



PUBLIC ACCESS ON DISTRICT-PROTECTED LANDS REQUEST FOR PROPOSALS (RFP)

A. Project Background and Description

The Sonoma County Agricultural Preservation and Open Space District (“District”) is seeking proposals from experienced and qualified organizations (“Consultant”) to provide access services to the public for the District. These services are anticipated to be required from approximately September 1, 2009 to June 30, 2010.

The District is a dependent special district, governed by the Sonoma County Board of Supervisors acting as the District’s board of directors, and is responsible for the permanent preservation of the diverse agricultural, natural resource, and open space lands in Sonoma County, California. The District boundaries are the same as the boundaries of Sonoma County. An independent Open Space Authority monitors all sales tax expenditures and a Citizen’s Advisory Committee advises the Board and staff on policy matters and proposed land protection efforts.

In 1990, county voters approved the creation of the District to preserve agricultural and open space lands throughout the county. With funds generated from a voter-approved quarter-cent sales tax, the District has permanently preserved over 75,000 acres through conservation easements and outright purchase of land.

The District’s mission includes acquisition of land to provide recreational and educational opportunities for Sonoma County residents and visitors. **Attachment C** illustrates District-protected lands according to categories identified in its acquisition plan, Connecting Communities and the Land.

Historically, the District has contracted with organizations to provide public outings on private lands protected through conservation easements and recreational properties not yet open to the public.

The purposes of the public outings are to:

- Increase public awareness of the District’s mission and accomplishments within the following categories, (1) farms and ranches, (2) greenbelts and hillsides, (3) water, wildlife, and natural areas, and (4) recreation and education.
- Provide access to county residents and visitors to lands owned, managed, and/or protected by the District, and that ensures both the safety of the participant and the protection of the natural resources on that property.
- Connect residents and visitors to the land to develop an appreciation for conservation of the land and its natural resources.

- Develop a public access program that provides an enjoyable, safe, and positive experience for people to experience the beauty, appreciate the value, and assist in the stewardship of protected land in their community.

B. Statement of Requirements - Services Required of a Successful Consultant

The successful Consultant will develop and implement, at the direction of the District's Community Relations and Stewardship Program Managers, or their designees, a public outings program based on an approved quarterly plan that includes, but is not limited to, the following:

1. Identify, evaluate, and prioritize public access and public outreach opportunities for the District as it pertains to the various properties it protects, by geographic location and potential reach.
2. In consultation with the Community Relations Manager, develop and implement an effective outreach plan that considers and allows for a diverse participant base. Diversity applies to geographic location, user groups, and demography.
3. Develop tools for measuring the success of the program and report findings quarterly to the District.
4. Complete, in a timely fashion, all forms, reports, and invoicing as required; provide timely telephone or e-mail updates with designated staff; provide status reports during the quarter; and attend meetings with District personnel as reasonably requested.
5. A variety of public access models that result in an enjoyable, safe, and positive experience for people to appreciate the value and beauty, and assist in the stewardship of the protected land in their community.
6. A program that includes activities on a variety of lands protected by the District, which includes conservation easements and "fee" lands held for recreational purposes.

C. Proposal Submittal

1. Form: Consultants must submit one (1) electronic copy, one (1) signed original, and four (4) copies of the signed proposal by **5 p.m., Friday, July 17, 2009**. Proposals must be enclosed in a sealed envelope or package and clearly marked "**RFP for Public Outings Program.**" Proposals shall be submitted to:

Peggy Flynn, Community Relations Manager
 Sonoma County Agricultural Preservation and Open Space District
 747 Mendocino Avenue, Suite 100, Santa Rosa, CA 95401

2. Due Date: Proposals must be received no later than **5 p.m., Friday, July 17, 2009**. The proposal due date is subject to change. If the proposal due date is changed, all known recipients of the original RFP will be notified of the new date.

3. General Instructions: To receive consideration, proposals shall be made in accordance with the following general instructions:

- a) The signature of all persons signing the proposal shall be in long hand. The completed proposal shall be without alterations or erasures.
- b) No oral or telephonic proposals will be considered.
- c) The submission of a proposal shall be an indication that the consultant has investigated and satisfied himself/herself as to the conditions to be encountered, the character, quality and scope of the work to be performed, and the requirements of the County, including all terms and conditions contained within this RFP.

4. Proposal Format and Contents: For ease of review and to facilitate evaluation, the proposals for this project should be organized and presented in the order requested as follows:

a) **Signed Proposal Cover Sheet**: Please complete and submit Attachment B.

b) **Section I - Organizational Information**:

Provide specific information concerning the firm in this section, including the legal name, address and telephone number of your company and the type of entity (sole proprietorship, partnership, or corporation and whether public or private). Include the name and telephone number of the person(s) in your company authorized to execute the proposed contract. If two or more firms are involved in a joint venture or association, the proposal must clearly delineate the respective areas of authority and responsibility of each party. All parties signing the Agreement with the District must be individually liable for the completion of the entire project even when the areas of responsibility under the terms of the joint venture or association are limited.

c) **Section II - Qualifications and Experience**:

Provide specific information in this section concerning the firm's experience in the services specified in this RFP, preferably locally, and within the State of California. Examples of completed projects, as current as possible, should be submitted, as appropriate. **References are required.** Please provide names, addresses, and telephone numbers of contact persons within three (3) client agencies for whom similar services have been provided.

d) **Section III - Project Approach and Work Schedule**:

Provide a description of the methodology developed to perform all required services, with an aggressive schedule that will complete the project before June 30, 2010. This schedule should contain specific milestones and dates of completion. Also identify the extent of District personnel involvement deemed necessary, including key decision points at each stage of the project. Information as to the type of any

software that is anticipated to be used in the planning process should also be discussed.

e) Section IV - Cost of Service:

The proposal shall clearly state all of the costs associated with the project, broken down by category of products and services (e.g. cost per outing), and all on-going costs for recommended or required products and services, such as maintenance.

The project costs must include all expenses that will be charged to the District, including but not limited to hourly rates for labor and associated labor costs, administrative costs including software costs, software maintenance costs, implementation fees, shipping, insurance, communications, documentation reproduction, and all expenses, including travel, meal reimbursement, hotel per diems, taxes, etc. Failure to clearly identify all costs associated with the proposal may be cause for rejection of the Consultant's proposal.

f) Section V – Identification of subcontractors:

Consultant shall identify all subcontractors they intend to use for the proposed scope of work. For each subcontractor listed, consultants shall indicate (1) what products and/or services are to be supplied by that subcontractor, (2) what percentage of the overall scope of work that subcontractor will perform, and (3) the subcontractor's costs of service as outlined in Section IV above.

g) Section VI - Insurance:

The selected Consultant will be required to obtain insurance as described in the attached Sample Agreement. Securing this insurance is a condition of award for this contract.

All insurance shall be issued by a company or companies listed in the current "Best's Key Rating Guide" publication with a minimum of A-, VII rating; or in special circumstances, as pre-approved by the County's Risk Management Division. The selected consultant shall file with the Contact Person Certificate(s) of Insurance stating the required coverages are in effect. No services shall be rendered to the District prior to the District's receipt of the required proof of insurance.

h) Section VII - Additional Information:

Include any other information you believe to be pertinent but not required.

i) Section VIII – Contract Terms:

Consultant must include a statement acknowledging their willingness to accept the sample contract terms (Attachment A) or identify specific exceptions to the sample agreement. (See additional instructions to Consultants at RFP Section K(5).)

D. Pre-Bid Conference “Section omitted”

E. Questions

Consultants will be required to submit any additional questions in writing before the close of business on **Tuesday, July 7, 2009**, in order for staff to prepare written responses to all consultants. Written answers will be shared with all potential bidders. Questions are best received and most quickly responded to when sent via e-mail directly to **pflynn@sonoma-county.org**. Questions will not be accepted by phone.

F. Corrections and Addenda

1. If a Consultant discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFP, the Consultant shall immediately notify the contact person of such error in writing and request clarification or modification of the document. Modifications will be made by addenda as indicated below to all parties in receipt of this RFP.
2. If a Consultant fails to notify the contact person prior to the date fixed for submission of proposals of a known error in the RFP, or an error that reasonably should have been known, the consultant shall submit a proposal at their own risk, and if the consultant is awarded a contract they shall not be entitled to additional compensation or time by reason of the error or its subsequent correction.
3. Addenda issued by the District interpreting or changing any of the items in this RFP, including all modifications thereof, shall be incorporated in the proposal. The Consultant shall sign and date the addenda cover sheet and submit same with the proposal (or deliver them to the contact person, if the consultant has previously submitted a proposal to the Department). Any oral communication by the District’s designated contact person or any other District staff member concerning this RFP is not binding on the District and shall in no way modify this RFP or any obligations arising thereunder.

G. Finalist Interviews

After initial screening, the evaluation committee may select those firms deemed most qualified for this project for further evaluation. Interviews of these selected firms may be conducted as part of the final selection process. If it is determined that finalist interviews are necessary, they will be held on **Friday, July 31, 2009**, time to be determined, at the address shown in Section C, above.

H. Selection Process

1. All proposals received by the specified deadline will be reviewed by the District for content, including but not limited to fee, related experience and professional qualifications of the bidding consultants.
2. District employees will not participate in the selection process when those employees have a relationship with a person or business entity submitting a proposal which would subject those employees to the prohibition of Section 87100 of the Government Code.

Any person or business entity submitting a proposal who has such a relationship with a District employee who may be involved in the selection process shall advise the District of the name of the District employee in the proposal.

3. Proposals may be evaluated using the following criteria (note that there is no value or ranking implied in the order of this list):
 - a) Demonstrated ability to perform the services described;
 - b) Experience and expertise;
 - c) Quality of work as verified by references;
 - d) Costs relative to the scope of services;
 - e) A demonstrated history of providing similar services to comparable entities;
 - f) Willingness to accept the District's contract terms;
 - g) Any other factors the evaluation committee deems relevant. (When such criteria are used for evaluation purposes, the basis for scoring will be clearly documented and will become part of the public record.); and
 - h) Familiarity with Sonoma County—specifically, locations of proposed public access programs.
4. The District reserves the right, in its sole discretion, to reject any and all proposals and to waive informalities and minor irregularities in any proposals received. Failure to furnish all information requested or to follow the format requested herein may disqualify the consultant, in the sole discretion of the District. False, incomplete, misleading or unresponsive statements in a proposal may also be sufficient cause for a proposal's rejection.
5. The District may, during the evaluation process, request from any Consultant additional information which the District deems necessary to determine the Consultant's ability to perform the required services. If such information is requested, the Consultant shall be permitted three (3) working days to submit the information requested.
6. An error in the proposal may cause the rejection of that proposal; however, the District may, in its sole discretion, retain the proposal and make certain corrections. In determining if a correction will be made, the District will consider the conformance of the proposal to the format and content required by the RFP, and any unusual complexity of the format and content required by the RFP. If the Consultant's intent is clearly established based on review of the complete proposal submittal, the District may, at its sole option, correct an error based on that established content. The District may also correct obvious clerical errors. The District may also request clarification from a Consultant on any item in a proposal that District believes to be in error.
7. The District reserves the right to select the proposal which in its sole judgment best meets the needs of the District. ***The lowest proposed cost is not the sole criterion for recommending contract award.***
8. All firms responding to this RFP will be notified of their selection or non-selection in writing after the evaluation committee has completed the selection process.

9. Generally, the firm selected by the Evaluation Committee will be recommended to the District Board of Directors for this project, but the Board is not bound to accept the recommendation or award the project to the recommended firm.

I. Schedule

The following schedule is subject to change. Except as provided below, changes will only be made by written amendment to this Request for Proposals, which amendment shall be issued to all parties by the Department issuing this proposal.]

Date	<u>Event</u>
Tuesday, June 30, 2009	Release Request for Proposals
Tuesday, July 7, 2009	Deadline for Consultant Questions
Friday, July 10, 2009	District's Responses to Questions Due
Friday, July 17, 2009, by 5 p.m.	Proposals Due
July 20-July 29, 2009	Proposals Evaluated by District
Thursday, July 30, 2009	Interviews Conducted (if applicable)
On or before Friday, August 4, 2009	Notice of Acceptance/Rejection <i>(subject to delay without notice to Consultants)</i>
On or before September 1, 2009	Board of Supervisors Awards Contract <i>(subject to delay without notice to Consultants)</i>

K. General Information

1. Rules and Regulations

- a) The issuance of this solicitation does not constitute an award commitment on the part of the District, and the District shall not pay for costs incurred in the preparation or submission of proposals.
- b) The District reserves the right to reject any or all proposals or portions thereof if the District determines that it is in the best interest of the District to do so.
- c) The District may waive any deviation in a proposal. The District's waiver of a deviation shall in no way modify the RFP requirements nor excuse the successful consultant from full compliance with any resultant agreement requirements or obligations. The District

reserves the right to reject any or all proposals, or to waive any defect or irregularity in a proposal. The District further reserves the right to award the agreement to the Consultant or Consultants that, in the District's judgment, best serves the needs of the District.

- d) All consultants submit their proposals to the District with the understanding that the recommended selection of the review committee is final and subject only to review and final approval by the District's General Manager, or designee, or the Board of Directors.
- e) Upon submission, all proposals shall be treated as confidential documents until the selection process is completed. Once the notice of intent to award is issued by the District, all proposals shall be deemed public record. In the event that a Consultant desires to claim portions of its proposal exempt from disclosure, it is incumbent upon the Consultant to clearly identify those portions with the word "Confidential" printed on the top right hand corner of each page for which such privilege is claimed. Examples of confidential materials include trade secrets and financial statements. Each page shall be clearly marked and readily separable from the proposal in order to facilitate public inspection of the non-confidential portion of the proposal. The District will consider a Consultant's request for exemptions from disclosure; however, the District will make its decision based upon applicable laws. An assertion by a consultant that the entire proposal, or large portions, is exempt from disclosure will not be honored. Prices, makes and models or catalog numbers of the items offered, deliverables, and terms of payment shall be publicly available regardless of any designation to the contrary.
- f) The District will endeavor to restrict distribution of material designated as confidential to only those individuals involved in the review and analysis of the proposals. Consultants are cautioned that materials designated as confidential may nevertheless be subject to disclosure. Consultants are advised that the District does not wish to receive confidential or proprietary information and that consultants are not to supply such information except when it is absolutely necessary. If any information or materials in any proposal submitted are labeled confidential or proprietary, the proposal shall include the following clause:
 - i. [Legal name of Consultant] shall indemnify, defend and hold harmless the County of Sonoma, its officers, agents and employees from and against any request, action or proceeding of any nature and any damages or liability of any nature, specifically including attorneys' fees awarded under the California Public Records Act (Government Code §6250 et seq.) arising out of, concerning or in any way involving any materials or information in this proposal that [legal name of Consultant] has labeled as confidential, proprietary or otherwise not subject to disclosure as a public record.

2. Nonliability of District

The District shall not be liable for any pre-contractual expenses incurred by the consultant or selected contractor or contractors. The District shall be held harmless and free from any and all liability, claims, or expenses whatsoever incurred by, or on behalf of, any person or organization responding to this RFP.

3. Proposal Alternatives

Consultant may not take exception or make material alterations to any requirement of the RFP. Alternatives may be submitted as separate proposals and so noted on the cover of the proposal. The District reserves the right to consider such alternative proposals, and to award an agreement based thereon if it is determined to be in the District's best interest and such proposal satisfies all minimum qualifications specified in the RFP. Please indicate in the cover letter that the proposal offers an alternative to the RFP.

4. Lobbying

Any party submitting a proposal or a party representing a consultant shall not influence or attempt to influence any member of the selection committee, any member of the Board of Supervisors, or any District employee, with regard to the acceptance of a proposal. Any party attempting to influence the RFP process through ex-parte contact may be subject to rejection of their proposal.

5. Form of Agreement

- a) No agreement with the District shall have any effect until a contract has been signed by both parties. Pursuant to Sonoma County Code Section 1-11, District personnel are without authorization to waive or modify agreement requirements.
- b) A sample of the agreement is included as Attachment A hereto. Consultant must be willing to provide the required insurance and accept the terms of this sample agreement. With few exceptions, the terms of the District's standard agreement will not be negotiated. *Indemnification language will not be negotiated.*
- c) Proposals submitted shall include a statement that (i) the consultant has reviewed the sample agreement and will agree to the terms contained therein if selected, or (ii) all terms and conditions are acceptable to the consultant except as noted specifically in the proposal. A consultant taking exception to the District's sample agreement must also provide alternative language for those provisions considered objectionable to the consultant. Please note that any exceptions or changes requested to the Agreement may constitute grounds to reject the proposal.
- d) Failure to address exceptions to the sample agreement in your proposal will be construed as acceptance of all terms and conditions contained therein.
- e) Submission of additional contract exceptions after the proposal submission deadline may result in rejection of the consultant's proposal.

6. Duration of Proposal; Cancellation of Awards; Time of the Essence

- a) All proposals will remain in effect and shall be legally binding for at least ninety (90) days.
- b) The selected consultant will be required to execute an agreement with the District for the services requested within sixty (60) days of the District's notice of intent to award. If agreement on terms and conditions acceptable to the District cannot be achieved within that timeframe, or if, after reasonable attempts to negotiate such terms and conditions, it appears that an agreement will not be possible, as determined at the sole discretion of the District, the District reserves the right to retract any notice of intent to award and proceed with awards to other consultants.

7. Withdrawal and Submission of Modified Proposal

- a) A consultant may withdraw a proposal at any time prior to the submission deadline by submitting a written notification of withdrawal signed by the consultant or his/her authorized agent. The consultant must, in person, retrieve the entire sealed submission package. Another proposal may be submitted prior to the deadline. A proposal may not be changed after the designated deadline for submission of proposals.

Attachments:

Attachment A: Sample Agreement (included in the RFP packet)

Attachment B: Proposal Cover Sheet (included in the RFP Packet)

Attachment C: Map: Lands of the Sonoma County Agricultural Preservation and Open Space District (separate attachment)

ATTACHMENT A
AGREEMENT FOR PERSONAL SERVICES

This agreement ("Agreement") effective upon execution ("Effective Date") is by and between the Sonoma County Agricultural Preservation and Open Space District (hereinafter "District") and _____, a _____ (hereinafter "Consultant").

RECITALS

WHEREAS, Consultant represents that it is a duly qualified consulting company experienced in the areas of _____, and related services; and

WHEREAS, in the judgment of the General Manager of the District, it is necessary and desirable to employ the services of Consultant for _____.

NOW, THEREFORE, in consideration of the foregoing recitals and mutual covenants contained herein, the parties hereto agree as follows:

AGREEMENT

1. **SERVICES TO BE PROVIDED.**

1.1 **Scope of Work.** Consultant shall perform the services described in Exhibit A, attached hereto and incorporated herein by this reference (hereinafter "Scope of Work"), and within the times or by the dates provided for in Exhibit A and pursuant to Article 7. In the event of a conflict between the body of this Agreement and Exhibit A, the provisions in the body of this Agreement shall control.

1.2 **Cooperation with District.** Consultant shall cooperate with District and District staff in the performance of all work hereunder.

1.3 **Performance Standard.** Consultant shall perform all work hereunder in a manner consistent with the level of competency and standard of care normally observed by a person practicing in Consultant's profession. If District determines that any of Consultant's work is not in accordance with such level of competency and standard of care, District, in its sole discretion, shall have the right to do any or all of the following: (a) require Consultant to meet with District to review the quality of the work and resolve matters of concern; (b) require Consultant to repeat the work at no additional

fee until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of Article 4; or (d) pursue any and all other remedies at law or in equity.

1.4 Assigned Personnel.

1.4.1 Removal of Personnel. Consultant shall assign only competent personnel to perform work hereunder. In the event that at any time District, in its sole discretion, desires the removal of any person or persons assigned by Consultant to perform work hereunder, Consultant shall remove such person or persons immediately upon receiving written notice from District.

1.4.2 Key Personnel. Any and all persons identified in this Agreement or any exhibit hereto as the project manager, project team, or other professional performing work hereunder are deemed by District to be key personnel whose services were a material inducement to District to enter into this Agreement, and without whose services District would not have entered into this Agreement. Consultant shall not remove, replace, substitute, or otherwise change any key personnel without the prior written consent of District.

1.4.3 Qualified Replacements. In the event that any of Consultant's personnel assigned to perform services under this Agreement become unavailable due to resignation, sickness or other factors outside of Consultant's control, Consultant shall be responsible for timely provision of adequately qualified replacements.

2. PAYMENT. For all services and incidental costs required hereunder, Consultant shall be paid in accordance with the following terms:

_____.

3. TERM OF AGREEMENT. The term of this Agreement shall be from the Effective Date to _____, unless terminated earlier in accordance with the provisions of Article 4 below.

4. TERMINATION.

4.1 Termination Without Cause. Notwithstanding any other provision of this Agreement, at any time and without cause, District shall have the right, in its sole discretion, to terminate this Agreement by giving five (5) days written notice to Consultant.

4.2 Termination for Cause. Notwithstanding any other provisions of this Agreement, should Consultant fail to perform any of its obligations hereunder within the time and in the manner herein provided, or otherwise violate any of the terms of this

Agreement, District may immediately terminate this Agreement by giving Consultant written notice of such termination, stating the reason for termination.

4.3 Delivery of Work Product and Final Payment Upon Termination. In the event of termination, Consultant, within fourteen (14) days following the date of termination, shall deliver to District all materials and work product subject to Section 9.10 and shall submit to District an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.

4.4 Payment Upon Termination. Upon termination of this Agreement by District, Consultant shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred hereunder, an amount which bears the same ratio to the total payment specified in the Agreement as the services satisfactorily rendered hereunder by Consultant bear to the total services otherwise required to be performed for such total payment; provided, however, that if services are to be paid on a time/materials basis, Consultant shall be entitled to payment for the amount of time spent and expenses incurred prior to termination, as full payment for all services satisfactorily rendered and expenses incurred hereunder; and further provided that if District terminates the Agreement for cause pursuant to Section 4.2, District shall deduct from such amount the amount of damage, if any, sustained by District by virtue of the breach of the Agreement by Consultant.

4.5 Authority to Terminate. The Board of Directors has the authority to terminate this Agreement on behalf of District. In addition, the District's General Manager, on consultation with District Counsel, shall have the authority to terminate this Agreement on behalf of the District.

5. INDEMNIFICATION. Consultant agrees to accept all responsibility for loss or damage to any person or entity, including District, and to indemnify, hold harmless, and release District, its officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity, including Consultant, that arise out of, pertain to, or relate to Consultant's performance or obligations under this Agreement. Consultant agrees to provide a complete defense for any claim or action brought against District based upon a claim relating to Consultant's performance or obligations under this Agreement. Consultant's obligations under this Section 5 apply whether or not there is concurrent negligence on District's part, but, to the extent required by law, excluding liability due to District's conduct. District shall have the right to select its legal counsel at Consultant's expense, subject to Consultant's approval, which shall not be unreasonably withheld. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Consultant or its agents under workers' compensation acts, disability benefits acts, or other employee benefit acts.

6. INSURANCE. With respect to performance of work under this Agreement, Consultant shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain insurance as described below:

6.1 Workers' Compensation Insurance. Workers' compensation insurance with statutory limits as required by the Labor Code of the State of California. Said policy shall be endorsed with the following specific language:

"This policy shall not be canceled or materially changed without first giving thirty (30) days' prior written notice to the Sonoma County Agricultural Preservation and Open Space District."

6.2 General Liability Insurance. Commercial business liability insurance covering bodily injury and property damage using an occurrence policy form in an amount no less than \$1,000,000 limit for each occurrence and \$2,000,000 each for the premises/operations aggregate and the products/completed operations aggregate. Said commercial general liability insurance policy shall either be endorsed with the following specific language or contain equivalent language in the policy:

- (a) "The Sonoma County Agricultural Preservation and Open Space District, its officers and employees, is named as additional insured for all liability arising out of the ongoing and completed operations by or on behalf of the named insured in the performance of the Agreement between the Sonoma County Agricultural Preservation and Open Space District and _____."
- (b) "The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the company's liability."
- (c) "The insurance provided herein is primary and non-contributory coverage to the Sonoma County Agricultural Preservation and Open Space District with respect to any

insurance or self-insurance programs maintained by the District.”

- (d) “This policy shall not be canceled or materially changed without first giving thirty (30) days' prior written notice to the Sonoma County Agricultural Preservation and Open Space District.”
- (e) With respect to the Agreement between the Sonoma County Agricultural Preservation and Open Space District and _____ there is a separate premises/operations aggregate.

6.3 Automobile Insurance. Automobile liability insurance covering bodily injury and property damage in an amount no less than \$1,000,000 combined single limit for each occurrence. Said insurance shall include coverage for owned, hired, and non-owned vehicles. Said policy shall be endorsed with the following language:

"This policy shall not be canceled or materially changed without first giving thirty (30) days' prior written notice to the Sonoma County Agricultural Preservation and Open Space District."

6.4 Documentation. The following documentation shall be submitted to the District:

- (a) Properly executed Certificates of Insurance clearly evidencing all coverages and limits required above. Said Certificates shall be submitted prior to the execution of this Agreement. Consultant agrees to maintain current Certificates of Insurance evidencing the above-required coverages and limits on file with the District for the duration of this Agreement.
- (b) Copies of properly executed endorsements required above for each policy. Said endorsement copies shall be submitted prior to execution of this Agreement. Consultant agrees to maintain current endorsements evidencing the above-

specified requirements on file with the District for the duration of this Agreement.

- (c) Upon District's written request, certified copies of insurance policies. Said policy copies shall be submitted within thirty (30) days of District's request.
- (d) After the Agreement has been signed, signed Certificates of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.

6.5 Policy Obligations. Consultant's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

6.6 Material Breach. If Consultant, for any reason, fails to maintain insurance coverage which is required pursuant to this Agreement, the same shall be deemed a material breach of this Agreement. District, in its sole option, may terminate this Agreement and obtain damages from Consultant resulting from said breach. Alternatively, District may purchase such required insurance coverage, and without further notice to Consultant, District may deduct from sums due to Consultant any premium costs advanced by District for such insurance. These remedies shall be in addition to any other remedies available to District.

7. PROSECUTION OF WORK. The execution of this Agreement shall constitute Consultant's authority to proceed immediately with the performance of this Agreement. Performance of the services hereunder shall be completed within the time required herein; provided, however, that if the performance is delayed by earthquake, flood, high water, or other Act of God or by strike, lockout, or similar labor disturbances, the time for Consultant's performance of this Agreement shall be extended by the number of days equal to the number of days Consultant has been delayed.

8. EXTRA OR CHANGED WORK. Extra or changed work or other changes to the Agreement may be authorized only by written amendment to this Agreement, signed by both parties. The General Manager must authorize all extra or changed work. The parties expressly recognize that, pursuant to Sonoma County Code Section 1-11, District personnel are without authorization to order extra or changed work or waive Agreement requirements. Failure of Consultant to secure such written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the Agreement price or Agreement time due to such unauthorized work; and thereafter

Consultant shall be entitled to no compensation whatsoever for the performance of such work. Consultant further expressly waives any and all right or remedy by way of restitution and *quantum meruit* for any and all extra work performed without such express and prior written authorization of District's General Manager.

9. REPRESENTATIONS OF CONSULTANT.

9.1 Standard of Care. District has relied upon the professional ability and training of Consultant as a material inducement to enter into this Agreement. Consultant hereby agrees that all its work will be performed and that its operations shall be conducted in accordance with generally accepted and applicable professional practices and standards, as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Consultant's work by District shall not operate as a waiver or release.

9.2 Status of Consultant. The parties intend that Consultant, in performing the services specified herein, shall act as an independent contractor and shall control the work and the manner in which it is performed. Consultant is not to be considered an agent or employee of District and is not entitled to participate in any pension plan, workers' compensation plan, insurance, bonus, or similar benefits District provides its employees. In the event District exercises its right to terminate this Agreement pursuant to Article 4 above, Consultant expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.

9.3 Taxes. Consultant agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Consultant agrees to indemnify and hold District harmless from any liability which it may incur to the United States or to the State of California as a consequence of Consultant's failure to pay, when due, all such taxes and obligations. In case District is audited for compliance regarding any withholding or other applicable taxes, Consultant agrees to furnish District with proof of payment of taxes on these earnings.

9.4 Cost Disclosure. In accordance with Government Code section 7550, Consultant agrees to state in a separate section in any filed report the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of the report.

9.5 Records Maintenance. Consultant shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this Agreement and shall make such documents and records available to District for inspection at any reasonable time. Consultant shall maintain such records for a period of four (4) years following completion of work hereunder.

9.6 Conflict of Interest. Consultant covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Consultant further covenants that in the performance of this Agreement no person having any such interests shall be employed. In addition, if requested to do so by District, Consultant shall complete and file and shall require any other person doing work under this Agreement to complete and file a "Statement of Economic Interest" with District disclosing Consultant's or such other person's financial interests.

9.7 Nondiscrimination. Consultant shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, sexual orientation, or other prohibited basis including, without limitation, the District's Non-Discrimination Policy. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated herein by this reference.

9.8 AIDS Discrimination. Consultant agrees to comply with the provisions of Chapter 19, Article II, of the Sonoma County Code prohibiting discrimination in housing, employment, and services because of AIDS or HIV infection during the term of this Agreement and any extensions of the term.

9.9 Assignment of Rights. Consultant assigns to District all rights throughout the world in perpetuity in the nature of copyright, trademark, patent, right to ideas, in and to all versions of the plans and specifications, if any, now or later prepared by Consultant in connection with this Agreement. Consultant agrees to take such actions as are necessary to protect the rights assigned to District in this Agreement, and to refrain from taking any action which would impair those rights. Consultant's responsibilities under this provision include, but are not limited to, placing proper notice of copyright on all versions of the plans and specifications as District may direct, and refraining from disclosing any versions of the plans and specifications to any third party without first obtaining written permission of District. Consultant shall not use or permit another to use the plans and specifications in connection with this or any other project without first obtaining written permission of District.

9.10 Ownership and Disclosure of Work Product. All reports, original drawings, graphics, plans, studies, and other data or documents (“documents”), in whatever form or format, assembled or prepared by Consultant or Consultant’s subcontractors, consultants, and other agents in connection with this Agreement shall be the property of District. District shall be entitled to immediate possession of such documents upon completion of the work pursuant to this Agreement. Upon expiration or termination of this Agreement, Consultant shall promptly deliver to District all such documents which have not already been provided to District in such form or format as District deems appropriate. Such documents shall be and will remain the property of District without restriction or limitation. Consultant may retain copies of the above-described documents but agrees not to disclose or discuss any information gathered, discovered, or generated in any way throughout this Agreement without the express written permission of District.

10. DEMAND FOR ASSURANCE. Each party to this Agreement undertakes the obligation that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party, the other may in writing demand adequate assurance of due performance and until such assurance is received may, if commercially reasonable, suspend any performance for which the agreed return has not been received. "Commercially reasonable" includes not only the conduct of a party with respect to performance under this Agreement, but also conduct with respect to other agreements with parties to this Agreement or others. After receipt of a justified demand, failure to provide within a reasonable time, but not exceeding thirty (30) days, such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of this Agreement. Acceptance of any improper delivery, service, or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance. Nothing in this Article 10 limits District’s rights to terminate this Agreement pursuant to Article 4.

11. ASSIGNMENT AND DELEGATION. Neither party shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the District, and no such transfer shall be of any force or effect whatsoever unless and until the other party has so consented.

12. METHOD AND PLACE OF GIVING NOTICE, SUBMITTING BILLS AND MAKING PAYMENTS. All notices, bills, and payments shall be made in writing and may be given by personal delivery or by mail. Notices, bills, and payments sent by mail shall be addressed as follows:

TO DISTRICT: General Manager
 Sonoma County Agricultural Preservation
 and Open Space District
 747 Mendocino Avenue
 Santa Rosa, CA 95401

TO CONSULTANT:

When a notice, bill or payment is given by a generally recognized overnight courier service, the notice, bill or payment shall be deemed received on the next business day. When a copy of a notice, bill or payment is sent by facsimile, the notice bill or payment shall be deemed received upon transmission as long as (1) the original copy of the notice, bill or payment is promptly deposited in the U. S. Mail, (2) the sender has a written confirmation of the facsimile transmission, and (3) the facsimile is transmitted before 5:00 p.m. (recipient's time). In all other instances, notices, bills, and payments shall be effective upon receipt by the recipient. Changes may be made in the names and addresses of the person to whom notices, bills, and payments are to be given by giving notice pursuant to this paragraph.

13. MISCELLANEOUS PROVISIONS.

13.1 No Waiver of Breach. The waiver by District of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or provision or any subsequent breach of the same or any other term or promise contained in this Agreement.

13.2 Construction. To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. Consultant and District acknowledge that they have each contributed to the making of this Agreement and that in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. Consultant and District acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

13.3 Consent. Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.

13.4 No Third Party Beneficiaries. Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

13.5 Applicable Law and Forum. This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts to the contrary in any jurisdiction. To the extent allowed by law, the parties agree that any action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in Santa Rosa or the forum nearest to the city of Santa Rosa, in the County of Sonoma.

13.6 Captions. The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

13.7 Merger. This writing is intended both as the final expression of the agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the agreement, pursuant to Code of Civil Procedure Section 1856. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

13.8 Time of Essence. Time is and shall be of the essence of this Agreement and every provision hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

CONSULTANT:

By: _____

Name: _____

Title: _____

Date: _____

DISTRICT: SONOMA COUNTY AGRICULTURAL
PRESERVATION AND OPEN SPACE
DISTRICT

By: _____

Name: _____

Title: _____

Date: _____

APPROVED AS TO SUBSTANCE

BY DEPARTMENT:

By: _____

Name: _____

Title: _____

Date: _____

CERTIFICATES OF INSURANCE

REVIEWED BY AND ON FILE WITH:

By: _____

Elaine Rotondo

Title: _____

Date: _____

APPROVED AS TO FORM FOR DISTRICT:

By: _____

Phyllis C. Gallagher
Deputy County Counsel

Date: _____

**ATTACHMENT B
REQUEST FOR PROPOSALS**

PROPOSAL COVER SHEET

Acceptance of District Contract Form

A sample agreement is contained as Attachment "A" to the District's Request for Proposals. Although the attached draft is subject to revision before execution by the parties, by submission of a proposal, the undersigned indicates that, except as specifically and expressly noted in its proposal, the consultant has no objection to the attached draft or any of its provisions such that, if selected, the consultant will enter into a final agreement based substantially upon the attached draft.

Certification of Authority

By signing below, the person executing the certificate on behalf of the consultant affirmatively represents that s/he has the requisite legal authority to do so on behalf of the consultant. Both the person executing this proposal on behalf of the consultant and consultant understand that the District is relying on this representation in receiving and considering this proposal. The person signing below hereby acknowledges that s/he has read the entire Request for Proposals document and has complied with all requirements listed therein.

Official Authorized to Sign for Proposal/Consultant

Signature

Title Date