



Request for Proposals

Development of Energy Efficiency and Conservation Strategy

Release Date: Friday, July 10, 2009

Submittal Date: Friday, July 31, 2009
4:00 PM



THE CITY OF
NOVATO
CALIFORNIA

75 Rowland Way #200
Novato, CA 94945-5054
415/899-8900
FAX 415/899-8213
www.ci.novato.ca.us

July 10, 2009

RE: Energy Efficiency and Conservation Strategies (RFP)

Mayor

Jim Leland
Mayor Pro Tem
Jeanne MacLeamy

Councilmembers

Carole Dillon-Knutson
Madeline Kellner
Pat Eklund

City Manager

Michael S. Frank

Dear Sir or Madam:

Attached please find a copy of the City of Novato's Request for Proposals (RFP) for the development of Energy Efficiency and Conservation Strategies. In accordance with the Department of Energy's Energy Efficiency and Conservation Block Grant, the City of Novato is seeking a qualified individual or firm to develop city-specific strategies that reduce fossil fuel emissions, decrease energy consumption, and promote energy efficiency for the City and community of Novato.

The firm(s) or individual(s) applying should have significant experience in working with energy efficiency, conservation, and energy planning, and Federal agencies.

All responses are due to City offices, at 75 Rowland Way # 200, Novato, 94945, by **July 31, 2009, no later than 4:00 PM PST**. If you have any questions or need any further information, please contact Jennifer Goldfinger at (415) 899.8903 or via email at jgoldfin@ci.novato.ca.us.

Sincerely,

Mary Neilan
Assistant City Manager



CITY OF NOVATO REQUEST FOR PROPOSALS DEVELOPMENT OF ENERGY EFFICIENCY AND CONSERVATION STRATEGIES

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I. Overview

The City of Novato is soliciting proposals from qualified and experienced firms to assist in the development of energy efficiency and conservation strategies for the city and community that endeavor to reduce fossil fuel emissions, decrease energy consumption, and promote energy efficiency. The plan is a requirement of the U.S. Department of Energy's Energy Efficiency and Conservation Block Grant Program, which is funded through the American Recovery and Reinvestment Act of 2009.

Proposals may be submitted in the following ways:

Electronically in Adobe Printable Document Format (.pdf) and identified as "Response to Energy Efficiency and Conservation Block Grant Consulting Services" to Kathy Robinson, Management Analyst at krobinson@ci.novato.ca.us.

Or

Five (5) printed copies of the proposal received at the following address:

City of Novato
Attn: Kathy Robinson
RE: Energy Efficiency and Conservation Block Grant Consulting Services
75 Rowland Way # 200
Novato, CA 94945

Proposals must be received **by 4:00 p.m. on July 31, 2009.**

II. Background

A. City of Novato

The City of Novato, which incorporated on January 20, 1960, is located in northern Marin County, approximately 30 miles north of San Francisco, along U.S. Highway 101.

The City's history dates back to 1300 A.D. when Miwok Native Americans lived in a village at the base of Mt. Burdell. The area of the current City is made of parts of various Mexican land grants dating back from 1839 – 1845. For the next 100 years agriculture was the mainstay of Novato's economy, including dairy farms, apple orchards, and vineyards. During the Great Depression efforts to bring a military base to the area resulted in the establishment of Hamilton Air Force Base, which served as the main employer of Marin County from 1928 – 1945. After incorporation in 1960, the City's rural atmosphere slowly changed, although the prevailing small town atmosphere has remained and is considered to be of great appeal to residents, newcomers and visitors.



According to the California Department of Finance in January 2009 the City's population was 52,921. The average annual household income is \$75,000. The 2000 census showed the City's ethnic makeup to be 76.3% Caucasian, 13.1% Hispanic, 5.1% Asian, 1.9% African-American and 3.6% all other races. Median age is 39.6 years. There are 18,524 households, with 67.6% of all housing units being owner-occupied.

The City of Novato is a Limited Services City providing Community Development (Planning and Building), Public Works (Engineering and Maintenance), Community Services (Parks, Recreation and Community Services) and Police.

B. The American Recovery and Reinvestment Act of 2009

The American Recovery and Reinvestment Act of 2009, Public Law 111-5, appropriates funding for the Department of Energy (DOE) to issue/award formula-based grants to states, U.S. territories, units of local government, and Indian tribes under the Energy Efficiency and Conservation Block Grant (EECBG) Program.

The City has been allocated a direct formula EECBG grant. All entities receiving direct formula grants from the DOE are required to develop and/or implement an Energy Efficiency and Conservation Strategy (EECS) and carry out activities to achieve the purposes of the program. The program allows formula grant recipients to use grant funding to retain technical consultant services to assist in the development of the strategy. The EECS should develop goals for energy efficiency, conservation, and usage. Further, the EECS should identify strategies to achieve the goals through any combination to increase energy efficiency, reduce fossil fuel emissions, reduce energy consumption, and encourage behavioral changes.

III. Scope of Service

The City of Novato is soliciting proposals from qualified and experienced firms to develop an EECS for the City of Novato in accordance with the requirements of the U.S. Department of Energy (by 120 days from acceptance of grant application) tailored to the needs and opportunities of the City.

The scope of work to develop the EECS is divided into three tasks.

A. TASK #1

Tier One Energy Efficiency and Conservation Strategy

The EECS shall address the basic EECS requirements as set forth by the DOE in Attachments C and D of the EECBG Funding Opportunity Announcement.

The EECS shall be a comprehensive strategy that covers, at a minimum, all items details in Attachment D of the Funding Opportunity Announcement (DE-FOA-0000013). It should also address the following:

- Jurisdictional area covered by plan and governing body and/or office with direct authority over plan
- Plan implementation partners and any leveraged funds from private or other public sources
- Identify measurable goals and objectives for energy use and emissions reductions, and energy efficiency increase (including deployment of renewable technologies)
 - Goals can be qualitative
- Actions/plans/strategies and implementation schedule to meet goals
 - Actions and strategies included in the plan can be eligible activities for use of funds under EECBG as well as activities that are ineligible. Comprehensive planning is encouraged, and the eligible activities should be marked as such.
 - Potential impact of anticipated leveraged funds from private as well as other public sources.
- Expected outcomes and benefits of plan:
 - Jobs created and/or retained
 - Energy saved
 - Renewable energy capacity
 - GHG emissions reduced
 - Funds leveraged
- Obstacles to reaching goals and strategies to remove obstacles
- Policies and/or administrative actions adopted or needed to support actions/plans/strategies/targets/schedule
- Evaluation, monitoring and verification plan
- Plan for how activities will be sustained beyond grant period
- Plans for the use of funds by adjacent eligible units of local governments that receive grants under the program; and plans to coordinate and share information with the state in which the eligible unit of local government is located regarding activities carried out using the grant to maximize the energy efficiency and conservation benefits under this part.
- Plans for how these funds will be coordinated with leverages funds, including other Recovery Act funds, to maximize benefits for local and regional communities

B. TASK #2

Tier Two Energy Efficiency and Conservation Strategy

The EECS shall be a comprehensive strategy that includes the basic EECS requirements listed above. This EECS should be expanded to address *city-wide (municipal)* energy efficiency, conservation, and reduction goals and objectives that can integrate the City's full 2005 Greenhouse Gas Emissions Inventory and develop the City's Climate Change Action Plan concurrently

Additional elements a Tier Two EECS should include are:

- Baseline inventories and forecasts of all city energy sources, energy uses, energy rates, energy-related GHG emissions, and other pertinent factors/indicators related to energy efficiency and conservation.

C. TASK #3

Additional Services: Ongoing Reporting

The EECBG requires regular reporting, as outlined in Attachment C of the Funding Opportunity Announcement (DE-FOA-0000013). The City may opt to engage the consultant in managing, capturing, and reporting its **Tier 1** EECBG activities for the 36 month grant period as outlined in the DOE guidelines.

IV. City Staff Support

The City will assign a project manager, who will work with the firm in general and specifically to solicit input from elected officials, community, and prospective partners; conduct public workshops; and obtain approval of EECS from City Council.

V. General Requirements

All vendors are bound by the deadline and location requirements of this RFP.

Vendors electing to respond to this RFP are responsible for all costs incurred in the preparation and submission of the proposals; demonstrations; interviews; preparation of responses to questions and requests for additional information; for contract discussions; or for anything in any way related to this RFP. The City of Novato is not liable for any costs incurred by the vendor in response to this RFP and the vendor, including all related parties, disclaims and voluntarily and knowingly waives any and all rights to reimbursement for any such costs.

Late proposals will not be considered.



The City of Novato reserves the right to reject any or all responses or any portion thereof and to select the response(s) which, in its sole discretion, it judges to be in the best interest of the cities.

The City of Novato reserves the right to cancel or modify this RFP. There is no guarantee that the City will place the requested service under contract.

The City of Novato reserves the right to investigate the qualifications of any vendor under consideration including proposed subcontractors and parties otherwise related to the vendor and require confirmation of information furnished by a vendor, or require additional evidence of experience and qualifications to provide the services or otherwise discharge the obligations required by this RFP.

The City of Novato reserves the right to disclose information contained in proposals to the public, subject to confidentiality statutes.

The City of Novato reserves the right to approve or disapprove of particular subcontractors, joint venture partners, or other proposed team members.

The City of Novato reserves the right to evaluate responses in terms of the best interests of the City, applying criteria provided in this RFP and any other criteria the City of Novato, in its sole discretion, deems pertinent.

The City of Novato reserves the right to accept other than the lowest cost proposal based upon an evaluation of all aspects of the response.

By the submission of a proposal, each vendor accepts and agrees to execute a written agreement.

All responses must remain valid for a minimum period of ninety (90) days after the response due date. Responses may not be modified or withdrawn by the vendor during this period of time except in accordance with this RFP and with written permission granted by the City of Novato.

Vendors may withdraw their proposal prior to the date and time set for receipt of proposals provided a written request is submitted to the City of Novato prior to the date and time set for receipt of proposals.

VI. Questions and Addenda

All questions or requests for clarification shall be submitted via email to Kathy Robinson at krobinson@ci.novato.ca.us by Thursday, July 16. All questions received by this deadline will be addressed via the City's website at www.cityofnovato.org, by Monday, July 20.



If it becomes necessary to revise any part of this RFP, an amendment will be posted on the City of Novato website at www.cityofnovato.org. It shall be the sole responsibility of the vendor to check for any amendments to the RFP that may be issued by the City of Novato.

VII. Submittal of Proposals

Proposals should be simply developed and include the information requested in Section III — Scope of Services. Proposals that are submitted electronically must be in Adobe Printable Document Format (.pdf) format. File size shall be limited to no larger than 2 MB. Proposals not meeting these criteria will not be accepted or considered. Proposals must be submitted no later than 4:00 p.m. on July 31, 2009, either to Kathy Robinson, Management Analyst krobinson@ci.novato.ca.us or five (5) printed copies of the proposal to the following address:

City of Novato
Attn: Kathy Robinson
RE: Energy Efficiency and Conservation Block Grant Consulting Services
75 Rowland Way # 200
Novato, CA 94945

Proposals received after that time will not be accepted. When submitting a proposal via email, it must be identified as “Response to Energy Efficiency and Conservation Block Grant Consulting Services RFP”.

After the due date of the proposals, a vendor may not correct, modify, or withdraw the price or any other provision of its response in a manner prejudicial to the interests of the City of Novato or fair competition. The City of Novato may waive minor informalities or allow the vendor to correct them.

VIII. Vendor's Responsibilities

It is presumed that each vendor has read and is thoroughly familiar with the scope of services to be performed under this RFP.

The vendor agrees that, if a contract is executed with the City of Novato, the vendor shall make no claim against the City of Novato because of any estimate or statement made by any employees, agents, or consultants of the City of Novato which may prove to be erroneous in any respect.

IX. Proposal Format

Proposals that are submitted electronically must be in Adobe Printable Document Format (.pdf) format.



All proposals shall include the following information and comply with the associated page limit restrictions. Note that one page includes the front side of an 8.5x11 sheet of paper and the cover does not constitute a page.

- 1) **Cover Letter** – One (1) page cover letter signed by an officer of the firm, binding the firm to all of the commitments made in the submittal
- 2) **Firm Background** – One (1) page background on the firm and its associated specialties. An additional one (1) page may be included to highlight the background of any proposed sub-consultants.
- 3) **Previous Experience** – Maximum five (5) page summary of the firm’s experience in working with Federal agencies, public/private partnerships, ARRA, energy efficiency, energy conservation, and energy planning. References should be included.
- 4) **Project Approach** – Maximum seven (7) page summary of the proposed approach to developing the EECS including how the firm will:
 - Collaborate with the City and all other project stakeholders;
 - Identify and develop high-potential projects for the EECS and EECBG;
 - Evaluate and recommend priority projects for the EECS and EECBG.
- 5) **Proposed Personnel** – One (1) page resumes for each of the three leading staff members that will be performing the majority of the work on the project. Resumes for corporate leadership should not be included unless said individuals will be performing substantial work on this project.
- 6) **Schedule** – One (1) page schedule detailing how the EECS will be completed and submitted to DOE within the 120 day time frame.
- 7) **Cost Estimate** – Maximum four (4) page cost estimate.

X. Evaluation Criteria

Each firm’s response will be evaluated upon the following criteria:

- 1) **Experience and Staffing (30%)** – The firm’s previous experience with similar work in similar fields and qualifications and depth of the staff that will perform the work on this project.
- 2) **Project Approach (30%)** – The firm’s responsiveness in developing the EECS that meets the requirements of the EECBG and the longer-term, comprehensive energy efficiency and conservation goals of the City
- 3) **Schedule (20%)** – The firm’s presentation of a work plan that meets the 120 day DOE deadline.
- 4) **Cost (20%)** – The firm’s fees and expenses for proposed level of effort

XI. Selection Process

A selection committee will review the proposals. Proposals will be ranked on qualifications and the City may choose to interview several of the top ranked firms. Those interviews are scheduled to take place on **Wednesday, August 5, 2009** at 75 Rowland Way # 200, Novato, CA 94945. However, at its sole discretion, the City may dispense with interviews and select a firm for approval of the Council, to perform the work.

If unable to reach an agreement with the top ranked firm, the selection committee may terminate negotiations and commence with the second ranked firm, and so forth. The bid winner must be approved by the City Council before the Consultant Services Agreement (CSA) can be signed by the City. Work may only begin after the CSA is signed by both parties and all required documents are received by the City. It is anticipated that the City will be awarded grant funds which will allow it to proceed with a professional services contract. In the event grant funding is not awarded, the City will not enter a contract for these professional services. The City reserves the right to reject any and all proposals solely at its discretions.

The City will utilize the following schedule for the selection process:

Event	Date
Release RFP	Monday, July 10, 2009
Submittal Deadline	Friday, July 31, 2009 by 4:00 pm
Interview of Finalists	Wednesday, August 5, 2009
Consultant Selected at Council Meeting	Tuesday, August 11, 2009 at 6:30pm

XII. Sample Consultant Services Agreement
(Attached)

CONSULTANT SERVICES AGREEMENT

THIS AGREEMENT is entered into as of the _____ day of _____, 20____, by and between the CITY OF NOVATO, a municipal corporation (hereinafter referred to as "City") and _____ (hereinafter referred to as "Consultant").

WHEREAS, City desires to obtain professional services in connection with _____; and

WHEREAS, Consultant hereby warrants to the City that Consultant is skilled and able to competently provide such services described in Section 1 of this Agreement; and

WHEREAS, City desires to retain Consultant pursuant to this Agreement to provide the services described in Section 1 of this Agreement.

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

Section 1. Scope of Services. Subject to such policy direction and approvals as the City through its staff may determine from time to time, Consultant shall perform the services set out in the "Scope of Services" attached hereto as Exhibit A and incorporated herein by reference. Consultant shall not commence any work exceeding the Scope of Services without prior written authorization from City.

Section 2. Time of Performance.

Subsections 2.A. and 2.B. are in the alternative. For purposes of this Agreement, Subsection 2.A. [] 2.B. [] applies. (Check ONE box only.)

A. [Non Cost-Covered Services] The services of Consultant are to commence upon the execution of this Agreement and shall be undertaken and completed within the time limits set forth in Exhibit A. Such time limits may be amended by mutual agreement between the City and Consultant.

B. [Cost-Covered Services] Execution of this Agreement does not constitute authorization to proceed with the work described in the Scope of Services. Consultant shall not begin the work described in Exhibit A until after the City has issued a written Notice to Start Work, following verification by City staff that the project sponsor has deposited with the City adequate funds to pay for completion of the work described in Exhibit A. City and Consultant understand that it is the City's policy for routine projects to obtain full payment from development applicants prior to execution of any consultant services agreements relating to the processing of development applications. In unusual circumstances (such as large, complex projects and projects where the City is serving as the applicant), City may allow deposit of processing costs in phases. In such cases, Consultant shall not begin work on any of the tasks described in Exhibit A until after the City has issued a written Notice to Start Work for that

particular task. Each Notice to Start Work will specify the task authorized to be undertaken and will be issued only following verification by the City that the project sponsor has deposited with the City (or the City has budgeted) adequate funds to pay for the completion of the authorized task. For all projects, following issuance of a Notice to Start Work, the services of Consultant shall be undertaken and completed within applicable time limits set forth in Exhibit A. Such time limits may be amended by mutual agreement between the City and Consultant. Consultant shall not commence any work exceeding the Scope of Services without prior written authorization from City.

Section 3. Compensation and Method of Payment.

A. Compensation. Consultant shall charge for services performed in accordance with the compensation schedule incorporated in Exhibit A, not to exceed a total amount of \$_____.

B. Method of Payment.

Subsections 3.B.(1) and 3.B.(2) are in the alternative. For purposes of this Agreement, Subsection 3.B.(1) ☐ 3.B.(2) ☐ applies. (Check ONE box only.)

(1) Monthly Statements. [Contract Planners, etc.] As a condition precedent to any payment to Consultant under this Agreement, Consultant shall submit monthly to the City a statement of account which clearly describes the work for which the billing is submitted.

(2) Statements Following Completion of Work Tasks. [EIR Consultants, etc.] As a condition precedent to any payment under this Agreement, Consultant shall submit to the City a detailed statement of account which clearly sets forth the designated work tasks for which the billing is submitted. Payments shall be made following completion of each of the individual work tasks described in the Scope of Services. No payments shall be made for tasks which have not been satisfactorily completed.

C. Payment. City shall review Consultant's statements and pay Consultant for services rendered hereunder at the rates and in the amounts provided hereunder in accordance with the approved statements.

Section 4. Standard of Quality. All work performed by Consultant under this Agreement shall be in accordance with all applicable legal requirements and shall meet the standard of quality ordinarily expected of competent professionals in Consultant's field of expertise.

Section 5. Ownership of Documents. All plans, studies, documents and other writings prepared by and for Consultant, its officers, employees and agents in the course of implementing this Agreement shall become the sole property of the City upon payment to the Consultant for such work, and the City shall have the exclusive right to use such materials in its sole discretion without further compensation to Consultant or to any other party.

Section 6. Retention of Other Consultants, Specialists or Experts. Consultant will not retain or otherwise incur an obligation to pay other consultants, specialists or experts for services in connection with this Agreement without the prior written approval of the City. In addition, the persons who shall provide the services agreed to be performed hereunder by Consultant are identified below. No other person may provide services under this agreement on behalf of Consultant without the prior, written consent of the City.

Names of Persons Permitted to Perform
Under this Agreement

Section 7. Interest of Consultant. Consultant (including principals, associates and professional employees) covenants and represents that it does not now have and shall not acquire any investment or interest, direct or indirect, in real property which is located within the area covered by this Agreement. Consultant further covenants and represents that it does not now have and shall not acquire any source of income, business entity, interest in real property or investment which would be affected in any manner or degree by the performance of Consultant's services hereunder. Consultant further covenants and represents that no person having any such investment or interest shall perform any services under this Agreement.

Consultant shall comply with the City's conflict of interest code and all other conflict of interest laws, including but not limited to the Political Reform Act of 1974 and the regulations promulgated thereunder. Without limiting the generality of the foregoing and in the event that the Consultant is a "consultant" as defined in 2 Cal. Code Regs. § 18701(a)(2) or its successor regulation and is otherwise required by the City's conflict of interest code to complete and execute the economic disclosure statement required under the City's conflict of interest code, as a condition to commencing the work described herein, Consultant shall complete, execute and deliver to the City said economic disclosure statement.

Section 8. Interest of Members and Employees of City. No member of the City Council and no other officer, employee or agent of the City who exercises any function or responsibility in connection with the review, approval or carrying out of any project to which this Agreement pertains shall have any personal interest, direct or indirect, in this Agreement, nor shall any such person participate in any decision relating to this Agreement which affects his/her personal interest or the interest of any corporation, partnership, association, or other legal entity in which he/she is directly or indirectly interested. If Consultant learns of any such interest, he/she shall promptly disclose such interest in writing to the City Manager.

Section 9. Liability of Members and Employees of City. No member of the City Council and no other officer, employee or agent of the City shall be personally liable to Consultant or otherwise in the event of any default or breach of the City, or for any amount

which may become due to Consultant or any successor in interest, or for any obligations directly or indirectly incurred under the terms of this Agreement.

Section 10. Indemnification of City. Consultant hereby agrees to defend, indemnify and hold harmless the City from and against any and all claims arising out of Consultant's breach of this Agreement and/or the willful or negligent acts, errors or omissions of Consultant relating to this Agreement. The City has no liability or responsibility for any accident, loss or damage to any work performed under this Agreement whether prior to its completion and acceptance or otherwise.

Section 11. Consultant Not an Agent of City. Consultant is not an agent of the City, and the City retains all rights of approval and discretion with respect to the projects and undertakings contemplated by this Agreement. Consultant, its officers, employees and agents shall not have any power to bind or commit the City to any decision or course of action, and Consultant, its officers, employees and agents shall not represent to any person or party that it or they are acting as agents of the City or that it or they have the power to bind or commit the City.

Section 12. Compliance with Laws.

A. **General.** Consultant shall comply with all applicable federal, state and local laws, code, ordinances and regulations. Consultant represents and warrants to City that it has all licenses, permits, qualifications, insurance and approvals of whatsoever nature which are legally required for Consultant to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, insurance and approvals which are legally required for Consultant to practice its profession. Consultant shall, at all times during the term of this Agreement and for one year thereafter, provide written proof of such licenses, permits, insurance and approvals upon request by the City.

B. **Novato Business License.** Unless otherwise exempt, Consultant will maintain a valid City of Novato business license pursuant to Chapter VIII of the Novato Municipal Code during the term of this Agreement. Concurrently with execution of this Agreement, and upon request of City thereafter, Consultant will submit proof of compliance with this Subsection.

C. **Workers' Compensation.** Consultant shall take out and maintain at all times during the life of this agreement, up to the date of acceptance of the work by the City, workers' compensation insurance as required by the Labor Code of the State of California. The Consultant shall require all subconsultants similarly to provide such insurance for all of subconsultants' employees. The amount of said insurance shall be \$1 million per accident. Consultant certifies that it is aware of the provision of the California Labor Code which requires every employee to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and Consultant certifies that it will comply with such provisions before commencing performance of this Agreement.

D. Injury and Illness Prevention Program. Consultant certifies that it is aware of and has complied with the provisions of California Labor Code Section 6401.7, which requires every employer to adopt a written injury and illness prevention program.

E. City Not Responsible. The City is not responsible or liable for Consultant's failure to comply with any and all of said requirements.

Section 13. Insurance.

A. Minimum Scope of Insurance

(1a) Consultant agrees to have and maintain, for the duration of the Agreement, a Commercial General Liability insurance policy insuring him/her and his/her firm to an amount not less than One Million Dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage. At the time the Agreement is entered into the City may require higher limits depending on the nature of the services being provided by the Consultant. Such determination shall be made by the City's Risk Manager.

(1b) In lieu of commercial general liability insurance, the Consultant may secure and maintain a minimum of One Million Dollars (\$1,000,000) of excess limit (umbrella) coverage on his/her homeowner's or renter's insurance policy.

(2) Consultant agrees to have and maintain for the duration of the Agreement an Automobile Liability insurance policy insuring him/her and his/her staff to an amount not less than Five Hundred Thousand Dollars (\$500,000) combined single limit per accident for bodily injury and property damage. At the time the Agreement is entered into the City may require higher limits depending on the nature of the service being provided by the Consultant. Such determination shall be made by the City's Risk Manager.

(3) Consultants shall have and maintain a Professional Liability insurance policy insuring him/her and his/her staff to an amount not less than _____ Dollars (\$ _____) for injuries arising out of the rendering of services or the failure to render services under this Agreement.

(4) Consultant shall provide to the City all certificates of insurance with original endorsements reflecting coverage required by this section. Certificates of such insurance shall be filed with the City on or before commencement or performance of this Agreement. The City reserves the right to require complete, certified copies of all required insurance policies at any time.

(5) Any Consultant utilizing the services of a secondary consultant in the performance of this Agreement shall either provide the required insurance(s) for the type of service being provided by the secondary consultant or provide evidence acceptable to the City demonstrating that the secondary consultant has in effect the required insurance(s).

B. General Liability.

(1) The City, its officers, officials, employees, and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of Consultant; products and completed operations of Consultant; premises owned or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant.

(2) Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be in excess of Consultant's insurance and shall not contribute with it.

(3) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

(4) Consultant's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

C. All Coverages. Each insurance policy required in this item shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City. Current certification of such insurance shall be kept on file with the City Clerk at all times during the term of this Agreement.

D. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers, or Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

E. Acceptability of Insurers. Insurance is to be placed with insurers with a Best's rating of no less than A:VII.

Section 14. Assignment Prohibited. Consultant shall not assign any right or obligation pursuant to this Agreement without the City's prior written consent. Any attempted or purported assignment of any right or obligation hereunder shall be void and of no effect.

Section 15. Expiration and Termination of Agreement. Unless extended by mutual agreement or terminated pursuant to this section, this Agreement shall expire upon Consultant's satisfactory and timely completion of the services contracted for hereunder. This Agreement and all obligations hereunder may be terminated at any time, with or without cause, by the City within its sole discretion upon written notice to the Consultant. Consultant may terminate this Agreement upon thirty (30) days' written notice to the City only for good cause, including without limitation, serious illness or material breach of this Agreement by City. Consultant's

written notice of termination shall contain a full explanation of the facts and circumstances constituting good cause. Upon termination, all finished and unfinished documents, project data and reports shall, at the option of the City, become its sole property and shall, at Consultant's expense, be delivered to the City or to any party the City may so designate. In the event of termination by the Consultant, the Consultant shall only be compensated for all work Consultant satisfactorily performs prior to the time Consultant delivers to the City the termination notice, unless other arrangements are agreed to by the City. In the event of termination by the City, the Consultant shall be compensated for all work satisfactorily performed prior to the time Consultant receives the termination notice, and shall be compensated for materials ordered by the Consultant, and services of others ordered by the Consultant prior to receipt of the City's termination notice whether or not such materials or instruments of services of others have actually been delivered to Consultant or to the City, provided that the Consultant is not able to cancel such orders for materials or services of others. In the event this agreement is terminated pursuant to this section, Consultant shall not be entitled to any additional compensation over that provided herein; nor shall Consultant be entitled to payment for any alleged damages or injuries (including lost opportunity damages) purportedly caused by the termination of this agreement by the City pursuant to this section.

Section 16. Entire Agreement; Amendment. This Agreement, including Exhibit A and any other exhibits or attachments made a part hereof constitutes the complete and exclusive expression of the understanding and agreement between the parties with respect to the subject matter hereof. All memoranda, and representations, are superseded in total by this Agreement. This Agreement may be amended or extended from time to time by written agreement of the parties hereto.

Section 17. Litigation Costs. If either party commences any legal action against the other party arising out of this Agreement or the performance thereof, the prevailing party in such action shall be entitled to recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorneys' fees. In any action seeking recovery of monetary damages, the plaintiff shall not be considered to be the prevailing party unless it recovers at least sixty-six percent (66%) of the dollar amount requested in the complaint's prayer for relief.

Section 18. Remedies. In addition to any other available rights and remedies, either party may institute legal action to cure, correct or remedy any default, enforce any covenant herein, or enforce by specific performance the rights and obligation of the parties hereto.

Section 19. Time of the Essence. It is understood and agreed by City and Consultant that time is of the essence in the completion of the work tasks described in the Scope of Services.

Section 20. Interpretation of Agreement. This Agreement shall be interpreted and enforced in accordance with the laws of the State of California and the City of Novato.

Section 21. Written Notification. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in

writing and either served personally or sent by prepaid, first class mail. Any such notice, demand, etc. shall be addressed to the other party at the address set forth hereinbelow. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within two business days from the time of mailing if mailed within the State of California as provided in this Section.

If to City: City of Novato
75 Rowland Way #200
Novato, CA 94945-5054

If to Consultant: _____

Section 22. Waiver. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder.

Section 23. Execution. This Agreement may be executed in several original counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

Section 24. Further Assurances. 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. After receipt of a demand for assurance, either party's failure to provide, within a reasonable time, but not exceeding _____ days, such assurance of due performance as is adequate under the circumstances is a repudiation of this agreement by that party. Acceptance of any improper delivery of service or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance.

IN WITNESS WHEREOF, the City and Consultant have executed this Agreement as of the date first above written.

CITY OF NOVATO

CONSULTANT

By: _____
City Manager

By: _____
City Clerk

_____ Title

Approved as to form:

City Attorney

Sample

CERTIFICATE OF MAILING
*[Use for Agreements to be funded
through Cost Recovery Program]*

A true and correct copy of the attached Consultant Services Agreement between the City of Novato and _____, dated _____, was transmitted to the applicant/authorized agent by certified mail, return receipt requested.

Name Applicant/Authorized Agent: _____

Address: _____

Dated: _____ City Clerk _____

Sample

Schedule A

Professional Liability Insurance Requirements for Consultants

Category I - \$1,000,000
Design Services (Architects, Engineers)
Geotechnical Consultants
Special Testing and Inspection (concrete and asphalt testing, seismic and welding inspection)
Traffic Engineers
Building Inspection for City Projects
Engineering Inspection for City Projects
Financial/Fiscal Analysis
Real Estate Economics
Category II - \$250,000
Aerial Mapping
Surveyors

Issue Date (MM/DD/YY)

General Liability Endorsement

(the "City")

POLICY INFORMATION

Insurance Company:

Policy No.:

Policy Period (from) (to)

Endorsement Effective Date:

Named Insured:

Limit of Liability Any One Occurrence/Aggregate:

\$

Deductible or Self-Insured Retention

(Nil unless otherwise specified): \$

Coverage is equivalent to (check one):

☐ Comprehensive General Liability Form GL0002 (Ed 1/73)☐ Commercial General Liability "occurrence" Form CG0001 1185☐ Commercial General Liability "Claims Made" Form CG0002 0286

General Liability Aggregate (check one):

☐ Applies per Location/Project☐ Is Twice the Occurrence Limit

Bodily Injury and Property Damage Coverage is (check one):

☐ "occurrence"☐ "claims made"

Note: The City's standard insurance requirements specify "occurrence" coverage. "Claims-made" coverage requires special approval. If commercial general liability form or equivalent is used, the general aggregate must apply separately to this location/project or the general aggregate must be twice the occurrence limit.

POLICY AMENDMENTS

This endorsement is issued in consideration of the policy premium. Notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any other endorsement attached thereto, it is agreed as follows:

INSURED: The City, its elected or appointed officers, officials, employees and volunteers are included as insureds with regard to damages and defense of claims arising from: (a) activities performed by or on behalf of the Named Insured, including the insured's general supervision of the Named Insured, (b) products and completed operations of the Named Insured, or (c) premises owned, leased or used by the Named Insured.

CONTRIBUTIONS NOT REQUIRED. As respects: (a) work performed by the Named Insured for or on behalf of the City; or (b) products sold by the Named Insured to the City; or (c) premises leased by the Named Insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its elected or appointed officers, officials, employees or volunteers; or stand in an unbroken chain of coverage excess of the Named Insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its elected or appointed officers, officials, employees or volunteers shall be in excess of this insurance and shall not contribute with it.

SCOPE OF COVERAGE. This policy, if primary, affords coverage at least as broad as:

- (1) Insurance services office form number GL 0002 (Ed. 1/73), Comprehensive General Liability Insurance and Insurance Services Office Form Number GL 0404 Broad Form Comprehensive General Liability endorsement; or
- (2) Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG 0001 or "claims-made" form CG 0002; or
- (3) If excess, affords coverage which is at least as broad as the primary insurance forms referenced in the preceding Sections (1) and (2).

SEVERABILITY OF INTEREST. The insurance afforded by this policy applies separately to each insured who is seeking coverage or against whom a claim is made or a suit is brought, except with respect to the company's limit of liability.

PROVISIONS REGARDING INSURED'S DUTIES AFTER ACCIDENT OR LOSS. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the City, its elected or appointed officers, officials, employees or volunteers.

CANCELLATION NOTICE. The insurance afforded by this policy shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail return receipt requested has been given to the City. Such notice shall be addressed as shown in the heading of this endorsement.

INCIDENT AND CLAIM REPORTING PROCEDURE

Incidents and claims are to be reported to the insurer at:

ATTN: _____
(Title) (Department)

(Company)

(Street Address)

(City)

(Telephone Number)

AUTHORIZED REPRESENTATIVE

I warrant that I have authority to bind the above-listed insurance company and by my signature hereon does so bind this company.

SIGNATURE: _____

TYPE/PRINT NAME: _____

TITLE: _____

PHONE NO. _____

Original signature of authorized representative or insurer is required on endorsement furnished to the City.

Sample

Submit in Duplicate	
Endorsement No.	Issue Date (MM/DD/YY)
Automobile Liability Special Endorsement for _____ (the "City")	
Producer	Policy Information: Insurance Company: Policy No.: Policy Period: (from) _____ (to) _____ Loss Adjustment Expense ☐ Included in Limits ☐ In Addition to Limits
Telephone: _____	☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____
Named Insured	Applicability. This insurance pertains to the operation and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered: City Agreements/Permits
Type of Insurance ☐ Commercial Auto Policy ☐ Business Auto Policy ☐ Other _____	Other Provisions
Limits of Liability \$ _____ per accident for bodily injury and property damage	Claims: Underwriter's representative for claims pursuant to this insurance. Name: _____ Address: _____ Telephone: _____
In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, it is agreed as follows: Insured. The City, its officers, officials, employees and volunteers are included as insureds with regard to damages and defense of claims arising from: the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired, or borrowed by the Named Insured, or for which the Named Insured is responsible. Contribution Not Required. As respects work performed by the Named Insured for or on behalf of the City, the insurance afforded by this policy shall: (a) be primary insurance as respects the City, its officers, officials, employees and volunteers; or (b) stand in an unbroken chain of coverage excess of the Named Insured's primary coverage. Any insurance or self-insurance maintained by the City, its officers, officials, employees and volunteers shall be excess of the Named Insured's insurance and not contribute with it. Cancellation Notice. With respect to the interests of the City, this insurance shall not be cancelled, except after thirty (30) days prior written notice by receipted delivery has been given to the City. Scope of Coverage. This policy affords coverage at least as broad as: - If primary, Insurance Services Office Form Number CA0001 (Ed. 1/87), Code 1 ("any auto"); or - If excess, affords coverage which is at least as broad as the primary insurance forms referenced in the preceding Section (1). Except as stated above, nothing herein shall be held to waive, alter, or extend any of the limits conditions, agreements, or exclusions of the policy to which this endorsement is attached.	
Endorsement Holder City	Authorized Representative ☐ Broker/Agent ☐ Underwriter I, _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ (original signature required) Telephone: () _____

Workers' Compensation and Employer's Liability Special Endorsement for _____ (the "City")		Submit in Duplicate	
		Endorsement No.	Issue Date (MM/DD/YY)
Producer Telephone: _____	Policy Information: Insurance Company: _____ Policy No.: _____ Policy Period: (from) _____ (to) _____		
Named Insured	Other Provisions		
Claims: Underwriter's representative for claims pursuant to this insurance. Name: _____ Address: _____ Telephone: _____ ()	Employer's Liability Limits \$ _____ (Each Accident) \$ _____ (Disease - Policy Limit) \$ _____ (Disease - Each Employee)		
In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, it is agreed as follows: 1. Cancellation Notice. This insurance shall not be cancelled, except after thirty (30) days prior written notice by receipted delivery has been given to the City. 2. Waiver of Subrogation. This Insurance Company agrees to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses paid under the terms of this policy which arise from the work performed by the Named Insured for the City. Except as stated above, nothing herein shall be held to waive, alter, or extend any of the limits conditions, agreements, or exclusions of the policy to which this endorsement is attached.			
Endorsement Holder City	Authorized Representative ☐ Broker/Agent ☐ Underwriter I, _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement. Signature _____ (original signature required) Telephone: () _____		

Acknowledgement of No Workers' Compensation Insurance and Release

The undersigned, [all general partners in the California general partnership entitled _____; the sole shareholder of the corporation called _____] ("Company"), agree, represent and warrant as follows:

1. That Company has been determined to be the lowest responsible bidder and has conditionally been awarded the construction contract for the City of _____ ("City") project entitled "_____" ("Project"). A condition to said contract for the construction of said Project is the provision, by Company, of workers' compensation insurance for the Company's employees performing work on and for the Project.
2. That neither the Company nor any of its partners, shareholders, directors or principals shall ever use, retain, employ or obtain the assistance of any person hired by the Company as an employee to perform work on or in connection with the Project.
3. That because the Company and all of its partners shall not retain employees to perform work on or in connection with the Project, the Company and all of its partners do not intend to secure workers' compensation insurance for said Project.
4. That if at any time during the performance of the work required to complete the Project the Company or any of its partners employ and employee to perform any or all of said work, the undersigned and the Company shall, in writing, immediately notify the City of said employment, and with said notification, the Company shall supply to the City satisfactory evidence of workers' compensation insurance.
5. That the Company and each of its partners, shareholders, principals and/or owners indemnify, release and hold the City harmless from any and all injuries, damages, costs, attorneys fees, expenses and liabilities of any sort caused to persons or property arising out of the work performed on or in connection with the Project, including but not limited to injuries caused to persons working on the Project, excluding the City's sole or active negligence.
6. That the undersigned are all the general partners [shareholders, principals, owners, etc.] of said Company and are authorized to make this agreement and warranty on behalf of themselves and the partnership.
7. That the undersigned personally guarantee the obligations contained hereinabove.

[I] [We] declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

General Partner/Owner/Shareholder

Date

General Partner/Owner/Shareholder

Date

Issue Date (MM/DD/YY)

Certificate of Insurance

(the "City")

Producer	This Certificate of Insurance is not an insurance policy and does not amend, extend, or alter the coverage afforded by the policies below.		Best's Rating
	Companies		
Insured	Company		
	Letter		
	Company		
	Letter		
	Company		
	Letter		
	Company		
	Letter		

This is to certify that the policies of insurance listed below have been issued to the Insured Named above for the policy period indicated, notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the insurance afforded by the policies described herein subject to all the terms, exclusions, and conditions of such policies. Limits shown may have been reduced by paid claims.

The following provisions apply:

1. None of the above-described policies will be cancelled until after 30 days written notice has been given to the City at the address indicated below.
2. The City, its officials, officers, employees and volunteers and added as insureds on all liability insurance policies listed above.
3. It is agreed that any insurance or self-insurance maintained by the City will apply in excess of and not to contribute with the insurance described above.
4. The City is named a loss payee on the property insurance policies described above, if any.
5. All rights of subrogation under the property insurance policy listed above have been waived against the City.
6. The Workers' Compensation insurer named above, if any, agrees to waive all rights of subrogation against the City for injuries to employees of the insured resulting from work for the City or use of the City's premises or facilities.

Type of Insurance	Policy Number	Policy Effective Date	Policy Expiration Date	All Units in Thousands
General Liability ☐ Commercial General Liability ☐ Claims Made ☐ Occur. ☐ Owner's & Contractor's Prot. ☐ Owner				General Aggregate \$ _____ Products Comp/OPS Aggregate \$ _____ Personal & Advertising Injury \$ _____ Each Occurrence \$ _____ Fire Damage (Any One Fire) \$ _____ Medical Expense (Any One Person) \$ _____
Automobile Liability ☐ Any Auto ☐ All Owned Autos ☐ Scheduled Autos ☐ Hired Autos ☐ Non-owned Autos ☐ Garage Liability				Combined Single Limit \$ _____ Bodily Injury (Per Person) \$ _____ Bodily Injury (Per Accident) \$ _____ Property Damage \$ _____
Excess Liability ☐ Umbrella ☐ Other Than Umbrella Form				Each Occurrence \$ _____ Aggregate \$ _____
☐ Worker's Compensation and Employer's Liability				☐ Statutory Each Accident \$ _____ Disease - Policy Limit \$ _____ Disease - Each Employee \$ _____
Property Insurance ☐ Course of Construction				Amount of Insurance \$ _____

Certificate Holder/Additional Insured	Authorized Representative
	Signature:
	Title:
	Phone No.:

UNDERWRITER/BROKER/AGENT'S CERTIFICATION

City:
City Project Identification:
Entity Providing Contractual Services:
Insurer(s):
Best Rating(s):
Name and Title of Underwriter, Broker or Agent completing Certification:

I, the undersigned insurance underwriter, broker or insurance agent, do hereby certify that I have examined the insurance specifications prepared by the City for the above-referenced project and have attached herewith company certificates of insurance and all endorsements specified in the insurance specifications.

I further certify that the coverages provided to the Contractor and described in the certificates of insurance and endorsements conform in all respects to the requirements set forth in the insurance specifications, including, but not limited to, the following considerations:

1. The scope of insurance is at least as broad as the minimum requirements identified in the insurance specifications;
2. The minimum occurrence limits and aggregate limits of insurance are consistent with those set forth in the insurance specifications;
3. All deductibles and/or self-insured retentions have been declared;
4. All required endorsements identified in the insurance specifications have been provided and copies have been attached to the appropriate certificate of insurance.
5. All policies of insurance have been placed with insurers with a current rating from the A.M. Best Company of not less than A:VII;
6. All endorsements have been signed by a person authorized by the insurer to bind coverage on its behalf.

I understand that the City will not authorize the Contractor to initiated work on behalf of the City until this certification has been fully executed and returned to the City.

Name of Company	Signature of Broker
Business Address	Date
Business Phone	

Issue Date (MM/DD/YY)

Certificate of Professional Liability Insurance

(the "City")

Producer

This Certificate of Insurance is not an insurance policy and does not amend, extend, or alter the coverage afforded by the policies below.

Companies

Best's
Rating

Company

Letter

Company

Letter

Company

Letter

Company

Letter

Company

Letter

Insured

This is to certify that the policies of insurance listed below have been issued to the Insured Named above for the policy period indicated, notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the insurance afforded by the policies described herein subject to all the terms, exclusions, and conditions of such policies. Limits shown may have been reduced by paid claims.

Co
Ltr

Type of Insurance

Policy Number

Policy
Effective Date
(mm/dd/yy)

Policy
Expiration Date
(mm/dd/yy)

All Units in Thousands

**Professional Liability
Errors and
Omissions Insurance**

☐ Claims Made

☐ Occurrence

Each Occurrence \$ _____

Aggregate \$ _____

Combined Single Limit \$ _____

Description of Operations/Locations/Vehicles/Restrictions/Special Items

The following Provisions Apply:

1. None of the above-described policies will be cancelled until after 30 days written notice has been given to the City at the address indicated below.
2. It is agreed that any insurance or self-insurance maintained by the City will apply in excess of and not to contribute with the insurance described above.
3. It is hereby certified the above policy provides insurance as required by the applicable agreement between the City and the insured.

Certificate Holder/Additional Insured

Authorized Representative

Signature: _____

Title: _____

Phone No.: _____