



City of Eureka – Department of Public Works

Request for Qualifications
for

Community Wide Assessment Waterfront and Balloon Track Target Area

Bid No. 2020-14

SOQ Submission Deadline:
Thursday, April 16, 2020 at 2:00 p.m.

SOQ Submission Instructions:

1. Submit five (5) hard copies of complete SOQ to:

Eureka Public Works – Engineering Department
531 K Street – Third Floor
Eureka, CA 95501
(707) 441-4194

2. Submit one (1) copy of complete SOQ, except pricing, in PDF format to: dcaisse@ci.eureka.ca.gov

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1. SUMMARY

The City of Eureka Department of Public Works, hereinafter collectively referred to as “City,” is requesting Statements of Qualifications (SOQ) from all interested providers for consultant services.

The term “offeror” as used herein shall refer to providers submitting a SOQ in response to this Request for Qualifications (RFQ). The term “Consultant” or “Provider” is also used to describe the successful offeror(s) in the context of providing services under a contract resulting from this RFQ.

An electronic copy may be downloaded from <http://www.ci.eureka.ca.gov/depts/pw/engineering/bids.asp>

Potential offerors must register with the City in order to be notified of addenda and other notices. To register, please send an email to David Caisse at dcaisse@ci.eureka.ca.gov indicating “Community Wide Assessment - Waterfront and Balloon Track Target Area Registration” in the subject field. If you do not receive a reply to this email indicating that you have been registered, please call 707-441-4194.

Each SOQ received in response to this RFQ will be evaluated on the criteria described herein. All responses must be sealed, clearly marked “Community Wide Assessment - Waterfront and Balloon Track Target Area” and must include all elements described in the **SOQ CONTENT AND FORMAT REQUIREMENTS** section of this RFQ. Five bound, signed original SOQs and one copy in PDF format must be submitted as directed on page 1 before the date and time listed in the **CONTRACT SCHEDULE** section of this RFQ. The City will not be responsible for a SOQ delivered to a person or location other than that specified herein, and reliance on the postal service will not excuse a late submission. Questions or requests for clarification of this Request for Qualifications may be submitted in writing, but must be submitted no later than the date and time listed in the **CONTRACT SCHEDULE**. The City reserves the right to decline to respond to any questions.

Any amendment or addendum to this RFQ is valid only if in writing and issued by the City of Eureka.

2. ESTIMATED BUDGET

2.1. This City has budgeted approximately \$ 270,000.00.

3. CONTRACT SCHEDULE

3.1. The following are goals for this process:

Publish RFQ	Sunday, March 15th, 2020
Deadline for Questions	Thursday, April 2nd, 2020 at 5:00 p.m.
Final Addenda Issued	Thursday April 9th, 2020 by 5:00 p.m.
SOQ Submission Deadline	Thursday, April 16th, 2020 at 2:00 p.m.
Interviews with Finalists (tentative)	Week of April 27th, 2020
Contract Approval (tentative)	Week of May 10th, 2020

4. GENERAL CONDITIONS

- 4.1. Prime Responsibility: The selected Consultant will be required to assume full responsibility for all services and activities offered in its/their SOQ(s), whether or not provided directly. Further, the City will consider the selected Consultant(s) to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract.
- 4.2. Assurance: Any contract awarded under this RFQ must be carried out in full compliance with Title VI and VII of the Civil Rights Act of 1964 as amended, and Section 504 of the Rehabilitation Act of 1973 as amended. The Provider must guarantee that services provided will be performed in compliance with all applicable City, state and federal laws and regulations pertinent to this project. Prior to executing an agreement, the Provider will be required to provide evidence substantiating the necessary skill to perform the duties through the submission of references.
- 4.3. Solicited services are to be funded with U.S. Environmental Protection Agency Brownfields Assessment Program grant funding; therefore, federal laws and regulations require that all contracts with consultants adhere to all applicable requirements relating, but not limited to nondiscrimination, equal opportunity, environmental protection and utilization of small business concerns.
- 4.4. The Health Insurance Portability and Accountability Act of 1996 (Public Law 104-199 (HIPAA): Any contract awarded under this RFQ must comply with the requirement of 42 U.S.C. §§ 1171 et seq., Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its subsequent amendments, related to Protected Health Information (PHI), in performing any task or activity related to this Agreement.
- 4.5. Independent Consultant: In performance of the work, duties and obligations assumed by the offeror, it is mutually understood and agreed that the offeror, including any and all of the offeror's officers, agents and employees, will at all times be acting and performing in an independent capacity and not as an officer, agent, servant, employee, joint venture, partner or associate of the City.
- 4.6. City of Eureka prohibits discrimination in employment or in the provision of services because of race, color, religion, religious creed, sex, age, marital status, ancestry, national origin, political affiliation, physical disability or medical condition. This clause does not require the hiring of unqualified persons.
- 4.7. Costs will not be considered in evaluating a SOQ. Any pricing information, if provided, must be enclosed in a sealed envelope and labeled "Pricing Information". Pricing information will not be opened until after the City has selected the most qualified offeror based on the criteria published herein. The City reserves the right to negotiate specific terms, conditions, compensation, and provisions on any contracts that may arise from this solicitation. Should the City fail to reach a contract with the selected offeror; the City will cease negotiations and begin negotiations with the next highest rated offeror from the SOQ evaluation.
- 4.8. City of Eureka reserves the right to:
 - Request clarification of any submitted information;
 - Set aside a SOQ for any irregularity including but not limited to missing information;
 - Not enter into any agreement;
 - Not to select any applicant;
 - Amend or cancel this process at any time;
 - Interview applicants prior to award and request additional information during the interview;
 - Negotiate a multi-year contract or a contract with an option to extend the duration;
 - Award more than one contract if it is in the best interest of the City; and/or
 - Issue a similar RFQ in the future.
- 4.9. Qualified offerors must be prepared to enter into the City's standard Contract, a sample of which is attached as Attachment A to this RFQ. Please review the details of Attachment A carefully. By reference, it incorporates many standards, terms and conditions required as part of this RFQ. The City intends to award contracts substantially in the form of the sample agreement to the selected offeror(s). Portions of this RFQ and the offeror's SOQ may be made part of any resultant Contract and incorporated in the Contract. By submitting a SOQ in response to this RFQ, the Offeror certifies that no exceptions are taken to the form of the sample contract presented in Attachment A or to the provisions thereof, unless such exceptions are fully disclosed in

Offeror's SOQ. Offerors that take exception to the City's standard terms and conditions do so at the risk that their SOQ may be declared to be nonresponsive and not considered for contract award.

- 4.10. Prior to commencement of services, the Consultant must provide evidence of the following insurance coverages: Worker's Compensation, Commercial General Liability (naming the City of Eureka as additional insured), Comprehensive Business or Commercial Automobile Liability for Owned Automobiles and Non-owned /Hired Automobiles, Errors and Omissions insurance; and Professional Liability or Malpractice Insurance. The Consultant will be required to maintain the required coverages, at its sole cost and expense, throughout the entire term and any subsequent renewal terms of the contract.
- 4.11. Pursuant to the City's Green Procurement and Sustainable Practices Policy, each offeror is requested to use recycled products and sustainable practices whenever possible in preparing its SOQ, including using post-consumer recycled content paper and packaging products, and copying on both sides of the paper.
- 4.12. The City of Eureka encourages its Consultants and sub consultants to use the US. Citizenship and Immigration Services E-Verify system to verify that employees are eligible to work in the United States. Information about the E-Verify system is available at www.dhs.gov/e-verify.
- 4.13. Proprietary Information: Trade secrets or similar proprietary data that the prospective contactor does not wish disclosed to other than personnel involved in the proposal evaluation effort or post-award contract administration will be kept confidential to the extent permitted by law as follows. Each page alleged to contain proprietary information shall be identified by the prospective Consultant in boldface text at the top and bottom as "PROPRIETARY." Any section of the proposal that is requested to remain confidential shall also be so marked in boldface text on the title page of that section. Despite what is labeled as confidential, proprietary, or trade secret, the determination as to whether or not certain material is confidential, proprietary or trade secret shall be determined in accordance with applicable law. If a prospective Consultant designates any information in its proposal as proprietary pursuant to this provision, the prospective Consultant must also submit one copy of the proposal from which the proprietary information has been excised. The proprietary material shall be excised in such a way as to allow the public to determine the general nature of the material removed and to retain as much of the content of the proposal as possible.

5. BACKGROUND

- 5.1. The City of Eureka was founded in 1850 and has always been a coastal port city and the area's economic hub. In the earliest years, the city was a primary port serving the gold rush where logging naturally grew in support of the early mining efforts and development. Eureka's prominence in logging and shipping increased once the railroad came to the north coast and rail infrastructure was installed along the entire Eureka waterfront. Commercial fishing followed timber as a regional economic driver however, both industries saw a decline after the Second World War. With a surplus in the domestic markets, the timber market turned to foreign markets where shipping costs increased, and the global market declined. Many of the local mills eventually went out of business. Similarly, the commercial fishing industry was affected by regulations, economics and overfishing which, resulted in a steep decline as well.

Due to the loss of the region's timber and fishing industries, many businesses and industrial operations in the area shut down. Like many of the buildings and infrastructure that supported the early industry, the railroad was ultimately abandoned and left to deteriorate. Hazardous waste, heavy metals, petroleum and other contaminants are expected to be encountered as a result of the historic industrial uses along the waterfront. Currently, many properties remain stagnant, unproductive and underutilized. The economic blight is revealed in the declining economic base, lack of investment or reinvestment and the existence of long-term vacant sites and underutilized structures.

The City of Eureka received a grant from the U.S. Environmental Protection Agency to complete a community wide assessment of the Eureka waterfront target area. The Target Area consists of 225 acres of underutilized parcels with an additional 265 acres of underutilized property with green space potential. The areas lay between Highway 101 and the Humboldt Bay shoreline and includes the intermittent corridor of blighted properties that runs from Herrick Ave./Pound Rd. at the south end of Eureka, north and northeast to the Eureka Public Marina, then bends northeast and east, between Waterfront Dr./1st Street to the Eureka Slough. The grant includes funding to provide community outreach, site inventory and selection, Phase I & II Environmental

Site Assessments, remediation, reuse & redevelopment planning.

6. DESCRIPTION OF SERVICES REQUIRED

Task 1 - Community Outreach and Engagement

The public outreach component of the project will include stakeholder and public meetings used to introduce the Brownfields program, outline the scope of the projects, and provide updates regarding the progress of Phase I and II ESAs, the Balloon Track, and Remediation, Reuse, and Redevelopment Plans. City Council will be periodically updated on the project.

Community Involvement – The Eureka community is involved in environmental activities. Protecting water quality in Humboldt Bay and surface water tributaries is a shared community goal. There is community support and interest in developing the waterfront and specifically the Balloon as demonstrated by previous planning efforts that received much public input. Given the interest by these community groups, keeping the community engaged will not be difficult. Other community groups have indicated interest by providing letters of support for this proposal including:

Partner Name	Point of Contact (name, phone)	Specific Role in the Project
Humboldt County Division of Environmental Health	Melissa Martel, Director, 707-445-6215	<ul style="list-style-type: none"> • Participate in the community outreach process, • Attend community meetings and be involved in making decisions on the site selection process; • Provide technical support and review as site assessments are performed, and • Advocate on behalf of the Brownfield Assessment Grant Program
Humboldt County Associations of Governments	Marcella Clem, Executive Director, 707-444-8208	Interested Community Group, Potential Funding Partner
California Department of Transportation	Matthew K. Brady, District Director, 707-441-4693	<ul style="list-style-type: none"> • State Agency, Potential Funding Partner • Will be involved in decisions regarding cleanup, and future redevelopment of the priority brownfield site
California State Coastal Conservancy	Peter Jaraus, Project Manager, 510-286-1015	Interested Community Group, Funding Partner, will be involved in making decisions with respect to future redevelopment of the priority brownfield sites
Humboldt Bay Harbor, Recreation and Conservation District	Larry Oetker, Executive Director, 707-443-0801	Local Agency, Potential Funding Partner

Incorporating Community Input - The plan for involving the community includes several avenues of communication to inform the community and solicit public input and involvement. There will be minimum of 4 meetings for this project, 2 of which will be community meeting and the other 2 will be stakeholder meetings. The 1st community meeting will include a description of the project and present the results of the Site Inventory process and discuss the next phase. This workshop will introduce the project to the public, define project parameters, inform the community of project opportunities and constraints, and solicit opinions from the community to help guide the tasks to come. The additional meetings will be held at crucial phases of the project. The final community workshop will disseminate the report and present outputs of the assessment project. Community meetings have been successful in the past for similar projects and stakeholder meeting be used to expedite project progress utilizing community input. With guidance from the city,

the consultant will be responsible for coordinating, advertising, providing informative materials, and sharing expertise and project updates to the community and stakeholders during meetings.

Task 1 Schedule

Task Start Date: 3/15/2020 Task Completion Date: 6/30/2022

Task 1 Deliverables

- Agendas
- Information Packets
- Visual Aides and Meeting Materials
- Notes and Documentation of outreach results and feedback
(*Minimum of 4 stakeholder and public meetings*)

Task 2 - Site Inventory and Selection

Site Selection - An inventory of petroleum-impacted and hazardous waste sites within the City will assist in identifying areas of concern and potential sites for Phase I and II ESAs. To complete this task, the Consultant shall review publicly available information and access environmental databases available for desktop review. The Consultant will enter this information into a GIS database that can be used to identify potential “at risk” properties and to list project sites that are worthy of moving forward under this grant.

Task 2 Schedule

Task Start Date: 4/1/2020 Task Completion Date: 9/30/2020

Task 2 Deliverables

- Documentation of site selection process (plan for selecting sites, list of ranked sites, ranking criteria, etc.)
- Final site inventory list

Task 3 – Phase I Environmental Site Assessments (ESA) (seven sites)

Preliminary Assessment (Phase I) - Sites identified during the inventory (Task 2) will be ranked according to level of contamination and potential for redevelopment with input from the City. The City shall develop a method for ranking to identify the highest priority sites to conduct Phase I ESAs. Phase I ESAs will be completed for seven (7) sites selected. If additional Phase I ESAs are necessitated in the target area the City will complete these with their own funds. The Phase I ESAs shall be completed in accordance with the All Appropriate Inquiries (AAI) standards provided by ASTM E1527-13 or ASTM E2247-16. The Phase I ESAs will review site-specific information that is available, conduct site reconnaissance, and confer with appropriate regulatory agencies. This will result in a “ranking” of the sites by potential for suspected contaminants and development potential. The City anticipates conducting a public meeting following completion of the Phase I ESA program to update the City and community on the proposed site investigations.

Task 3 Schedule

Task Start Date: 7/1/2020 Task Completion Date: 2/31/2021

Task 3 Deliverables

- Seven (7) minimum, nine (9) maximum Final Phase I AAI reports
- Grantee AAI Reporting Checklist

Task 4 – Phase II Environmental Site Assessments (ESA)

Hazardous Materials Phase II ESAs (three sites) – Once hazardous materials impacted sites have been prioritized by the City, the EPA-required, site-specific plans for three sites shall be prepared. The field investigation activities to be completed will include permitting, drilling, test pitting, sample collection, and laboratory testing. Upon completion of the Phase II work at the hazardous waste-impacted sites, a report of findings for each site will be prepared and submitted to the City for review and comment. These reports will summarize the key findings from the Phase I investigations and Phase II activities, the results of the investigation, and recommendations, if appropriate. Each report will be organized in accordance with EPA reporting requirements and will include a site conceptual model.

Petroleum Phase II ESA (one site) – Once petroleum impacted sites have been prioritized by the City, the EPA-required, site-specific plans for two sites shall be prepared. The field investigation activities to be completed will include permitting, drilling, test pitting, sample collection, and laboratory testing. Upon completion of the Phase II work at the petroleum-impacted sites, a report of findings for each site will be prepared and submitted to the City for review and comment. These reports will summarize the key findings from the Phase I investigations and Phase II activities, the results of the investigation, and recommendations, if appropriate. Each report will be organized in accordance with EPA reporting requirements and will include a site conceptual model.

Task 4 Schedule

Task Start Date: 10/1/2020 Task Completion Date: 9/31/2021

Task 4 Deliverables

- A minimum of four (4) Phase II ASTM Reports (three (3) Hazardous Materials and one (1) Petroleum)

Task 5 – Balloon Track Phase I/II ESAs

Phase I ESA activities will be completed at the Balloon Track property. If the Phase I ESA demonstrates that a site is feasible for redevelopment based on the City's provided criteria, then a Phase II ESA and data gap analysis will be carried out.

Task 5 Schedule

Task Start Date: 7/1/2020 Task Completion Date: 3/31/2022

Task 5 Deliverables

- Phase I AAI with data gap analysis
- Workplan with SAP, or QAPP, HASP,
- Phase II ASTM Report for feasible sites

Task 6 – Remediation, Reuse, and Redevelopment Planning

Based on the results of the Phase II ESA investigations, City staff will select two sites for remedial action planning. A Remedial Action Plan (RAP) shall be prepared for each site with a selected remedy that will depend upon the proposed reuse of the site, and the anticipated timeline that the City would like to see the site remediated. An analysis of Brownfields cleanup alternatives (ABCA) will be prepared for each site, which can then be used to pursue EPA Brownfields remediation funds. The City anticipates conducting one (1) additional public meeting at this time. The purpose of this meeting would be to update the community with regard to findings and the next steps.

Task 6 Schedule

Task Start Date: 7/1/2021 Task Completion Date: 3/31/2022

Task 6 Deliverables

- Two (2) Remediation, Reuse, and Redevelopment Plans
- Two (2) Analysis of Brownfields Cleanup Alternatives

Task 7 – Project Management

Project management and oversight which may include:

- Contracting
- Scheduling
- Budget Tracking/Management
- Project Status Reporting
- Coordination Attending meetings and conference calls

Task 7 Schedule

Task Start Date: 5/10/2020 Task Completion Date: 9/30/2022

Task 7 Deliverables

- Project Status Reports
- Budget Reports

7. SOQ CONTENT AND FORMAT REQUIREMENTS

Interested offerors shall submit their SOQ as directed on Page 1 of this RFQ. Submit pricing information in a separate sealed envelope with the hard copy submission. Do not email the pricing information.

SOQs shall be delivered no later than the date and time listed in the CONTRACT SCHEDULE and shall contain at a minimum the following items:

7.1 Cover Sheet (Attachment B)

Provide the full legal name of the Consultant who will execute the contract. Provide all requested information concerning the firm, including: the firm's legal name, type of entity, and Federal Tax ID #.

7.2 Project Approach – Describe the approach for techniques, procedures, documents and tools you would use, and the effort, input and/or information you would need from the City. Describe how you would utilize local companies in performing work that will do not be done by the offeror.

7.3 Qualifications of the Offeror

- a. **Organization Chart** – Provide an organization chart of the proposed team, which should show the organizational structure of the team, the scope of services provided by each team member and the names of all key personnel. Include specialty sub-consultants that you would expect to use on this type of project. Also, include a brief description of experience that this team has had working together on previous projects.
- b. **Firm Description** – Provide a complete description for each firm on the Organization Chart including: name, address, telephone and facsimile numbers, and e-mail addresses of the firms; firm history and organization; numbers and types of environmental assessments completed; and current workload (number and size of projects currently underway) with a description of how the firm would meet the needs of City of Eureka within its existing commitments. If the firm has more than one office, provide a general description of the overall firm with detailed information about the specific office assigned to this project.
- c. **Key Personnel** – Identify key personnel and their backups and each sub-consultant that will be assigned to this project, include project manager, office manager and etc. Include resumes and project experience of each person, with emphasis on experience with similar environmental assessments: responsibilities, years of experience in total and with current firm, and specific projects.
- d. **Experience** – Describe three (3) similar projects for which the consultant has successfully provided services. The descriptions should include:
 - i. Client name, contact person, address and telephone number
 - ii. Project name and location
 - iii. Project team – consultant and sub-consultants, and licensing information
 - iv. Describe your role and responsibilities for each project – if performed by an individual on your team while under employment to another firm, identify the name of the firm and the individual's dates of employment and job title while at that firm.
- e. **Litigation History** – List all completed, ongoing or pending litigation or arbitration in which the consultant and the sub-consultants have been involved over the past 10 years including projects other than those listed above. Briefly explain the surrounding events and the outcome. Identify the other parties.

7.4 Cost Efficiencies – Describe how the approach proposed by your firm to the project will help to ensure that the City will complete this project within budget. Provide an itemized cost breakdown for each task.

7.5 Other – Provide any other information regarding your qualifications that you feel is appropriate for consideration for this project.

8. SELECTION PROCEDURES

After an initial review of each of the proposals for completeness, the offerors submitting the most highly ranked proposals may be invited for interviews prior to final selection to further elaborate on their proposals. The City reserves the right to award a contract without holding interviews, in the event the written proposals provide a clear preference on the basis of the criteria described.

The Consultant(s) selected for this project will be required to accept the City’s standard personal services contract and to comply with insurance standards as deemed acceptable to the City’s Risk Manager. No agreement with the City of Eureka is in effect until both parties have signed a contract.

The following criteria will be used in evaluating and selecting the prospective Consultant:

- a. Clarity of the proposal submitted and responsiveness to this RFQ.
- b. Project Team Qualifications—relevant qualifications, education and experience of the individuals and firms who will provide the services. The Consultant is expected to have sufficient staff and resources to meet the requirements of the contract, including redundancy of qualified personnel such that key persons can be readily replaced, with City’s pre-approval, in the event of illness, employment change or other reason.
- c. Firm Experience and Ability: The successful offeror is expected to have successfully provided a full range of consulting services as described above for at least three (3) roadway constructed or under construction, plus be familiar with state and federal procedures.
- d. Project Control: Quality and performance of previous projects, record of budget and schedule performance, and adequacy of quality assurance and control.
- e. Ability of firm to work with City of Eureka Public Works staff. Ability to listen and consider all options.
- f. Ability to provide a cost-effective project.
- g. Any other criteria deemed relevant to the selection committee.
- h. Following matrix will be used to score proposals:

1.	Cover letter outlining the Consultant’s interest in Project	5 points
2.	Understanding of the work to be done	25 points
3.	Overall experience with activities similar to the Scope of Services	20 points
4.	Quality of staff for work to be done	10 points
5.	Capability of developing innovation or advanced techniques	10 points
6.	Familiarity with state and federal procedures	15 points
7.	Cost Efficiencies	15 points
8.	Other Relevant Information (optional)	0 points
Total		100 Points

9. INQUIRIES

Direct all inquiries regarding the SOQ process or SOQ submissions to:

David Caisse – Deputy City Engineer
 City of Eureka Public Works
 531 K Street
 Eureka, CA 95501
 707-441-4203
dcaisse@ci.eureka.ca.gov

**ATTACHMENT A:
PROFESSIONAL SERVICES CONTRACT (SAMPLE)**

CITY OF EUREKA PROFESSIONAL SERVICES AGREEMENT WITH [Insert name of individual or company]

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is entered into and effective as of _____, 20__ ("Effective Date"), by and between the City of Eureka, a municipal corporation ("City") and [Insert name of individual or company] ("Consultant") (collectively, the "Parties").

WHEREAS, the Parties enter into this Agreement for the purpose of Consultant providing professional services to City under the terms and conditions set forth herein.

THEREFORE, in consideration of the mutual covenants contained in this Agreement, the Parties agree as follows:

1. Services. Consultant shall provide the professional services as described in and in accordance with the schedule set forth in Exhibit A, attached hereto and incorporated herein ("Services").

2. Compensation.

A. For the full performance of the Services described in Exhibit A hereto City shall compensate Consultant on a time-and-materials basis at the compensation rates specified in Consultant's Services Rate Schedule included in Exhibit A; provided, however, that total compensation for the full performance by Consultant of all Services under all Task Orders shall not exceed _____ (\$ _____), said amount being referred to herein as the "not-to-exceed" amount.

B. Consultant shall submit detailed monthly invoices reflecting all services performed during the preceding month, and including a revised schedule for performance and additional documentation requested by City, as applicable.

C. Consultant shall be compensated for services in addition to those described in Exhibit A, only if Consultant and City execute a written amendment to this Agreement describing the additional services to be performed and the compensation to be paid for such services. In no case shall the total compensation under this Agreement exceed the "not-to-exceed" amount specified in Paragraph A, above, without prior written authorization of the City Manager or City Council, depending on whose authority is required to approve the costs for the additional services.

D. City's obligation to pay compensation to Consultant as provided herein is contingent upon Consultant's performance of the Services pursuant to the terms and conditions of this Agreement and any amendments thereto. Notwithstanding any other provision herein, Consultant shall not be paid any compensation until Consultant has complied with City's Business License Ordinance.

3. Term. The term of this Agreement commences on the Effective Date, and terminates on _____, 20__ unless sooner terminated in accordance with Section 4. Upon termination, any and all of City's documents or materials provided to Consultant and any and all of the documents or materials prepared for City or relating to the performance of the Services, shall be delivered to City as soon as possible, but not later than fourteen (14) days after termination of the Agreement.

4. Termination. City may terminate this Agreement without cause upon ten (10) days' written notice. City may immediately terminate or suspend this Agreement for cause. Cause for immediate termination or suspension shall include, but not be limited to, any breach of this Agreement by Consultant or Consultant's bankruptcy or insolvency. Upon receipt of notice of termination or suspension for cause, Consultant shall immediately stop all work in progress under this Agreement. In the event of early termination of this Agreement by City, Consultant shall be entitled to payment for all Services performed to the date of termination to the extent such Services were performed to the satisfaction of City in accordance with the terms and conditions of this Agreement. If City terminates this Agreement for cause, Consultant shall be liable to City for any excess cost City incurs for completion of the Services.

5. Consultant's Representation; Independent Contractor. Consultant represents that Consultant possesses distinct skills in performing the Services. City has relied upon said representation as a material inducement to enter into this Agreement. Consultant shall, therefore, provide properly skilled and technical personnel to perform all Services under this Agreement. It is expressly understood that Consultant, its agents and employees shall act in an independent capacity and as an independent contractor and not as officers, employees or agents of City. This Agreement shall not be construed as an agreement for employment.

6. Facilities and Equipment. Consultant shall, at its sole cost and expense, furnish all facilities and equipment that may be required for furnishing Services pursuant to this Agreement. City shall furnish to Consultant no facilities or equipment, unless the City otherwise agrees in writing to provide the same.

7. Licenses, Permits, Etc. Consultant shall, at Consultant's sole cost and expense, keep in effect and require its subcontractors, if any, to keep in effect at all times during the term of this Agreement any licenses, permits or other such approvals which are legally required for performing the Services.

8. Time. Consultant shall devote such time to the performance of the Services as may be reasonably necessary for satisfactory performance of Consultant's obligations pursuant to this Agreement.

9. Inspection. Consultant shall provide City every reasonable opportunity to ascertain that the Services are being performed in accordance with the requirements and intentions of this Agreement. All work done and materials furnished, if any, shall be subject to inspection and

approval by City. The inspection of such work shall not relieve Consultant of any of its obligations pursuant to this Agreement.

10. **Progress Reports.** Upon City's request, Consultant shall provide, in a form acceptable to City, written progress reports of all oral and written observations, opinions, recommendations, analyses, progress and conclusions related to Consultant's performance of the Services.

11. **Confidentiality.** In the course of providing services for City, Consultant may have access to trade secrets and confidential information, disclosure of which is protected or limited by law. Consultant shall not directly or indirectly disclose or use any such confidential information, except as required for the performance of the Services.

12. **Conflict of Interest.** Consultant represents that it presently has no interest, and covenants that it shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the Services hereunder. Consultant further covenants that, in the performance of this Agreement, it shall not employ any subcontractor or person having such a conflict of interest. Consultant represents that no one who has or will have any financial interest under the Agreement is an officer or employee of City. If such conflict of interest arises during this Agreement or any extension, Consultant will immediately advise City and City may, at its sole discretion, immediately terminate this Agreement.

13. **Consultant No Agent.** Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

14. **Standard of Performance.** Consultant shall perform all the Services in a manner consistent with the standards of Consultant's profession or, if no such professional standard, in a manner consistent with the standards applicable to said Consultant or type of work. All instruments of service of whatsoever nature, which Consultant delivers to City pursuant to this Agreement, shall be prepared to comply and conform to the standards of Consultant's type of work. All such instruments of service shall become the sole and exclusive property of City upon delivery of the same.

15. **Assignment/Transfer.** Consultant shall make no assignment or transfer in whole or in part of this Agreement shall be made without the prior written consent of City.

16. **Subcontractors.** Consultant shall directly perform all Services, and shall not subcontract any portion of performance of the Services without the prior written consent of City. Any such subcontractors shall be required to comply, to the full extent applicable, with the terms and conditions of this Agreement. Upon execution of this Agreement, Consultant shall furnish a separate schedule of names and addresses of subcontractors, if any, and shall notify City in advance

if changes in subcontractors occur.

17. **Statement of Economic Interests.** The City may determine that the Consultant must file a Form 700, Statement of Economic Interests, as required by the City's Conflict of Interest Code. If such is the case, the City Clerk's office will provide the Consultant with the form and Consultant shall file form with the City Clerk's office. Said filing shall include an Assuming Office Statement within thirty (30) days of execution of this contract, annual statements on or before April 1 of each year, and a Leaving Office Statement within thirty (30) days after termination of this Agreement or any extensions thereto.

18. **Internal Revenue Service Form W-9.** The City may determine that the Consultant must file an Internal Revenue Service Form W-9, Request for Taxpayer Identification Number and Certification, as required by City to comply with regulations of the United States Department of the Treasury. If such is the case, the Finance Department shall provide the Consultant with the required form. Consultant shall complete and file the form with City before any payment for Services under this Agreement is rendered.

19. **Business License.** Consultant shall file and require all its subcontractors to file, a Business License Application as required by the City. The Finance Department shall provide the Consultant with the required form. Consultant shall and require all its subcontractors to complete and file the form with the City and shall pay or cause to be paid the business license fee before any payment for Services under this Agreement is rendered.

20. **Compliance With All Laws.** Consultant and any subcontractors shall fully comply with all applicable local, state and federal rules, laws, regulations and ordinances pertaining to performance of the Services required hereunder, including the Americans with Disabilities Act and any copyright, patent or trademark law. To the extent that any other government agency or entity provides compensation for any Services, Consultant shall comply with all rules and regulations applicable to such fiscal assistance. Consultant's failure to comply with any law(s) or regulations(s) applicable to the performance of the Services hereunder shall, at the discretion of the City, be deemed to constitute a breach of contract.

Such laws include, but are not limited to, the California Prevailing Wage Law; California Labor Code section 1720 et seq. Because the services described in Exhibit A include "work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work," the services constitute a public works within the definition of section 1720(a)(1) of the California Labor Code.

Therefore, the services described in Exhibit A shall be performed in accordance with all applicable requirements of the California Prevailing Wage Law including, but not limited to, all applicable requirements contained in Exhibit B, which is attached to and made a part of this Agreement. To the extent that any other government agency or entity provides compensation for any services, consultant shall comply with all rules and regulations applicable to such fiscal assistance.

21. **Discrimination.** During the performance of this Agreement, Consultant shall not

discriminate against any employee or applicant for employment because of race, religion, creed, color, national origin, ancestry, gender, sexual orientation, age or physical or mental disability in violation of any applicable law.

22. Notice. Except as otherwise specified in this Agreement, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other Party in accordance with this Section. All such notices shall be sent by:

A. Personal delivery, in which case notice is effective upon delivery;

B. Certified or registered mail, return receipt requested, in which case notice shall be deemed delivered on receipt if delivery is confirmed by a return receipt;

C. Nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service; or

D. Facsimile transmission, in which case notice shall be deemed delivered upon transmittal, provided that (a) a duplicate copy of the notice is promptly delivered by first-class or certified mail or by overnight delivery, or (b) a transmission report is generated reflecting the accurate transmission thereof. Any notice given by facsimile shall be considered to have been received on the next business day if it is received after 5:00 p.m. recipient's time or on a non-business day.

City:

Consultant:

City Manager
City of Eureka
531 K Street
Eureka, CA 95501
FAX: (707) 441-4138

[Address and Fax number]

23. Ownership of Documents. All original papers, documents or computer material on disk or microfilm, and copies thereof, produced as a result of this Agreement (collectively "Project Documents"), shall be the property of the City and may not be used by Consultant without the written consent of City. Consultant shall provide documents in electronic form in a format required by the City. Copies of such documents or papers shall not be disclosed to others without the written consent of the City Manager or his or her designated representative. City agrees to indemnify and hold Consultant harmless for claims resulting from City's alteration for another City project, of said Project Documents.

24. Internet-Ready Deliverables. If applicable to this Agreement, each contract deliverable shall be delivered as a data file suitable for publication on the Internet. The following specifications define the formats that satisfy this requirement:

A. Brochures, reports, plan documents, catalogues, flyers with graphics included, and forms are to be formatted as screen-optimized ".pdf" files, if possible.

B. Freestanding, individual graphics such as logos, small maps and photos are to be formatted as ".tif" files, with the largest side no larger than four inches.

C. Large maps are to be formatted as ".jpg" files with the largest side no larger than four inches, unless mutually agreed otherwise by the Parties.

D. Short text documents with no graphics are to be in MS Word.

E. Freestanding charts, graphs and listings are to be in MS Excel.

25. Indemnification. Consultant agrees to indemnify, including the cost to defend, entity and its officers, officials, employees, and volunteers from and against any and all claims, demands, costs, or liability that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant and its employees or agents in the performance of services under this contract, but this indemnity does not apply to liability for damages arising from the sole negligence, active negligence, or willful acts of the City; and does not apply to any passive negligence of the City unless caused at least in part by the Consultant.

26. Insurance. Consultant shall procure and maintain for the duration of this Agreement 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, Consultant's agents, representatives and employees.

A. Minimum Scope of Insurance. Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).

2. Insurance Services Office form number CA 0001 (Ed. 12/90) covering Automobile Liability, code 1(any auto), or code 8, 9 if no owned auto.

3. Workers' Compensation Insurance as required by the State of California and Employers' Liability Insurance. If no employees are utilized, the Consultant shall sign a declaration as described in California Health and Safety Code Section 19825.

4. Professional liability insurance appropriate to the Consultant's profession. Architects' and Engineers' coverage is to be endorsed to include contractual liability.

B. Minimum Limits of Insurance. Consultant shall maintain limits no less than:

1. General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$2,000,000 per accident for bodily injury and property damage.
3. Workers ' Compensation: statutory limit; Employer's Liability: \$1,000,000 per accident for bodily injury or disease.
4. Professional liability: \$1,000,000 per occurrence or claim as approved by the City's City Manager.

C. Umbrella or Excess Insurance. The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess 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.

D. Deductibles and Self-Insured Retention. Any deductibles or self-insured retentions must be declared to and approved by the City and shall not reduce the limits of liability. Policies containing any self-insured retention provision shall provide or be endorsed to provide that the self-insured retention may be satisfied by either the named Insured or the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers, or the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses. The City reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to so exercise later.

E. Other Insurance Provisions.

1. The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions:

- a. The City, its officers, officials, employees and volunteers (the "Additional Insureds") are to be covered as insureds as respects:

liability arising out of work or operations as performed by or on behalf of the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant.

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

c. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either Party, unless thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

2. The Workers' Compensation endorsement shall contain a Waiver of Subrogation against the City. The Consultant shall provide to the City an endorsement from the Workers' Compensation insurer, if any, agreeing to waive all rights of subrogation against the City for injuries to employees of the Insured resulting from work for the City or use of the City's premises or facilities.

3. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits included above shall be available to the City. 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.

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

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

H. Subcontractors. Consultant shall include all subcontractors as insureds under

its policies or shall furnish separate certificates and endorsements for each subcontractor prior to commencement of subcontractor's work. Consultant agrees to include with all subcontractors in their subcontract the same requirements stated herein including the indemnity and insurance requirements. Subcontractors hired by Consultant agree to be bound to Consultant and the City in the same manner and to the same extent as Consultant is bound to City under this Agreement. Subcontractor further agrees to include these same provisions with any Sub-subcontractor. A copy of these indemnity and insurance provisions shall be furnished by Consultant to any subcontractor. The Consultant shall require all subcontractors to provide a valid certificate of insurance and the required endorsements included in the agreement prior to commencement of any work and Consultant shall provide proof of compliance to the City. If City is not furnished separate endorsements for each subcontractor prior to the commencement of subcontractor's work, then Consultant shall include all subcontractors as insureds under its policies.

27. **Amendment.** This Agreement may be amended only by a written instrument executed by both Parties.

28. **Litigation.** If litigation ensues between City and a third-party which pertains to the subject matter of Consultant's services hereunder, Consultant, upon request from City, agrees to testify therein at a reasonable and customary fee.

29. **Construction.** This Agreement is the product of negotiation and compromise on the part of both Parties and that the Parties agree that, notwithstanding Civil Code Section 1654, any uncertainty in the Agreement shall not be construed against the drafter of the Agreement.

30. **Governing Law; Venue.** This Agreement shall be enforced and interpreted under the laws of the State of California and the City of Eureka. Any action arising from or brought in connection with this Agreement shall be venued in a court of competent jurisdiction in the County of Humboldt, State of California.

31. **Non-Waiver.** The City's failure to enforce any provision of this Agreement or the waiver thereof in a particular instance shall not be construed as a general waiver of any part of such provision. The provision shall remain in full force and effect.

32. **Severability.** If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

33. **No Third Party Beneficiaries.** The Parties do not intend to create, and nothing in this Agreement shall be construed to create, any benefit or right in any third party.

34. **Mediation.** The Parties agree to make a good faith attempt to resolve any dispute arising out of this Agreement through mediation prior to commencing litigation. The Parties shall mutually agree upon the mediator and shall divide the costs of mediation equally.

35. Consultant's Books and Records.

A. Consultant shall maintain any and all ledgers, books of accounts, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to the City for a minimum period of three (3) years or for any longer period required by law, from the date of final payment to Consultant pursuant to this Agreement.

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

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

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

36. Headings. The headings used in this Agreement are for convenience only and are not intended to affect the interpretation or construction of any provisions herein.

37. Survival. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant shall survive the termination or completion of this Agreement for the fullest period of time allowed by law.

38. Entire Agreement. This Agreement, including the exhibits attached hereto and incorporated herein, constitutes the entire agreement between the Parties with respect to the Services, and supersedes all prior agreements or understandings, oral or written, between the Parties in this regard.

[Signature page to follow]

Sample Contract

IN WITNESS WHEREOF, the Parties have executed this document the day, month and year first above written.

[If \$50,000 or more]

CITY OF EUREKA:

By: _____ Dated: _____
Susan Seaman, Mayor

Approved as to Administration:

By: _____
Greg L. Sparks, City Manager

Approved as to form:

By: _____
Robert Black, City Attorney

Approved as to content:

By: _____
Brian Gerving, Director of Public Works

Attest:

By: _____
Pamela J. Powell, City Clerk

CONSULTANT:

By: _____
Consultant Name

Dated: _____
1099 Information
Tax Payer ID #

Social Security #

Incorporated: Yes _____ No _____

[If less than \$50,000]

CITY OF EUREKA:

By: _____
Greg L. Sparks, City Manager

Dated: _____

Approved as to content:

By: _____
[Department Head]

Approved as to form:

By: _____
Robert Black, City Attorney

Attest:

By: _____
Pamela J. Powell, City Clerk

CONSULTANT:

By: _____
Consultant Name

Dated: _____
1099 Information
Tax Payer ID #

Social Security #

Incorporated: Yes _____ No _____

EXHIBIT A

SCOPE OF SERVICES AND SCHEDULE

[Insert]

Sample Contract

EXHIBIT B

PROVISIONS REQUIRED FOR PUBLIC WORKS PROJECTS PURSUANT TO CALIFORNIA LABOR CODE SECTION 1720 *ET SEQ.*

HOURS OF WORK:

A. In accordance with California Labor Code Section 1810, eight (8) hours of labor in performance of the Services shall constitute a legal day's work under this Agreement.

B. By signing this Agreement, Consultant agrees that Consultant is aware of the provision of California Labor Code section 3700 which requires every employer to be insured against liability for workers compensation or to undertake self-insurance in accordance with the provisions of the California Labor Code, and that Consultant will comply with such provisions before commencing performance of the Services.

C. The Consultant and its subconsultants shall forfeit as a penalty to the City \$50 for each worker employed in the performance of the Services for each calendar day during which the worker is required or permitted to work more than eight (8) hours in any one calendar day, or more than forty (40) hours in any one calendar week, in violation of the provisions of California Labor Code Section 1810 and following.

WAGES:

A. The services of the Consultant shall be done on or in the execution of a "public works" project as defined by Law. In accordance with California Labor Code Section 1773.2, the City has determined the general prevailing wages in the locality in which the Services are to be performed for each craft or type of work needed to be as published by the State of California Department of Industrial Relations, Division of Labor Statistics and Research, a copy of which is on file with the City and shall be made available on request. The Consultant and subconsultants engaged in the performance of the Services shall pay no less than these rates to all persons engaged in performance of the Services. The Consultant shall be responsible for the compliance of its subcontractors.

Sample Contract

ATTACHMENT B: COVER SHEET

Name of Person, Business or Organization:	
Type of Entity: (e.g. Sole-Proprietorship, Partnership, Corp., Non-Profit, Public Agency)	
Federal Tax ID Number:	
Contact Person – Name	
Contact Person – Address	
Contact Person – Phone Number (s)	
Contact Person – e-mail address	

By signing this **Cover Sheet** I hereby attest: that I have read and understood all the terms listed in the RFQ; have read and understood all terms listed in this Statement of Qualifications; that I am authorized to bind the listed entity into this agreement; and that should this SOQ be accepted, I am authorized and able to secure the resources required to deliver against all terms listed within the RFQ as published by the City of Eureka, including any amendments or addenda thereto except as explicitly noted or revised in my submitted SOQ.

Signature of Authorized Representative

Printed Name of Authorized Representative

Date