David J. Ruderman, Sonoma City Attorney  
Colantuono, Highsmith & Whatley, PC  
670 W. Napa Street, Suite F  
Sonoma, CA 95476  
Telephone: (707) 986-8091  
Facsimile: (707) 509-7295  
Email: druderman@chwlaw.us

## 17. SURVIVING COVENANTS

The parties agree that the covenants contained in Paragraph 8.2, Section 10, Paragraph 12.2, Section 13, and Section 14 of this Agreement shall survive the expiration or termination of this Agreement.

## 18. TERMINATION

**18.1** The City may, in its sole and unfettered discretion and without cause, terminate this Agreement at any time prior to completion by Consultant of the services required. Notice of Termination of this Agreement shall be given in writing to Consultant and shall be sufficient and complete when same is emailed to Consultant and simultaneously deposited in the United States mail postage prepaid and certified, addressed as set forth in Section 16 of this Agreement. The Agreement shall be terminated upon receipt of the Notice of Termination by Consultant. If City should terminate this Agreement, the Consultant shall be compensated for all work satisfactorily performed prior to time of receipt of termination notice, and shall be compensated for materials ordered by the Consultant or his/her

employees, or services of others ordered by the Consultant or his/her employees prior to receipt of Notice of Termination whether or not such materials or final instruments of services of others have actually been delivered, provided that the Consultant or its employees are not able to cancel such orders for materials or services of others. Compensation for the Consultant in the event of termination by the City shall be determined by the City [enter department head] in accordance with the percentage of project completed. In the event that this Agreement is terminated pursuant to this Paragraph 18.1, Consultant shall not be entitled to any additional compensation over that provided herein; nor shall Consultant be entitled to payment for any alleged damages or injuries (including lost opportunity damages) purportedly caused by the termination of this Agreement by the City pursuant hereto.

- 18.2** Consultant may terminate this Agreement upon thirty (30) days written notice to the City only for good cause. Consultant's written notice of termination shall contain a full explanation of the facts and circumstances constituting good cause. In the event of termination, all notes, sketches, computations, drawings and specifications, or other data, whether complete or not, produced through the time of the City's last payment shall be relinquished to the City. The City may, at its own expense, make copies or extract information from any such notes, sketches, computations, drawings, and specifications, or other data whether complete or not.
- 18.3** Should the Consultant fail to perform any of its obligations hereunder, within the time and in the manner provided or otherwise violate any of the terms of this Agreement, the City may terminate this Agreement by giving written notice of such termination, stating the reasons for such termination in such event. Consultant shall be compensated as above, provided, however, there shall be deducted from such amount the amount of damage if any, sustained by City by virtue of the Consultant's breach of this Agreement.
- 18.4** In no event shall Consultant be entitled to receive more than the Maximum Amount that would be paid to Consultant for the full performance of the services required by this Agreement as provided in Paragraph 3.5 above and as otherwise provided in this Agreement.

## **19. GENERAL PROVISIONS**

- 19.1** Consultant shall not delegate, transfer, subcontract or assign its duties or rights hereunder, either in whole or in part, without City's prior written consent, and any attempt to do so shall be void and of no effect. City shall not be obligated or liable under this Agreement to any party other than Consultant.
- 19.2** In the performance of this Agreement, Consultant shall not discriminate against any employee, subconsultant, or applicant for employment because of race, color, sex (including pregnancy, childbirth, or related medical condition), creed, national origin, color, disability as defined by law, disabled veteran status, Vietnam veteran status, religion, age (40 and above), medical condition (cancer-related), marital status, ancestry, sexual orientation, or any other unlawful basis. Consultant shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to race, sex (including pregnancy, childbirth, or related medical condition), creed, national origin, color, disability as defined by law, disabled veteran status, Vietnam veteran status, religion, age (40 and above), medical condition (cancer-related), marital status, ancestry, sexual orientation, or any other unlawful basis. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; or in terms, conditions or privileges of employment, and selection for training, Consultant agrees to post in conspicuous places, available to employees and applicants for employment, the provisions of this nondiscrimination clause.
- 19.3** Each party had an opportunity to consult with an attorney in reviewing and drafting this Agreement. Any uncertainty or ambiguity shall not be construed for or against any party based on attribution of drafting.
- 19.4** The captions appearing at the commencement of the Sections hereof, and in any paragraph thereof, are for convenience in reference to this Agreement. Should there be any conflict between such heading, and the Section or Paragraph thereof at the head of which it appears, the Section or Paragraph shall govern construction of this Agreement. Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular and vice versa, in any place or places herein in which the context requires such substitution(s).

- 19.5** The waiver by City or Consultant of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of any other term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. No term, covenant or condition of this Agreement shall be deemed to have been waived by City or Consultant unless in writing signed by one authorized to bind the party to be charged with the waiver.
- 19.6** Consultant shall not be liable for any failure to perform if Consultant presents acceptable evidence, in City's sole judgment, that such failure was due to causes beyond the control and without the fault or negligence of Consultant.
- 19.7** Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance from the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any or all of such other rights, powers or remedies. If legal action shall be necessary to enforce any term, covenant or condition contained in this Agreement, the party prevailing in such action, whether or not reduced to judgment, shall be entitled to its reasonable court costs, including any accountants' and attorneys' fees expended in the action. The venue for any litigation shall be Sonoma County, California and Consultant hereby consents to jurisdiction in Sonoma County for purposes of resolving any dispute or enforcing any obligation arising under this Agreement.
- 19.8** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to the extent necessary to, cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

- 19.9** This Agreement shall be governed and construed in accordance with the laws of the State of California.
- 19.10** All documents referenced as exhibits in this Agreement are hereby incorporated into this Agreement. In the event of any material discrepancy between the provisions of this Agreement and those of any document incorporated herein by reference, the provisions of this Agreement shall prevail. This instrument contains the entire Agreement between City and Consultant with respect to the transactions contemplated herein. No other prior oral or written agreements are binding upon the parties. Amendments hereto or deviations herefrom shall be effective and binding only if made in writing and executed on behalf of the City and Consultant.
- 19.11** Nonprofit service contractors which receive contracts from the City of \$75,000 or more in a 12-month period, and for-profit service contractors who receive contracts from the City of \$10,000 or more in a 12-month period, provided they have more than six employees, may be subject to the City's Living Wage Ordinance. Sub-contractors with \$50,000 or more in annual gross receipts may also be subject to the Living Wage Ordinance. Unless otherwise exempt in accordance with the provisions of the Ordinance (Sonoma Municipal Code Chapter 2.70), this Agreement is subject to applicable provisions of the Living Wage Ordinance of the City as amended from time to time and available on the City's website.
- 19.12** This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed one and the same instrument. The parties acknowledge and agree that this Agreement may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation, "electronic signature" shall include faxed or emailed versions of an original signature, electronically scanned and transmitted versions (e.g., via pdf) of an original signature, or a digital signature.
- 19.13** This Agreement shall be binding on successors and assigns of the parties.
- 19.14** Except as expressly stated herein, there is no intended third-party beneficiary of any right or obligation assumed by the parties.
- 19.15** The recitals are incorporated by this reference.

*[Signatures on following page]*

**TO EFFECTUATE THIS AGREEMENT**, the parties have caused their duly authorized representatives to execute this Agreement as of the last date indicated below:

“City”  
City of Sonoma

“Consultant”  
[Name of Company or Individual]

By: \_\_\_\_\_  
*Signature*

By: \_\_\_\_\_  
*Signature*

Printed: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

**Attest:**

By: \_\_\_\_\_  
*Signature*

By: \_\_\_\_\_  
Rebekah Barr, MMC, City Clerk

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

**Approved as to form:**

By: \_\_\_\_\_  
David J. Ruderman, City Attorney

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



**“EXHIBIT A”  
Scope of Work**

**“EXHIBIT B”  
Approved Fee Schedule**

**“EXHIBIT C”**  
**Campaign Contribution Disclosure Form**

## CAMPAIGN CONTRIBUTION DISCLOSURE PROVISIONS

Cities are subject to the campaign disclosure provisions detailed in Government Code Section 84308.

**Please carefully read the following information to determine if the provisions apply to you. If you determine that the provisions are applicable, the Campaign Disclosure Form must be completed and returned to the City with your application.**

No City Councilmember or other City official shall accept, solicit, or direct a campaign contribution of more than \$250 from any party<sup>1</sup> or agent<sup>2</sup> for 12 months after the City approves a contract. This prohibition commences when an application is filed, or a proceeding is otherwise initiated.

A party to a City proceeding shall disclose on the record of the proceeding any campaign contribution of more than \$250 by a party or agent to any City Councilmember or other City official during the preceding 12 months. No party to a City proceeding, or agent, shall make a campaign contribution to a City Councilmember or other City official during a proceeding and for 12 months after the City approves a contract.

A City Councilmember or other City official who received a campaign contribution of more than \$250 within the preceding 12 months from any party, or agent, to a proceeding shall disclose that fact on the record of the proceeding, and shall abstain from participating in the proceeding. However, if he or she returns the portion of a campaign contribution in excess of \$250 within 30 days of knowing about the contribution and the relevant proceeding, he or she may participate in the proceeding.

\_\_\_\_\_

<sup>1</sup> "Party" is defined as any person who files an application for, or is the subject of, a proceeding.

<sup>2</sup> "Agent" is defined as a person who represents a party in connection with a proceeding. If an individual acting as an agent also is acting as an employee or member of a law, architectural, engineering, or consulting firm, or a similar entity or corporation, both the individual and the entity or corporation are agents. When a closed corporation is a party to a proceeding, the majority shareholder is subject to these provisions.

To determine whether you or your agent made a campaign contribution of more than \$250 to a City Councilmember or other City official within the preceding 12 months, you must aggregate all such contributions.

Names of current City Councilmembers and other City officials are available on the City's website. If you have questions about Government Code Section 84308, FPPC regulations, or the Campaign Disclosure Form, please contact the City Clerk.

## CAMPAIGN CONTRIBUTION DISCLOSURE FORM

(a) Document:

- License
- Lease
- Permit
- Franchise
- Other Contract
- Other Entitlement

Name and address of any party, or agent, who has contributed more than \$250 to any City Councilmember or other City official within the preceding 12 months:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

(b) Date and amount of contribution:

Date \_\_\_\_\_ Amount \$ \_\_\_\_\_

Date \_\_\_\_\_ Amount \$ \_\_\_\_\_

(c) Name of City Councilmember or other City official to whom contribution was made:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

(d)  Check here If no contributions have been made to any Councilmember or other City official in the preceding 12 months.

(e) I certify that the above information is provided to the best of my knowledge.

Printed Name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_ Phone \_\_\_\_\_