

*Request for Proposals*

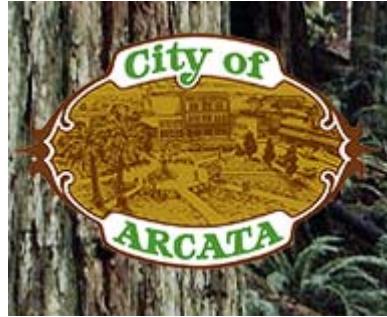
*for*

*Design Charrette and Preliminary Concept Design*

*Consultant Services*

*for*

*Old Arcata Road Improvements*



*Optional Pre-Proposal Conference & Site Visit: February 18, 2016; 2:30PM*

*RFP Deadline: Friday, March 11, 2016; 4PM*

***Engineering Department***

***City of Arcata***

***February 4, 2016***

## REQUEST FOR PROPOSAL (RFP)

### *Old Arcata Road Improvements*

***Proposals must be submitted to the City of Arcata no later than 4:00 p.m. on Friday, March 11, 2016***

#### ***Introduction***

*The City of Arcata is seeking an experienced transportation engineering and planning consultant design team with **multi modal** design experience to help prepare a community–driven plan for the Old Arcata Road Improvements project, which will improve the motorized and non motorized commuter access within in the City limits. The selected consultant will participate in a minimum 3-day charrett and prepare preliminary plans and final reports with input from the City and the community. The consultant will provide illustrations, plans, and graphics of concepts developed during the charrette. Photo-simulations are highly desirable. Alternative analysis for road sections must include a minimum of three alternatives. Knowledge of project permitting requirements is a plus, but not required. Conceptual engineering drawings will be developed to ensure project feasibility. Knowledge of low impact development and new stormwater regulations are also desirable.*

*The City staff intend to use the developed plans and report ( product of the charrette) as a supporting document for the next Active Transportation Program (ATP) cycle application to secure funds for planning, permitting, design and construction of the project.*

#### ***Background***

*Old Arcata Road is a regionally significant rural arterial route for southern Arcata and the Bayside community. The limits of the study area are depicted in attachment 1.*

*Old Arcata Road is part of an alternate north/south corridor to Highway 101, provides access to unincorporated areas and to important facilities such as Sunnybrae Middle School, Jacoby Creek Elementary School, and the Bayside Post Office.*

*The Road is an important truck routes and serves as an oversized load route and Highway 101 Alternative Route.*

*Old Arcata Road is currently in fair condition and will require rehabilitation, reconstruction, safety and traffic flow improvements.*

*Currently there are limited to no sidewalks on Old Arcata Road and at a majority of the locations, bike and pedestrian access are available on road shoulder.*

## Scope of Services

The City is seeking a consultant to complete the following tasks and provide the deliverables noted below:

1. **Data collection.** Review and evaluate historic and new data collected by the City and identify additional data needs. Collected data will include: traffic volumes and counts, accident data, the City's general plan and circulation element, Safe Routes to School plan, the City's Bike and Pedestrian Master Plan and any other relevant city and county plans, ordinances and codes. Meet with stakeholders, including Bayside area residents, and Jacoby Creek School representatives, to begin to understand concerns, recommendations, ideas, etc. related to the project.
2. **Set agenda for and staff a community charrette.**
  - i) City staff will handle the meeting logistics (location, food/drink, audio video needs, etc), printing of materials (up to 11 x 17 in size) and meeting invitations.
  - ii) The consultant will assist with neighborhood outreach. A high level of neighborhood participation is anticipated and is key to the success of the charrette. The City also will provide limited staff support to this effort.
  - iii) The consultant will deliver:
    - (1) Charrette agenda document – presented for approval to the City at least 21 days in advance to allow for review by City staff.
    - (2) Presentation for the charrette - presented for approval to City staff at least 15 days in advance to allow for review by the staff
    - (3) Charrette staffing – the consultant will provide the necessary staff to take notes and facilitate any small group sessions conducted during the charrette
    - (4) Charrette notes – the consultant will provide a summary of the meeting to City staff within 15 days post-charrette
3. **Prepare base maps.** The consultant will coordinate with the City of Arcata to prepare base maps for the design development. These will also be used during the design charrette. The consultant may also prepare a series of physical analysis maps and drawings at both macro and micro scales to assist in identifying design constraints and opportunities.
4. **Attend the Transportation Safety Committee (TSC) meeting prior to the charrette.** The consultant will meet once with the TSC and City design team prior to the charrette to discuss the project. Additional representatives from the study area may be asked by the City to serve on the design team.

**5. Provide preliminary design, engineering, and planning expertise at a charrette.** The three-day charrette will be in the summer of 2016 (June – August). The consultant will participate in activities throughout the three days, including:

- Focus group meetings with selected stakeholder groups.
- Community walking audits and community design workshops
- Closing presentation of proposed concepts, improvements and recommendations to the community.
- One day of on-site work sessions to develop strategies and recommendations listed below.

Based on input received through the charrette process and other available data, the consultant will develop a report and plans with recommendations that:

- Identify opportunities and constraints for the project.
- Identify preferred roadway section for the project.
- Develop signage and striping plan for the project
- Develop road, sidewalk/multiuse –path and bicycle standards, including drainage recommendations.

The consultant will coordinate with the City at the charrette to provide conceptual engineered plans and conceptual drawings (e.g., illustrative cross section and plan view diagrams, and base drawings for additional renderings) for inclusion in presentations at the close of the charrette. Photo simulations are highly desirable.

**6. Draft plan development.** Within two months of the charrette, the consultant will meet with the City of Arcata, and the TSC to develop the report outline. Based on comments received, the consultant will prepare and circulate a draft plan within four months of the charrette for review by City staff, TSC and City Council. The consultant will provide the majority of the content including graphics, illustrations, plans, description of the recommendations, and cost estimates.

**The City has budgeted \$50,000.00 to complete above scope of services.**

## **Project Limits**

*The limits of the project are within existing Arcata right of way along Old Arcata Road, from south of the Buttermilk Road Roundabout to Jacoby Creek Road all within Arcata city limits, and a small portion of County right of way at Jacoby Creek Road.*

## **Attached maps/figures:**

1. *Project Location Map*
2. *Sample City of Arcata Professional Services Contract and Insurance Requirements for Consultants*

## **Project Deliverables**

*The deliverables for this project are:*

1. *Five (5) complete hard copy sets, plus one reproducible set/file (.pdf and .doc) of the conceptual plans and report.*
2. *Source design files that are compatible with City of Arcata software (2015 AutoCAD Civil 3D, or later version), adobe acrobat and Microsoft office*

## **Inquiries:**

*Questions regarding this RFP should be submitted in writing to:*

*Cliff Poulton, Property and Special Projects Manager*

*City Of Arcata*

*736 F Street*

*Arcata, CA 95521*

*Email: [cpoulton@cityofarcata.org](mailto:cpoulton@cityofarcata.org)*

*Proposers are directed not to contact other City staff or City Council in conjunction with this request.*

*Substantive requests for information received may be responded to in writing by the City in the form of an addendum to this RFP and sent to all RFP recipients.*

## **Schedule of Work**

*The work identified in above, Scope of Services, is expected in various capacities from the time of award of contract, through the production of the accepted final documents. Consultant work shall commence within two weeks of City Council approval of Consultant's agreement, or within two weeks of the City's "Notice to Proceed." The City requests that a project schedule for completing each of the tasks to be included in the submittal. Below are some key dates for reference.*

<i>City issues RFP</i>	<i>February 4, 2016</i>
<i>Submission deadline for project proposal</i>	<i>4:00 p.m. Friday, March 11, 2016</i>
<i>Consultant Interviews</i>	<i>March 21-31, 2016</i>
<i>Contract Award</i>	<i>April 20, 2016 (or earlier)</i>
<i>Deliverables due date</i>	<i>November 30, 2016(or earlier)</i>

## **Proposal Format**

*The proposal should consist of the following major sections, in the order shown:*

- *Transmittal Letter*
- *Executive Summary*
- *Proposal Information, including firm's approach to completing project*
- *Key Personnel Resumes and References*
- *A list of similar projects that the firm has completed in the past. Please include samples of your work.*
- *Include the dollar value for each project task budget*
- *Letters of Recommendation*
- *Sub-consultant Information & Scope (If Any)*
- *Design schedule showing all critical paths and key milestones*

- *Contract Exceptions*
- *Cost Proposal corresponding to the proposed scope of work (In sealed envelope—only the top-ranked consultant's cost proposal will be opened at the time of rank determination)*

*The proposal shall include a transmittal letter signed by an individual authorized to bind the consultant, and shall contain a statement to the effect that the proposal is a firm offer in effect for 180 days.*

*It is important that the consultant address and/or acknowledge all items presented in this Request for Proposal, as well as provide any pertinent information that may be helpful in the evaluation of consultant proposals by the City. It is not necessary to submit affidavits, certificates, or proof of insurance coverage with the proposal, but this information may be submitted if desired.*

### ***Proposal Submittal***

*Proposals should be labeled: OLD ARCATA ROAD IMPROVEMENTS PROJECT, Design Charrette and Preliminary Concept Design. Proposals must be received no later than 4:00 p.m., Friday March 11, 2016. Late proposals will not be accepted and will be returned unopened to the consultant.*

*Five (5) bound copies and a reproducible copy of the proposal shall be sent to:*

*City of Arcata*

*Property and Special Projects Manager*

*Attn. Cliff Poulton*

*736 F Street*

*Arcata, CA 95521*

### ***General Requirements and Authority of the City of Arcata***

- A. All reports, studies, information, data statistics, forms and other materials produced under the agreement between the City and the successful consultant shall be the sole and exclusive property of the City of Arcata and may not be used or reproduced in any form without the express written permission of the City.*
- B. While operating in good faith, the City retains the right to reject any and all*

*proposals, or parts of proposals for any reason whatsoever. Regardless of award, the City is not responsible for costs related to responding to this RFP. In addition, the proposal and other materials provided to the City in relation to this RFP will become the property of the City.*

- C. *The firm selected shall notify the City of any possible conflict of interest prior to performing work requested by the City.*

### ***Contract***

- A. *A sample contract is attached. The laws of the State of California shall govern the contract executed between the successful Respondent and the City and any interpretations or constructions thereof. Further, the place of performance and transactions of business shall be deemed to be in the City of Arcata, State of California, and in the event of litigation, the exclusive venue and place of jurisdiction shall be in the State of California and more specifically, in Humboldt County.*
- B. *The successful Respondent must obtain a valid City of Arcata Business License before the City can award a contract.*

### ***Evaluation Criteria and Selection Process***

Consultant selection and award of contract will be made on the basis of the respondent receiving the most points based on the following:

1. Qualifications of the firm (Staff strength & similarity of projects) (30 POINTS)
2. Scope of Work and general approach (25 POINTS)
3. General knowledge of multimodal design (20 POINTS)
4. *Past performance/references (20 POINTS)*
5. *DBE status (5 POINTS)*
6. *Cost item (please furnish cost portion in a separate sealed envelope)*

*City may request additional information while reviewing the proposals*

## ***City Furnished Services***

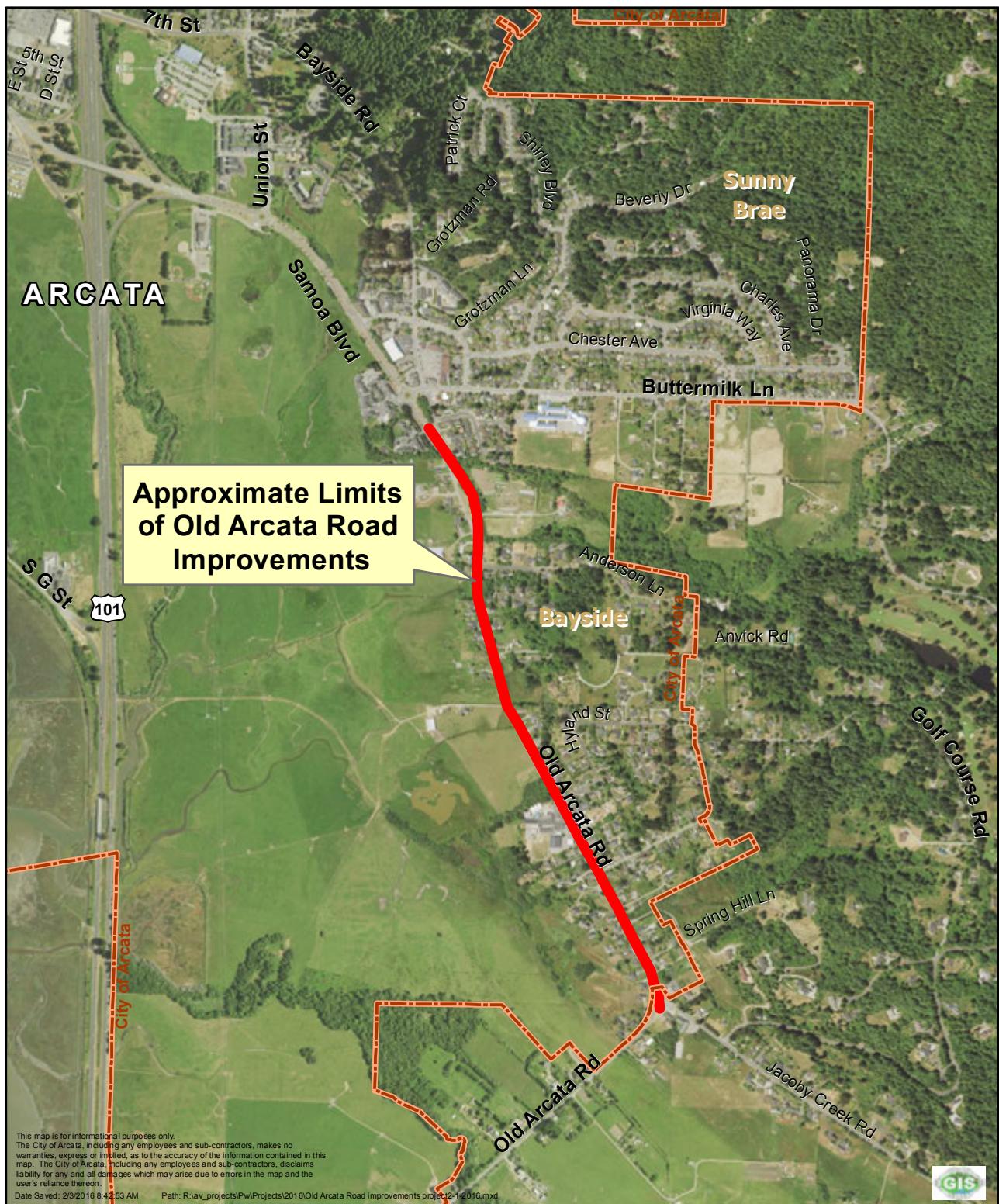
*The City will furnish the selected Consultant existing survey data and preliminary concepts prepared by City staff. The City will also provide any existing additional information that may be helpful to the Consultant in the performance of the service.*

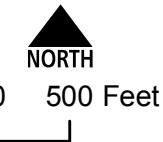
## ***Contract Exceptions***

*Include any proposed exception or changes to the sample contract (attachment 2) in your response. Any proposed exceptions or changes to these provisions will be subject to City approval. If no exceptions are included, the City will expect the proposer to be able to sign the City's contract.*

## ***Insurance Requirements***

*If selected, the consultant will be required to enter into a contract with the City, attachment 2. The contract will require the consultant to comply with, Insurance Requirements for Consultants (item 6 in attachment 1, page 3 of 10). Any renewal certificates required during the course of the contract must be renewed and received by the City within 15 days prior to expiration and must meet the same criteria. No substitutions shall be allowed.*



 City of Arcata	<h2>Old Arcata Road Improvements Project Location Map</h2>	
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**CITY OF ARCATA PROFESSIONAL SERVICES AGREEMENT WITH**  
**FOR \_\_\_\_\_**

This Agreement is made on \_\_\_\_\_ between the City of Arcata, a municipal corporation (referred to as "City"), and \_\_\_\_\_, a \_\_\_\_\_ (referred to as "Consultant").

**RECITALS**

**WHEREAS**, the City desires professional services to assist in certain work described briefly as \_\_\_\_\_ referred to herein as the "Services" or "Project".

**WHEREAS**, Consultant has demonstrated competence, experience and qualifications adequate to perform said professional Services, and the City desires to retain Consultant for such Services.

1. **Scope of Services:** Consultant agrees to perform services as set out in Exhibit A, "Scope of Work, Compensation" attached hereto and incorporated herein, and duly authorized by issuance of Purchase Order No. set out above. No purchase orders are issued without a valid Agreement.

2. **Standards of Performance:**

A. ***Standard of Care.*** The standard of care for all professional services performed or furnished by Consultant under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality.

B. ***Accuracy of Services.*** City shall not be responsible for discovering deficiencies in the technical accuracy of Consultant's Services. Consultant shall correct any such deficiencies in technical accuracy without additional compensation except to the extent such corrective action is directly attributable to deficiencies in City-furnished information. However, City shall be responsible for, and Consultant may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by City to Consultant pursuant to this Agreement. Consultant may use such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement.

C. ***Special Conditions.*** Consultant shall comply with all additional terms set forth in Exhibit B "Special Conditions," if any are so required: \_\_\_\_\_ Special Conditions; \_\_\_\_\_ No Special Conditions.

3. **Compensation for Services, Payment:**

A. ***Compensation.*** City shall pay Consultant as set forth in Exhibit A, not to exceed \$\_\_\_\_\_.

B. ***Preparation and Submittal of Invoices.*** Consultant shall prepare and submit its invoices to City no more than once per month and no later than the \_\_\_\_\_ day of each month.

C. ***Payments.*** All reasonable efforts will be made by City to pay undisputed invoices within \_\_\_\_\_ days of receipt. If City contests an invoice, City may withhold that portion so contested and pay the undisputed portion.

D. *Withholding Of Payment.* The City may withhold all or any portion of the funds provided for by this Agreement in the event that the Consultant has materially violated, or threatens to materially violate, any term, provision, or condition of this Agreement; or the Consultant fails to maintain reasonable progress toward completion of the Services or any component thereof.

4. Commencement, Completion:

A. *Commencement.* Services of Consultant shall commence upon full execution of this Agreement by all parties, and the Agreement shall remain in full force until \_\_\_\_\_ . No work, services, material or equipment shall be performed or furnished under this Agreement until the City has delivered a fully executed Agreement to the Consultant. A signed Agreement is considered notice to proceed.

B. *Time for Completion.* Consultant shall complete Services as set forth in Exhibit A. If City authorizes changes in the scope, extent, or character of the Services, then the time for completion of Consultant's services, and the rates and amounts of Consultant's compensation, shall be adjusted equitably. If Consultant fails, through its own fault, to complete the performance required in this Agreement within the time set forth, then City shall be entitled to the recovery of proximate damages resulting from such failure.

C. *Suspension and Termination.*

1) Suspension. At any time and for any reason, the City may temporarily suspend the Services upon five days' written notice to Consultant. In such event, Consultant shall perform no additional Services under this Agreement until the City has provided written notice to Consultant to re-commence Services.

2) Termination. The obligation to provide Services under this Agreement may be terminated for cause by either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. Notwithstanding the foregoing, this Agreement will not terminate under this paragraph if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

3) Project Suspension or Abandonment. The City may for any reason and at any time suspend indefinitely the Services and/or abandon the Project, or any part thereof, upon written notice to Consultant.

D. *Payments Upon Termination.* In the event of any termination under this Section 4, Consultant will be entitled to invoice the City and to receive payment for all acceptable services performed or furnished and all reimbursable expenses incurred through the effective date of termination.

E. *Delivery of Project Materials to City.* Prior to the effective date of termination, the Consultant will deliver to City all data and originals of all plans, drawings, specifications, reports, computer programs, operating manuals, notes, and other written or graphic work and other materials for which City has compensated Consultant, and all such material shall become the property of the City upon delivery.

5. Independent Contractor: Consultant, in performing Services, shall act as an independent contractor and shall have control of his work and the manner in which it is performed. He/she shall be free to contract for similar services to be performed for others while under contract with the City. Consultant is not to be considered an

agent or employee of the City. Consultant agrees to furnish at his/her own expense all tools, equipment, services, labor and materials necessary to complete all requirements of this Agreement.

6. **Insurance:** Consultant shall maintain insurance throughout the duration of this Agreement, and provide Certificates of Insurance as specified below. All insurance carriers shall be admitted in the state of California and with an A.M. Best's rating of A- or better and a minimum financial size VII.
  - A. ***Commercial General Liability:*** Insurance Services Office (ISO) "Commercial General Liability" policy form CG 00 01 or the exact equivalent on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$2,000,000 per occurrence for all covered losses. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. Additional insured coverage for the City shall not be limited to its vicarious liability. Defense costs must be paid in addition to limits.
  - B. ***Business Automobile Insurance:*** ISO Business Auto Coverage Form CA 00 01 including symbol 1 (Any Auto) or the exact equivalent. Limits are subject to review, but in no event to be less than \$2,000,000 per accident. If Consultant or Consultant's employees will use personal autos on this project, Consultant shall provide evidence of personal auto liability coverage for each such person.
  - C. ***Workers Compensation Insurance:*** covering all employees and volunteers as required by the State of California on a state-approved policy form, and Employer's Liability insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease.
  - D. ***Excess or Umbrella Liability Insurance (Over Primary):*** if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverage. Such policy or policies shall include a drop down provision providing coverage above a maximum \$25,000 self-insured retention for liability not covered by primary but covered by the umbrella. Coverage shall be provided on a "pay on behalf of" basis, with defense costs payable in addition to policy limits. Such insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City before the City's insurance or self-insurance shall be called upon to protect it as a named insured. There shall be no cross liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to City for injury to employees of Consultant, sub-contractors or others involved in performing Services under this Agreement. The scope of coverage provided is subject to approval of City following receipt of proof of insurance as required herein.
  - E. ***Professional or Errors and Omissions Insurance, As Appropriate:*** written on a policy form coverage specifically designed to protect against acts, errors or omissions of Consultant and "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy limit shall be no less than \$1,000,000 per claim and in the aggregate. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. The policy retroactive date shall be on or before the effective date of this Agreement.
  - F. ***General Conditions Pertaining to Insurance:***
    - 1) Consultant shall have its insurer endorse the third party general liability coverage to include as additional insureds the City, its officials, employees, volunteers and agents, using standard ISO endorsement CG 20 10. The additional insured coverage under Consultant's policy shall be provided on a primary, non-contributing basis in relation to any other insurance or self- insurance available to the City. Consultant's policy shall not seek contribution from the City's insurance or self-insurance and shall be at least as broad as ISO form CG 20 01 04 13.

- 2) It is a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage and/or limits required in this Section 8 shall be available to the City as an 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.
- 3) All self-insured retentions (SIR) must be disclosed to the City for approval and shall not reduce the limits of liability. Policies containing any SIR shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the City.
- 4) The City reserves the right to obtain a full certified copy of any insurance policy and any endorsement. Failure to exercise this right shall not constitute a waiver of the City's right.
- 5) Certificates shall contain a statement that the policy will not be cancelled except after thirty (30) days prior written notice to the City.
- 6) Consultant agrees to waive subrogation rights against the City regardless of the applicability of any insurance proceeds, and to require that all subcontractors and sub-subcontractors do likewise.
- 7) Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all required coverages and an additional insured endorsement to Consultant's general liability policy, shall be delivered to the City at or prior to the execution of the Agreement.
- 8) All coverage types and limits required are subject to approval, modification and additional requirements by the City, as the need arises. Consultant shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discovery period) that may affect the City's protection without the City's prior written consent.
- 9) The City reserves the right at any time during the term of the Agreement to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the City will negotiate additional compensation proportional to the increased benefit to the City.
- 10) In the event Consultant fails to obtain or maintain completed operations coverage as required by this Agreement, the City at its sole discretion may purchase the coverage required and the cost will be paid by Consultant.

7. **Indemnity:** When the law establishes a professional standard of care for Consultant's services, to the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless City and any and all of its boards (including the council, boards, commissions, committees and task forces), officials, employees and agents (collectively, "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-contractors or any entity or individual for which Consultant shall bear legal liability in the performance of professional services under this Agreement.

Other than in the performance of professional services and to the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless City, and any all of the Indemnified Parties 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.

Consultant's responsibility for defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law.

The defense and indemnification obligations of the Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement.

8. **Subcontracting:** No services covered by the Agreement shall be subcontracted without the prior written consent of the City. In the event subcontracting is approved, the following shall apply:
  - A. Consultant shall include in all subcontracts and require of all subcontractors all insurance and indemnity requirements and provisions of the Agreement that are applicable to any subcontractor's scope of work. Subcontractor's responsibility for defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law.
  - B. Each subcontractor shall be obligated to Consultant and the City in the same manner and to the same extent as Consultant is obligated to the City under this Agreement. If hiring a sub-subcontractor to perform any Services, the subcontractor shall include in the sub-subcontract all provisions of this Agreement including all insurance and indemnity provisions that are applicable to said sub-subcontractor's scope of work.
  - C. Consultant shall furnish a copy of the Agreement's insurance and indemnity provisions to any subcontractor upon request. Upon request from the City, Consultant shall provide insurance certificates and endorsements of its subcontractors.
9. **Document Submission and Title to Documents:** Consultant agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes, and other written or graphic work produced in the performance of this Agreement is considered work made for hire and shall be the property of the City upon delivery. City may disclose, disseminate and use in whole or in part, any final form data and information received, collected, and developed under this Agreement.
10. **Permits and Licenses:** Prior to execution of the Agreement the Consultant shall obtain and maintain throughout the Agreement period all licenses required by law including but not limited to a valid City of Arcata business license.
11. **Modification, Amendment:** No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
12. **Assignment:** This Agreement is not assignable by the Consultant, either in whole or in part.
13. **Audit of Records:** Consultant shall maintain complete and accurate records of all payrolls, expenditures, disbursements and other cost items charged to the City or establishing the basis for an invoice, for a minimum of four years from the date of final payment to Consultant. All such records shall be clearly identifiable. Consultant shall allow City representatives to inspect, examine, copy and audit such records during regular

business hours upon 24 hours' notice.

14. Designated Representatives. With the execution of this Agreement, Consultant and City shall designate specific individuals to act as Consultant's and City's representatives with respect to the services to be performed or furnished by Consultant and responsibilities of City under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and implement the contract on behalf of each respective party.
15. Governing Law: This Agreement and performance hereunder and all suits and special proceedings shall be construed in accordance with the laws of the State of California. In any action or proceeding that may be brought from or connected in anyway to this Agreement, the laws of the State of California shall be applicable and shall govern to the exclusion of the law any other forum. Venue shall be fixed in Humboldt County.
16. Disputes. City and Consultant agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking any procedures of this Agreement, or exercising their rights under law. Prior to court action, the parties agree to pursue mediation as a means to settle any dispute.
17. Entire Agreement. This Agreement together with the exhibits identified below constitutes the entire Agreement between City and Consultant for the Services and supersedes all prior written or oral understandings.
18. Nondiscrimination. During the performance of this Agreement, Consultant and its subcontractors shall not unlawfully discriminate against, harass, or allow harassment against any employee or applicant for employment because of sex, race, religion, color, national origin, ancestry, disability, sexual orientation, medical condition, marital status, age (over 40), or denial of family-care leave, medical-care leave, or pregnancy-disability leave. Consultant and its subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment.
19. Notices. Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by facsimile, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.
20. Severability. Any provision or part of the Agreement held to be void or unenforceable under any laws or regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon City and Consultant, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
21. Survival. All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
22. Timeliness. Time is of the essence in this Agreement. Consultant shall proceed with and complete the Services in an expeditious manner.
23. Waiver. Neither the acceptance of Consultant's work nor the payment thereof shall constitute a waiver of any provisions of this Agreement. A waiver of any breach shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
24. Exhibits Included. The following Exhibits are attached hereto and incorporated into this Agreement:

Exhibit A: Scope of Work, Compensation

## Exhibit B: Special Conditions

In the event of conflict between the terms and conditions of this Agreement and those within any Exhibit hereto, the terms and conditions of this Agreement shall prevail over any Exhibit hereto.

25. **Attorney's Fees:** Should any litigation or arbitration be commenced between the parties hereto concerning this Agreement, or the rights and duties of any party in relation thereto, the party prevailing in such litigation or arbitration shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for attorney's fees in such litigation or arbitration.

**IN WITNESS WHEREOF**, the person executing this Agreement on behalf of Consultant warrants and represents that he/she has the authority to execute this Agreement on behalf of Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

### **DESIGNATED REPRESENTATIVES:**

#### **CITY:**

Name: \_\_\_\_\_

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

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

#### **CONSULTANT:**

Name: \_\_\_\_\_

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

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

*(Signatures on following page)*

Executed in Arcata, California on \_\_\_\_\_ (date)

**CITY:**

By: Karen Diemer

Signature: \_\_\_\_\_

City Manager

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

By: Cliff Poulton

Signature: \_\_\_\_\_

Property and Special Projects Manager

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

Approved as to form:

By: Nancy Diamond

City Attorney

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

**CONSULTANT:**

Firm Name: \_\_\_\_\_

By: \_\_\_\_\_

Signature: \_\_\_\_\_

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

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

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Email: \_\_\_\_\_

State License #: \_\_\_\_\_

Employer Tax ID#: \_\_\_\_\_

**EXHIBIT "A"**  
**SCOPE OF SERVICES AND COMPENSATION**

*(include scope of work and basis of fees here)*

**EXHIBIT "B"**  
**SPECIAL CONDITIONS**

*(include special conditions here)*