

City of Sonoma

REQUEST FOR PROPOSALS (RFP) FOR
Depot Park Museum HVAC Design Project



RFP RELEASE DATE: FRIDAY, JULY 23, 2021

**PROPOSALS MUST BE RECEIVED NO LATER THAN
3:00 p.m., WEDNESDAY, AUGUST 9, 2021**

City of Sonoma Public Works Department
City Hall, No. 1 The Plaza Sonoma, CA 95476

Approved for release by:

Colleen Ferguson, P.E., L.S.
Public Works Director/ City Engineer
City of Sonoma

Date
7/19/21

CITY OF SONOMA PUBLIC WORKS DEPARTMENT REQUEST FOR PROPOSALS FOR THE DEPOT PARK MUSEUM HVAC DESIGN PROJECT

SECTION 1 INTRODUCTION

The City of Sonoma invites qualified consulting teams to submit a proposal to provide design of the HVAC System for the Depot Park Museum.

Background: The building is not a historic building, but was constructed in 1978 as a replica of a Train Depot Building that existed on the site previously. In addition to reducing greenhouse gas emissions associated with operating the existing natural gas-fueled furnaces, the City is also eager to avoid a costly natural gas service relocation that would be required to restore operation of the existing system following a gas-line dig-in last summer. The City's project goals also include minimization of new penetrations in the existing exterior walls to the extent practicable, as well as preservation of existing usable floor space within the interior of the building to the extent practicable.

Scope of Services: Providing design documents, including mechanical plans prepared by a registered CA mechanical engineer, electrical plans prepared by a licensed CA electrical engineer, completed and signed CA Energy Code documentation, and applicable CalGreen documentation for converting the existing natural gas-powered heater and electric powered condenser air conditioning system in the City's Depot Museum Building to an all-electric system.

The design for the existing building and HVAC system is available for review at <https://www.sonomacity.org/depot-park-hvac-design-project/>.

ANTICIPATED PROJECT SCHEDULE

The anticipated project schedule is listed below.

Milestone	Estimated Date
Proposals Due	August 9, 2021
Award of Contract	August 11, 2021
Complete Design	August 25, 2021

SECTION 2 CONTENTS OF PROPOSAL

To maintain uniformity in the evaluation process, proposal length is limited to a maximum of 10 pages on single-sided, 8½" x 11" paper (occasional 11" x17" sheets for charts and graphics are acceptable). Use text font (ARIAL, TAHOMA, or similar) size 10 or larger. The cover letter, table of contents, front and back covers, and section dividers and resumes are excluded from the page count.

Cover Letter (not included in page count)

Include the primary consultant's name and business address, as well as the Project Manager's name, telephone number and email address. Summarize your understanding of the project and briefly introduce your team. Address any exceptions to the Insurance requirements and/or the Professional Services Agreement, both of which are included in this RFP as attachments. The cover letter shall be signed by the person authorized to negotiate a contract for proposed services with the City of Sonoma on behalf of submitting firm/team.

Team Organization

Clearly identify the project team, including the Project Manager, key personnel and any subconsultants. Include a summary of each team members' role in the project. Excluding circumstances beyond the Consultant's control, it is expected that the project team indicated in this proposal remain unchanged throughout the duration of the Project.

Resumes

Provide a two-page maximum resume for the Project Manager and key personnel.

References

Provide two references for the Project Manager and key personnel from similar type/size projects. *Please verify that any contact information provided is current.*

Relevant Project Experience

Describe your team's experience on projects of a similar nature to this Project. Include similar type/size projects that your team has completed with multiple improvement elements and stakeholders. Provide a project description, services provided, consulting fees and the project's construction cost. Discuss whether design and project were completed on time and within budget.

Project Understanding and Approach

Describe your team's understanding of the work to be performed and identify the approach for key services and/or issues anticipated for this project. Describe the Project Manager's approach to managing the Project to assure effort is completed on schedule and within established budget.

Scope of Services

Confirm acceptance of the proposed scope of services and identify any changes from the scope herein.

FEE PROPOSAL

Please provide fee information with your initial proposal submittal.

SECTION 3 PROPOSAL SUBMISSION, AND SELECTION PROCESS

Submit questions concerning the RFP to Chris Pegg via email at chrisp@sonomacity.org

no later than 5 pm on Tuesday, August 3, 2021

Responses to questions will be provided, no later than, 5 pm on Wednesday, August 4, 2021.

Submit a PDF of your proposal to Chris Pegg via email at chrisp@sonomacity.org

no later than 3:00 pm on Monday, August 9, 2021.

Consultant proposals will be evaluated based on a combination of factors that result in the best value for the City, including but not limited to understanding of the work, quality and responsiveness of proposal, demonstrated competence and professional qualifications, recent experience in successfully performing similar services, proposed methodology for completing the work, references, background and related experience of team members, and proposed compensation. Consultant selection may be based solely on proposals, or interviews for short-listed firms may occur for this project.

The issuance of this RFP constitutes only an invitation to present responses. The City reserves the right, at

its sole discretion, to determine whether or not any aspect of the response satisfactorily meets the criteria established in the RFP. The City reserves the right to seek additional information and/or clarification from the respondent, the right to confer with any respondent submitting a response 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 respondent for any costs or expense incurred with the preparation of this RFP or related work. The City reserves the right, at its sole discretion, to waive any irregularities or informality.

The City reserves the right to reject any and/or all responses for failure to meet the requirements contained herein, to waive any technicalities and to select the responses which, in the City's sole judgment, best meets the requirements of the project.

Exhibit A is the City's Professional Services Agreement and is attached for your reference and review. The necessary insurance coverages and limits are contained in this agreement. Please indicate acceptance of these terms. By submitting a proposal without exception, the Consultant accepts all terms and conditions contained in attached agreement.

The City reserves the right to reject any proposal that provides changes to the agreement not acceptable to the City.

Thank you for considering our Request for Proposal.

Sincerely,

Michelle Fajardo
City of Sonoma
Public Works Administrative and Project Manager

LIST OF ATTACHMENTS

- **Exhibit A - Sample Agreement**

Exhibit A

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 CONSULTANT NAME], herein called the “Consultant.”

Recitals

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

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

WHEREAS, City desires to retain Consultant 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, Consultant 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 Consultant 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. Consultant 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 Consultant as a material inducement to entering into this Agreement. All work performed by Consultant 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 Consultant’s field of expertise. Consultant shall correct, at its own expense, all errors made in the provision of services under this Agreement. In the event that Consultant fails to make such correction in a timely manner, City may make the correction and charge the cost thereof to Consultant.

4. Compensation and Method of Payment.

A. Compensation. The compensation to be paid to Consultant, 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 consultant exceed _____ Dollars (\$ _____). City’s obligation to pay compensation to Consultant as provided herein is contingent upon Consultant’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 B, attached hereto and incorporated herein.

C. Changes in Compensation. Consultant 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 Consultant. In such event, the compensation and time of performance shall be subject to renegotiation upon written demand of either party to the Agreement. Consultant shall not commence any work exceeding the Scope of Work without prior written authorization from the City. Failure of the Consultant 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. Consultant 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 Consultant.

E. No Overtime or Premium Pay. Consultant 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. Consultant shall not receive a premium or enhanced payment for work performed on a recognized holiday.

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

5. Inspection. Consultant shall furnish City with every reasonable opportunity for City to ascertain the services of Consultant 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 Consultant 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 Consultant 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. Consultant 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. Consultant 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 Consultants, Specialists, or Experts. Consultant will not employ or otherwise incur an obligation to pay other consultants, specialists, or experts for services in connection with this Agreement without the prior written approval of the City.

8. Conflict of Interest.

A. Consultant (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 Consultant's services hereunder. Consultant 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. Consultant 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 Consultant or otherwise in the event of any default or breach of the City, or for any amount which may become due to Consultant 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, Consultant 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, Consultant 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 Consultant, or as may be provided by statute in Civil Code § 2782.8, as may be amended from time to time.

The only exception to Consultant'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. Consultant'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 Consultant under worker's compensation, disability, or other employee benefit acts or the terms, applicability, or limitations of any insurance held or provided by Consultant 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. Consultant waives any and all rights to express or implied indemnity against the Indemnified Parties concerning any Liability of the Consultant arising out of or in connection with the Agreement or Consultant's failure to comply with any of the terms of this Agreement.

Consultant's duty to indemnify, protect, defend, and hold harmless as set forth in this Section 12 shall not be excused because of the Consultant's inability to evaluate Liability, or because the Consultant evaluates Liability and determines that the Consultant is not or may not be liable. The Consultant 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 Consultant 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 Consultant 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 Consultant accepts the tender, whichever occurs first. Consultant 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 Consultant's acceptance of the tender.

12. Consultant Not an Agent of City. City retains all rights of approval and discretion with respect to the projects and undertakings contemplated by this Agreement. Consultant, 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 Consultant, in the performance of the work and services agreed to be performed by Consultant, 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. Consultant 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, Consultant shall obtain no rights to retirement benefits or other benefits which accrue to City's employees, and Consultant hereby expressly waives any claim to may have to any such rights. Consultant, its officers, employees, and agents shall not have any power to bind or commit the City to any decision. Consultant 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. Consultant shall use the standard of care in its profession to comply with all applicable federal, state, and local laws, codes, ordinances, and regulations. Consultant represents and warrants to City that it has all licenses, permits, qualifications, insurance, and approvals of whatsoever nature which are legally required for Consultant to practice its profession. Consultant represents and warrants to City that Consultant 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 Consultant to practice its profession. City is not responsible or liable for Consultant's failure to comply with any or all of the requirements contained in this paragraph or in this Agreement.

B. Workers' Compensation. Consultant 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 Consultant 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. Consultant and Consultant's subconsultants (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. Consultant 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 Consultant 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 Consultant, 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 Consultant relating to this Agreement shall be subject to the provisions of the LWO.

(4) The Consultant 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 Consultant 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 Consultant has violated provisions of the LWO.

F. Business Licenses. Except as otherwise allowed by City in its sole discretion, Consultant and all subconsultants shall have acquired, at Consultant'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 Consultant until such time as Consultant complies with this section.

G. City Not Responsible. The City is not responsible or liable for Consultant'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 Consultant 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. Consultant 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. Consultant shall be responsible for employing or engaging all persons necessary to perform the services of Consultant hereunder. No subcontractor of Consultant shall be recognized by the City as such; rather, all subcontractors are deemed to be employees of the Consultant, and Consultant agrees to be responsible for their performance. Consultant 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 Consultant 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 Entity 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 Entity.

Other Insurance Provisions

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

Additional Insured Status

The Entity, 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 Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, 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 Entity.

Waiver of Subrogation

Contractor hereby grants to Entity a waiver of any right to subrogation which any insurer of said Contractor may acquire against the Entity 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 Entity has received a waiver of subrogation endorsement from the insurer.

Self-Insured Retentions

Self-insured retentions must be declared to and approved by the Entity. The Entity 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 Entity.

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 Entity.

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 Entity 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 Entity 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 Entity 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

Entity 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 Consultant 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 Consultant upon 5 days’ written notice.

B. If Consultant 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, Consultant 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 Consultant 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 Consultant.

C. In the event this Agreement is terminated by the City without cause, Consultant 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, Consultant 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 Consultant or its subcontractors, if any, or given to Consultant or its subcontractors, if any, in connection with this Agreement. Such materials shall become the permanent property of the City. Consultant, 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 Consultant to perform any provision of this Agreement. Consultant will be paid for satisfactory services performed prior to the date of suspension. During the period of suspension, Consultant shall not receive any payment for services or expenses incurred by Consultant by reason of such suspension.

21. Merger; Amendment. This Agreement constitutes the complete and exclusive statement of the Agreement between City and Consultant 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 Consultant. 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 performance thereof, the court in such litigation shall award reasonable costs and expenses, including attorneys' fees, to the prevailing party. In awarding attorneys' fees, the court will not be bound by any court fee schedule, but shall, if it is in the interest of justice to do so, award the full amount of costs, expenses, and attorneys' fees paid or incurred in good faith.

24. Time of the Essence. Time is of the essence of this Agreement. However, the City recognizes that Consultant's performance must be governed by sound professional practices.

25. Written Notification. Any notice, demand, request, consent, approval, or communications that either party desires or is required to give to the other party shall be in writing and either served personally or sent by prepaid, first class mail. Any such notice, demand, etc. shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section.

If to City: City of Sonoma
Public Works Director/City Engineer
No. 1 The Plaza
Sonoma, CA 95476

If to Consultant: [INSERT CONSULTANT ADDRESS]

27. Consultant's Books and Records.

A. 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 for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant pursuant to this Agreement.

B. Consultant shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.

C. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such documents shall be provided to City for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Consultant's address indicated for receipt of notices in this Agreement.

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

28. Agreement Binding. The terms, covenants, and conditions of this Agreement shall apply to, and shall bind, the heirs, successors, executors, administrators, assigns, and subcontractors of both parties.

29. Equal Employment Opportunity. Consultant is an equal opportunity employer and agrees to comply with all applicable state and federal regulations governing equal employment opportunity. Consultant will not discriminate against any employee or applicant for employment because of race, age, sex, creed, color, sexual orientation, marital status or national origin. Consultant will take affirmative action to ensure that applicants are treated during such employment without regard to race, age, sex, creed, color, sexual orientation, marital status or national origin. Such action shall include, but shall not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment

advertising; lay-offs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Consultant further agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

30. Non-Exclusive Agreement. This is a non-exclusive agreement. City reserves the right to provide, and to retain other consultants 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 Consultant.

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 Consultant 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:

A. Exhibit C: Scope of Services

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 Consultant and subconsultant 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 Consultant comes within the definition of Consultant under the Political Reform Act (Government Code § 87100), Consultant 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 Consultant and/or such other person's financial interests.

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

CITY OF SONOMA

CONSULTANT

By: _____

By: _____

Title

Title

Federal Tax Identification Number or
Social Security Number

FOR CITY USE ONLY

Account No.	[INSERT ACCOUNT CODE FOR PROJECT]
Project Manager	[INSERT CITY PROJECT MANAGER]

EXHIBIT B
COMPENSATION/FEE SCHEDULE

EXHIBIT C
SCOPE OF SERVICES

Scope of Services: Providing design documents, including mechanical plans prepared by a registered CA mechanical engineer, electrical plans prepared by a licensed CA electrical engineer, completed and signed CA Energy Code documentation, and applicable CalGreen documentation for converting the existing natural gas-powered HVAC system in the City's Depot Museum Building to an all-electric system.