

REQUEST FOR Qualifications

Consulting Services

Arts and Culture Master Plan

Healdsburg, California

Release Date: February 5, 2019

Qualifications Due By: February 22, 2019 at 5:00 P.M. PDT



CITY OF HEALDSBURG
COMMUNITY SERVICES DEPARTMENT
1557 Healdsburg Avenue
Healdsburg, CA 95448

Project Contact:
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I. INTRODUCTION

The City of Healdsburg (City) desires to embark on a community based arts and culture master planning process that will gather widespread input about the current and future role of arts and culture within the community. The City is seeking a qualified consultant (or consultant team) with relevant experience and knowledge to:

- (1) Assess the current state of the arts in Healdsburg
- (2) Create a comprehensive data list of arts and cultural assets that include venues, organizations, programs, businesses, and other opportunities
- (3) Gather widespread input from the community about how they envision the role of arts and culture in Healdsburg
- (4) Analyze the current strengths, weaknesses, opportunities, and threats (SWOT)
- (5) Research the economic impact of the arts within the City and provide data on how it compares to other cities.
- (3) Explore opportunities for collaboration among the City, organizations, and businesses to foster and enhance the arts.
- (4) Define the City and other organization's roles as it pertains to the advancement of arts in Healdsburg
- (5) Prepare and present a draft report for feedback
- (6) Prepare and present a final report with actionable recommendations

II. PROJECT BACKGROUND

The City of Healdsburg is located 70 miles north of San Francisco on Highway 101 in the heart of Sonoma County. With a population of approximately 11,800 residents, the City's small-town charm is reflected in quiet, friendly neighborhoods and traditional Spanish-style plaza. The City rests at the confluence of three valleys: the Russian River, Dry Creek, and Alexander Valleys. The Russian River passes through the City and provides a wide variety of recreation opportunities. In addition, nearby park and open space preserves provide miles of trails for hiking. Heading west it's a short hour drive to the coast, and the Golden Gate Bridge welcomes you into San Francisco just over an hour to the south.

Arts and culture have a strong presence in Healdsburg, play a significant role in community life, and are a valued component to both residents and visitors alike. Healdsburg has a wide range of art and cultural organizations, resources, venues, and activities that are a source of community pride and enrichment. Additionally there are a range of festivals and community events to support the art including, but not limited to, the Healdsburg Arts Festival and street art series, Healdsburg Jazz Festival, summer concert series, and a Dia De Los Muertos celebration. The number of public art pieces continue to increase and have become more accessible through installations at park locations and along the Foss Creek Pathway, and the number of private galleries rivals the number of tasting rooms in the downtown core. While arts and culture are present in Healdsburg, there is a need to create a clear identity and understanding of the arts in the

community to insure relevancy, sustainability, and enhancement in the future.

The City's role in arts and culture has historically been limited, and art has not been a significant part of the City's culture. In 2007 the City adopted a public art policy that outlines a process for the installation in public art. However, the policy doesn't specifically address what constitutes "art". As a result, the bodies charged with reviewing public art proposals (mostly the Parks and Recreation Commission) at times struggle with determining whether a particular proposal is warranted.

In August 2017, the Community Services Department launched a community conversation process to begin a discussion about art in Healdsburg and the City's and community's role in encouraging and supporting the arts locally. As part of this effort, the City and Healdsburg Center for the Arts co-hosted a conversation about the arts in Healdsburg. Approximately 50 members of the community attended and provided their input on the current status of the arts and options for the future. Staff followed-up with a presentation to City Council in September 2017 sharing information from the community conversation, but the Sonoma County wildfires brought the process to a halt shortly after. The conversation resumed in early 2018, and in March of 2018, The Parks and Recreation Commission established a goal to engage the community in defining the role of arts. Additional information regarding the current state of the arts in Healdsburg can be found on the City's website: <https://www.ci.healdsburg.ca.us/823/Arts>

Later in 2018, two key planning processes came together that have brought arts and culture to the forefront of our community. In June the City Council established a goal and charge to the Community Services Department to develop a plan to foster, enhance, and expand the arts throughout the city. Most recently, a team from American Institute of Architecture (AIA) visited Healdsburg for a 3-day intensive visit and community workshop sessions. The data collected during that visit is part of a long term, citizen-led, visioning process called SDAT/Healdsburg 2040. The outcome of that visit was a comprehensive report where five categories were identified as focal points for the visioning team to focus on moving forward. One of those categories being Arts and Culture.

The City is seeking a consultant with the experience and skills to compile information on the current state of the arts and culture in Healdsburg, as well as to help develop a long-term plan for fostering, enhancing, and advancing the arts. This process is expected to be community-driven and lead to actionable results. The selected firm would place a high priority on public engagement and creativity as they look to provide recommendations for future opportunities. It is expected that the results from this process will feed directly into future planning and development projects as well as impacts on everyday life. The Arts and Culture master plan will be a legacy project and meant to shape the future of the arts landscape within Healdsburg for years to come.

III. SAMPLE SCOPE OF SERVICES

Project Expertise:

The City expects that the consultant (or consultant's team) will include expertise in project management, arts and cultural planning, data collection, public engagement, economic analysis, and other skills normally needed for this type of project.

List of Tasks (at a minimum) for Inclusion in Proposed Scope of Services:

The following is a typical list of tasks that the consultant is expected, but not limited, to incorporate at a minimum into consultant's proposed scope of services. It is not intended that the tasks included below comprise a comprehensive list or are the only tasks required for this project. Each consultant firm is expected to develop a comprehensive and detailed scope of services, based on its expertise and knowledge that the consultant believes to be necessary to meet the City's expectations for completing the project.

1. PROJECT MANAGEMENT:

- a. Establish the project team to consist at a minimum of the consultant's project manager and personnel, City's project manager and personnel, and a creative leadership team comprised of residents and stakeholders who will guide the project (composition to be determined at a later date). Facilitate the means to regularly evaluate progress to best ensure that the project remains on schedule for meeting the City's goals and expectations.
- b. Develop a comprehensive project plan that includes goals and a clear methodology, accompanied by a timeline indicating delivery of progress reports, presentations to key stakeholders, the community, and release of the final product.

2. DATA REVIEW: Review a list of existing Arts and cultural documents, plans, and other data inputs for background and use in the assessment. The City has identified the following data inputs that should be used as part of the assessment and will be provided to the consultant in electronic format:

- a. City Council Goals (2018-19)
- b. Parks and Recreation Commission Goals (2018-19)
- c. AIA SDAT Report (2018)
- d. City of Healdsburg Temporary Art Policy (2018)
- e. Bi-Annual Operating Budget (2018-2020)
- f. Capital Improvement Plan (2018-2023)
- g. Creative Sonoma Cultural Arts Plan (2014)
- h. City of Healdsburg General Plan (2009)
- i. City of Healdsburg Public Art Policy (2007)

3. DATA COLLECTION AND ANALYSIS :

- a. Collect data on the current state of arts and culture in Healdsburg. Provide Methodology for collecting and presenting data on the following elements. This list should be viewed as a minimum and other elements may be included during the research and discovery phase.

- I. Organizations/institutions/businesses. Should include government, non-profit, and for-profit
 - II. Program offerings
 - III. Community events/festivals
 - IV. Public art
 - V. Funding opportunities
 - VI. Art in local education
 - VII. City's current role in supporting the arts
 - VIII. Economic Impact and vitality
 - IX. Challenges that prohibit access or growth of art
 - X. Perception and importance of art to the community
 - XI. Local, regional, state influences
 - XII. Local and regional comparison to other cities
- b. Completion of Case Studies – Provide comparable data for 5 other cities that are visionary leaders in the arts and culture and can be utilized as examples as Healdsburg looks to grow and enhance the arts. Additionally, population should not be the sole defining factor of comparison. (The City and the Consultant will discuss options for the case studies and the City will have final decision making authority on which cities to study.)
4. DEVELOPMENT OF PUBLIC OUTREACH AND PARTICIPATION PLAN: The City desires to gather input through widespread community outreach and targeted user group input meetings. The selected firm will implement a comprehensive strategy provided by the City for resident and visitor involvement in the cultural planning process including workshops, surveys, interviews with stakeholders, etc. Consultant will provide well-organized and directed activities, techniques, and formats to ensure a positive and inclusive public participation process is achieved. The strategy will also include a communications plan for keeping the public and City officials up-to-date on planning progress using the City's website, print, and social media platforms.

The following groups and organizations have been identified as key stakeholders. This list should be viewed as a preliminary list that may be expanded as the process unfolds. The final number of community meetings will be discussed and agreed upon during the selection phase.

- a. *Advisory Bodies*
 - i. SDAT Arts & Culture Group
 - ii. Parks and Rec Commission
 - iii. Latino Outreach/Corazon Healdsburg
 - iv. Chamber of Commerce

- b. *Commercial and Private Galleries – 27 galleries currently identified*
 - c. *Non-Profit Organizations*
 - i. Healdsburg Center for the Arts
 - ii. The Raven Performing Arts and Film Center
 - iii. Jazz Festival
 - iv. Redwood Theatre Company
 - v. Healdsburg Library
 - vi. Camp Rose Players
 - vii. Healdsburg Museum
 - viii. Healdsburg Literary Guild
 - d. *Education Institutions*
 - i. The Healdsburg School
 - ii. Healdsburg Unified School District
 - iii. St. John the Baptist Catholic School
 - iv. Rio Lindo Academy
 - e. *Local Artists and Event Organizers*
 - i. Architects/landscape design
 - ii. Graphic designers
 - iii. Musicians
 - iv. Dance
 - v. Food & drink
 - vi. Visual, ceramics, photography, poetry
5. PRESENTATIONS:
- a. Draft Plan to the Parks and Recreation Commission Arts and Culture Committee
 - b. Draft Plan to the Parks and Recreation Commission
 - c. Final Plan to the City Council
6. TIMELINE:
Nine - twelve month process, once contract is awarded. Ideally, draft plan is complete by November 2019, and final report December, 2019. Final timeline will be discussed and agreed upon during the selection phase.
7. DELIVERABLES (DRAFT AND FINAL REPORTS): The following are the required deliverables for the project:
- a. In person meetings, conference calls, or video chat as needed with City to undertake and successfully complete the project
 - b. On-site data collection, community input sessions, and stakeholder interviews including:
 - I. General public

- II. Advisory bodies
 - III. Commercial/private galleries
 - IV. Non-profit organizations
 - V. Education Institutions/youth
 - VI. Local artists
- c. Public meeting content including graphics, boards, handouts, presentations, etc.
- d. Arts and Cultural Master Plan document (draft and final) in editable format (such as Word) and PDF. It is requested that the final document be available in both English and Spanish. The City desires for the following elements to be included in the Master Plan document, but is not limited to the list below. This list may be modified and proposals of alternate or additional recommendations are welcome.
- I. Executive summary
 - II. Historical context
 - III. Research and data methodology
 - IV. Current state and asset list
 - V. Economic Impact of arts and culture
 - VI. Case studies and comparable municipalities
 - VII. Recommendations and next steps:
 - a. Defined roles (City, non-profits, chamber, galleries, etc)
 - b. Framework for government and stewardship of advancement of the arts
 - c. Funding opportunities/policies
 - d. Framework for managing funding distribution
 - e. Promotion of Healdsburg and the arts
 - f. Incorporation of art into planning and design processes
 - g. "Definition" and management of public art
 - h. Recommendation for enhancing and advancing the arts.
 - i. Partnerships and collaboration opportunities

IV. PROPOSAL INFORMATION AND REVIEW

- **PROJECT WEBINAR:** The City has scheduled an online presentation to provide more information on the project for 1:30 p.m. PST, Tuesday, February 12, 2019.

Participate online by visiting:

<https://cityofhealdsburg.webex.com/webappng/sites/cityofhealdsburg/meeting/info/118776631859913456?MTID=ma5a759bc3309095bd56b2be52573a03d>

Or join by phone:

240-454-0887, Access Code: 802 166 059

- **INQUIRIES AND QUESTIONS:** Inquiries and questions may be submitted electronically *following the online presentation* and should include the submitter's name, company, and email address. Inquiries and questions should be submitted to: djahns@ci.healdsburg.ca.us
- **REVIEW OF QUALIFICATIONS:** Interested consultant/consultant team qualifications received within the specified RFQ period will be evaluated by the City of Healdsburg. Any consultant/consultant team may be asked to participate in a phone, video, or in-person interview. All proposers will be notified of the results.
- **AMENDMENTS TO RFQ:** The City reserves the right to amend the RFQ by addendum prior to the final proposal submittal date. The City also reserves the right to extend the due date, or to cancel this RFQ at any time.
- **NON-COMMITMENT OF CITY:** This RFQ does not commit the City to award a contract, to pay any costs incurred in the preparation of a proposal for this request, or to procure or contract for services. The City reserves the right to accept or reject any or all proposals received as a result of this request, to negotiate with any qualified consultant or to modify or cancel in part or in its entirety the RFQ if it is in the best interests of the City to do so.
- **CITY RESERVES THE RIGHT:** The City reserves the right to modify this RFQ at any time prior to the proposal due date, or to extend the proposal due date, or to cancel this RFQ at any time

V. SUBMITTAL PROCESS

Consultants responding to this RFQ shall submit an electronic PDF copy of the consultant/consultant team qualifications via email attachment or file download to djahns@ci.healdsburg.ca.us. Project Proposal shall be **no more than twenty-five (25) pages total** and include the following information:

- Section 1: Introductory statement, interest in project, and overview of firm
- Section 2: Consultant's project team, qualifications, roles and responsibilities
- Section 3: Experience with similar projects
- Section 4: Any additional supporting information deemed beneficial for the City's review
- Section 5: References (3)

The consultant/consultant team is also asked to submit one (1) example of a completed project that is similar in scope, size, and complexity to this project (or a component of this project) as a separate document in PDF format. There is no limitation to the size of this separate document.

Proposals must be submitted by no later than 5:00 P.M. Friday, February 22, 2019.

APPENDIX 1 – SAMPLE PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into this _____ day of _____, 2018, by and between the City of Healdsburg, a California Municipal Corporation, 401 Grove Street, Healdsburg, California, 95448, hereinafter referred to as "City," and _____, hereinafter referred to as "Consultant."

RECITALS

WHEREAS, the City has determined that it requires the following professional services from Consultant:
_____ [services briefly described] _____
_____ ; and

WHEREAS, Consultant represents and warrants that it is fully qualified to perform such professional services by virtue of specialized experience and training, education and expertise of its principals and employees. Consultant further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement; and

WHEREAS, the legislative body of the City on [date] by Resolution No. [reso. no.] authorized execution of this Agreement on behalf of the City in accordance with the City Municipal Code and/or other applicable law. [Delete section if not applicable]

NOW, THEREFORE, City and Consultant, for the consideration hereinafter described, mutually agree as follows:

1. DESCRIPTION OF SERVICES OR SCOPE OF WORK

The services to be performed under this Agreement (the "Services") are as follows: _____

_____.

The Services are further described in Consultant’s proposal (the "Proposal"), which is attached to and made a part of this Agreement as Exhibit A.

2. TERM

The Agreement term will commence on date of execution and expire on _____ unless the Agreement term is amended or the Agreement is terminated in accordance with its terms.

3. PAYMENT TERMS AND NOT TO EXCEED AMOUNT

A. City agrees to pay Consultant for Services that are actually performed in accordance with this Agreement. To be eligible for payment, Consultant invoices must be submitted not more often than monthly to City and list the Services performed and the amounts to be paid according to the cost categories and prices in the Proposal. Invoices from Consultant shall be clearly marked with Consultant’s name, project name, an itemized description of services rendered during the period covered by the invoice, and City’s project account number, if applicable. Invoices shall also contain the total number of hours of work performed under the Agreement by the Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder. When the total number of hours of work by Consultant and any individual employee, agent or

subcontractor of Consultant reaches or exceeds 800 hours, a separate notice shall be provided which shall include an estimate of the time necessary to complete the work described in Exhibit A.

B. In no event will City's obligation to pay the Consultant under this Agreement exceed \$_____, (the "Not to Exceed Amount"), unless this Agreement is first modified in accordance with its terms. Where the Proposal provides for compensation on a time and materials basis, Consultant must maintain adequate records to permit inspection and audit of Consultant's time and material charges under this Agreement. Consultant will make such records available to City during normal business hours upon reasonable notice. In accordance with California Government Code Section 8546.7, if the Not to Exceed Amount exceeds TEN THOUSAND DOLLARS (\$10,000.00), this Agreement and the Consultant's books and records related to this Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of three (3) years after final payment under the Agreement.

4. TIME OF COMPLETION

Consultant must commence performance of the Services upon receipt of written direction to proceed from City. Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standards of performance provided in Section 7 below and to satisfy Consultant's obligations hereunder. Consultant will complete the Services in accordance with this Agreement by _____ (the "Time of Completion"). The Time of Completion may only be modified by an amendment of the Agreement in accordance with its terms.

5. INDEPENDENT CONTRACTOR

Consultant and City agree that the Consultant will perform the Services as an independent contractor and not as an employee or agent of the City. Persons employed or utilized by Consultant in the performance of the Services will not be employees or agents of the City. Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

6. SUBCONTRACTING

Consultant may subcontract portions of the Services upon the prior written approval of the City. The Consultant will be solely responsible for payment for such subcontract services. No contractual relationship will exist between any such subcontractors of the Consultant and the City.

7. STANDARD OF PERFORMANCE

A. Consultant will perform the Services in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices its profession and will prepare all work products required by this Agreement in accordance with those standards. Consultant will comply with all federal, state and local laws and regulations applicable to performance of the Services, including, but not limited to, the California Building Code, the Americans with Disabilities Act, any copyright, patent or trademark law, and any air pollution control law(s) or regulation(s). Consultant's failure to comply with any law(s) or regulation(s) applicable to the performance of the work hereunder shall constitute a breach of contract.

B. Consultant shall assign only competent personnel to perform services pursuant to this agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from the city of such desire of City, reassign such person or persons.

8. OTHER GOVERNMENTAL REGULATIONS

To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.

9. USE OF RECYCLED PRODUCTS

Consultant shall endeavor to prepare and submit all reports, written studies, and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.

10. INDEMNITY

To the maximum extent permitted by law, Consultant shall, at its own expense, indemnify, defend with counsel acceptable to the City, (which acceptance will not be unreasonably withheld), and hold harmless City and its officers, officials, employees, agents and volunteers ("Indemnitees") from and against any and all liability, loss, damage, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, civil penalties and fines, expenses and costs (including, without limitation, claims expenses, attorney's fees and costs and fees of litigation) (collectively, "Liability") of every nature, whether actual, alleged or threatened, arising out of or in connection with the Services or Consultant's failure to comply with any of the terms of this Agreement, regardless of any fault or alleged fault of the Indemnitees.

The Consultant's obligation to indemnify, defend and hold harmless under this provision shall not be excused because of the Consultant's inability to evaluate Liability, or because the Consultant evaluates Liability and determines that the Consultant is not or may not be liable. The Consultant must respond within 30 calendar days to any tender for defense and indemnity by the City, unless the time for responding is extended by an authorized representative of the City in writing. If the Consultant fails to accept tender of defense and indemnity within 30 calendar days, in addition to any other remedies authorized by law, so much of the money due or that may become due the Consultant under this Agreement as shall reasonably be considered necessary by the City, may be retained by the City until disposition has been made of the matter subject to tender, or until the Consultant accepts the tender, whichever occurs first.

The Consultant waives any and all rights to express or implied indemnity against the Indemnitees concerning any Liability of the Consultant arising out of or in connection with the Services or Consultant's failure to comply with any of the terms of this Agreement .

Notwithstanding the foregoing, to the extent this Agreement is a "construction contract" as defined by California Civil Code § 2783, as may be amended from time to time, Consultant's duty to indemnify under this provision shall not apply when to do so would be prohibited by California Civil Code § 2782, as may be amended from time to time.

Notwithstanding the foregoing, to the extent that the Services include design professional services subject to Cal. Civil Code § 2782.8, as amended from time to time, Consultant's duty to indemnify shall only be to the maximum extent permitted by Civil Code § 2782.8.

In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

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

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

11. INSURANCE

- a. All required insurance must be provided in the form of "occurrence"-type policies underwritten by admitted insurers in the State of California with a rating of A or better from the current year Best Rating Guide. All policies must be issued at the expense of the Consultant and must be maintained at the Consultant's expense throughout the performance of the Work. Consultant shall maintain insurance as required by this contract to the fullest amount allowed by law.
- b. The limits of the Commercial General Liability (including bodily injury, personal injury and property damage) insurance shall be:
 - \$2,000,000 per occurrence

 - \$2,000,000 aggregate
- c. If the work to be performed involves vehicles or vehicular equipment, the Automobile insurance limit shall be:
 - \$2,000,000 per accident for bodily injury and property damage

Automobile coverage should be at least as broad as Insurance Services Automobile Liability form CA 0001 Code 1 ("any auto"). No endorsement may be attached limiting the coverage. If coverage provided is anything less than 'any auto' additional information, such as schedule of covered autos or proof of personal auto liability coverage, may be required by the City.

- d. Worker's Compensation Insurance. Proof of Workers Compensation and Employers Liability insurance as required by any applicable law, regulation or statute, including the provisions of Division IV of the Labor Code of the State of California, and any act or acts amending it. Worker's compensation insurance must be for Statutory Limits and must cover the full liability of the Consultant. The Consultant's Employer's Liability Insurance must be in an amount no less than \$1,000,000.00 per occurrence. The workers' compensation policy must be endorsed with a waiver of subrogation. The insurance company, in its endorsement, must agree to waive all rights of subrogation against the City, its officers, officials, employees, agents and volunteers for losses paid under the terms of such policy.
- e. Umbrella/Excess Policy. The limits of insurance required under this Contract 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 City (if agreed to in a written contract or agreement) before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

- f. If applicable, the Consultant, at its own cost and expense, must maintain for the period covered by this Agreement professional liability insurance in an amount not less than ONE MILLION DOLLARS (\$1,000,000) covering errors and omissions. Any deductible or self-insured retention under the required professional liability insurance may not exceed \$150,000 per claim.
- g. The City's Risk Manager may increase or decrease the insurance requirements and limits set forth in those cases in which he/she determines that special circumstances justify such an increase or decrease.
- h. Both the General Liability and Auto endorsements must add the City, its officials, officers, employees, agents and volunteers as an additional insured ("Additional Insured"). The Additional Insured coverage under the Consultant's general liability policy shall be "primary and non-contributory" and Consultant's coverage will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as CG 20 01 04 13.
- i. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the name insured; whichever greater.
- j. The Consultant shall provide the City with a 30-day written notice of any reduction or cancellation of such insurance required to be furnished by the Consultant and include a severability of interest clause acceptable to the City and if requested by the City.
- k. If an Umbrella or Excess Policy is used to satisfy the requirements, than an email or language stating such on the certificate must be provided from the insurance carrier/broker and that Umbrella/Excess Policy 'follows form' or is 'continuous' to the General liability and/ Auto liability policy in addition to the required endorsement.
- l. Examples of City approved insurance forms are included in this PSA package. If the Consultant's insurance carrier chooses to use forms other than the City's approved forms, such forms shall be subject to the approval of the City. If the Consultant provides policy pages instead of an endorsement the insurance agent/broker will be asked to sign, initial and date all applicable sections of the policy that meet the City's insurance requirements.
- m. All self-insured retentions (SIR) must be disclosed to City for approval and shall not reduce the limits of liability. Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the City. 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 exercise later.
- n. Subcontractors
 - i. Consultant agrees to include with all subcontractors in their subcontract the same requirements and provisions of this contract including the indemnity and insurance requirements to the extent

they apply to the scope of the Subcontractor's work. Consultant shall require all sub-contractors to provide a valid certificate of insurance and the required endorsements included in the Contract prior to commencement of any work and Consultant will provide proof of compliance, upon request, to the City.

- ii. Any Subcontractor hired by the Consultant agrees to be bound to the Consultant and the City in the same manner and to the same extent as Consultant is bound to the City under the Contract. Subcontractor further agrees to include the same requirements and provisions of this Contract, including the indemnity and insurance requirements, with any Subcontractor to the extent they apply to the scope of the Subcontractor's work. A copy of the contract indemnity and insurance provisions will be furnished to the Subcontractor upon request

12. NON-DISCRIMINATION

During the performance of this Agreement, Consultant will not discriminate against any employee of the Consultant or applicant for employment because of race, religion, creed, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation. Consultant will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, creed, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation.

13. LICENSES AND PERMITS

A. BUSINESS LICENSE

Before the City will issue a notice to proceed with the Services, to the extent the business license requirements of the Healdsburg Municipal Code apply, Consultant and any subcontractors subject to the requirements must acquire at their sole expense a business license from City in accordance with the Code. Such licenses must be kept valid throughout the Agreement term.

B. OTHER LICENSES AND PERMITS

Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice in their respective professions. Consultant expressly represents and warrants to City that Consultant and its employees, agents, and any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions.

14. OWNERSHIP OF WORK PRODUCTS AND TREATMENT OF DOCUMENTS

All plans, specifications, reports, designs and other documents prepared by Consultant pursuant to this Agreement shall be and remain the property of the City. Any modification or reuse of such documents by the City without Consultant's prior written consent will be at the City's sole risk. Except as may be otherwise required by law, Consultant will disclose no data, plans, specifications, reports or other documents pertaining to the Services without the prior written consent of the City.

15. ALTERNATIVE DISPUTE RESOLUTION

If any dispute arises between the parties that cannot be settled after engaging in good faith negotiations, City and Consultant agree to resolve the dispute in accordance with the following:

- A. Each party shall designate a senior management or executive level representative to negotiate any dispute.
- B. The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
- C. If the issue remains unresolved after ten (10) days of good faith negotiations, the parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
- D. The mediation process shall provide for the selection within 15 days of both parties of a disinterested third person as mediator, shall be commenced within 30 day, and shall be concluded within 15 days from the commencement of the mediation.
- E. The parties shall equally bear the costs of any third party in any alternative dispute resolution process.
- F. The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative remedy prior to either Party initiating legal action. This alternative dispute resolution process is not intended to, nor shall be construed to, change the time periods for filing claims or action specified by Government Code section 900, et seq.

16. TERMINATION AND REMEDIES

- A. City may terminate this Agreement for convenience by giving at least 10 days' written notice to Consultant specifying the termination effective date. Upon receipt of such notice, Consultant may continue performance of the Services through the date of termination. City shall pay Consultant for all Services actually performed in accordance with this Agreement through the termination effective date. City, however, may condition payment of such compensation upon Consultant delivering to City any and all documents provided to or prepared by Consultant, and any and all documents provided to or prepared by City for Consultant, in connection with this Agreement. Such material may consist of photographs, computer software, video and audio tapes and other materials.
- B. If Consultant materially breaches any term of this Agreement, in addition to any other remedies the City may have at law or equity, the City may:
 - 1. Terminate the Agreement by notice to the Consultant specifying the termination effective date;
 - 2. Retain, and/or recover from the Consultant at no additional cost to the City, the plans, specification, drawings, reports and other design documents and work products prepared by Consultant, whether or not completed;
 - 3. Complete the unfinished Services itself or have the unfinished Services completed, and/or;

- 4. Charge Consultant, or deduct from monies that may be due or become due the Consultant under this Agreement, the difference between the cost of completing the unfinished Services pursuant to this Agreement and the amount that would otherwise be due Consultant had Consultant completed the Services in accordance with this Agreement.

17. BINDING EFFECT AND ASSIGNMENT PROHIBITION

This Agreement is binding upon City, Consultant, and their successors. Except as otherwise provided herein, neither City nor Consultant may assign, sublet or transfer its interest in this Agreement or any part thereof without the prior written consent of the other, and any purported assignment without such consent will be void.

18. REPRESENTATIVES

A. City representative for purposes of this Agreement will be _____. Consultant representative for purposes of this Agreement will be _____. The parties' designated representative will be the primary contact person regarding the performance of the Services. The parties intend that their designated representatives will cooperate in all matters regarding this Agreement and in such a manner so as to achieve performance of the Services in a timely and expeditious fashion. Consultant shall not substitute or replace primary representative without approval of the City.

B. Notices:

Any written notice to Consultant shall be sent to:

Any written notice to City shall be sent to:

City of Healdsburg
401 Grove Street
Healdsburg, CA 95448

19. INTEGRATION AND AMENDMENT

This Agreement represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations or agreements, whether written or oral. If a discrepancy, disagreement, ambiguity, inconsistency or difference in interpretation of terms arises as to terms or provisions of this Agreement and any Exhibit(s) attached to this Agreement, this Agreement shall control and shall be deemed to reflect the intent of the Parties with respect to the subject matter hereof. This Agreement may only be amended by a writing signed by a representative authorized to bind the Consultant and a representative authorized to bind the City.

20. CONFLICT OF INTEREST PROHIBITION

City and Consultant will comply with the requirements of the City's Conflict of Interest Code adopted pursuant to the provisions of California Government Code Section 87300 and following, the Political Reform Act (California Government Code Section 81000 and following), the regulations promulgated by the Fair Political Practices Commission (Title 2, Section 18110 and following of the California Code of Regulations), California Government Code Section 1090 and following, and any other ethics laws applicable to the performance of the Services and/or this Agreement. Consultant may be required to file with the City Clerk a completed Form 700 before commencing performance of the Services unless the City Clerk determines that completion of a Form 700 is not required, pursuant to the City's Conflict of Interest Code. Form 700 forms are available from the City Clerk.

The Consultant may not perform Services for any other person or entity that, pursuant to any applicable law or regulation, would result in a conflict of interest or would otherwise be prohibited with respect to the Consultant's obligations pursuant to this Agreement. The Consultant agrees to cooperate fully with the City and to provide any necessary and appropriate information requested by the City or any authorized representative concerning potential conflicts of interest or prohibitions concerning the Consultant's obligations pursuant to this Agreement.

Consultant may not employ any City official, officer or employee in the performance of the Services, nor may any official, officer or employee of the City have any financial interest in this Agreement that would violate California Government Code Section 1090 and following. Consultant hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Consultant was an employee, agent, appointee, or official of the City in the previous twelve months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code Section 1090 and following, the entire Agreement is void and Consultant will not be entitled to any compensation for Consultant's performance of the Services, including reimbursement of expenses, and Consultant will be required to reimburse the City for any sums paid to the Consultant under this Agreement. Consultant understands that, in addition to the foregoing, penalties for violating Government Code Section 1090 may include criminal prosecution and disqualification from holding public office in the State of California.

Any violation by the Consultant of the requirements of this provision will constitute a material breach of this Agreement, and the City reserves all its rights and remedies at law and equity concerning any such violations.

21. APPLICABLE LAW AND VENUE

The laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and the interpretation of this Agreement. Any action or proceeding that is initiated or undertaken to enforce or interpret any provision, performance, obligation or covenant set forth in this Agreement shall be brought in a state court in Sonoma County.

22. RECOVERY OF ATTORNEY'S FEES

If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret any term of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

23. SEVERABILITY

If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged will remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

24. COUNTERPARTS

This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

City

CONSULTANT

By: _____

By: _____

David Mickaelian, City Manager

By: _____

Heather Ippoliti, Assistant City Manager/
Risk Manager

ATTEST:

By: _____

Maria Curiel, City Clerk

APPROVED AS TO FORM:

By: _____

Samantha Zutler, City Attorney

Exhibits: Exhibit A – Consultant’s Proposal