


Agenda Report Reviewed by:
City Manager: 

CITY OF SEBASTOPOL
CITY COUNCIL
AGENDA ITEM

Meeting Date: September 20, 2022
To: Honorable City Councilmembers
From: City Administration/City Departments
Subject: Request for Proposal – Comprehensive Grant Writing Services
Recommendation: That the Mayor and City Council Approve and Authorize Issuance of the Request for Proposal
Funding: Currently Budgeted: X Yes _____ No _____ N/A
Net General Fund Cost: N/A
Amount: \$

Account Code/Costs authorized in City Approved Budget (if applicable) AK (verified by Administrative Services Department)
100-00-00-4210 for grant writing services.

INTRODUCTION/PURPOSE:

This item is to request that the City Council Approve and Authorize Issuance of the Request for Proposal for Comprehensive Grant Writing Services.

BACKGROUND:

In the FY 2022-2023 City of Sebastopol approved budget, the City approved \$60,000 for grant writing services. The City is seeking a contract with an individual or firm specializing in the management of the overall grant writing process including assisting the City to maximize the benefits of grant funding. The purpose of the Proposal is for Grant Writing Services and to select either a candidate(s) or firm(s) who can identify high yield grant funding opportunities for the City, research, write, and present grant proposals to address City priorities, including climate action, public wellness, parks, roads and other improvement projects, and manage and administer grants, including reporting support and training. The City’s goal is to hire consultant(s) to help the City secure funding for priority services and projects that the City would otherwise not be able to fund using local tax or rate payer dollars.

DISCUSSION

The City of Sebastopol has prepared a Request for Proposal for qualified individuals or firms to assist the City in researching and identifying potential grant opportunities and general grant writing services associated with the completion and submission of grant applications . The elements of grant writing services may include, but are not limited to: identification of appropriate funding sources and opportunities, acquisition of proposal guidelines, research and writing of proposal(s), coordination of partner agencies, preparation of proposal(s) and follow-up with grantor agencies, and grant management for funding opportunities including, but not limited to, federal, state, foundation, agencies and organizations that support the City’s funding needs and priorities. The City’s intent is to award one contract to a qualified individual or firm as a result of this RFP. A qualified firm and/or individual will be selected through a competitive, quality-based, fair and open process at the sole discretion of the City of Sebastopol. The selected individual or firm will manage grants that have been awarded as needed.

As the City Council is aware, the City of Sebastopol has limited staff for the amount of work that is being conducted on a day to day basis; however, as the awardee would work for all departments, City Administration will be the overall authority over this contract, with scope of work provided by Department Directors depending on the Subject of the Grant.

The City seeks to augment existing revenue sources with grants for City needs and priorities and has detailed the scope of work for this Request for Proposal which is listed below:

- a. Funding needs analysis – Work with City departments to assess current funding priority areas and identify new priority areas for funding.
- b. Grant funding research – Conduct research to identify grant resources that support the City’s funding needs and priorities, and facilitate go/no go decision making on project topics that include but are not limited to:
 - Homelessness
 - Major and minor municipal infrastructure capital projects and maintenance
 - Workforce/Staffing development
 - Renewable energy, battery storage, microgrids, building and transportation electrification /Electric Vehicle Charging site installations
 - Parks, recreation, open space, trails, ecosystems, and habitat
 - Climate resilience
 - Fire resiliency, vegetation planning/management
 - Flood mitigation, and other hazard mitigation grants
 - Community and Economic Development/Municipal Planning
 - Criminal Justice Technology and Programs
 - Transportation and Transit Systems
 - Geographic Information System (GIS)
 - Information Technology and Security
- c. Grant proposal development – Provide grant proposal writing services associated with the completion of grant applications on behalf of the City, including, but not limited to the preparation of funding abstracts and submittal of applications.
- d. Grant management and grant administration – Upon award of grant, provide grant management and administration services, including but not limited to budgeting analysis, reporting and training.
- e. Grant writing and administration training – Provide grant training services, including grant writing, go/no go decision making opportunities, monitoring and reporting.

City Council / General Plan Goals:

This item reflects the City Council Goals and Values as listed below:

The City of Sebastopol is committed to maintaining a high quality of life for current and future members of our community, through excellent public service and careful stewardship of its financial, human and natural resources.

Goal 1. Maintain the long term financial stability and sustainability of the City of Sebastopol and Operate City government in a fiscally responsible and responsive manner

Goal EV 7: Maintain a Stable and Self-Sustaining Fiscal Base in Order to Generate the Resources Necessary to Provide Desired City Services and Support New Growth that is Consistent with the City’s Values and Goals

Goal 5 - Provide Open and Responsive Municipal Government Leadership

PUBLIC COMMENT:

As of the writing of this staff report, the City has not received any public comment. However, if staff receives public comment from interested parties following the publication and distribution of this staff report such comments will be provided to the City Council as supplemental materials before or at the meeting. In addition, public comments may be offered during the “Public Comment” portion of the City Council discussion of this item.

PUBLIC NOTICE:

This item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to scheduled meeting date. Information about the agenda item (link to the City Council meeting page) is also disseminated via the City’s Constant Contact, posted to the City’s website and posted to the Display Board at City Hall).

FISCAL IMPACT:

There is no fiscal impact with approval of this item as the City Council has approved \$60,000 for FY 22-23 in Account Number 100-00-00-4210 for grant writing services.

RECOMMENDATION

Staff is recommending that the City Council Approve and Authorize Issuance of the Request for Proposal for Comprehensive Grant Writing Services for a not to exceed amount of \$60,000.

Attachment:

Request for Proposal



City of Sebastopol

REQUEST FOR PROPOSAL

Comprehensive Grant Writing Services

PROPOSALS ARE TO BE EMAILED ONLY TO:

City of Sebastopol
City Hall
Office of the City Manager
7120 Bodega Avenue
Sebastopol, CA 95472
Email: info@cityofsebastopol.org

PROPOSALS DUE: October 25, 2022

Proposals Are To Be Received No Later Than 5:00 pm

Proposals are to be Emailed Only

1. PURPOSE OF REQUEST FOR PROPOSAL AND GENERAL TERMS AND CONDITIONS

a. Purpose of Request of Proposal

The City of Sebastopol is soliciting proposals from qualified candidates for comprehensive grant writing services. The City is seeking a contract with an individual or firm specializing in the management of the overall grant writing process including assisting the City to maximize the benefits of grant funding. The City seeks to augment existing revenue sources with grants for City needs and priorities. The selected firm will make the City aware of grant opportunities and develop professional grant proposals packaged for funding opportunities including, but not limited to, federal, state, foundation, agencies and organizations that support the City's funding needs and priorities. The selected firm will manage grants that have been awarded as needed.

The selected firm or firms will work with the City Manager's Office as well as individual Department Directors dependent upon the scope of work and nature of grant.

b. Questions Regarding the RFP

Any questions, interpretations, or clarifications, either administrative or technical, or contractual about this RFP must be requested via email by October 18, 2022 by 5:00 pm.

Questions and additional information may be obtained by contacting:

City Manager Larry McLaughlin or Assistant City Manager/City Clerk Mary Gourley
City of Sebastopol
Info@cityofsebastopol.org
Office Phone: 707 823 1153

Please include RFP Questions Comprehensive Grant Writing Services in the Subject Line

c. Delivery of Proposals and Selection Process

To be considered responsive to this RFP, Proposer must submit proposals in the format identified in this section. If you or your firm would like to be considered for this engagement, we invite your response due no later than **5:00 p.m. on October 25, 2022.**

Late submission of responses shall not be considered. Submittal of response shall only be accepted by email. All other forms including (mail, fax, walk-in, etc.) are not acceptable. Late proposals will not be accepted.

Proposals should be prepared in such a way as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of this RFP. Emphasis should be on completeness and clarity of content. Proposed services and related pricing and warranties contained in the proposal must be valid for a period of 90 days after the submission of the proposal.

All proposals shall be submitted in a PDF file format by email only to: info@cityofsebastopol.org

A selection committee will evaluate, select and recommend a proposal to the City Council. Following the notification of the selected individual or firm, a recommendation and proposed contract will be prepared for review and approval by the City Council at its **Tuesday, November 15, 2022** meeting.

Please ensure the RFP contains one primary point of contact for all questions, responses or requests for information.

d. Rejection, Property of Proposals, Proposer’s Costs and Confidential Material

The City reserves the right without prejudice to reject any or all proposals submitted. During the evaluation process, the City reserves the right, where it may serve the City’s best interest, to request additional information or clarifications from proposers, and to allow corrections of errors or omissions. The City reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether that proposal is selected. Proposals become the property of the City and information contained therein shall become public property subject to disclosure laws after Notice of Intent to Award.

Submission of a proposal indicates acceptance by the individual or firm of the conditions contained in this request for proposals, unless clearly and specifically noted in the proposal submitted and confirmed in the contract between the City and the individual or firm selected. There is no expressed or implied obligation for the City to reimburse responding firms for any expenses incurred in preparing proposals in response to this request.

Proposer must notify City in advance of any proprietary or confidential material contained in the proposal and provide justification for not making such material public. City shall have sole discretion to disclose or not disclose such material subject to any protective order which Proposer may obtain.

e. Cancellation

This solicitation does not obligate the City to enter into an agreement. The City will endeavor to administer the proposal process in accordance with the terms and dates outlined in this RFP, however, the City reserves the right to cancel, modify the activities, time line, or any other aspect of the process at any time, as deemed necessary by City staff.

f. Term of Engagement

It is the intent of the City to contract for grant writing services presented herein for one year from the execution of the contract. Additional year or years will be reviewed during the City’s Fiscal Year budget process.

2. NATURE OF SERVICES REQUIRED, MINIMUM QUALIFICATIONS, PROPOSAL REQUIREMENTS

a. Scope of the Work to be Performed

The following are typical services and/or items the successful consultant will be required to provide the City if it is awarded the contract and should be addressed in the proposal. Firms or individuals submitting a response to this RFP shall provide the City with a detailed description of the work that will be completed using this Scope of Work as a guide.

1. Funding needs analysis – Work with City departments to assess current funding priority areas and identify new priority areas for funding.
2. Grant funding research – Conduct research to identify grant resources that support the City’s funding needs and priorities, and facilitate go/no go decision making on project topics that include but are not limited to:
 - Homelessness
 - Major and minor municipal infrastructure capital projects and maintenance
 - Workforce/Staffing development

- Renewable energy, battery storage, microgrids, building and transportation electrification /Electric Vehicle Charging site installations
 - Parks, recreation, open space, trails, ecosystems, and habitat
 - Climate resilience
 - Fire resiliency, vegetation planning/management
 - Flood mitigation, and other hazard mitigation grants
 - Community and Economic Development/Municipal Planning
 - Criminal Justice Technology and Programs
 - Transportation and Transit Systems
 - Geographic Information System (GIS)
 - Information Technology and Security
3. Grant proposal development – Provide grant proposal writing services associated with the completion of grant applications on behalf of the City, including, but not limited to the preparation of funding abstracts and submittal of applications.
 4. Grant management and grant administration – Upon award of grant, provide grant management and administration services, including but not limited to budgeting analysis, reporting and training.
 5. Grant writing and administration training – Provide grant training services, including grant writing, go/no go decision making opportunities, monitoring and reporting.
 6. Grant Funding Research – Conduct research to identify grant resources including, but not limited to federal, state, foundation, agencies, and organizations that support the City’s funding needs.
 7. Reviewing application guidelines and preparing a timeline and chart of tasks for grant submissions.
 8. Writing all sections of the grant application.
 9. Ensuring letters of support and other required certifications or documents are submitted with the grant as described on grant guidelines.
 10. On call grant research – Additional areas may be identified based on a needs analysis process and throughout the duration of the contract.
 11. Grant Proposal Development – Provide grant proposal writing services associated with the completion of grant applications on behalf of a City, including the preparation and completion of all documentation required for submittal of applications to funding sources. An electronic copy of each grant application submitted shall be provided to the City.
 12. Monthly Reports – The successful consultant shall submit monthly report to the City summarizing the amount of time expended and described activities undertaken during the previous month.

b. Minimum Qualifications

Proposers wishing to respond to this RFP should meet the following minimum qualifications.

1. Excellent written and verbal communication skills.
2. Highly organized with the ability to manage prospects, identify new grant opportunities, and evaluate eligibility criteria against City needs.
3. Proficient in research, interpreting research, and analyzing data.
4. Must demonstrate a proven track record of successful grant writing results for federal, state, and/or local grant applications.

c. Proposal Requirements

Proposers must submit a detailed proposal which includes, at minimum, the following:

1. Define the methodology/approach to be used to identify the needs of the City which would be eligible for funding through grants.
2. Detail the procedure you would utilize in identifying grants which would address the needs identified in

the Scope of Work.

3. Generally, detail the involvement and role of City staff and City resources in the grant writing process. Describe, in detail, the process you would utilize to prepare the actual grant application.
4. List your experience in the identification and preparation of grants for municipalities. Specifically, detail your experience with federal and state grants for public safety agencies (police and fire), infrastructure improvement (water, wastewater, and roads, public facilities), parks/recreation, housing / homeless services, technology, community development and capital assets
5. Provide a description of how successful completion of the project will be evaluated and demonstrated.
6. List up to five (5) funded grants, which you developed detailing the funding source, amount requested and amount funded. A copy of a grant application submitted within the last two years may be provided to the City.
7. Describe the background, experience and qualifications of the person(s) who will act as the grant writer /writers and the qualifications of any staff who will assist with the preparation of grant applications (include their role, education, relevant experience and related qualifications)
8. Provide at least three (3) references including the name of contact, affiliation, address, direct telephone number and email address.

d. Cost of Proposal:

Describe in detail the fee structure you propose for providing grant-writing services, including whether costs will be hourly or per grant written and submitted.

A project price structure must accompany the proposal detailing specific amounts for personnel services (salaries and fringes) and operations.

1. Include fees for all services to be provided on a monthly retainer basis, to include sub-consultants, travel, and expenses.
2. State the terms of payment (milestone dates for fixed fees, frequency of invoices and due dates, etc.)
3. Proposal may include “additional” service costs that are listed as optional within this RFP or not expressly listed. Must be a separate line item.
4. Costs should be provided separately for each component, if submitting proposals for multiple components.

e. Proposal Form

Interested firms must submit one (1) electronic proposal by October 25, 2022 No Later Than 5:00 pm to be considered.

Each proposal must include:

1. Transmittal Letter

Proposals must include a transmittal letter signed by an official authorized to solicit business and enter into contracts and the name and telephone number of a contact person, if different from the signatory.

2. Title Page

Proposals must include a title page that includes the RFP subject, the name of the firm, local addresses, telephone number, name of contact person, and the date.

3. Table of Contents

Proposals must include a table of contents that includes a clear identification of the material by section and page number.

4. Company/Firm Information/Individual

Company/Firm: Proposals must provide the name of the business entity (including any fictitious business names), details of the entity’s business structure (i.e., corporation, partnership, LLC), statement(s) on financial integrity of all entities related to the company/firm or joint venture that will be involved in the contract, the location of offices, and the number of employees

currently in the company/firm.

5. Individual: Proposals must provide name of individual, location of office, any persons involved in the contract.
6. Qualifications and References
 - a. Qualifying Experience – Firm: Describe the firm’s qualifications specific to preparing its proposal and associated activities for other communities or projects. Examples of reports or other deliverables for similar projects completed by the staff assigned to this project should be submitted as supplemental materials, along with descriptions of the roles of the assigned staff on those projects.
 - b. Qualifying Experience – Professionals: Provide the name and title of the Managing Principal representative for the coordination and execution of work, other key professional(s), and any other professionals that will be assigned in a significant role to this contract including resumes (not exceeding 3 pages) of education, experience and qualifications related to experience, contact information, and their area of responsibility in servicing the contract. Do not include information on professionals who will have no or minimal roles on the project
7. Project Approach

Respondents shall describe their approach to the project in sufficient detail to provide the City with a good understanding of how the work will be accomplished and the expected deliverables. This should include proposed steps in research and analysis. This should also include a work plan and realistic schedule with a minimum of one week time for City review and comment on draft work products.

8. Business References

Provide a minimum of three (3) business references from clients that are governments or quasigovernment in nature for projects most similar to the one requested here, and conducted by the staff assigned to this project. Identify the client as either a 1) government entity or 2) corporate client.

9. Conflict of Interest

Proposer must represent that it does not have any interests that would conflict with the City or be affected by the performance of services for the City. By submittal of a proposal, the Respondent, its employees and agents, acknowledge their understanding of the provisions regarding conflicts of interest and/or influence arising from this project.

10. Insurance

Proposals must include a statement attesting to capacity to meet/comply with the minimum insurance requirements for the City.

3. EVALUATION AND AWARD CRITERIA

a. Evaluation Method

The selection of the Consultant to provide grant writing services to the City will be based on a comprehensive review of the qualifications as presented in this proposal, overall price and cost to the City, the experience and success of the Consultant in providing similar services to similar clients, the firm’s ability to provide the services outlined in the RFP, and an evaluation of the firm’s ability to be a good business partner with the City.

Proposals will be reviewed and evaluated by a selection committee comprised of the City Manager, Assistant City Manager, Administrative Services Director, and Department Directors as selected by City Management. Award will be made in the best interest of the City of Sebastopol.

b. Evaluation Criteria

The proposals will be evaluated and ranked in accordance with the evaluation criteria described below and listed in the scope of work above.

1. Experience of key individual(s) assigned to the contract.
2. Experience of firm in performing this type of service.
3. Understanding of project as demonstrated by the thoroughness of the proposal, the introduction of innovative or cost-saving ideas, and approach.
4. References from clients for whom similar work was performed.
5. Project schedule and depth of staff available to perform services.
6. Estimate of resources necessary to perform services.
7. Total project cost

4.The preliminary project schedule is as follows:

- Issue Request for Proposal (RFP) September 21, 2022
- Deadline for inquiries October 11, 2022
- Deadline for Response to inquiries October 18, 2022
- Proposals due by October 25, 2022
- Interviews (may or may not be required) Week of October 31, 2022
- Negotiate a contract Week of November 7th, 2022
- Award contract through City Council November 15, 2022

The proposal and any questions regarding this request for proposals should be forwarded to the City of Sebastopol City Manager’s Office at the following address:

City of Sebastopol
City Hall
Office of the City Manager
7120 Bodega Avenue
Sebastopol, CA 95472
Email: info@cityofsebastopol.org

REQUIREMENTS OF THE SUCCESSFUL FIRM:

Contracting Guidelines

The firm shall be responsible for complying with the following contracting guidelines:

1. Consultant shall obtain a City of Sebastopol business license.
2. Consultant will comply with all applicable laws, rules & regulations including, but not limited to, the requirements of Labor Code §3800 regarding workers' compensation insurance
3. Consultant shall comply with City of Sebastopol Insurance (Requirements Attached)

The proposing firm shall demonstrate, in both the proposal and through past practice, as verified through reference checks, a commitment to the City as a client, respecting the City’s interests through listening and understanding of needs.

Acceptance of Terms

Submission of a proposal shall constitute acknowledgment and acceptance of all terms and conditions hereinafter set forth in the RFP unless otherwise expressly stated in the proposal.

Right of Rejection by the City

Notwithstanding any other provisions of this RFP, the City reserves the right to reject any and all proposals and to waive any informality in a proposal.

Financial Responsibility

The proposing firm understands and agrees that the City shall have no financial responsibility for any costs incurred by the proposing firm in responding to this RFP.

Negotiation and Award

The selected firm shall be required to enter into a written contract with the City of Sebastopol, similar to the attached. Any requests for changes to the City standard contract shall be raised prior to selection. This RFP and the proposal, or any part thereof, may be incorporated into and made a part of the final contract; however, the City reserves the right to further negotiate the terms and conditions of the contract with the selected firm.

Binding Offer

A signed proposal submitted to the City in response to this RFP shall constitute a binding offer from Respondent to contract with City according to the terms of the proposal for a period of ninety (90) days after its date of submission, which shall be the date proposals are due to City.

Contract Arrangements

A copy of the City's Master Services Agreement and contract provisions, including the City's insurance requirements, is incorporated into the RFP as an Exhibit. The selected Respondent will be required to maintain insurance coverage, during the term of the contract, at the levels described in Exhibit of the Master Services Agreement. Respondent agrees to provide the required certificates of insurance and endorsements within ten (10) days of City's notice that it is the successful Respondent.

The successful Respondent may be required to enter into an agreement with the City within 10 days Of Notice of the City's Intent to Award. A sample agreement is attached to this RFP. If an Agreement on terms and conditions acceptable to the City cannot be achieved within that timeframe, or if, after reasonable attempts to negotiate such terms and conditions, it appears that an agreement will not be possible, as determined at the sole discretion of the City, the City reserves the right to retract any Notice of Intent to Award and proceed with awards to other Respondents.

Public Records

This RFP and any material submitted by a Respondent in response to this RFP are subject to public inspection under the California Public Records Act (Government Code § 6250 et seq.) unless exempt by law. Proposals will remain confidential until the City has authorized award of a contract agenda item for City Council decision.

ATTACHMENTS

Sample Contract

Insurance Requirements

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT made and entered into this _____ day of _____, 2022 by and between the City of Sebastopol, a municipal corporation located in the County of Sonoma, State of California, hereinafter referred collectively to as "CITY" and [Consultant Name], a California Corporation with principal offices at [address, City State, ZIP], hereinafter referred to as "CONSULTANT",

RECITALS:

WHEREAS, CITY has the need for Comprehensive Grant Writing Services; and WHEREAS, CITY desires to contract for such services with a private consultant; and

WHEREAS, CONSULTANT is experienced in providing such services for municipal corporations and is able to provide personnel with the proper experience and background to carry out the duties involved; and

WHEREAS CITY wishes to retain CONSULTANT for the performance of said services;

NOW, THEREFORE, in consideration of the mutual covenants, benefits and premises herein stated, the parties hereto agree as follows:

Consultant agrees to perform the services set forth in **Exhibit A, "Scope of Services"** and made part of this Agreement.

Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to or outside of those set forth in this Agreement or **Exhibit A, "Scope of Services"**, unless such additional services and compensation are authorized in advance and in writing by the City Council or City Manager of the City.

The time for completion of services shall be as identified in **Exhibit A, "Scope of Services"**.

A. Subject to any limitations set forth in this Agreement, City agrees to pay consultant the amount specified in Exhibit A "Proposed Pricing", attached hereto and made a part hereof. Total compensation shall not exceed a total of \$ _____, unless additional compensation is approved in accordance with Section 2.

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.

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.

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 8 – INDEMNIFICATION

A. Consultant shall indemnify and hold harmless City, its agents, officers, officials, employees, and volunteers from any and all claims, demands, suits, loss, damages, injury, and/or liability (including any and all costs and expenses in connection therewith), incurred by reason of any negligent or otherwise wrongful act or omission of Consultant, its officers, agents, employees and subcontractors, or any of them, under or in connection with this Agreement; and Consultant agrees at its own cost, expense and risk to defend any and all claims, actions, suits, or other legal proceedings brought or instituted against City, its agents, officers, officials, employees and volunteers, or any of them, arising out of such negligent or otherwise wrongful act or omission, and to pay and satisfy any resulting judgments.

B. When Consultant under this Agreement is duly licensed under California Business and Professions Code as an architect, landscape architect, professional engineer, or land surveyor (“design professional”), the provisions of this section regarding Consultant’s duty to defend and indemnify apply only to claims that arise out of or relate to the negligence, recklessness, or willful misconduct of the design professional.

C. If any action or proceeding is brought against Indemnitees by reason of any of the matters against which Consultant has agreed to indemnify Indemnitees as provided above, Consultant, upon notice from City, shall defend Indemnitees at Consultant’s expense by counsel acceptable to City, such acceptance not to be unreasonably withheld. Indemnitees need not have first paid for any of the matters to which Indemnitees are entitled to Indemnification in order to be so indemnified. The insurance required to be maintained by Consultant shall ensure Consultant’s obligations under this section, but the limits of such insurance shall not limit the liability of Consultant hereunder. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

D. 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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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
7120 Bodega Ave
Sebastopol, California 95472

To Consultant: Consultant Name
Address
City, State, Zip Code

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.

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.

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.

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.

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.

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.

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.

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.

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.

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).

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:

By: _____

By: _____

Name:

Name: Larry McLaughlin

Title:

Title: City Manager

Approved as to Form:

By: _____

Name: Larry McLaughlin

Title: City Attorney



EXHIBIT B
City of Sebastopol
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, 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.