

**CITY OF SANTA ROSA  
PROFESSIONAL SERVICES AGREEMENT  
WITH GEO ELEMENTS, LLC  
AGREEMENT NUMBER \_\_\_\_\_**

This "Agreement" is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between the City of Santa Rosa, a municipal corporation ("City"), and Geo Elements, LLC, a Utah Limited Liability Company ("Contractor").

**RECITALS**

- A. City desires to develop a Wildfire Annex to the existing Local Hazard Mitigation Plan and create a Community Wildfire Protection Plan in compliance with the Healthy Forests Restoration Act.
- B. City desires to retain a responsible and qualified firm to conduct the services described above in accordance with the Scope of Services as more particularly set forth in Exhibit A to this Agreement.
- C. Contractor represents to City that it is a responsible firm composed of highly trained professionals with the ability and skills necessary to successfully perform the services hereunder under the terms and conditions of this Agreement.
- D. The parties have negotiated upon the terms pursuant to which Contractor will provide such services and have reduced such terms to writing.

**AGREEMENT**

**NOW, THEREFORE,** City and Contractor agree as follows:

**1. SCOPE OF SERVICES**

Contractor shall provide to City the services described in Exhibit A ("Scope of Services"). Contractor shall provide these services at the time, place, and in the manner specified in Exhibit A. Exhibit A is attached hereto for the purpose of defining the manner and scope of services to be provided by Contractor and is not intended to, and shall not be construed so as to, modify or expand the terms, conditions or provisions contained in this Agreement. In the event of any conflict between this Agreement and any terms or conditions of any document prepared or provided by Contractor and made a part of this Agreement, including without limitation any document relating to the scope of services or payment therefor, the terms of this Agreement shall control and prevail.

**2. COMPENSATION**

a. City shall pay Contractor for services rendered pursuant to this Agreement at the rates, times and in the manner set forth in Exhibit B. Contractor shall submit monthly statements to City which shall itemize the services performed as of the date of the statement and set forth a progress report, including work accomplished during the period, percent of each task completed, and planned effort for the next period. Invoices shall identify personnel who have worked on the services provided, the number of hours each worked during the period covered by the invoice, the hourly rate for each person, and the percent of the total project completed, consistent with the rates and amounts shown in Exhibit B.

b. The payments prescribed herein shall constitute all compensation to Contractor for all costs of services, including, but not limited to, direct costs of labor of employees engaged by

Contractor, travel expenses, telephone charges, copying and reproduction, computer time, and any and all other costs, expenses and charges of Contractor, its agents and employees. In no event shall City be obligated to pay late fees or interest, whether or not such requirements are contained in Contractor's invoice.

c. Notwithstanding any other provision in this Agreement to the contrary, the total maximum compensation to be paid for the satisfactory accomplishment and completion of all services to be performed hereunder shall in no event exceed the sum of one hundred forty thousand dollars and no cents (\$140,000). The City's Chief Financial Officer is authorized to pay all proper claims from Charge Number 05100.

### **3. DOCUMENTATION; RETENTION OF MATERIALS; ACCESS TO RECORDS**

a. Contractor shall maintain adequate documentation to substantiate all charges as required under Section 2 of this Agreement.

b. Contractor shall keep and maintain full and complete documentation and accounting records concerning all extra or special services performed by it that are compensable by other than an hourly or flat rate.

c. Contractor shall maintain the records and any and all other records pertinent to this Agreement for a period of four (4) years after completion of all services hereunder.

d. Contractor agrees to provide City, the State of California, the Federal Emergency Management Agency ("FEMA") Administrator, the Comptroller General of the United States, and any or all of their authorized representatives, access to any books, documents, papers, and records of Contractor which are pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.

e. Contractor agrees to permit all or any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

f. Contractor agrees to provide the FEMA Administrator or his authorized representatives access to work sites pertaining to the services being performed under this Agreement.

### **4. INDEMNITY**

a. Contractor shall, to the fullest extent permitted by law, indemnify, protect, defend and hold harmless City, and its employees, officials and agents ("Indemnified Parties") from all claims, demands, costs or liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, interest, defense costs, and expert witness fees), that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Contractor, its officers, employees, or agents, in said performance of professional services under this Agreement, excepting only liability arising from the sole negligence, active negligence or intentional misconduct of City.

b. The existence or acceptance by City of any of the insurance policies or coverages described in this Agreement shall not affect or limit any of City's rights under this Section 4, nor shall the limits of such insurance limit the liability of Contractor hereunder. This Section 4 shall not apply to any intellectual property claims, actions, lawsuits or other proceedings subject to the provisions of Section 18(b), below. The provisions of this Section 4 shall survive any expiration or termination of this Agreement.

## 5. INSURANCE

a. Contractor shall maintain in full force and effect all of the insurance coverage described in, and in accordance with, Attachment One, "Insurance Requirements." Maintenance of the insurance coverage set forth in Attachment One is a material element of this Agreement and a material part of the consideration provided by Contractor in exchange for City's agreement to make the payments prescribed hereunder. Failure by Contractor to (i) maintain or renew coverage, (ii) provide City notice of any changes, modifications, or reductions in coverage, or (iii) provide evidence of renewal, may be treated by City as a material breach of this Agreement by Contractor, whereupon City shall be entitled to all rights and remedies at law or in equity, including but not limited to immediate termination of this Agreement. Notwithstanding the foregoing, any failure by Contractor to maintain required insurance coverage shall not excuse or alleviate Contractor from any of its other duties or obligations under this Agreement. In the event Contractor, with approval of City pursuant to Section 6 below, retains or utilizes any subcontractors in the provision of any services to City under this Agreement, Contractor shall assure that any such subcontractor has first obtained, and shall maintain, all of the insurance coverages set forth in the Insurance Requirements in Attachment One.

b. Contractor agrees that any available insurance proceeds broader than or in excess of the coverages set forth in the Insurance Requirements in Attachment One shall be available to the additional insureds identified therein.

c. Contractor agrees that the insurance coverages and limits provided under this Agreement are the greater of: (i) the coverages and limits specified in Attachment One, or (ii) the broader coverages and maximum limits of coverage of any insurance policy or proceeds available to the name insureds.

## 6. ASSIGNMENT

Contractor shall not assign any rights or duties under this Agreement to a third party without the express prior written consent of City, in City's sole and absolute discretion. Contractor agrees that the City shall have the right to approve any and all subcontractors to be used by Contractor in the performance of this Agreement before Contractor contracts with or otherwise engages any such subcontractors.

## 7. NOTICES

Except as otherwise provided in this Agreement, any notice, submittal or communication required or permitted to be served on a party, shall be in writing and may be served by personal delivery to the person or the office of the person identified below. Service may also be made by mail, by placing first-class postage, and addressed as indicated below, and depositing in the United States mail to:

**City Representative:**

Scott Moon, Fire Marshal  
City of Santa Rosa Fire Department  
2373 Circadian Way  
Santa Rosa, CA 95407  
707-543-3543

**Consultant Representative:**

Carol Henson, Owner  
Geo Elements, LLC  
675 Juniper Way  
PO Box 461179  
Leeds, UT 84746  
805-895-2750

## **8. INDEPENDENT CONTRACTOR**

a. It is understood and agreed that Contractor (including Contractor's employees) is an independent contractor and that no relationship of employer-employee exists between the parties hereto for any purpose whatsoever. Neither Contractor nor Contractor's assigned personnel shall be entitled to any benefits payable to employees of City. City is not required to make any deductions or withholdings from the compensation payable to Contractor under the provisions of this Agreement, and Contractor shall be issued a Form 1099 for its services hereunder. As an independent contractor, Contractor hereby agrees to indemnify and hold City harmless from any and all claims that may be made against City based upon any contention by any of Contractor's employees or by any third party, including but not limited to any state or federal agency, that an employer-employee relationship or a substitute therefor exists for any purpose whatsoever by reason of this Agreement or by reason of the nature and/or performance of any services under this Agreement.

b. It is further understood and agreed by the parties hereto that Contractor, in the performance of Contractor's obligations hereunder, is subject to the control and direction of City as to the designation of tasks to be performed and the results to be accomplished under this Agreement, but not as to the means, methods, or sequence used by Contractor for accomplishing such results. To the extent that Contractor obtains permission to, and does, use City facilities, space, equipment or support services in the performance of this Agreement, this use shall be at the Contractor's sole discretion based on the Contractor's determination that such use will promote Contractor's efficiency and effectiveness. Except as may be specifically provided elsewhere in this Agreement, the City does not require that Contractor use City facilities, equipment or support services or work in City locations in the performance of this Agreement.

c. If, in the performance of this Agreement, any third persons are employed by Contractor, such persons shall be entirely and exclusively under the direction, supervision, and control of Contractor. Except as may be specifically provided elsewhere in this Agreement, all terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by Contractor. It is further understood and agreed that Contractor shall issue W-2 or 1099 Forms for income and employment tax purposes, for all of Contractor's assigned personnel and subcontractors.

d. The provisions of this Section 8 shall survive any expiration or termination of this Agreement. Nothing in this Agreement shall be construed to create an exclusive relationship between City and Contractor. Contractor may represent, perform services for, or be employed by such additional persons or companies as Contractor sees fit.

## **9. ADDITIONAL SERVICES**

Changes to the Scope of Services shall be by written amendment to this Agreement and shall be paid in accordance with the rates set forth in Exhibit B, or paid as otherwise agreed upon by the parties in writing prior to the provision of any such additional services.

## **10. SUCCESSORS AND ASSIGNS**

City and Contractor each binds itself, its partners, successors, legal representatives and assigns to the other party to this Agreement and to the partners, successors, legal representatives and assigns of such other party in respect of all promises and agreements contained herein.

## 11. TERM, SUSPENSION, TERMINATION FOR CONVENIENCE AND CAUSE

a. This Agreement shall become effective on the date that it is made, set forth on the first page of the Agreement, and shall continue in effect until both parties have fully performed their respective obligations under this Agreement, unless sooner terminated as provided herein.

b. City shall have the right at any time to temporarily suspend Contractor's performance hereunder, in whole or in part, by giving a written notice of suspension to Contractor. If City gives such notice of suspension, Contractor shall immediately suspend its activities under this Agreement, as specified in such notice.

c. City shall have the right to terminate this Agreement for convenience at any time upon written notice of termination to Contractor. Upon such termination, Contractor shall submit to City an itemized statement of services performed as of the date of termination in accordance with Section 2 of this Agreement. These services may include both completed work and work in progress at the time of termination. City shall pay Contractor for any services for which compensation is owed; provided, however, City shall not in any manner be liable for lost profits that might have been made by Contractor had the Agreement not been terminated or had Contractor completed the services required by this Agreement. Contractor shall promptly deliver to City all documents related to the performance of this Agreement in its possession or control. All such documents shall be the property of City without additional compensation to Contractor.

d. City shall have the right to terminate this Agreement for cause upon written notice to Contractor following an Event of Default. The following shall be "Events of Default" hereunder and the term "Event of Default" shall mean, whenever it is used herein, any one or more of the following events:

(i) The failure by Contractor to perform any obligation under this Agreement, which by its nature Contractor has no capacity to cure;

(ii) The failure by Contractor to perform any other obligation under this Agreement, if the failure has continued for a period of ten (10) days after the City demands in writing that Contractor cure the failure. If, however, by its nature the failure cannot be cured within ten (10) days, Contractor may have a longer period as is necessary to cure the failure, but this is conditioned upon Contractor's promptly commencing to cure within the ten (10) day period and thereafter diligently completing the cure. Contractor shall indemnify and defend the City against any liability, claim, damage, loss, or penalty that may be threatened or may in fact arise from that failure during the period the failure is uncured;

(iii) Any of the following: A general assignment by Contractor for the benefit of Contractor's creditors; any voluntary filing, petition, or application by Contractor under any law relating to insolvency or bankruptcy, whether for a declaration of bankruptcy, a reorganization, an arrangement, or otherwise;

(iv) The appointment of a trustee or receiver to take possession of all or substantially all of Contractor's assets; or the attachment, execution or other judicial seizure of all or substantially all of Contractor's assets or of Contractor's interest in this Agreement, unless the appointment or attachment, execution, or seizure is discharged within thirty (30) days; or the involuntary filing against Contractor, or any general partner of Contractor if Contractor is a partnership, or

(a) a petition to have Contractor, or any partner of Contractor if Contractor is a partnership, declared bankrupt, or

(b) a petition for reorganization or arrangement of Contractor under any law relating to insolvency or bankruptcy, unless, in the case of any involuntary filing, it is dismissed within sixty (60) days.

(v) Any representation or warranty related to this Agreement made by any agent of Contractor is determined to have been false or misleading in any material respect at the time made.

## **12. REMEDIES UPON DEFAULT**

This Section 12 shall apply in the event the amount payable under this Agreement exceeds the simplified acquisition threshold as determined pursuant to section 1908 of title 41 of the United States Code, or \$150,000, whichever amount is greater.

a. Remedies on Event of Default. Upon the occurrence of an Event of Default as defined in Section 11, City shall have the right upon written notice to Contractor, in addition to any other rights or remedies available to City at law or in equity, to:

(i) Terminate this Agreement and all rights of Contractor under this Agreement, (ii) Continue this Agreement without terminating the Agreement, or (iii) Temporarily suspend Contractor's performance hereunder, in whole or in part, and recover from Contractor the aggregate sum of;

(a) any amount necessary to compensate City for all the detriment caused by Contractor's failure to perform its obligations or that, in the ordinary course of things, would be likely to result from its failure; and

(b) all other amounts in addition to or in lieu of those previously set out as may be permitted from time to time by applicable California or Federal law.

b. None of the previous remedial actions, alone or in combination, shall be construed as an election by City to terminate this Agreement unless City has in fact given Contractor written notice that this Agreement is terminated or unless a court of competent jurisdiction decrees termination of this Agreement. If City takes any of the previous remedial actions without terminating this Agreement City may nevertheless at any later time terminate this Agreement by written notice to Contractor.

c. After the occurrence of an Event of Default, the City, in addition to or in lieu of exercising other remedies, may, but without any obligation to do so, cure the breach underlying the Event of Default for the account and at the expense of Contractor. However, City must by prior notice first allow Contractor a reasonable opportunity to cure, except in cases of emergency, where City may proceed without prior notice to Contractor. Contractor shall, upon demand, immediately reimburse City for all costs, including costs of settlements, defense, court costs, and attorneys' fees that City may incur in the course of any cure.

d. No security or guaranty for the performance of Contractor's obligations that City may now or later hold shall in any way constitute a bar or defense to any action initiated by City for enforcement of any obligation of Contractor or for the recovery of damages caused by an Event of Default.

e. Except where this is inconsistent with or contrary to any provisions of this Agreement, no right or remedy conferred upon or reserved to City is intended to be exclusive of any other right or remedy, or any right or remedy given or now or later existing at law or in equity or by statute. Except to the extent that City may have otherwise agreed in writing, no waiver by City of any violation or

nonperformance by Contractor of any obligations, agreements, or covenants under this Agreement shall be deemed to be a waiver of any subsequent violation or nonperformance of the same or any other covenant, agreement, or obligation, nor shall any forbearance by City to exercise a remedy for any violation or nonperformance by Contractor be deemed a waiver by City of the rights or remedies with respect to that violation or nonperformance.

f. Indemnification. The exercise of City of any one or more of the remedies set forth in this Section 12 shall not affect the rights of City or the obligations of Contractor under the indemnity provisions set forth in Section 4 hereof.

g. No Remedy Exclusive. No remedy herein conferred upon or reserved to City is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle City to exercise any remedy reserved to it in this subsection it shall not be necessary to give any notice, other than such notice as may be required in this Section or by law.

h. Notice of Default. Contractor agrees that, as soon as is practicable, and in any event within ten (10) days after such event, Contractor will furnish City notice of any event which is an Event of Default under this Agreement, or which with the giving of notice or the passage of time or both could constitute an Event of Default under this Agreement, which has occurred and is continuing on the date of such notice, which notice shall set forth the nature of such event and the action which Contractor proposes to take with respect thereto. Each subcontract shall include the provisions of this subsection (h) to require each subcontractor of Contractor to provide City notice of any Event of Subcontractor Default in the same manner as required hereunder of Contractor for an Event of Default.

### **13. TIME OF PERFORMANCE**

The services described herein shall be provided during the period, or in accordance with the schedule, set forth in Exhibit A. Contractor shall complete all the required services and tasks and complete and tender all deliverables to the reasonable satisfaction of City, not later than June 30, 2020.

### **14. STANDARD OF PERFORMANCE**

Contractor shall perform all services performed under this Agreement in the manner and according to the standards currently observed by a competent practitioner of Contractor's profession in California. All products of whatsoever nature that Contractor delivers to City shall be prepared in a professional manner and conform to the standards of quality normally observed by a person currently practicing in Contractor's profession, and shall be provided in accordance with any schedule of performance. Contractor shall assign only competent personnel to perform services under this Agreement. Contractor shall notify City in writing of any changes in Contractor's staff assigned to perform the services under this Agreement prior to any such performance. In the event that City, at any time, desires the removal of any person assigned by Contractor to perform services under this Agreement, because City, in its sole discretion, determines that such person is not performing in accordance with the standards required herein, Contractor shall remove such person immediately upon receiving notice from City of the desire of City for the removal of such person.

**15. CONFLICTS OF INTEREST**

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

**16. CONFLICT OF INTEREST REQUIREMENTS**

a. **Generally.** The City's Conflict of Interest Code requires that individuals who qualify as "consultants" under the Political Reform Act, California Government Code sections 87200 *et seq.*, comply with the conflict of interest provisions of the Political Reform Act and the City's Conflict of Interest Code, which generally prohibit individuals from making or participating in the making of decisions that will have a material financial effect on their economic interests. The term "consultant" generally includes individuals who make governmental decisions or who serve in a staff capacity.

b. **Conflict of Interest Statements.** The individual(s) who will provide services or perform work pursuant to this Agreement are "consultants" within the meaning of the Political Reform Act and the City's Conflict of Interest Code:

yes  no (check one)

If "yes" is checked by the City, Contractor shall cause the following to occur within 30 days after execution of this Agreement:

- (1) Identify the individuals who will provide services or perform work under this Agreement as "consultants;" and
- (2) Cause these individuals to file with the City Clerk the assuming office statements of economic interests required by the City's Conflict of Interest Code.

Thereafter, throughout the term of the Agreement, Contractor shall cause these individuals to file with the City Clerk annual statements of economic interests, and "leaving office" statements of economic interests, as required by the City's Conflict of Interest Code.

The above statements of economic interests are public records subject to public disclosure under the California Public Records Act. The City may withhold all or a portion of any payment due under this Agreement until all required statements are filed.

**17. CONFIDENTIALITY OF CITY INFORMATION**

During performance of this Agreement, Contractor may gain access to and use City information regarding inventions, machinery, products, prices, apparatus, costs, discounts, future plans, business affairs, governmental affairs, processes, trade secrets, technical matters, systems, facilities, customer lists, product design, copyright, data, and other vital information (hereafter collectively referred to as "City Information") that are valuable, special and unique assets of the City. Contractor agrees to protect all City Information and treat it as strictly confidential, and further agrees that Contractor shall not at any time, either directly or indirectly, divulge, disclose or communicate in any manner any City



Information to any third party without the prior written consent of City. In addition, Contractor shall comply with all City policies governing the use of the City network and technology systems. A violation by Contractor of this Section 17 shall be a material violation of this Agreement and shall justify legal and/or equitable relief.

## **18. CONTRACTOR INFORMATION**

a. City shall have full ownership and control, including ownership of any copyrights, of all information prepared, produced, or provided by Contractor pursuant to this Agreement. In this Agreement, the term "information" shall be construed to mean and include: any and all work product, submittals, reports, plans, specifications, and other deliverables consisting of documents, writings, handwritings, typewriting, printing, photostating, photographing, computer models, and any other computerized data and every other means of recording any form of information, communications, or representation, including letters, works, pictures, drawings, sounds, or symbols, or any combination thereof. Contractor shall not be responsible for any unauthorized modification or use of such information for other than its intended purpose by City.

b. Contractor shall fully defend, indemnify and hold harmless City, its officers and employees, and each and every one of them, from and against any and all claims, actions, lawsuits or other proceedings alleging that all or any part of the information prepared, produced, or provided by Contractor pursuant to this Agreement infringes upon any third party's trademark, trade name, copyright, patent or other intellectual property rights. City shall make reasonable efforts to notify Contractor not later than ten (10) days after City is served with any such claim, action, lawsuit or other proceeding, provided that City's failure to provide such notice within such time period shall not relieve Contractor of its obligations hereunder, which shall survive any termination or expiration of this Agreement.

c. All proprietary and other information received from Contractor by City, whether received in connection with Contractor's proposal, will be disclosed upon receipt of a request for disclosure, pursuant to the California Public Records Act; provided, however, that, if any information is set apart and clearly marked "trade secret" when it is provided to City, City shall give notice to Contractor of any request for the disclosure of such information. Contractor shall then have five (5) days from the date it receives such notice to enter into an agreement with the City, satisfactory to the City Attorney, providing for the defense of, and complete indemnification and reimbursement for all costs (including plaintiff's attorneys' fees) incurred by City in any legal action to compel the disclosure of such information under the California Public Records Act. Contractor shall have sole responsibility for defense of the actual "trade secret" designation of such information.

d. The parties understand and agree that any failure by Contractor to respond to the notice provided by City and/or to enter into an agreement with City, in accordance with the provisions of subsection c, above, shall constitute a complete waiver by Contractor of any rights regarding the information designated "trade secret" by Contractor, and such information shall be disclosed by City pursuant to applicable procedures required by the Public Records Act.

## **19. FEDERAL PROVISIONS**

Contractor shall comply with the provisions in Exhibit C to this Agreement. In the event of a conflict between any provision in Exhibit C and any other provision of this Agreement, the more stringent provision shall control and prevail.

## 20. GENERAL PROVISIONS

a. Entire Agreement. This Agreement contains the entire agreement between the parties. Any and all verbal or written agreements made prior to the date of this Agreement are superseded by this Agreement and shall have no further effect.

b. Modification. No modification or change to the terms of this Agreement will be binding on a party unless in writing and signed by an authorized representative of that party.

c. Compliance with Laws. Contractor shall perform all services described herein in compliance with all applicable federal, state and local laws, rules, regulations, and ordinances, including but not limited to, (i) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101, *et seq.*) ("ADA"), and any regulations and guidelines issued pursuant to the ADA; and (ii) Labor Code sections 1720, *et seq.*, which require prevailing wages (in accordance with DIR determinations at [www.dir.ca.gov](http://www.dir.ca.gov)) be paid to any employee performing work covered by Labor Code sections 1720 *et seq.* Contractor shall pay to City when due all business taxes payable by Contractor under the provisions of Chapter 6-04 of the Santa Rosa City Code. City may deduct any delinquent business taxes, and any penalties and interest added to the delinquent taxes, from its payments to Contractor.

d. Discrimination Prohibited. With respect to the provision of services under this Agreement, Contractor agrees not to discriminate against any person because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status of that person.

e. Governing Law; Venue. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of California and Federal law. Venue of any litigation arising out of or connected with this Agreement shall lie in the state trial court in Sonoma County in the State of California or the United States District Court, Northern District of California, and the parties consent to jurisdiction over their persons and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

f. Waiver of Rights. Neither City acceptance of, or payment for, any service or performed by Contractor, shall be construed as a waiver of any provision of this Agreement, nor as a waiver of any other default, breach or condition precedent or any other right hereunder.

g. Incorporation of Attachments and Exhibits. The attachments and exhibits to this Agreement are incorporated and made part of this Agreement, subject to terms and provisions herein contained.

## 21. AUTHORITY; SIGNATURES REQUIRED FOR CORPORATIONS

Contractor hereby represents and warrants to City that it is (a) a duly organized and validly existing limited liability company, formed and in good standing under the laws of the State of Utah, (b) has the power and authority and the legal right to conduct the business in which it is currently engaged, and (c) has all requisite power and authority and the legal right to consummate the transactions contemplated in this Agreement. Contractor hereby further represents and warrants that this Agreement has been duly authorized, and when executed by the signatory or signatories listed below, shall constitute a valid agreement binding on Contractor in accordance with the terms hereof.

If this Agreement is entered into by a corporation, it shall be signed by two corporate officers, one from each of the following two groups: a) the chairman of the board, president or any vice-president; b) the secretary, any assistant secretary, chief financial officer, or any assistant treasurer. The title of the corporate officer shall be listed under the signature.

Executed as of the day and year first above stated.

**CONTRACTOR:**

**CITY OF SANTA ROSA**  
a Municipal Corporation

Name of Firm: Geo Elements, LLC

TYPE OF BUSINESS ENTITY (*check one*):

- Individual/Sole Proprietor
- Partnership
- Corporation
- Limited Liability Company
- Other (please specify: \_\_\_\_\_)

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

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

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

*Signatures of Authorized Persons:*

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

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

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Office of the City Attorney

City of Santa Rosa Business Tax Cert. No.

\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Clerk

Attachments:

- Attachment One – Insurance Requirements
- Exhibit A – Scope of Services
- Exhibit B – Compensation
- Exhibit C – Federal Provisions

**ATTACHMENT ONE  
INSURANCE REQUIREMENTS FOR  
PROFESSIONAL SERVICES AGREEMENTS**

**A. Insurance Policies:** Contractor shall, at all times during the terms of this Agreement, maintain and keep in full force and effect, the following policies of insurance with minimum coverage as indicated below and issued by insurers with AM Best ratings of no less than A-:VI or otherwise acceptable to the City.

<b>Insurance</b>	<b>Minimum Coverage Limits</b>	<b>Additional Coverage Requirements</b>
1. Commercial general liability	\$ 1 million per occurrence \$ 2 million aggregate	Coverage must be at least as broad as ISO CG 00 01 and must include completed operations coverage. If insurance applies separately to a project/location, aggregate may be equal to per occurrence amount. Coverage may be met by a combination of primary and umbrella or excess insurance but umbrella and excess shall provide coverage at least as broad as specified for underlying coverage. Coverage shall not exclude subsidence.
2. Business auto coverage	\$ 1 million	ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$ 1 million per accident for bodily injury and property damage.
3. Professional liability (E&O)	\$ 1 million per claim \$ 2 million aggregate	Contractor shall provide on a policy form appropriate to profession. If on a claims made basis, Insurance must show coverage date prior to start of work and it must be maintained for three years after completion of work.
4. Workers' compensation and employer's liability	\$ 1 million	As required by the State of California, with Statutory Limits and Employer's Liability Insurance with limit of no less than \$ 1 million per accident for bodily injury or disease. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

**B. Endorsements:**

1. All policies shall provide or be endorsed to provide that coverage shall not be canceled, except after prior written notice has been provided to the City in accordance with the policy provisions.
2. Liability, umbrella and excess policies shall provide or be endorsed to provide the following:

- a. For any claims related to this project, Contractor's insurance coverage shall be primary and any insurance or self-insurance maintained by City shall be excess of the Contractor's insurance and shall not contribute with it; and,
  - b. **The City of Santa Rosa, its officers, agents, employees and volunteers are to be covered as additional insureds on the CGL policy.** General liability coverage can be provided in the form of an endorsement to Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used.
- C. Verification of Coverage and Certificates of Insurance:** Contractor shall furnish City with original certificates and endorsements effecting coverage required above. Certificates and endorsements shall make reference to policy numbers. All certificates and endorsements are to be received and approved by the City before work commences and must be in effect for the duration of the Agreement. The City reserves the right to require complete copies of all required policies and endorsements.
- D. Other Insurance Provisions:**
1. No policy required by this Agreement shall prohibit Contractor from waiving any right of recovery prior to loss. Contractor hereby waives such right with regard to the indemnitees.
  2. All insurance coverage amounts provided by Contractor and available or applicable to this Agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement limits the application of such insurance coverage. Defense costs must be paid in addition to coverage amounts.
  3. Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either Contractor or City. Self-insured retentions above \$10,000 must be approved by City. At City's option, Contractor may be required to provide financial guarantees.
  4. Sole Proprietors must provide a representation of their Workers' Compensation Insurance exempt status.
  5. City reserves the right to modify these insurance requirements while this Agreement is in effect, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.



## **EXHIBIT A - SCOPE OF SERVICES**

### **Phase 1 —Organize and Review Necessary Materials**

Geo Elements will review existing information and data from local, state, and federal sources deemed pertinent to the development of the CWPP. This review will include, but not limited to, the 2016 Sonoma County CWPP, 2004 Santa Rosa Wildland Urban Interface Hazard Fuel Risk Assessment, CAL FIRE Strategic Unit Plan, Santa Rosa's existing LHMP, 2017 Sonoma County Hazard Mitigation Plan, 2016 California Building and Fire Codes, City Municipal Codes, and other policies and ordinances that could influence the overall planning process. This review provides the foundation for understanding the existing environmental setting, current policies, and proposed activities that provide the sideboards for developing the CWPP.

Geo Elements' Fire Spatial Analyst will collect and review available geospatial digital data. A written request will be provided to the City's POC specifying data needs that may not be available from public sources. Data typically required includes project boundary, landownership, existing WUI boundary, open spaces, land uses/zoning, infrastructure, historical/archaeological sites (if available), existing and/or proposed fuel treatments, and sensitive natural resources.

Based on our review, Geo Elements will identify data gaps where information is required to support the development of the CWPP. An information/GIS data request will be developed and provided to the City's POC in an attempt to fill these gaps. In the event this data is not available, work on the CWPP will proceed using best available information.

An essential element in the success of a CWPP is the ability to provide a forum to engage stakeholders, including residents, community leaders, fire agencies and other local, state and federal cooperators during the initial phase of development. Outreach efforts to encourage public engagement will utilize existing contacts from the 2016 LHMP, Sonoma County CWPP, and City provided contacts. Outreach will specifically focus on areas directly affected by the 2017 wildfires. Geo Elements will produce content for use by the City for outreach to known and interested publics including times and locations of public workshops. Past electronic mailing lists used by the City, will ensure adequate distribution of an electronic version of the

workshop invitation. The City agrees to provide a facility and supporting materials associated with all public workshops.

The following actions will help assure that the planning processes meet the needs of the City and their constituents:

- **Steering Committee:** Geo Elements staff will work with the City's POC to develop a list of stakeholders willing to participate on a Steering Committee to assist our staff in understanding local issues and concerns regarding the development of the CWPP. With the support of the City, Geo Elements will assure that the members of the Steering Committee represent a cross-section of the community and points of view. The Steering Committee should be limited to seven individuals to assure meetings are purposeful and focused on addressing issues of public and fire safety in areas of the City where the hazard and risk assessment has identified wildfire as a potential concern.

Key stakeholders including members of the Santa Rosa City Fire Department, CAL FIRE, Fire Safe Sonoma, local home owner associations, State Parks, and Fire Protection Districts will be asked by the City and Geo Elements to participate as members of the Steering Committee. Our staff will facilitate three (3) meetings with the Committee during the life of the contract with the initial meeting focused on soliciting local knowledge to develop a list of issues and concerns regarding the City's wildfire situation. The two (2) remaining meetings will serve to review key milestones in the development of the CWPP and to assure that Geo Elements is fully addressing the concerns of Committee members.

- **Public Workshops:** Geo Elements, supported by the City's POC, will outreach to the public and stakeholder groups, including residents, utility companies, environmentalists, the business community, and land management agencies within the sphere of influence of the LHMP. Hosted by representatives of the City, Geo Elements staff will facilitate three (3) public meetings to provide a forum where information concerning the planning process and the hazard and risk assessments can be shared with the public, while also giving stakeholders an opportunity to provide their input into the planning process.

## **Phase 2 – Identify Hazards and Update Risk Assessment**

Geo Elements staff will address this phase of the project in three steps: hazard assessment, risk assessment, and hazard severity scenarios. Specifically, the following methodology will be applied:

1. Hazard Assessment – Through an analysis of historic weather records, 97<sup>th</sup> percentile weather thresholds will be determined and used as inputs into all wildfire hazard modeling. Fire Family Plus, a fire weather/fire danger analysis tool, will be used to correlate large fires (500 acres and greater) with specific weather/winds conditions to determine if specific weather conditions are associated with the development of large wildfires within and adjacent to the planning area. For example, historically the most destructive fires in the region have been associated with autumn east wind events, so a scenario associated with an autumn east wind event will be explored.

Using FlamMap as the principle wildfire modeling tool, hazard rating categories will be developed based on a combination of fireline intensity (magnitude of potential intensity) as measured by flame length and crown fire potential. This hazard rating will be applied spatially at a 30 x 30-meter scale.

Additional elements of the hazard assessment phase will include:

- An Ember Exposure Analysis utilizing FlamMap's maximum spotting distance output and GIS algorithms to map the intensity of the number of possible ember sources that can provide an ember to an individual pixel. Geo Elements' proprietary methodology allows for the development of a relative rating scale where each 30 x 30-meter pixel within the analysis area can be compared with other pixels to assign a rating of high to low potential ember exposure.
- The Speed of Onset will be determined by modelled rates of spread of a wildland fire derived from FlamMap. Major fire flow paths will be mapped based on ignition points developed in conjunction with members of the Steering Committee. Up to five (5) points will be part of this flow path analysis that will show the major travel paths of wildfire under defined weather conditions.



- A Wildfire Defensibility Analysis will be performed at a planning area scale using Geo Elements' proprietary equation that combines wildfire hazard and fire line production rates to produce a relative *Defensibility Scale* for locations within the planning area. This protocol for defensibility uses elements of the Western Governors Association West Wide Risk Assessment and was first used by Geo Elements in the Montecito Community Wildfire Protection Plan. The Defensibility Analysis will support the RFP required vulnerability assessment of critical facilities.
  - A Defensible Space / Safe Separation Distance Analysis will be provided to enhance the Wildfire Defensibility Analysis. Safe Separation Distance is based on the wildland fire safety zone work conducted by Dr. Brett Butler of the Missoula Fire Lab. Geo Elements builds on this concept by defining home defensible space as safe space for fire suppression personnel. Using existing Sonoma County LIDAR data, we will determine where within the planning area insufficient separation of wildland vegetation and values exist for firefighters to safely engage in fire suppression operations. This is a key public safety element for first responders and will highlight where additional fire mitigation actions can be prioritized.
  - As historic conditions may not reflect the worst-case scenario for extreme fire weather under climate change, Geo Elements will analyze climate change projections for the planning area and contextualize hazard and risk assessment outcomes based on these projections. The multi-model ensemble mean (MEM) outputs of 21 climate models will be assessed, and changes in fire danger index climatologies for climatological summer, autumn, spring, and winter will be summarized. Geo Elements will analyze the RCP 8.5 ('business as usual') scenario for the mid-21st century period (2030-2060), as it has historically been the most aligned with observed emissions, and describes how projected climate change will alter fuels, ignition probabilities, drought potential, and fire behavior based on changes in temperature and precipitation patterns and extremes.
2. Risk Assessment – The Fire Simulation Probability Model (FSPro) will be used to evaluate where on the landscape the greatest risk of wildland fire is located. Five (5) simulations based on varying weather scenarios or ignition locations will

be used to develop overlapping fire probability layers. Outputs from FSPro will be consolidated in GIS to determine the number of overlapping fire probability bands, with relative risk ratings assigned based on the number of overlaps and the probability of each overlapping band. Each simulation in FSPro analyses uses 512 fire runs, with Geo Elements' proposed risk assessment evaluating fire probability on the landscape based on over 2,500 simulated fires.

Fuel data used in the Risk Assessment will be those that existed prior to the 2017 Tubbs and Nuns fires. Use of the pre- fire fuel layer will allow the City to anticipate how fire will react as vegetation regenerates and could assist land use/build out decisions based on future vegetation conditions.

The Risk Assessment process will also involve the use high resolution satellite imagery to identify wildland fuel enclaves (open space, riparian areas, green belt) within the planning area. These enclaves represent smaller areas where wildfires of limited spatial extent could be expected to impact a number of values at risk. The analysis of wildland enclaves will feed into the refinement of the current WUI map.

Additionally, Geo Elements will determine areas of high wildfire ignition probability based on historic wildland fire ignitions and large fire perimeters. Ignition clusters will be used to identify locations where additional fire prevention actions may be appropriate. This ignition pattern analysis will be combined with the burn frequency analysis using GIS to identify locations and values at risk (life safety, structures, infrastructure, sensitive habitat, historic and cultural resources) within the planning area at the greatest threat from wildfires.

3. Wildfire Severity Scenario – Up to five (5) separate wildfire simulations will be run to derive potential loss estimates from wildland fires for the Planning Area. FARSITE, a geospatial fire spread model, will be used to simulate fire spread from specific ignition locations developed by Geo Elements staff in combination with the Steering Committee. Generally, these ignition points are based on a spatial analysis of historic wildfire ignitions, which can show clusters of ignitions and potential opportunities to improve wildfire prevention activities. Parcel/tax data and infrastructure data will be analyzed in GIS for each wildfire simulation to determine potential impacts of wildfire on the community, including both

projected home loss and damage estimates, and critical infrastructure damage estimates.

Additionally, FSPro will be used to evaluate the spatial extent of a wildfire burning under specific environmental conditions. Estimated losses can be determined directly from FSPro for each of the probability bands generated by the analysis.

Our staff will utilize data from recent wildfire incidents to validate model outputs against real world conditions and create map products for each assessment. This phase of the CWPP is critical to the development of mitigation actions that enhance the resilience of the City to the impacts of wildfire.

### **Phase 3 – Develop/Implement a Public Strategy**

The HFRA requires all CWPPs to be collaboratively developed by local and state government in consultation with federal agencies and other interested parties. Geo Elements will ensure that the CWPP will meet or exceed the requirement of the HFRA for collaboration by establishing an aggressive public engagement strategy.

Geo Elements has led successful public outreach efforts for CWPPs previously at both the city and county level. Our previous successes include work in CA with the cities of Goleta, La Verne, and Dunsmuir and the Montecito Fire Protection District, portions of the Santa Monica Mountain National Recreation Area, and a portion of Santa Barbara County. Additionally, we led successful public outreach efforts for CWPPs in Sevier County in UT.

Santa Rosa has existing local outreach mechanisms that Geo Elements will leverage to support public engagement during the development of this plan. Processes that were deemed effective by the City in previous outreach efforts will be utilized again, as new efforts, including the use of social media and the City's website will be used to share information, provide community updates and address concerns of stakeholders and the general public.

Our staff will develop surveys within the community using a survey service, such as SurveyMonkey®, to determine knowledge and interest of identified publics. Survey questions will focus on the impacts to the community of the 2017 fires and their vision of how to create a more fire resilient community. Special efforts will be made to engage residents that were displaced by the Tubbs fire as they may be dispersed

throughout the region but may still desire to have input into this planning process. Survey questions will focus on wildfire topics and may include:

- Lower housing density for new development in wildland areas
- Support for full enforcement of WUI building codes
- Limiting development in high fire hazard areas
- Requiring large buffers adjacent to dense housing near wildlands
- Stricter landscape requirements
- Evacuation planning needs
- Early warning system
- Post fire rebuilding issues
- Changes to existing WUI building codes
- Community priorities and importance of wildfire mitigation versus other community services such as open space, habitat, and community character.

As discussed in Phase 1, Geo Elements will host, in conjunction with the City, two (2) public workshops to provide a forum for interested parties to engage with the City, the Steering Committee, and our staff. A third final public workshop will be scheduled to present the final CWPP. In preparation for these meetings and workshops, our staff will develop PowerPoint presentations that include wildfire assessments and map products, survey findings, issues, objectives, and desired outcomes for use at the meetings and web posting. All public input from these workshops will be documented and available as appendices in the final CWPP.

Geo Elements will work with the City's POC to develop content for press releases, public notices, website updates (including video public service announcements) as well as social media (e.g., Twitter, Facebook) to engage public input. Attempts will be made to outreach to those residents that were displaced by the 2017 fires.

Status updates for the planning process will be hosted the City's website. Information from the risk and hazard assessment, survey data, notes from public meetings and other information considered valuable to share with the local community can be posted to this site. The City will be responsible for updates to the site, with Geo Elements providing content.

Given the potential sensitivity of sharing information in a public forum, and to assure that the City continues to be viewed in a positive light by their constituents, Geo

Elements staff will work with the City's POC to gain approval prior to distributing any information in either hardcopy or digital format.

#### **Phase 4 – Update Goals, Objectives and identify Capabilities**

Once Phase 2 of this project is complete, Geo Elements staff will use the outcome from our analyses to assist the City in developing actions and mitigations that identify key elements and proactive steps to mitigate the threat of wildfire and to address the Core Capabilities of FEMA's National Preparedness Goal and meet the requirements of the HFRA for a CWPP.

Actions and mitigations in the form of an *Action Plan* will address:

- Community Preparedness
  - Existing emergency preparedness programs
  - Emergency notification systems
  - Community education
  - Other local programs
- Protection of Values at Risk from Wildfire, including
  - Life safety
  - Reduce structure ignitability
  - Natural and cultural resources
- Fuels mitigation strategy
  - Fuel treatment activities
  - Existing fuel treatment activities
  - Roadside fuel treatments
  - Vegetation management units
  - Fuel treatment maintenance and monitoring
  - Vacant parcels
  - Open space and park lands
- Evacuation
  - During a wildfire event
  - Potential evacuation routes
  - Potential evacuation issues
- Suppression resource capability
  - Mutual-aid resource and plans
  - Pre-fire plans

- Community development in WUI
  - Loss estimates for residential, commercial, and industrial buildings
  - Identification of vulnerable critical infrastructure
  - Density of structures
  - WUI building code requirements
  - WUI landscaping requirements
  - Fire suppression water capabilities
  - Access requirements/issues/challenges

Information gathered in Phase 3 will be used to develop goals, objectives and actions based on our analyses in Phase 2 and results of public engagement. Additionally, Geo Elements staff will evaluate the Santa Rosa and Sonoma County LHMP priorities and actions, and where appropriate, include them in the development of the CWPP's goals, objectives and actions. Once drafted, goals, objectives and actions will be presented to the Steering Committee and key stakeholders.

Our staff will work with the Steering Committee and key stakeholders identified in Phase 1 throughout the development of the *Action Plan* to ensure that it addresses FEMA's Core Capabilities required in an LHMP and meets the requirements of the HFRA for a CWPP. Upon approval, Geo Elements will develop a table that aligns FEMA's core capabilities for each goal, objective, or action.

### **Phase 5 — Develop and Plan for Monitoring, Evaluating and Updating the Plan**

Monitoring is a critical element in determining the success of a mitigation strategy and in evaluating where weakness in a strategy exist. According to FEMA, Local Mitigation Plans must be updated at least once every five years in order to continue to be eligible for FEMA hazard mitigation project grant funding (44 CFR §201.6(d)(3)). However, the City should consider updates to the CWPP whenever there is a significant change to the physical environment or policies which directly affect the hazard and risks identified in this plan.

As part of the monitoring requirements of this CWPP, Geo Elements will develop a monitoring program that tracks the progress of mitigation activities defined in the *Action Plan* of this CWPP. Since all mitigation activities are not known at this time,

the monitoring plan envisioned, which will evolve during the course of the contract, will focus on actions that:

- Reduce the risk of wildfire ignition (hardening of the electrical grid, increased fire patrol, enhanced Red Flag Weather program, ground application of fire retardant)
- Reduce spread potential in both wildlands and urban development (hazardous fuel reduction, vegetation clearance, community development standards)
- Increase suppression capability (improve/maintain access, improve water availability, enhancement of pre-attack planning, developing Safe Separation Distances)
- Reduce damage to infrastructure (code compliance, structure hardening, and defensible space development).
- Improve public safety (improved notification systems, evacuation planning, development of points of safe refuge)

In conjunction with the Steering Committee, monitoring tasks will be assigned to accountable departments of the City with defined reporting standards for each element. With the support of the City Council, departments can prepare an annual report that addresses progress on *Action Plan* activities within their area of organizational authority.

In order to assure continued public engagement in this CWPP process, Geo Element will work with the City's POC to establish a permanent Steering Committee to serve as the point of contact for disseminating information to their principle stakeholders. While individuals may rotate off and on the Steering Committee, by establishing a permanent working group the City assures that corporate knowledge regarding community wildfire protection planning and hazard mitigation is maintained.

While the Steering Committee provides linkage to their primary constituents, the City will need to assure that the public at large remains engaged in the mitigation efforts undertaken as part of this CWPP. To satisfy this need, Geo Elements will work with the City's POC to develop a format for releasing information to the community. The proposed structure of these public information releases will be based on a format used by the federal wildland fire agencies as part of the HFRA. These "Success Stories" should, where feasible, address actions taken by

community members in order to provide recognition for their efforts. However, the information releases should also report out broader scale actions taken or funded by the City to address larger mitigation efforts. An example of the community linkage format is found at: [www.nps.gov/orgs/1965/success-stories.htm](http://www.nps.gov/orgs/1965/success-stories.htm).

### ***Deliverables***

Geo Elements will provide two rounds of edits including one for the draft CWPP and one to finalize the CWPP. In order to assure the project remains on schedule, a maximum of a three (3) weeks is suggested for document review. Pertinent comments by the Steering Committee and stakeholders will be incorporated into the draft and the final CWPP during the course of the planning process.

It is essential that the City's POC serve as a collection point for comments during the life of this contract. The POC should speak for the entirety of the City of Santa Rosa and the Steering Committee and will assure that comments from interested stakeholder are captured and non-contradictory.

Geo Elements' Project Manager will share a secure project management website with the City's POC. Data on the secure website may include maps, graphics, figures, photos, drafts, reference materials, meeting notes, and spatial data. Ownership of the data (written and/or digital) will be transferred to Santa City Fire Department at completion of the contract.

The ultimate deliverable will include the final digital CWPP in Microsoft Word and Adobe Portable Document Format (PDF), map products, and all geospatial data and ASCII text files with metadata available for download through secure storage. ASCII files developed during fire behavior modeling and weather analysis will be compatible for use in current versions of FARSITE, FlamMap, Fire Family Plus, and/or other publicly available fire and weather modeling software. All spatial data, cartography, and map products will be compatible with the current version of ESRI ArcGIS and will be compliant with Federal Geographic Data Committee metadata standards.



## PROPOSED SCHEDULE

The following table identifies a twelve (12) month work plan for the scope of work for Geo Elements staff. Specific dates are dependent on the contract award date and timely responses during the CWPP review period. Assuming that the contract award date and reviews are timely, the final reviewable LHMP Wildfire Annex/CWPP will be submitted to the City of Santa Rosa's POC no later than March 12, 2020. Depending on the actual award date, the following table identifies the timeline in months.

Phase	Description	Timeframe (months)											
		1	2	3	4	5	6	7	8	9	10	11	12
1	Organize and Review Necessary Materials	█	█	█									
2	Identify Hazards and Update Risk Assessment		█	█	█	█							
3	Develop/Implement Public Involvement Strategy			█	█	█	█	█	█	█			
4	Update Goals, Objectives, and Identify Capabilities												
5	Develop and Plan for Monitoring, Evaluating and Updating Plan									█	█	█	█



## EXHIBIT B - COMPENSATION

The total cost for this project including salary, travel, printing, clerical, and support services outlined in our proposal will not exceed one hundred forty thousand dollars (\$140,000). Travel and supplies required to support the development of the CWPP are included but will be billed as separate line items.

The following are our hourly billing rates for this project:

Staff Member	Billable Rate/ Hour	Expected Hours of Work/Week
Carol Henson	\$ 125	5 - 25
David Kerr	\$ 100	5 - 25
Dr. Crystal Kolden	\$ 100	1 - 10
Sid Beckman	\$ 100	1 - 10
Ann Marx	\$ 100	1 - 10
Chris Clervi	\$ 100	1 - 10

## Exhibit C

### FEDERAL PROVISIONS

#### A. Definitions

1. Government means the United States of America and any executive department or agency thereof.
2. FEMA means the Federal Emergency Management Agency.
3. Third Party Subcontract means a subcontract at any tier entered into by Contractor or subcontractor, financed in whole or in part with Federal assistance originally derived from the Federal Emergency Management Agency.

#### B. Federal Changes

1. Contractor shall at all times comply with all applicable regulations, policies, procedures, and FEMA Directives as they may be amended or promulgated from time to time during the term of this Agreement, included but not limited to those requirements of 2 C.F.R. §§ 200.317 through 200.326 and more fully set forth in Appendix II to Part 200 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, which is included herein by this reference. Contractor's failure to so comply shall constitute a material breach of this Agreement.
2. Contractor agrees to include the above clause in each third-party subcontract financed in whole or in part with Federal assistance provided by FEMA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

#### C. Compliance with the Contract Work Hours and Safety Standards Act.

Pursuant to section 3701 of title 40 of the United States Code, this Section C shall apply to Contractor in the event the amount payable under this Agreement exceeds \$100,000 and may involve the employment of mechanics or laborers.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District

or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

3. Withholding for unpaid wages and liquidated damages. City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
4. Subcontracts. Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

#### **D. Clean Air Act and Federal Water Pollution Control Act**

This Section D shall apply in the event the amount payable under this Agreement exceeds \$150,000.

##### Clean Air Act

1. Contractor agrees to comply with all applicable standards, orders and regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.*
2. Contractor agrees to report each violation to City and understands and agrees that City will, in turn, report each violation as required to assure notification to the State of California, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

##### Federal Water Pollution Control Act

1. Contractor agrees to comply with all applicable standards, orders and regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 *et seq.*
2. Contractor agrees to report each violation to City and understands and agrees that

City will, in turn, report each violation as required to assure notification to the State of California, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

3. Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

#### **E. Suspension and Debarment**

1. This Agreement is a covered transaction for purposes of title 2 Code of Federal Regulations parts 180 and 3000. As such, Contractor is required to verify that none of Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
2. Contractor represents and warrants that it is not debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549 "Debarment and Suspension." Contractor agrees that neither Contractor nor any of its third-party subcontractors shall enter into any third-party subcontracts for any of the work under this Agreement with a third-party subcontractor that is debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs under executive Order 12549.
3. Contractor must comply with title 2 Code of Federal Regulations, part 180, subpart C and title 2 Code of Federal Regulations, part 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
4. This certification is a material representation of fact relied upon by City. If it is later determined that Contractor did not comply with title 2 Code of Federal Regulations, part 180, subpart C or title 2 Code of Federal Regulations, part 3000, subpart C, in addition to remedies available to the State of California and the City of Santa Rosa, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

#### **F. Procurement of Recovered Materials**

1. In the performance of this Agreement, Contractor shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired—
  - a. Competitively within a timeframe providing for compliance with the Agreement performance schedule;
  - b. Meeting Agreement performance requirements; or
  - c. At a reasonable price.
2. Information about this requirement, along with the list of EPA- designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

## **G. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)**

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by section 1352 of title 31 of the United States Code. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

## **H. MBE/WBE REQUIREMENTS**

1. Contractor shall take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible through the "Good Faith Effort" process in 2 C.F.R. § 200.321. Contractor shall document and report its Good Faith Effort processes. Contractor ~~shall also ensure that all of its subcontractors take the affirmative steps required~~ under 2 C.F.R. § 200.321. Affirmative steps must include:
  - a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  - b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
  - c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
  - d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
  - e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
  - f. Requiring all subcontractors to take the affirmative steps listed in paragraphs (a) through (e) above.

## **I. MISCELLANEOUS PROVISIONS**

1. DHS Seal. Contractor shall not use the Department of Homeland Security ("DHS") seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre- approval.

2. FEMA Assistance. Contractor acknowledges that FEMA financial assistance will be used to fund this Agreement only. Contractor shall comply with all applicable federal laws, regulations, executive orders, FEMA policies, procedures, and directives.
2. Federal Government Not Party. The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to City, Contractor, or any other party pertaining to any matter resulting from this Agreement.
3. False Claims. Contractor acknowledges that Title 31 United States Code Chapter 38 (Administrative Remedies for False Claims and Statements) applies to Contractor's actions pertaining to this Agreement.