

Attachment 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 CONTRACTOR NAME], herein called the “Contractor.”

Recitals

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

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

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

Agreement

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

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

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

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

4. Compensation and Method of Payment.

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

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

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

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

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

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

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

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

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

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

8. Conflict of Interest.

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

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

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

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

11. Indemnity.

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

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

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

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

Contractor’s duty to indemnify, protect, defend, and hold harmless as set forth in this Section 12 shall not be excused because of the Contractor’s inability to evaluate Liability, or because the Contractor evaluates Liability and determines that the Contractor is not or may not be liable. The Contractor must respond within thirty (30) calendar days to any tender by the City, unless the time for responding has been extended by an authorized representative of the City in writing.

If the Contractor fails to timely accept such tender, in addition to any other remedies authorized by law, as much of the money due or that may become due to the Contractor under this Agreement as shall reasonably be considered necessary by the City may be retained by the City until disposition has been made of the matter subject to tender, or until the

Contractor accepts the tender, whichever occurs first. Contractor agrees to fully reimburse all costs, including but not limited to attorney's fees and costs and fees of litigation incurred by the City in responding to matters prior to Contractor's acceptance of the tender.

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

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

14. Compliance with Laws.

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

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

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

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

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

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

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

(3) Any Subcontract entered into by the Contractor relating to this Agreement shall be

subject to the provisions of the LWO.

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

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

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

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

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

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

16. Assignment; Subcontractors; Employees

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

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

17. Insurance.

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

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

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

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

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

Other Insurance Provisions

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

Additional Insured Status

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

Primary Coverage

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

Notice of Cancellation

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

Waiver of Subrogation

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

Self-Insured Retentions

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

Acceptability of Insurers

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

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

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

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

Verification of Coverage

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

Special Risks or Circumstances

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

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

19. Termination of Agreement.

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

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

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

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

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

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

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

23. Litigation Costs. If either party becomes involved in litigation arising out of this Agreement or the 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 Contractor'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 Contractor: [INSERT CONTRACTOR ADDRESS]

27. Contractor's Books and Records.

A. Contractor 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 Contractor pursuant to this Agreement.

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

C. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the City 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 Contractor's address indicated for receipt of notices in this Agreement.

D. Where City has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment, or termination of Contractor's business, City may, by written request by any of the above-named officers, require that custody of the records be given to 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 Contractor, Contractor's representatives, or Contractor'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. Contractor is an equal opportunity employer and agrees to comply with all applicable state and federal regulations governing equal employment opportunity. Contractor will not discriminate against any employee or applicant for employment because of race, age, sex, creed, color, sexual orientation, marital status or national origin. Contractor 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. Contractor 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 Contractors to provide, services that are the same or similar to the services described in this Agreement.

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

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

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

- Exhibit A: Compensation/Fee Schedule
- Exhibit B: Scope of Services
- Exhibit C: City Owned and Tested Backflow Devices
- Exhibit D: Sample City of Sonoma Backflow Prevention Assembly Test Report

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

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

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

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

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

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

CITY OF SONOMA

CONTRACTOR

By: _____

By: _____

Title

Title

Federal Tax Identification Number or
Social Security Number

FOR CITY USE ONLY

Account No.	510-62001-350-50350
	501-61010-350-50350
	100-43020-350-50350
	100-43200-350-50350
	100-43023-350-50350
	100-43022-350-50350
	*as specified in Ex C
Project Manager	Tim Tillery – Water Supervisor

**EXHIBIT A
COMPENSATION/FEE SCHEDULE**

Work Item	Unit	Unit Price (\$)	No. Devices	Total Price (\$)
Test & Certify Backflow Device	Ea		50	
Hourly Rate Repairs	Hr			
Other _____				

EXHIBIT B
SCOPE OF SERVICES

Scope of Services: The Contractor shall perform testing of City of Sonoma owned backflow devices installed at City owned locations. The work to be done under this contract consists of testing and certification of each backflow device, providing Backflow Prevention Assembly Test Report for each device, providing cost estimates for any repair work, and repairing as directed under the pricing provided in this proposal. A list of backflow devices is included in Exhibit B of the RFP documents.

EXHIBIT C - CITY OWNED AND TESTED BACKFLOW DEVICES

OBJECT-ID	Facility Name	Service Address	Well	Status	Serial Number	Manufacturer	Size	Type	Model	Service Type	Latitude	Longitude	Account No.	Notes
21	City of Sonoma	90 First St. West / Mtn. Cemetery	No	Open	1348337	Wilkins	200	RP	975XL	Cemetery	38.29945069	-122.4576332	501-61010-350-50350	
23	City of Sonoma	The Plaza	No	Open	131397	Ames	400	DCV	20005S	Facility	38.292914	-122.4577479	100-43020-350-50350	
26	City of Sonoma	453 First St. East	No	Open	6670	Watts	250	RP	9	Facility	38.2927449	-122.45701	100-43020-350-50350	
29	City of Sonoma	32 Patten St. / Old Fire House	No	Open	68242	Watts	100	RP	009M2QT	Facility	38.29023937	-122.4574099	100-43020-350-50350	
35	City of Sonoma	19728 Eighth St. East	No	Open	A79551	Watts	75	RP	009M3QT	Facility	38.285019	-122.434381	100-43020-350-50350	
36	City of Sonoma	19728 Eighth St. East	No	Open	A131697	Wilkins	100	RP	375	Facility	38.285019	-122.434381	100-43020-350-50350	
37	City of Sonoma	19728 Eighth St. East	No	Open	9277	Ames	75	DC	2000BM3	Facility	38.2875278	-122.4340854	100-43020-350-50350	
38	City of Sonoma	19728 Eighth St. East	No	Open	HD0061	Ames	600	DCDA	300GV	Facility	38.28751096	-122.4344288	100-43020-350-50350	Testing DCDA's will require coordination with the City for fire alarm monitoring
4	City of Sonoma	630 Second St. West	No	Open	A017699	Febco	75	DCV	805YB	Non-Dept Facili	38.290144	-122.4612755	100-43200-350-50350	
5	City of Sonoma	630 Second St. West	No	Open	104181152	Febco	600	DCDA	856	Non-Dept Facili	38.290144	-122.4612755	100-43200-350-50350	Testing DCDA's will require coordination with the City for fire alarm monitoring
6	City of Sonoma	630 Second St. West	No	Open	171300	Watts	200	RP	009M2	Non-Dept Facili	38.29029832	-122.460591	100-43200-350-50350	
7	City of Sonoma	630 Second St. West	No	Open	279369	Watts	100	DC	007M1	Non-Dept Facili	38.29033621	-122.4607305	100-43200-350-50350	
11	Park Creek HOA - City inspects	30 Creek Lane	No	Closed	21200	Watts	75	DCV	007M1	Non-Dept Facili	38.289598	-122.473184	100-43200-350-50350	
15	City of Sonoma	175 First St. W. / Police Dept-fireline.	No	Open	9515	Watts	75	DC	007M1	Non-Dept Facili	38.2978414	-122.4586287	100-43200-350-50350	
17	City of Sonoma	175 First St. W. / Police Dept.	No	Open	2937920	Wilkins	150	RP	975XL	Non-Dept Facili	38.29797984	-122.4585002	100-43200-350-50350	
24	Sonoma League for Historic Preser	291 First St. East	No	Open	W086265	Wilkins	75	DC	XLD	Non-Dept Facili	38.29565484	-122.4561412	100-43200-350-50350	
25	Sonoma League for Historic Pres.	291 First St. East	No	Open	N0912	Wilkins	400	DC	350DA	Non-Dept Facili	38.29566537	-122.4561412	100-43200-350-50350	
48	City of Sonoma	20000 Broadway	No	Open	3047496	Wilkins	200	DC	950XL	Non-Dept Facili	38.28198645	-122.4587832	100-43200-350-50350	
49	City of Sonoma	330 Davila	No	Closed	2131871	Wilkins	100	DCV	950XLT	Non-Dept Facili	38.2819895	-122.4529384	100-43200-350-50350	
2	City of Sonoma	1135 Cox St.	No	Open	AB8416	Febco	200	RP	825Y	Park	38.28086634	-122.464786	100-43023-350-50350	
8	City of Sonoma	Hertenstein Park	No	Open	A149106	Febco	200	DCV	805Y	Park	38.2829518	-122.467719	100-43023-350-50350	
9	City of Sonoma	0 Leveroni Rd.	No	Open	BC2702	Febco	150	RP	825Y	Park	38.27659628	-122.4663202	100-43023-350-50350	
10	City of Sonoma	#1 Fryer Creek Dr. / Todd	No	Open	F0604121453	Febco	250	DCV	805Y	Park	38.27753959	-122.4655424	100-43023-350-50350	
14	City of Sonoma	500 Block Linda Dr /Olson Park	No	Open	A093616	Wilkins	150	RP	375	Park	38.29892708	-122.4688884	100-43023-350-50350	
20	City of Sonoma	151 First St. West/ Shelter	No	Open	A33270	Watts	100	RP	009M2	Park	38.29871764	-122.458063	100-43023-350-50350	
22	City of Sonoma	284 First St. W. / Depot Park	No	Open	128940	Watts	200	RP	009M2	Park	38.29597902	-122.4581596	100-43023-350-50350	
30	City of Sonoma	433 France St.	No	Open	A052046	Wilkins	200	RP	375	Park	38.28743517	-122.4503718	100-43023-350-50350	
31	City of Sonoma	125 MacArthur St. E	No	Open	3991271	Wilkins	100	RP	975XL2	Park	38.28471086	-122.4574448	100-43023-350-50350	
32	City of Sonoma	El Prado Common Green	No	Open	8537	Watts	200	PVB	800PVB	Park	38.28731306	-122.4525927	100-43023-350-50350	
33	City of Sonoma	550 Patten St	No	Open	BH2224	Febco	200	RP	825Y	Park	38.28911097	-122.4469922	100-43023-350-50350	
34	City of Sonoma	758 Elliott	No	Open	A001151	Febco	150	RP	825Y	Park	38.285413	-122.4432693	100-43023-350-50350	
39	City of Sonoma	19990 Seventh St. East	No	Closed	R8492	Febco	100	DC	805Y	Park	38.28072	-122.439825	100-43023-350-50350	
40	City of Sonoma	19996 Seventh St. East	No	Open	R18132	Febco	300	DCV	805YD	Park	38.2804679	-122.4404722	100-43023-350-50350	
41	City of Sonoma	Nathanson Creek Park	No	Open	A073691	Wilkins	200	RP	375	Park	38.27870607	-122.4570183	100-43023-350-50350	
42	City of Sonoma	375 Brockman - Star Ranch Park	No	Open	W266403	Wilkins	100	RP	975XL	Park	38.2805463	-122.4537943	100-43023-350-50350	
43	City of Sonoma	375 Brockman - Star Ranch Park	No	Open	2185456	Wilkins	100	RP	975XL	Park	38.28055262	-122.4535288	100-43023-350-50350	
44	City of Sonoma	440 Engler St (Sonoma Oaks)	No	Open	2566843	Wilkins	75	RP	975XL	Park	38.2771685	-122.4512222	100-43023-350-50350	
45	City of Sonoma	440 Engler St (Sonoma Oaks)	No	Open	1325810	Wilkins			975XL	Park	38.2771685	-122.4512222	100-43023-350-50350	
47	City of Sonoma	300 Davila / Pathway	No	Closed	2264996	Wilkins	100	DCV	950XLT	Park	38.2817473	-122.4536019	100-43023-350-50350	
13	City of Sonoma	19999 Sonoma Highway	No	Open	H33802	Febco	75	RP	860	Streets	38.29397604	-122.4757777	100-43022-350-50350	
16	City of Sonoma	175 First St. W. / Police Dept.	No	Open	159395	Ames	600	DCDA	30005S	Streets	38.2978414	-122.4586287	100-43022-350-50350	Testing DCDA's will require coordination with the City for fire alarm monitoring
27	City of Sonoma	152 Napa St. East	No	Open	A268212	Febco	200	RP	825Y	Streets	38.29179827	-122.4555377	100-43022-350-50350	
50	City of Sonoma	605 Broadway	No	Closed	32791	Watts	100	RP	9	Streets	38.2901182	-122.4584198	100-43022-350-50350	
3	City of Sonoma	0 Second St. West	No	Open	3563582	Wilkins	100	RP	975XL	Streets	38.28735411	-122.4620113	100-43022-350-50350	
12	City of Sonoma	890 Studley	No	Closed	A11385	Febco	75	RP	860	Streets	38.2926632	-122.4756284	100-43022-350-50350	
28	City of Sonoma	700 Charles V. Damm /Island Irrg	No	Open	245533	Watts	75	RP	009M3	Streets	38.28950465	-122.4437923	100-43022-350-50350	
46	City of Sonoma	Fifth St. East / Eastin	No	Open	53862	Febco	100	DCV	805Y	Streets	38.28145061	-122.4491742	100-43022-350-50350	
1	City of Sonoma	Well 8	Yes	Open	53409398	Wilkins	100	RP	975XL2	Well	36.778261	-119.4179324	510-62001-350-50350	
18	City of Sonoma	Well 8	Yes	Open	53409398	Wilkins	100	RP	975XL2	Well	38.2931714	-122.4677044	510-62001-350-50350	
19	City of Sonoma	Well 8	Yes	Open	U47564	Wilkins	250	DC	350A	Well	38.2931714	-122.4677044	510-62001-350-50350	

EXHIBIT D



**CITY OF SONOMA
BACKFLOW PREVENTION ASSEMBLY TEST REPORT**

RETURN NO LATER THAN

SERVICE ADDRESS: _____
(LOCATION OF FACILITIES SERVED)

ASSEMBLY NO. _____ METER NO. **48252233** ACCT. NO. _____

ASSEMBLY LOCATION _____

MAILING ADDRESS:	ASSEMBLY INFORMATION
	TYPE <u>RP</u> SIZE <u>1"</u> MFG <u>Watts</u>
	MODEL <u>009M2</u> SERIAL NO. <u>127199</u>

LINE PRESSURE AT TIME OF TEST _____ PSI.

Reduced Pressure Principle Assembly				PRESSURE VACUUM BREAKER	SHUT-OFF VALVE
Double Check Valve Assembly					
	CHECK VALVE NO. 1	CHECK VALVE NO. 2	PRESSURE RELIEF VALVE	AIR INLET	NO. 1
	CLOSED TIGHT <input type="checkbox"/>	CLOSED TIGHT <input type="checkbox"/>	OPENED AT _____ PSID	OPENED AT _____ PSID	CLOSED TIGHT <input type="checkbox"/>
	LEAKED <input type="checkbox"/>	LEAKED <input type="checkbox"/>	OR DID NOT OPEN <input type="checkbox"/>	DID NOT OPEN <input type="checkbox"/>	LEAKED <input type="checkbox"/>
INITIAL TEST	RP _____ PSID		OPENED UNDER 2 PSID	CHECK VALVE HELD AT _____ PSID	NO. 2
	LEAKED <input type="checkbox"/>	LEAKED <input type="checkbox"/>	OR DID NOT OPEN <input type="checkbox"/>	LEAKED <input type="checkbox"/>	CLOSED TIGHT <input type="checkbox"/>
	CLEANED <input type="checkbox"/>	CLEANED <input type="checkbox"/>	CLEANED <input type="checkbox"/>	CLEANED <input type="checkbox"/>	LEAKED <input type="checkbox"/>
R E P A I R S	REPLACED: <input type="checkbox"/>	REPLACED: <input type="checkbox"/>	REPLACED: DISC <input type="checkbox"/>	REPLACED:	VALVE NO. _____
	DISC <input type="checkbox"/>	DISC <input type="checkbox"/>	SPRING <input type="checkbox"/>	AIR INLET DISC <input type="checkbox"/>	CLEANED <input type="checkbox"/>
	SPRING <input type="checkbox"/>	SPRING <input type="checkbox"/>	DIAPHRAGM(S) <input type="checkbox"/>	CHECK DISC <input type="checkbox"/>	REPLACED WITH:
	GUIDE <input type="checkbox"/>	GUIDE <input type="checkbox"/>	SEAT(S) <input type="checkbox"/>	AIR INLET SPRING <input type="checkbox"/>	Type: _____
	SEAT <input type="checkbox"/>	SEAT <input type="checkbox"/>	O-RING(S) <input type="checkbox"/>	CHECK SPRING <input type="checkbox"/>	Mfg: _____
	MODULE <input type="checkbox"/>	MODULE <input type="checkbox"/>	MODULE <input type="checkbox"/>	OTHER <input type="checkbox"/>	
	OTHER <input type="checkbox"/>	OTHER <input type="checkbox"/>	OTHER <input type="checkbox"/>		
FINAL TEST	CLOSED TIGHT <input type="checkbox"/>	CLOSED TIGHT <input type="checkbox"/>	OPENED AT _____ PSID	AIR INLET _____ PSID	BOTH VALVES
	RP _____ PSID			CHK. VALVE _____ PSID	CLOSED TIGHT <input type="checkbox"/>

COMMENTS: _____

MAIL TO: City of Sonoma
Public Works Dept.
No. 1 The Plaza
Sonoma, CA 95476

(707) 938-3332

THE ABOVE REPORT IS CERTIFIED TO BE TRUE

_____ Initial Test By	_____ Cert. Tester No.	_____ Date
_____ Repaired By	_____ Date	
_____ Final Test By	_____ Cert. Tester No.	_____ Date