

City of Sebastopol

REQUEST FOR STATEMENT OF QUALIFICATIONS
FOR ON-CALL CONSULTING SERVICES

PRE-QUALIFIED CONSULTANTS LIST

Statement of Qualifications (SOQ) Due Date: Ongoing
RFQ updated: July 1, 2025



PUBLIC WORKS DEPARTMENT
714 JOHNSON STREET
SEBASTOPOL, CA 95472

Phone: 707-823-5331
Fax: 707-823-4721

I) BACKGROUND

The City of Sebastopol is soliciting qualified consultants interested in being included in our Pre-Qualified Consultants (PQC) List. The PQC List was first formed in 2010 and is a list of pre-qualified consulting firms available to perform a variety of consulting services for City capital improvement projects. The City seeks consultants with demonstrated expertise and experience performing studies, infrastructure planning and design, construction management, and other types of consulting services for public agencies in one or more of the following disciplines:

- Street improvements (street widening, pedestrian facilities, bicycle facilities, street rehabilitation, beautification, and landscape design)
- Traffic engineering (traffic counts, traffic studies, and traffic control systems designs)
- Storm water projects (including conduits, retention and infiltration facilities, water quality projects, creek restorations, closed-circuit TV (CCTV) inspection and cleaning)
- Parks and recreation improvements (conceptual and project level planning and design)
- Water and wastewater infrastructure design, planning and studies (water supply wells, pumping facilities, distribution and collection systems, master planning, regulatory compliance plans and projects)
- Land surveying and mapping
- Geotechnical (soils and materials testing, and construction support)
- Structural engineering
- City Engineer Consultant, development review, and engineering plan check services
- Construction management and inspection services

Firms will be selected for inclusion in the Pre-Qualified Consultants List based on the quality, diversity and responsiveness of the proposals received. The application and qualification period is open-ended until further notice. Consultants may be added to the list by approval of the City Council on a quarterly or semi-annual basis depending on the timing and number of applications received.

The qualified firms selected for the Pre-Qualified Consultants List may be invited to provide consulting services on an “as-needed” basis for projects to be determined during the term of a **Master Agreement (Appendix B)**, whose initial term will be for three (3) years. Upon execution of the Master Agreement, the City may elect to solicit proposals from any or all selected consultants. Individual project contracts will be awarded by contract amendment concurrent with the term of the master contract. Only those consultants with fully-executed Master Agreements will be eligible to respond to Requests for Proposals.

The City will award contract amendments for projects based upon a scope of services, work schedule, and fee proposal submitted to the City on request and subject to approval by the City Council. For any given project, the City may elect to contract with more than one consultant based upon their field of expertise. Consultants are also encouraged to team with other pre-qualified consultants on project proposals where multiple disciplines are required.

To be included in the Pre-Qualified Consultants List, your firm must demonstrate successful completion of projects for which you have contracted directly with a public agency located in Northern California within the last five (5) years. Following are additional details about the

scope of services anticipated by the City and instructions for preparing your Statement of Qualifications and Proposal.

II) SCHEDULE

The Request for Qualifications was released effective September 5, 2012 and the current RFQ was updated May 5, 2025. It is the City's intent that this solicitation will be open-ended until further notice. Master Agreement renewals will be conducted routinely by City staff, provided the SOQ for the consultant has not changed and that insurance requirements are met and up to date.

Evaluation of SOQs by the City will commence within thirty (30) days of receipt. The City reserves the right to conduct follow-up interviews with applicants.

Qualifying consultants will be requested to enter into Master Agreements with the City. These Master Agreements will be presented to the City Council as needed and as determined by the City staff, depending upon the volume and timing of applications received in response.

III) SCOPE OF WORK

In general, consultants will be sought to perform engineering services on an "on-call, as-needed" basis for various projects assigned by the City. The scope of work for any one project may involve all phases of project development, including but not necessarily limited to the following:

- **Preliminary Engineering** - Prepare alternatives analyses, preliminary layouts, surveying, geotechnical services, and estimates of probable cost.
- **Permits** - Assist the City in obtaining approvals and permits from various agencies, including Caltrans, Regional Water Quality Control Board, US Army Corps of Engineers, California Department of Fish and Wildlife, etc.
- **Construction Documents** - Prepare engineering calculations and designs, plans, specifications, cost estimates, and contract bidding documents.
- **Bidding Assistance** - Assist the City with technical support during bidding phase for public contracts, attend pre-bid conferences and job walks, perform constructability review of other firms' or own plans and specifications, prepare addenda, analyze bids, and recommend award.
- **Construction Support/Construction Management** - Attend pre-construction conferences, monitor construction schedule, and visit construction site as required for progress and quality of work evaluation. Assist City with interpretation of plans and specifications, analysis of changed conditions, development of corrective action, review of shop drawings and other submittals, and review and negotiation of change orders.

IV) CITY'S RESPONSIBILITIES

The City will prepare a Request for Proposals for each project, including a scope of work and other information about the project. Consultants on the PQC List may respond to RFPs. City will make available standard plans and details, standard contract documents, and general contract provisions for public works contracts for the consultant's use. City will also furnish

copies of any existing City plans, base maps, and other background materials for consultant's use as needed.

City staff will oversee actual bid solicitations, sales of plans and specifications, maintain planholders' list, and arrange for meetings. City is responsible for consultant contract and construction contract administration and funding compliance for grant-funded projects.

V) GUIDELINES FOR STATEMENT OF QUALIFICATIONS (SOQ)

- SOQs shall be accompanied by the completed **Application Form (Appendix A)**.
- SOQs should not exceed 20 pages in length.
- SOQs must include a Cover Letter and be signed by the individual who is authorized to execute the Master Agreement, should your firm be selected for the Pre-Qualified Consultants List.
- SOQs shall include pre-qualification documentation demonstrating that the firm has contracted directly with public agencies located in Northern California within the last five (5) years and successfully completed a minimum of four (4) projects in each of one or more of the categories listed in the BACKGROUND section above.
- SOQs shall include category(ies) you are qualified for and shall include information in the format shown below:
 - a) Client Name
 - b) Purposely Left Blank
 - c) Purposely Left Blank
 - d) Client Project Principal Name, Phone Number, and Address (Office, Email)
 - e) Consultant Lead Contact Name, Phone Number, and Address (Office, Email)
- SOQs shall include a summary section describing your understanding of the pre-qualification list and potential project assignments.
- SOQs shall include:
 - a) Names of key staff that participated on named category of projects and their specific responsibilities with respect to this work.
 - b) A summary of your firm's demonstrated capability, including length of time in business.
- SOQs shall include your firm's general billing information as follows:
 - a) Schedule of hourly rates, including any special rates offered to public agencies.
 - b) Travel-time charge-out policy.
 - c) Vehicle or equipment charge-out policy.
 - d) Percentage markup for reimbursable expenses.

VI) PROCESS FOR SUBMITTING SOQ

- A) SOQs should focus on information requested above.
- B) Submit three (3) paper copies of the SOQ, plus send an email containing a PDF version of the complete SOQ addressed to:

Public Works Director/City Engineer
engineering@cityofsebastopol.gov
City of Sebastopol Public Works
714 Johnson Street
Sebastopol, CA 95472
RE: SOQ FOR PRE-QUALIFIED CONSULTANTS LIST

VII) QUESTIONS

Questions regarding this SOQ, its requirements, or the PQC List in general may be submitted in writing only, and preferably by email, to Engineering Manager at engineering@cityofsebastopol.gov.

Responses to individual questions will be via email. Questions and answers will be compiled and posted from time to time on the Public Works Department, Engineering Division's *Contractors and Consultants* web page <https://www.cityofsebastopol.gov/contractors-consultants/>.

Questions regarding this RFQ shall be submitted to engineering@cityofsebastopol.gov or call Elissa Overton, Engineering Technician II, at (707) 823-2151.

VIII) EVALUATION CRITERIA

The following criteria will be used in evaluating the SOQ and whether the City will include the consultant in the PQC List:

- Responsiveness to solicitation and understanding of project.
- Pre-qualification project documentation and demonstration of relevant experience.
- General qualifications and experience of the firm, project manager, and other key individuals assigned to projects.
- Information that may be obtained from reference checks.

The evaluation committee shall determine the final Pre-Qualified Consultants List in consideration of the best interests of the City. The evaluation committee may include the Public Works Director/City Engineer, Engineering Technician II, and other Public Works staff.

After written SOQs have been reviewed, telephone or in-person interviews with prospective firms may or may not be conducted by the City. If scheduled, oral interviews will be in an informal question/answer format for the purpose of clarifying the SOQ. The individuals who represent your firm in any scheduled interview must include the person who would be directly responsible for carrying out the contract.

The Consultant will be notified if the SOQ has been accepted and will request that a the Consultant enter into a Master Agreement with the City. Insurance certificates/documents

will be required prior to execution of the Master Agreement and will present the agreement to City Council for approval. The City will place all consultants with whom a Master Agreement is executed on our Pre-Qualified Consultants List.

IX) STANDARD TERMS AND CONDITIONS

- This RFQ does not commit the City to award a contract or to pay any costs incurred for any services.
- The City, at its sole discretion, reserves the sole right to determine which consultants are ultimately included in the Pre-Qualified Consultants List.
- All SOQs will become the property of the City of Sebastopol. Any proprietary information contained in the proposal should be clearly identified as such.
- The City reserves the right to amend this RFQ from time to time. The current version will be posted on the City website <https://www.cityofsebastopol.gov/contractors-consultants/>.
- The cost for developing the SOQ/proposal is the sole responsibility of the proposer. All SOQs submitted become the property of the City.
- Proposals are subject to the Freedom of Information Act. The City cannot protect proprietary data submitted in SOQs.

Insurance Requirements:

Successful submitters, who are invited to be included on the Pre-Qualified Consultants List, must furnish the City with the Certificates of Insurance proving coverage as specified in **Appendix C, Insurance Requirements for Consultants**, prior to City approval of the Master Agreement. No exceptions will be made to this requirement.

It is the proposer's responsibility to review these requirements carefully prior to submitting a proposal in response to this solicitation. Your response must indicate your familiarity with the insurance requirements and your willingness to comply with them as they are written. If you take any exceptions to the terms of the contract, these must be included in your proposal in writing. The City will consider this in determining responsiveness to the Request for Proposals.

APPENDIX A

APPLICATION FORM
FOR CITY OF SEBASTOPOL PRE-QUALIFIED CONSULTANTS LIST
APPLICANT

Business Name: _____

Contact Person for Agreement: _____

Business Mailing Address: _____

City, State, Zip: _____

Email: _____

Phone: _____ **Fax:** _____

Contact Person for Proposal: _____

Title: _____ **Email:** _____

Phone: _____ **Fax:** _____

Current City of Sebastopol Business License: Yes: _____ **Expires:** _____ **No:** _____

Please indicate whether you currently have a City of Sebastopol Business License. Note: Consultants are not required to maintain a current City Business License, except when actively working on a project under an executed Amendment to the Master Agreement. To obtain a City of Sebastopol Business License, please contact the City of Sebastopol Building Department at (707) 823-8597.

SERVICES OFFERED IN RESPONSE TO THIS REQUEST FOR PROPOSALS

Please list all types of work for which you wish to be considered. Consultants will be ineligible to respond to Requests for Proposals for types of work not specifically included in your application and SOQ. If you provide other types of services than those listed in the SOQ, please list them here as well.

By signing this application and proposal, the undersigned confirms that I have read this solicitation in its entirety and understand the information and requirements described herein, including general contract terms and insurance requirements, and I agree to comply with these should my firm be selected, except as I have otherwise noted in my Proposal.

Authorized Signature: _____ **Date:** _____

APPENDIX B
AGREEMENT FOR ON-CALL PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into on _____ by and between the City of Sebastopol, located in the County of Sonoma, State of California (City), and Consultant (Consultant), a California Corporation. This Agreement for On-Call Professional Services is also commonly referred to as a "Master Agreement."

RECITALS:

A. City desires to employ Consultant to furnish professional services in connection with on-call engineering services.

B. Consultant has represented that Consultant has the necessary expertise, experience, and qualifications to perform the required duties.

NOW, THEREFORE, in consideration of the mutual premises, covenants, and conditions herein contained, the parties agree as follows:

SECTION 1 – BASIC SERVICES

A. Consultant agrees to perform the services set forth and made part of this Agreement.

B. The Consultant shall perform the services on an on-call basis as assigned, pursuant to a scope of work and fee proposal approved by both the City and Consultant (each a "Task Order"). The terms of this Agreement are incorporated into all such scopes of work. The on-call services may include, but are not necessarily limited to, the following:

a) Scope Items.....

C. City may from time-to-time have the need for other services not specifically listed in this agreement for which Consultant. has the necessary experience and capabilities to provide. City may authorize Consultant to perform such selected services on an as-needed basis.

SECTION 2 – PROJECT ASSIGNMENT

A. The City will award contract Task Order for each project based upon a scope of services, work schedule, and fee proposal submitted to the City on request, and subject to approval by the City. For any given project, the City may elect to contract with more than one consultant based upon their field of expertise.

B. Consultants are also encouraged to team with other pre-qualified consultants on project proposals where multiple disciplines are required.

SECTION 3 – TIME FOR COMPLETION

The time for completion of services shall be as identified in each approved Task Order work.

SECTION 4 – COMPENSATION AND METHOD OF PAYMENT

A. Subject to any limitations set forth in this Agreement, City agrees to pay consultant the amount specified in each approved Task Order.

B. Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month. The invoice shall detail charges by the following categories if

applicable: labor (by sub-category), travel, materials, equipment, supplies, subconsultant contracts, and miscellaneous expenses. City shall independently review each invoice submitted to determine whether the work performed, and expenses incurred are in compliance with the provisions of this Agreement. If no charges or expenses are disputed, the invoice shall be approved and City will use its best efforts to cause Consultant to be paid within 30 days of receipt of invoice. If any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission. If the City reasonably determines, in its sole judgment, that the invoiced charges and expenses exceed the value of the services performed to date and that it is probable that the Agreement will not be completed satisfactorily within the contract price, City may retain all or a portion of the invoiced charges and expenses. Within thirty (30) days of satisfactory completion of the project, City shall pay the retained amount, if any, to Consultant.

C. Payment to the Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

SECTION 5 – STANDARD OF PERFORMANCE

Consultant represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the services required under this Agreement in a thorough, competent and professional manner. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. In meeting its obligations under this Agreement, Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of Consultant under this Agreement.

SECTION 6 – INSPECTION AND FINAL ACCEPTANCE

City may inspect and accept or reject any of Consultant's work under this Agreement, either during performance or when completed. City shall reject or finally accept Consultant's work within sixty (60) days after submitted to City, unless the parties mutually agree to extend such deadline. City shall reject work by a timely written explanation, otherwise Consultant's work shall be deemed to have been accepted. City's acceptance shall be conclusive as to such work except with respect to latent defects and fraud. Acceptance of any of Consultant's work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, the sections pertaining to indemnification and insurance.

SECTION 7 – INSURANCE REQUIRED

Consultant 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 by the Consultant, its agents, representatives, or employees.

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:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** Insurance, 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.
(Not required if consultant provides written verification that it has no employees)
4. **Professional Liability** (Errors and Omissions): Insurance appropriate to the Consultant's profession, with limit no less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work. 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 Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work. A copy of the claims reporting requirements must be submitted to the City of Sebastopol for review.

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

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions: The City of Sebastopol, 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 Consultant 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 Consultant's insurance at least as broad as one of the following ISO ongoing operations Forms: CG 20 10 or CG 20 26 or CG 20 33 (not allowed from subcontractors), or CG 20 38; **and** one of the following ISO completed operations Forms: CG 20 37, 2039 (not allowed from subcontractors), or CG 20 40.

Primary Coverage

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

Notice of Cancellation

Consultant shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; (3) or the deductible or self-insured retention is increased. In the event of any cancellation or reduction in coverage or limits of any insurance, Consultant shall forthwith obtain and submit proof of substitute insurance.

Waiver of Subrogation

Consultant hereby grants to the City of Sebastopol a waiver of any right to subrogation which any insurer of said Consultant may acquire against the City of Sebastopol by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City of Sebastopol has received a waiver of subrogation endorsement from the insurer. However, the Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City of Sebastopol for all work performed by the Contractor, its employees, agents, and subcontractors.

Self-Insured Retentions

Self-insured retentions must be declared to and approved by the City of Sebastopol. The City of Sebastopol may require the Consultant to 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 the City of Sebastopol.

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 of Sebastopol.

Verification of Coverage

Consultant shall furnish the City of Sebastopol 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 the City of Sebastopol before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The City of Sebastopol reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Subcontractors

Consultant shall require and verify that all subcontractors maintain insurance, meeting all the requirements stated herein, and Contractor shall ensure that the City of Sebastopol is an additional insured on insurance required from subcontractors.

Special Risks or Circumstances

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

SECTION 8 – INDEMNIFICATION

A. **Indemnification for Professional Liability.** Where the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including attorney's fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or sub-consultants (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.

B. **Indemnification for Other than Professional Liability.** Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys' fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to officers, agents, employees or sub-contractors of Consultant.

C. **Limitation of Indemnification.** Notwithstanding any provision of this [Indemnification] to the contrary, design professionals are required to defend and indemnify the City only to the extent permitted by Civil Code Section 2782.8, which limits the liability of a design professional to claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional. The term "design professional," as defined in Section 2782.8, is limited to licensed architects, licensed landscape architects, registered professional engineers, professional land surveyors, and the business entities that offer such services in accordance with the applicable provisions of the California Business and Professions Code.

The provisions of this section do not apply to claims to the extent occurring as a result of the City's sole negligence or willful acts or misconduct.

SECTION 9 – INDEPENDENT CONTRACTOR STATUS

A. Consultant is and shall at all times remain a wholly independent contractor and not an officer, employee, or agent of City. Consultant shall have no authority to bind City in any manner, nor to incur an obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City.

B. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall have control over the conduct

of Consultant or any of Consultant's officers, employees or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant's officers, employees or agents are in any manner officials, officers, employees or agents of City.

C. Neither Consultant, nor any of Consultant's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Consultant expressly waives any claim Consultant may have to any such rights.

SECTION 10 – CONFLICTS OF INTEREST

A. Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent, or subcontractor without the express written consent of the City Manager. Consultant agrees to at all times avoid conflicts with the interests of City in the performance of this Agreement.

B. City understands and acknowledges that Consultant is, as of the date of execution of this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. Consultant is aware of any stated position of City relative to such projects. Any future position of City on such projects shall not be considered a conflict of interest for purposes of this section.

SECTION 11 – OWNERSHIP OF DOCUMENTS

A. All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by Consultant in the course of providing any services pursuant to this Agreement shall become the sole property of City and may be used, reused or otherwise disposed of by City without the permission of the Consultant. When requested by City, but no later than three years after project completion, Consultant shall deliver to City all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents.

B. All copyrights, patents, trade secrets, or other intellectual property rights associated with any ideas, concepts, techniques, inventions, processes, improvements, developments, works of authorship, or other products developed or created by Consultant during the course of providing services (collectively the "Work Product") shall belong exclusively to City. The Work Product shall be considered a "work made for hire" within the meaning of Title 17 of the United States Code. Without reservation, limitation, or condition, Consultant hereby assigns, at the time of creation of the Work Products, without any requirement of further consideration, exclusively and perpetually, any and all right, title, and interest Consultant may have in the Work Product throughout the world, including without limitation any copyrights, patents, trade secrets, or other intellectual property rights, all rights of reproduction, all rights to create derivative works, and the right to secure registrations, renewals, reissues, and extensions thereof.

SECTION 12 – CONFIDENTIAL INFORMATION; RELEASE OF INFORMATION

A. All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or

already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the City Manager, except as may be required by law.

B. Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager or unless requested by the City Attorney of City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered “voluntary” provided consultant gives City notice of such court order or subpoena.

C. If Consultant, or any officer, employee, agent, or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorney’s fees, caused by or incurred as a result of Consultant’s conduct.

D. Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite such response.

SECTION 13 – SUSPENSION OF WORK

City may, at any time, by ten (10) days written notice suspend further performance by Consultant. All suspensions shall extend the time schedule for performance in a mutually satisfactory manner and Consultant shall be paid for services performed and reimbursable expenses incurred prior to the suspension date.

SECTION 14 – COMPLIANCE WITH LAW

Consultant shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement. Consultant shall obtain any and all licenses, permits and authorizations necessary to perform the services set forth in this Agreement. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall be liable, at law or in equity, as a result of any failure of Consultant to comply with this section.

SECTION 15 – COMPLIANCE WITH CIVIL RIGHTS

During the performance of this contract, Consultant agrees as follows:

A. Equal Employment Opportunity. In connection with the execution of this Agreement, Consultant shall not discriminate against any employee or applicant for employment because of race, religion, color, ancestry, age, sexual orientation, physical handicap, medical condition, marital status, sex, or national origin. Such actions shall include, but not be limited to, the following: employment, promotion, upgrading, demotion, or transfer; recruitment or recruitment advertising;

layoff or termination; rate of pay or other forms of compensation; and selection for training including apprenticeship.

B. Nondiscrimination Civil Rights Act of 1964. Consultant will comply with all federal regulations relative to nondiscrimination to federally-assisted programs.

C. Solicitations for Subcontractors including Procurement of Materials and Equipment. In all solicitations, either by competitive bidding or negotiations, made by Consultant for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor, supplier, or lessor shall be notified by Consultant of Consultant's obligations under this Agreement and the regulations relative to nondiscrimination.

SECTION 16 – RECORDS

A. Records of Consultant's direct labor costs, payroll costs, and reimbursable expenses pertaining to this project covered by this Agreement will be kept on a generally recognized accounting basis and made available to City if and when required for a period of up to 3 years from the date of Consultant's final invoice.

B. Consultant's records and design calculations will be available for examination and audit if and as required. The cost of any reproductions shall be paid by City.

SECTION 17 – COOPERATION BY CITY

All public information, data, reports, records, and maps as are existing and available to City as public records, and which are necessary for carrying out the work as outlined in the Exhibit A, "Scope of Services", shall be furnished to Consultant in every reasonable way to facilitate, without undue delay, the work to be performed under this Agreement.

SECTION 18 – NOTICES

All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered, or sent by facsimile or first class mail, addressed as follows:

To City: City Manager
City of Sebastopol
7120 Bodega Avenue
Sebastopol, California 95472

To Consultant: Name, Title
Company
Address 1
City, ST, Zip

Notice shall be deemed effective on the date personally delivered or transmitted by facsimile, or, if mailed, three (3) days after deposit in the custody of the U.S. Postal Service.

SECTION 19 – TERMINATION

A. City may terminate this Agreement, with or without cause, at any time by giving ten (10) days written notice of termination to Consultant. If such notice is given, Consultant shall cease immediately all work in progress.

B. If either Consultant or City fail to perform any material obligation under this Agreement, then, in addition to any other remedies, either Consultant, or City may terminate this Agreement immediately upon written notice.

C. Upon termination of this Agreement by either Consultant or City, all property belonging to City which is in Consultant's possession shall be delivered to City. Consultant shall furnish to City a final invoice for work performed and expenses incurred by Consultant, prepared as set forth in this Agreement.

SECTION 20 – ATTORNEY FEES

If litigation or other proceeding is required to enforce or interpret any provision of this Agreement, the prevailing party in such litigation or other proceeding shall be entitled to an award of reasonable attorneys' fees, costs and expenses, in addition to any other relief to which it may be entitled. In addition, any legal fees, costs and expenses incurred to enforce the provisions of this Agreement shall be reimbursed to the prevailing party.

SECTION 21 – ENTIRE AGREEMENT

This Agreement, including the attached Exhibits, is the entire, complete, final and exclusive expression of the parties with respect to the matters addressed therein and supersedes all other agreements or understandings, whether oral or written, or entered into between Consultant and City prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any party which are not embodied herein shall be valid and binding unless in writing duly executed by the parties or their authorized representatives.

SECTION 22 – SUCCESSORS AND ASSIGNS

This Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the parties. However, this Agreement shall not be assigned by Consultant without written consent of the City.

SECTION 23 – CONTINUITY OF PERSONNEL

Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff assigned to perform the services required under this Agreement. Consultant shall notify City of any changes in Consultant's staff assigned to perform the services required under this Agreement, prior to any such performance.

SECTION 24 – DEFAULT

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default and may terminate this Agreement immediately by written notice to Consultant.

SECTION 25 – WAIVER

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision, nor a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by

City of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement.

SECTION 26 – LAW TO GOVERN; VENUE

This Agreement shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Sonoma. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Northern District of California, in San Francisco.

SECTION 27 – SEVERABILITY

If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and the Agreement shall be read and construed without the invalid, void or unenforceable provision(s).

SECTION 28 – SPECIAL PROVISIONS

This Agreement is subject to the following special provisions: none.

IN WITNESS WHEREOF, the parties hereto have accepted, made, and executed this Agreement upon the terms, conditions, and provisions above stated, the day and year first above written.

Consultant:

City:

Name

By:

Name: Name

Date

Title: Title

By:

Name: Mary Gourley

Date

Title: Interim City Manager

Approved as to Form:

By:

Name: Alex Mog

Date

Title: City Attorney

APPENDIX C

INSURANCE REQUIREMENTS FOR CONSULTANTS

Consultant 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 by the Consultant, his agents, representatives, or employees.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2. Insurance Services Office form number CA 0001 (Ed. 1187) covering Automobile Liability, code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Errors and Omissions liability insurance appropriate to the consultant's profession.

Minimum Limits of Insurance

Consultant shall maintain limits no less than:

1. General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage **including operations, products and completed operations, as applicable**. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$2,000,000 per accident for bodily injury and property damage.
3. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.
4. Errors and Omissions liability: \$2,000,000 per occurrence.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Other Insurance Provisions

The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. **The City, its officers, officials, employees and volunteers** are to be covered as insureds as respects liability arising out of work or operations performed by or on behalf of the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant.
2. For any claims related to this project, the Consultant's insurance coverage shall be primary insurance 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 Consultant's insurance and shall not contribute with it.
3. The Workers Compensation policy is to be endorsed with a waiver of subrogation. The insurance company, in its endorsement, agrees to waive all rights of subrogation against the City, its

officers, officials, employees and volunteers for losses paid under terms of this policy which arise from the work performed by the named insured.

4. It shall be a requirement under this agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named Insured; whichever is greater.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.
6. **Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subsection (b) of Section 2782 of the Civil Code.**

Acceptability of Insurers

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

Verification of Coverage

Consultant shall furnish the City with original certificates and amendatory endorsements affecting coverage required by this clause. The endorsements should be on forms provided by the City or on other than the City's forms provided those endorsements conform to City requirements. All original, signed certificates and endorsements are to be received and approved by the City prior to City's approval of the contract and commencement of work. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

Subconsultants

Consultant agrees to include with all subconsultants in their subcontract the same requirements and provisions of this agreement including the indemnity and insurance requirements to the extent they apply to the scope of the Subconsultant's work. Subconsultants hired by Consultant agree to be bound to Consultant and City in the same manner and to the same extent as Consultant is bound to City under the Contract Documents. Subconsultant further agrees to include these same provisions with any Sub-subconsultant. A copy of the contract indemnity and insurance provisions will be furnished to the Subconsultant upon request. The Consultant shall require all sub-consultant to provide a valid certificate of insurance and the required endorsements included in the agreement prior to commencement of any work and Consultant will provide proof of compliance to the City.