Request for Proposals to Provide Facilities Master Planning

Submit proposals to:
David Tichava
Facilities Manager
Sonoma County Library
6135 State Farm Drive
Rohnert Park, CA 94928
Tel: 707-545-0831, Ext. 1584

Date of Issuance: February 13, 2020
Proposals Due: April 17, 2020
I. GENERAL PROJECT DESCRIPTION

A. Introduction

The Sonoma County Library (the “Library”) will consider proposals to provide facility master planning services from qualified firms to prepare an assessment of its facilities and a comprehensive Master Plan to guide facilities planning and improvements for the next 10 years. The plan will address priorities identified in the strategic plan (underway) for welcoming, flexible spaces that provide opportunities for the community to discover, learn and share.

1. Library Background

Libraries in Sonoma County date back to the mid-19th Century. The current county-wide system was created in 1975 and consists of a Central Library (downtown Santa Rosa); 11 regional libraries (Cloverdale, Healdsburg, Windsor, Northwest, Rincon Valley, Sonoma Valley, Sebastopol, Guerneville, Roseland, Petaluma, and Rohnert Park-Cotati); two rural stations (Forestville and Occidental); a History & Genealogy Library (Santa Rosa); the Petaluma History Room (inside the Petaluma branch); the Sonoma County Wine Library (inside the Healdsburg branch); an adult literacy program (inside the Central branch); and an administration building in Rohnert Park.

The Library serves more than 2 million visitors a year, with a growing digital realm that includes e-books, audiobooks, films, databases, periodicals and much more. In addition to reading and viewing materials, the Library offers public access computers and printing, storytimes for all ages and levels, and a wide variety of educational, enrichment, recreational and entertainment programs for children, teens and adults.

The Library is heavily invested in technology, offering free WiFi in the branches, plus check out of WiFi hotspots and Chromebooks, virtual reality and 3D printing programs, a camera library, and technology training and classes. The Library’s digital resources are available 24/7 from a website or a mobile app.

The Library last adopted a Facilities Master Plan in 2016, a copy of which is available on its website at: https://sonomalibrary.org/sites/default/files/attachments/facilities/FacilitiesMasterPlan.pdf

2. Jurisdiction and Funding

The Library is a separate government agency, formed by a Joint Powers Agreement between the County of Sonoma and the nine incorporated cities in the county (the “JPA Members”). The JPA Members appoint the 11-member Sonoma County Library Commission, which is responsible for hiring the Library Director, approving the annual budget and contracts, and setting broad guidelines and policy.

The Library leases all of its buildings, with the exception of the History & Genealogy Library, which it owns. The Roseland Library and the two rural stations are in buildings owned by private landlords, and the Library pays monthly lease fees for those facilities.
All other Library buildings are owned by the JPA member municipalities, and the Library does not pay any fees for their use.

The Library receives approximately two-thirds of its funding from property tax and one-third from sales tax. Other funding sources are donations, grants, and a capital campaign fundraising effort will be launched soon.

B. **Objective of this Request for Proposals**

1. **Project Description**

Through this Request for Proposals (“RFP”), the Library seeks competitive proposals for a consultant to develop a Library Facilities Master Plan (the “Plan”), to quantify existing space deficiencies and assets, and identify how best to address deficiencies and plan for future growth system-wide. The Plan will identify the total number of square feet required for the library system to serve Sonoma County residents and visitors through the year 2030. It will serve as a defensible guide to the Library’s capital program as it seeks to provide high quality 21st Century library services that meet the growing and evolving needs of Sonoma County.

The Plan should enable the Library to respond appropriately and effectively to changes in community demographics, technology and telecommunications development, emerging service expectations, aging facilities, and other future needs. Once complete, the Plan will be a significant asset to the Library’s ongoing planning efforts, and a guide to the ideal sequence for branch improvements.

Selection of one or more proposals will be made pursuant to the process described below. Upon selection of one or more proposals, the Library will finalize the terms of the contract with each selected proposer, which contract will apply to the services provided to the Library.

The Library also requests that proposals include provisions for written updates to the Plan for three consecutive years after completion, that is, at 3 years, 6 years and 9 years.

2. **Scope of Work and Statement of Requirements**

The services required to complete the preparation of a Facilities Master Plan consist of the following:

- Develop community involvement process to engage a broad range of stakeholders in assessing facilities and developing the Facilities Master Plan through focus groups, surveys, and interviews.
- Complete an assessment of all Library facilities and identify deficiencies in existing buildings and sites, including service areas, utility systems and infrastructure, telecommunications and health, and safety conditions.
• Identify potential improvements to current level of energy and resources conservation and overall sustainability.
• Identify potential for additional sustainability improvements in the existing buildings, remodeled facilities and new facilities.
• Create a facilities design guide to promote the efficient, consistent, and cost-effective design and construction of all new and modernized buildings.
• Incorporate the Library’s Strategic Plan, current and projected demographic data for Sonoma County, as well as state and national standards, peer comparisons, library trends and best practices.
• Assess and make recommendations as to the appropriate size and location of branches in the current general geographic areas, and identify whether or not any new facilities are needed and in what areas they should be located.
• Define, in coordination with staff from each of the ten JPA Members, implementation steps necessary to fulfill the needs identified in 3-year increments, including a 10-year outcome.
• Preparation of draft written Plans and coordination with Library for review and direction.
• Preparation of final written Plan, and presentation to the Library Commission by December 31, 2020.
• Possible updating of the Plan at 3 years, 6 years and 9 years.

C. Schedule

The following Schedule applies to this RFP, but is subject to change. Except as provided below, changes will be made only by written amendment to this RFP.

<table>
<thead>
<tr>
<th>DATE</th>
<th>EVENT</th>
</tr>
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<tbody>
<tr>
<td>February 13, 2020</td>
<td>Release of Request for Proposals</td>
</tr>
<tr>
<td>March 13, 2020</td>
<td>Proposers’ written questions due by 5:00 p.m. PST</td>
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<tr>
<td>March 20, 2020</td>
<td>Library’s written responses to questions due by 5:00 p.m.</td>
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<tr>
<td>April 17, 2020</td>
<td>Proposals due by 5:00 p.m. PDT</td>
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<tr>
<td>April 17-May 1, 2020</td>
<td>Proposals evaluated by Library’s Evaluation Committee</td>
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<tr>
<td>May 4-8, 2020</td>
<td>Interviews conducted</td>
</tr>
<tr>
<td>May 18, 2020</td>
<td>Notice of Intent to Award issued</td>
</tr>
<tr>
<td>June 1, 2020</td>
<td>Contract presented to Library Commission for approval</td>
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</table>

D. Pre-Bid Conference

There will be no pre-bid conference in connection with this RFP.
E. Questions

Proposers may submit written questions regarding this RFP via email, which the Library will respond to in writing via email, based on the dates set forth in the Schedule (above). The Library’s written email responses will be provided to all proposers who have submitted their email contact information to the Library.

Questions regarding this RFP should be sent via e-mail directly to the Library’s contact person:

David Tichava, Library Facilities Manager
E-Mail: dtichava@sonomalibrary.org

All questions and responses must be in writing; no verbal communications between a proposer and Library staff regarding the substance of a pending RFP are permitted, and any verbal representations provided by Library staff are not binding on the Library.

If a proposer discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFP, the proposer shall immediately notify the Library’s contact person of such perceived error. Modifications to this RFP may be made by addenda, which then become part of this RFP.

II. SUBMISSION OF PROPOSALS

A. Proposal Length and Format

The intent of this RFP is to encourage prospective contractors to submit proposals which clearly communicate their understanding of the Library’s project requirements and the services it seeks. Proposals submitted in response to this RFP must follow the format outlined below.

1. Written Proposals

Proposals must be made in writing and signed by the proposer or its authorized representative. Proposals shall be limited in length to no more than 25 single-sided pages, excluding samples, photographs or graphic materials. Tabs with graphics or folded out pages will be counted toward the 25-page limit.

2. Submission Copies and Due Date

Proposers must submit their proposals on a flash drive and also submit the Original and three (3) paper copies of their proposals in a sealed envelope marked “PROPOSAL FOR FACILITIES MASTER PLAN PROJECT” to:
Proposals must be received by 5:00 p.m. PDT on April 17, 2020.

Proposals received after this time or at any other location will not be accepted.

3. Proposal Contents

For ease of review and to facilitate evaluation, the written proposals for this project should be organized and presented in the following order.

a. Section I - Organizational Information:

In this section, please provide background information regarding you or your organization, including:

i. Your full name (individual, partnership, corporation, etc.), mailing and e-mail addresses, fax and primary telephone numbers;
ii. The name, mailing and e-mail addresses, telephone and fax numbers of the representative(s) authorized to execute contracts for the proposer;
iii. The name, mailing and e-mail addresses, telephone and fax numbers for the designated primary contact for day-to-day communications;
iv. If applicable, an organizational chart of the office that would provide services for the project;
v. Your business history, the number and types of professional staff you employ or otherwise engage, and the years of experience in fields related to the project; and
vi. Any other information regarding your organization that you believe would be relevant to the project.

b. Section II – Qualifications and Experience:

Please explain your and your staff’s qualifications and experience in this section, including:

i. Your qualifications and experience in the subject areas that are applicable to the project. Be specific in describing the depth of both you and your staff’s knowledge and experience;
ii. The type of services you are particularly qualified to perform;
vi. The names and qualifications of all key personnel who may be part of the team for this project, and their respective roles on the project;
iii. Resumes of the principal(s) and other key personnel who would
provide or substantially assist in providing the requested services;
iv. A reference list of at least three (3) current clients, (3) former clients, and all public sector clients for which you have provided services in the last 5 years, including the clients’ contact names and telephone numbers;
v. A brief representative listing of similar projects completed in the past three (3) years and your responsibilities for those projects, as well as the responsibilities of other key personnel who would be part of the team on this project;
vi. Samples of two (2) or more facilities master plans prepared in the last five (5) years, and related client contact information;
vii. Disclose any loss of professional licenses for you or any of your key personnel or sub-contractors, and related details;
viii. Disclose any lawsuit or any other type of proceeding (such as an arbitration) resulting from any job undertaken by you or your sub-contractors which is still pending or has occurred on projects within the last five years, and related details; and
xv. Any other information which might aid the Evaluation Committee in ascertaining your qualifications and experience.

c. Section III - Project Approach and Work Schedule:

In this section, please explain your understanding of the RFP’s requirements and objectives regarding the project, and how you will satisfy them, including the following:

i. Provide an outline of the work plan for accomplishing the specified goals;
ii. Describe your ability to complete the requested services in a timely manner;
iii. Describe information, documents, staff assistance, facilities or other resources you would require from the Library to complete your work, and identify any other critical assumptions upon which your work plan is based;
iv. Describe any challenges that you believe may be encountered and areas of concern that may need to be addressed;
v. In the event of any consulting team turnover, describe the replacement process; and
vi. Provide a statement regarding any conflict or potential conflict you or any of your key staff may have regarding provision of the proposed services to the Library. The statement should include actual conflicts and also any working relationships which may be perceived as a conflict. If no potential conflicts of interest are identified, please provide such an affirmation in your proposal.
d. Section IV – Cost of Service:

In this section, please disclose all charges to be assessed to the Library for the required services. All proposals must identify the following:

i. Hourly rates for each person who may provide services for the project (including whether hourly rates apply to travel time), lump sum project costs, and/or other types of project costs;

ii. Costs for any materials or products, and expenses that consultant will request to be reimbursed;

iii. Hourly rate charges for additional services not included within the scope of routine services outlined in this RFP (such additional services would be undertaken only at the written request of the Library); and

iv. Describe any special services and/or benefits offered at no cost to the Library.

The services and project costs must be broken out, and all expenses that would be charged to the Library must be identified, including but not limited to hourly rates for labor, 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 charges, costs and expenses associated with your proposal may be cause for its rejection.

e. Section V – Identification of Sub-Contractors:

Identify all sub-contractors you intend to use for the proposed scope of work for the project. For each subcontractor listed, please 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) qualifications of each subcontractor to perform the identified scope of work.

f. Section VI – Contract Terms:

Include a statement in the proposal acknowledging your willingness to accept all terms and provisions contained in the Sample Agreement (see Attachment A) or identify specific exceptions to the Sample Agreement. Any proposer taking exception to any provision in the Sample Agreement must also provide alternative language for those provisions. Please note that any exceptions or changes requested to the provisions of the Sample Agreement may constitute sufficient grounds to reject the proposal.

Failure to object to the provisions in the Sample Agreement in the proposal will be construed as acceptance of all terms and conditions contained therein.
g. Section VII – Additional Information:

Include any additional information you believe is pertinent to consideration of your proposal.

B. Proposal Duration and Contract Timing Requirements

All proposals will remain in effect and shall be legally binding for at least one hundred and twenty (120) days after the proposal submission due date.

Unless otherwise authorized by the Library, the selected contractor will be required to execute a contract with the Library for the services requested within fifteen (15) days of the Library’s issuance of the notice of intent to award. If agreement on contract terms and conditions acceptable to the Library cannot be achieved within that timeframe, or if it appears that an agreement will not be possible after reasonable negotiations have been conducted (as determined at the sole discretion of the Library), then the Library reserves the right to retract the notice of intent to award and proceed with awards to other consultants, or to withdraw this RFP.

C. Withdrawal and Submission of Modified Proposals

A proposer may withdraw a proposal at any time prior to the submission deadline by submitting a written notification of withdrawal signed by the proposer or its authorized agent. Another proposal may be submitted prior to the deadline. A proposal may not be changed after the designated deadline for submission of proposals.

D. Confidentiality of Information Contained in Proposals

Upon submission, all proposals shall be treated as confidential documents until the selection and negotiation process has been completed. Once the Library has issued its notice of intent to award and the contract negotiations have been completed, all submitted proposals shall be deemed public records and become subject to public disclosure.

In the event that a proposer desires to claim portions of its proposal exempt from public disclosure, it is incumbent upon the proposer 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, and to clearly identify the information claimed to be confidential (for example, by highlighting, underlining, or bracketing it). Each page on which confidential material appears must be clearly marked and readily separable from the proposal in order to facilitate public inspection of the non-confidential portion of the proposal.

The Library will consider a proposer’s request for information identified as “confidential” to be exempt from public disclosure; however, the Library will make its decision as to whether such information is subject to public disclosure based upon applicable laws. An assertion by a proposer that the entire proposal, large portions of the proposal, or a significant element of the proposal are exempt from public disclosure will not be honored, and such a proposal may be rejected as being non-responsive. Prices, makes and models or catalog numbers of the items offered, deliverables,
and terms of payment shall be publicly disclosed regardless of any designation to the contrary.

Proposers are advised that the Library does not wish to receive confidential or proprietary information except when it is necessary to consideration of the proposals. If any information or materials in a proposal are labeled “Confidential,” then the proposal shall include the following clause:

[Legal name of bidder] shall indemnify, defend and hold harmless the Sonoma County Library, its officers, agents and employees, from and against any request, claim, action or proceeding, and any damages or liability (including but not limited to attorneys’ fees awarded under the California Public Records Act, Government Code § 6250, et seq.) resulting therefrom, which arise out of, concern, or involve any materials or information in this proposal that [legal name of bidder] has labeled as “Confidential” or otherwise not subject to disclosure as a public record.

E. Disqualification or Rejection of Proposal

The Library may, at its sole discretion, disqualify or reject a proposal if it fails to furnish all information requested in this RFP, fails to follow the format requested in this RFP, or contains false, incomplete, misleading or unresponsive statements.

III. SELECTION PROCESS

A. Evaluation Committee to Review Proposals

The Library shall form an Evaluation Committee to review the content of all proposals submitted in response to this RFP. The Evaluation Committee may be comprised of Library employees or officers, Commission members, or persons outside of the Library. The Evaluation Committee shall review and evaluate all timely proposals based on the terms of this RFP, and shall make a recommendation for selection of a contractor to the Library Commission. The Library Commission is ultimately responsible for approving any contract to be awarded under this RFP, in its sole discretion.

Those Library employees who have a relationship with a person or business entity submitting a proposal shall not participate in the review or selection process, per Government Code § 87100. Any person or business entity submitting a proposal who has such a relationship with a Library employee who may be involved in the selection process shall advise the Library of the name of its employee in the proposal.

The Evaluation Committee may reject any or all proposals, or portions thereof, if it determines that it is in the Library’s best interests to do so.

B. Evaluation Criteria

Proposals may be evaluated using the following criteria (there is no value or ranking implied in
the order of this list):

1. Demonstrated ability to perform the services described in the RFP;
2. Experience, qualifications, and expertise;
3. Quality and timeliness of work as verified by examples or references;
4. Fees and costs relative to the scope of services;
5. A demonstrated history of providing similar services to comparable entities;
6. Willingness to accept the Library’s contract terms in the Sample Agreement (Attachment A);
7. The business location(s) of the proposer; and
8. 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.).

C. Defects in Proposals

An error in a proposal may cause the Evaluation Committee to reject that proposal; however, the Evaluation Committee may, in its sole discretion, retain the proposal and make certain corrections if the proposer’s intent is clearly established based on review of the complete proposal submitted. The Evaluation Committee may also correct obvious clerical errors.

D. Additional or Supplemental Information

The Evaluation Committee may, during the evaluation process, request any proposer to provide additional information which the Evaluation Committee deems necessary to evaluate the proposer’s ability to perform the required services. Such information shall be required to be provided in writing, and shall become part of the proposal on record.

E. Interviews

After initial screening, the Evaluation Committee may select those proposers deemed most qualified for this project for further evaluation. Interviews of those selected proposers may be conducted as part of the final selection process. Interviews may or may not have their own separate scoring during the evaluation process.

F. Selection of Proposals

The Library reserves the right to select the proposal(s) which in its sole judgment best meets its needs, and to award a contract to one or multiple qualified submittals. The lowest proposed cost is not the sole criterion for recommending contract award.

The Library also makes no guarantee of any or equal amounts of work for the project which is the subject of this RFP. Further, the Library is not responsible for any costs incurred in the preparation or submission of a proposal or any work performed prior to the execution of a contract.
IV. CONTRACT AWARD

A. Notice of Intent to Award Contract

Upon selecting a proposal, the Library will enter into contract negotiations with the chosen contractor. If such negotiations are unsuccessful, the Library will proceed to negotiate with the proposer who scored next highest in rank.

Upon successful completion of contract negotiations, all proposers who have submitted proposals in response to this RFP will be provided with notice as to the successful contractor(s) through a notice of intent to award contract.

B. Contract Award

The Evaluation Committee will make a recommendation on awarding a contract to the Library Commission. No contract will be in effect until approved by the Library Commission.

This RFP does not commit the Library to award a contract. The Library has absolute discretion in awarding a contract and reserves the right to waive informalities and irregularities in this RFP and/or the proposals received. The Library reserves the right to accept or reject any or all proposals or to modify or cancel this RFP in part or its entirety.

C. Protest Process

Any protests to this RFP, the selection process, or the awarded contract must be in writing and must comply with the requirements set forth in the Library’s Bid Protest Process, found on the Library’s website at:

Attachments: Attachment A: Sample Agreement
This Agreement dated as of __________ (the “Effective Date”) is made by and between the Sonoma County Library, a Joint Powers Authority Entity (hereinafter referred to as “Library”), and [name of Consultant], a [identify type of entity] authorized to conduct business in the State of California (hereinafter referred to as “Consultant”), pursuant to the terms and conditions set forth below.

RECATS

A. On [date], the Library issued a Request for Proposals for Facilities Master Planning services to be provided to the Library, a copy of which is attached as Exhibit A.1.

B. Consultant is a duly qualified and experienced in providing facilities master planning services for libraries, and responded to the Library’s Request for Proposals, a copy of which is attached as Exhibit A.2.

C. Pursuant to a fair and impartial process, the Library selected Consultant to provide the facilities master planning services set forth in Exhibits A through A.2.

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

AGREEMENT

1. Scope of Services.

1.1 Consultant’s Specified Services. Consultant shall perform the services described in Exhibits A through A.2, attached hereto and incorporated herein by this reference (hereinafter “Scope of Work”) and within the times or by the dates as provided for in the Scope of Work and pursuant to Article 7 (Prosecution of Work). In the event of a conflict between the body of this Agreement and the attached exhibits, the provisions in the body of this Agreement shall control; in the event of a conflict between Exhibit A and Exhibit A.2, the terms of Exhibit A shall control.

1.2 Cooperation of the Parties. The parties shall cooperate with each other in the performance of all work under this Agreement.

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 Library determines that any of Consultant’s work is not in accordance with such level of competency and standard of care, Library, in its sole discretion, shall have the right to do any or all of the following: (a) require Consultant to meet with Library to review the
quality of the work and resolve matters of concern; (b) require Consultant to repeat the work at no additional charge 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 Consultant shall assign only competent personnel to perform work hereunder. In the event that at any time the Library, 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 Library.

1.4.2 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 the Library to be key personnel whose services were a material inducement to the Library to enter into this Agreement, and without whose services the Library 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 the Library.

1.4.3 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 rates set forth on Exhibit B. Consultant shall submit its bills in arrears on a monthly basis in a form approved by Library. The bills shall show or include: (i) the task(s) performed; (ii) the time in quarter hours devoted to the task(s); (iii) the hourly rate or rates of the persons performing the task(s); and (iv) copies of receipts for reimbursable materials/expenses, if any. Reasonable expenses actually incurred shall be reimbursed at cost.

3. **Term of Agreement.** The term of this Agreement shall be from the Effective Date until [insert termination date], 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, the Library shall have the right, in its sole discretion, to terminate this Agreement by giving seven (7) days written notice to Consultant.

4.2 **Termination for Cause.** Notwithstanding any other provision 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, the Commission 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 14 days following the date of termination, shall deliver to the Library all materials and work product subject to Section 9.9 and shall submit to the Library 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 the Library, Consultant shall be entitled to receive as full payment for all services satisfactorily rendered hereunder; provided, however, that if the Library terminates the Agreement for cause pursuant to Section 4.2, the Library shall deduct from such amount the amount of damage, if any, sustained by Library by virtue of the breach of the Agreement by Consultant.

4.5 Authority to Terminate. The Library Director has the authority to terminate this Agreement on behalf of the Library.

5. Indemnification. Consultant agrees to accept all responsibility for loss or damage to any person or entity, and to defend, indemnify, hold harmless and release the Library (including its commissioners, officers, agents, and employees) from and against any and all actions, claims, damages, 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 the Library based upon a claim relating to Consultant’s performance or obligations under this Agreement. This provision shall be interpreted broadly in favor of the Library, and Consultant’s obligations under this provision apply whether or not there is concurrent negligence on the Library’s part, but to the extent required by law, excluding liability due to the Library’s conduct. 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 in Exhibit C, which is attached hereto and incorporated herein by this reference.

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, fire, 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 a 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. Minor changes, which do not increase the amount paid under the Agreement, and which do not significantly change the scope of work or significantly lengthen time schedules may be executed by the Director in a form approved by the Library’s General Counsel. The Library must authorize all other extra or changed work. 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 the Library.


9.1 Standard of Care. Library has relied upon the professional ability and training of Consultant as a material inducement to enter into this Agreement. Consultant hereby agrees that all of its work shall be performed, and that its operations shall be conducted, in accordance with generally-accepted and applicable professional standards as well as all applicable federal, state, and local laws. Consultant represents that all of its officers, employees, agents, and subcontractors are properly licensed in the jurisdiction where the projects are located to provide the services required by this Agreement. It is understood that the Library’s acceptance of Consultant's work shall not operate as a waiver or release of any of the provisions of this Agreement.

9.2 Status of Consultant. The parties intend for Consultant to perform services under this Agreement as an independent contractor, and further agree that: (a) Consultant is free from the control and direction of the Library in performing services under this Agreement; (b) the services to be performed under this Agreement are outside the usual course of the Library's business; and (c) Consultant is customarily engaged in an independently-established business of the same nature as the services to be performed under this Agreement. In the event the Library 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 the Library 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 the Library is audited for compliance regarding any withholding or other applicable taxes, Consultant agrees to furnish the Library with proof of payment of taxes on these earnings.

9.4 **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 the Library for inspection at any reasonable time. Consultant shall maintain such records for a period of four (4) years following completion of work hereunder.

9.5 **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 or engaged as a subcontractor. In addition, if requested to do so by the Library, Consultant shall complete and file, and shall require any other person doing work under this Agreement to complete and file, a Form 700 “Statement of Economic Interest” with the Library disclosing Consultant's or such other person's financial interests.

9.6 **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. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated herein by this reference.

9.7 **Assignment of Rights.** Consultant assigns to Library 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 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 Library 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 Library may direct, and refraining from disclosing any versions of the plans and specifications to any third party without first obtaining written permission of Library. 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 Library.

9.8 **Ownership and Disclosure of Work Product.** All reports, original drawings, graphics, plans, studies, and other data or documents (collectively, “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 the Library. The Library 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 the Library all such documents, which have not already been provided to the Library in such form or format, as the Library deems appropriate. Such documents shall be and will remain the property of the Library 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 through this Agreement without the express written permission of the Library.

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 the Library’s right to terminate this Agreement pursuant to Article 4.

11. **Assignment and Delegation.** Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented.

12. **Method and Place of Giving Notice, Submitting Bills and Making Payments.** All notices, bills, and payments (“notices”) shall be made in writing and may be given by personal delivery, U.S. Mail, or courier service (such as Federal Express). Notices sent by mail, delivery or courier shall be addressed as follows:
When so addressed, notices shall be deemed given upon deposit in the U.S. Mail, or express mail service, postage prepaid. In all other instances, notices shall be deemed given at the time of actual delivery. Any changes to the names and addresses for notice purposes shall be provided in writing.

13. **Miscellaneous Provisions**

13.1. **Merger.** This Agreement 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 California Code of Civil Procedure § 1856. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

13.2. **No Waiver of Breach.** The waiver by the parties of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or promise, or any subsequent breach or promises contained in this Agreement.

13.3. **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.

13.4. **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 the Library 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 the Library acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

13.5. **Applicable Law and Forum.** This Agreement shall be construed and interpreted according to California Law, and any action or proceeding to enforce this Contract or for the breach thereof shall be brought or tried in the County of Sonoma.
13.6. **Counterparts.** This Agreement may be executed in several counterparts and all counterparts so executed shall constitute one agreement that shall be binding on all of the parties, notwithstanding that all of the parties are not signatory to the original or same counterpart.

13.7. **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 on the dates set forth below.

**CONSULTANT:**

Dated: ____________, 2018

By: __________________________

[Name]

[Title]

**LIBRARY:**

Dated: ____________, 2018

By: __________________________

Ann Hammond
Library Director
Sonoma County Library

**APPROVED AS TO FORM FOR LIBRARY:**

By: __________________________

Anne L. Keck
Keck Law Offices
General Counsel
EXHIBIT A

SCOPE OF WORK

The Scope of Work for Consultant’s services under this Agreement is set forth in the Library’s Request for Proposals (attached as Exhibit A.1), and the Consultant’s Response (attached as Exhibit A.2), both of which are incorporated herein by this reference. Additional information is as follows.

[Insert details regarding Scope of Work]
EXHIBIT A.1

Request for Proposals (attached)
EXHIBIT A.2

Consultant’s Proposal (attached)
EXHIBIT B

PAYMENT TERMS

[Insert Payment Terms]
EXHIBIT C

INSURANCE REQUIREMENTS

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 unless such insurance has been expressly waived by the Library through a Waiver of Insurance Requirements. Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.

The Library reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement (or failure to identify any insurance deficiency) shall not relieve Consultant from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

1. Workers Compensation and Employers Liability Insurance
   a. Required if Consultant has employees as defined by the Labor Code of the State of California.
   b. Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.
   c. Employers Liability with minimum limits of $1,000,000 per Accident; $1,000,000 Disease per employee; $1,000,000 Disease per policy.
   d. Required Evidence of Insurance: Certificate of Insurance.

   If Consultant currently has no employees as defined by the Labor Code of the State of California, Consultant agrees to obtain the above-specified Workers Compensation and Employers Liability insurance should employees be engaged during the term of this Agreement or any extensions of the term.

2. General Liability Insurance
   a. Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
   b. Minimum Limits: $2,000,000 per Occurrence; $4,000,000 General Aggregate; $4,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of General Liability Insurance and Commercial Excess or Commercial Umbrella Liability Insurance. If Consultant maintains higher limits than the specified minimum limits, the Library requires and shall be entitled to coverage for the higher limits maintained by Consultant.
   c. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds $25,000 it must be approved in advance by the Library. Consultant is responsible for any deductible or self-insured retention and shall fund it upon the Library’s written request, regardless of whether Consultant has a claim against the insurance or is named as a party in any action involving the Library.
d. The Sonoma County Library shall be endorsed as an additional insured for liability arising out of operations by or on behalf of the Consultant in the performance of this Agreement.

e. The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.

f. The policy definition of “insured contract” shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the “f” definition of insured contract in ISO form CG 00 01, or equivalent).

g. The policy shall cover inter-insured suits between the additional insureds and Consultant and include a “separation of insureds” or “severability” clause which treats each insured separately.

h. **Required Evidence of Insurance:**
   i. Copy of the additional insured endorsement or policy language granting additional insured status; and
   ii. Certificate of Insurance.

3. **Automobile Liability Insurance**
   a. Minimum Limit: $1,000,000 combined single limit per accident. The required limits may be provided by a combination of Automobile Liability Insurance and Commercial Excess or Commercial Umbrella Liability Insurance.
   b. Insurance shall cover all owned autos. If Consultant currently owns no autos, Consultant agrees to obtain such insurance should any autos be acquired during the term of this Agreement or any extensions of the term.
   c. Insurance shall cover hired and non-owned autos.
   d. **Required Evidence of Insurance:** Certificate of Insurance.

4. **Professional Liability/Errors and Omissions Insurance**
   a. Minimum Limits: $2,000,000 per claim or per occurrence; $4,000,000 annual aggregate.
   b. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds $25,000 it must be approved in advance by the Library.
   c. If Consultant’s services include: (1) programming, customization, or maintenance of software: or (2) access to individuals’ private, personally identifiable information, the insurance shall cover:
      i. Breach of privacy; breach of data; programming errors, failure of work to meet contracted standards, and unauthorized access; and
      ii. Claims against Consultant arising from the negligence of Consultant, Consultant’s employees and Consultant’s subcontractors.
   d. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work.
   e. Coverage applicable to the work performed under this Agreement shall be continued for two (2) years after completion of the work. Such continuation coverage may be provided by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement
insurance with a retroactive date no later than the commencement of the work under this Agreement.

f. **Required Evidence of Insurance**: Certificate of Insurance specifying the limits and the claims-made retroactive date.

5. **Standards for Insurance Companies**
   Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best's rating of at least A:VII.

6. **Documentation**
   a. The Certificate of Insurance must reference this Agreement and/or the “Facilities Master Plan Project.”
   b. All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Consultant agrees to maintain current Evidence of Insurance on file with the Library for the entire term of this Agreement and any additional periods if specified in Sections 1 – 4 above.
   c. The name and address for Additional Insured endorsements and Certificates of Insurance are:
      
      Director  
      Sonoma County Library  
      6135 State Farm Drive  
      Rohnert Park, CA 94928

d. Required Evidence 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.

   e. Consultant shall provide immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.

   f. Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.

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

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