

Name of Project: **SCWA Office Expansion – Architectural Services**

SOLANO COUNTY WATER AGENCY

**AGREEMENT FOR PROFESSIONAL SERVICES
(Professional Services/Architects/Engineers)**

THIS AGREEMENT, **effective July 1, 2020**, is between SOLANO COUNTY WATER AGENCY, a public agency existing under and by virtue of Chapter 573 of the 1989 statutes of the State of California, hereinafter referred to as "Agency," and Brereton Architects, hereinafter referred to as "Contractor."

The Agency requires services for **SCWA Office Expansion – Architectural Services**; and the Contractor is willing to perform these services pursuant to the terms and conditions set out in this Agreement.

IT IS MUTUALLY AGREED, as follows:

1. **SCOPE OF SERVICES**

The Agency hereby engages the Contractor, and the Contractor agrees to perform the services for **SCWA Office Expansion – Architectural Services**, as described in Exhibit A, in accordance with the terms of this Agreement and any applicable laws, codes, ordinances, rules or regulations. In case of conflict between any part of this Agreement, this Agreement shall control over any Exhibit.

2. **COMPENSATION**

Compensation for services shall be as follows: Hourly rate of personnel plus any allowed reimbursable expenses based on unit costs as indicated on any allowed reimbursable expense in Exhibit B **not to exceed \$50,000** for all work contemplated by this Agreement.

3. **METHOD OF PAYMENT**

Upon submission of an invoice by the Contractor, and upon approval of the Agency's representative, the Agency shall pay the Contractor monthly in arrears for fees and allowed expenses incurred the prior month, **however in no event shall the cumulative total paid pursuant to this agreement exceed the maximum amount provided for in paragraph 2 of this Agreement.** Every invoice shall specify hours worked for each task identified in Exhibit A undertaken.

Each invoice shall be accompanied by a spreadsheet showing, by month, costs incurred to date for the project broken down by the Tasks identified in Exhibit A. The spreadsheet shall show, for each task, budget amounts, total expended and remaining amounts. The spreadsheet shall show a subtotal for each fiscal year covered by the contract. Any amendments to the contract shall be listed and incorporated into spreadsheet. An example of a typical spreadsheet shall be provided by the Agency.

4. **TIME OF PERFORMANCE**

This Agreement shall become effective as of the date it is executed and said services will take place between this date and **June 30, 2021** as directed by the Agency.

5. **MODIFICATION AND TERMINATION**

This Agreement may be modified or amended only by written instrument signed by the parties hereto, and the Contractor's compensation and time of performance of this Agreement shall be adjusted if they are materially affected by such modification or amendment.

This Agreement may be terminated by the Agency at any time, without cause, upon written notification to the Contractor. The Contractor may terminate this Agreement upon 30 days written notice to Agency.

Following termination by the Agency or the Contractor, the Contractor shall be reimbursed for all expenditures made in good faith in accordance with the terms of this Agreement that are unpaid at the time of termination.

6. **INDEMNIFY AND HOLD HARMLESS**

To the extent permitted by law, Design Professional agrees to indemnify, including the cost to defend, Solano County Water Agency and its officers, officials, employees, and authorized volunteers from and against any and all claims, demands, costs, or liability that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of Design Professional and its employees or agents in the performance of services under this contract, but this indemnity does not apply to liability for damages arising from the sole negligence, active negligence, or willful acts of the Solano County Water Agency; and does not apply to any passive negligence of the Solano County Water Agency unless caused at least in part by the Design Professional.

7. **INSURANCE**

Minimum Insurance Requirements: Design Professional shall procure and maintain for the duration of the contract insurance against claims for injuries or death to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Design Professional, his agents, representatives, employees or subcontractors.

Coverage - Coverage shall be at least as broad as the following:

1. **Commercial General Liability (CGL)** - Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG 00 01) including products and completed operations, property damage, bodily injury, personal and advertising injury with limit of at least two million dollars (\$2,000,000) per occurrence or the full per occurrence limits of the policies available, whichever is greater for. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (coverage as broad as the ISO CG 25 03, or ISO CG 25 04 endorsement provided to Solano County Water Agency) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability** - (If necessary) Insurance Services Office (ISO) Business Auto Coverage (Form CA 0001), covering Symbol 1 (any auto) or if Design Professional has no owned autos, Symbol 8 (hired) and 9 (non-owned) with limit of one million dollars (\$1,000,000) for bodily injury and property damage each accident.
3. **Workers' Compensation Insurance** - as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. **Waiver of Subrogation:** The insurer(s) named above agree to waive all rights of subrogation against the Solano County Water Agency, its directors, officers, employees, and authorized volunteers for losses paid under the terms of this policy which arise from work

performed by the Named Insured for the Agency; but this provision applies regardless of whether or not the Solano County Water Agency has received a waiver of subrogation from the insurer.

4. **Professional Liability** - (also known as Errors & Omission) Insurance appropriate to the Design Professional profession, with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.

If Claims Made Policies:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided **for at least five (5) years after completion of the contract of work.**
3. If coverage is canceled or non-renewed, and not **replaced with another claims-made policy form with a Retroactive Date** prior to the contract effective date, the Design Professional must purchase "extended reporting" coverage for a minimum of **five (5)** years after completion of contract work.

If the Design Professional maintains broader coverage and/or higher limits than the minimums shown above, the Solano County Water Agency requires and shall be entitled to the broader coverage and/or higher limits maintained by the Design Professional. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Solano County Water Agency.

Other Required Provisions - The Commercial General Liability policy must contain, or be endorsed to contain, the following provisions:

1. **Additional Insured Status:** Solano County Water Agency, its directors, officers, employees, and authorized volunteers are to be given insured status insurance (at least as broad as ISO Form CG 20 10 10 01 with respect to liability arising out of work or operations performed by or on behalf of the Design Professional including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Design Professional's insurance.
2. **Primary Coverage:** For any claims related to this project, the Design Professional's insurance coverage shall be primary at least as broad as ISO CG 20 01 04 13 as respects to the Solano County Water Agency, its directors, officers, employees, and authorized volunteers. Any insurance or self-insurance maintained by the Solano County Water Agency, its directors, officers, employees, and authorized volunteers shall be excess of the Design Professional's insurance and shall not contribute with it.

Notice of Cancellation: Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Solano County Water Agency.

Self-Insured Retentions: Self-insured retentions must be declared to and approved by the Solano County Water Agency. The Solano County Water Agency may require the Design Professional to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Solano County Water Agency.

Acceptability of Insurers: Insurance is to be placed with insurers having a current A.M. Best rating of no less than A:VII or as otherwise approved by Solano County Water Agency.

Verification of Coverage: Design Professional shall furnish the Solano County Water Agency with certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Solano County Water Agency before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Design Professional's obligation to provide them. The Solano County Water Agency reserves the right to require complete, certified copies of all required insurance policies, including policy Declaration and Endorsements pages listing all policy endorsements.

Subcontractors: Design Professional shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Design Professional shall ensure that Solano County Water Agency is an additional insured on insurance required from subcontractors.

8. **COMPLIANCE WITH LAW**

The Contractor shall be subject to and comply with all federal, state and local laws and regulations applicable with respect to its performance under this Agreement, including but not limited to, licensing, employment and purchasing practices; and wages, hours and conditions of employment.

9. **RECORD RETENTION**

Except for materials and records, delivered to the Agency, the Contractor shall retain all materials and records prepared or obtained in the performance of this Agreement, including financial records, for a period of at least three years after the Contractor's receipt of the final payment under this Agreement. Upon request by the Agency, the Contractor shall make such materials and records available to the Agency at no additional charge and without restriction or limitation to State and federal governments at no additional charge.

10. **OWNERSHIP OF DOCUMENTS**

All materials and records of a finished nature, such as final plans, specifications, reports and maps, prepared or obtained in the performance of this Agreement, shall be delivered to and become the property of the Agency. All materials of a preliminary nature, such as survey notes, sketches, preliminary plans, computations and other data, prepared or obtained in the performance of this Agreement, shall be made available, upon request, to the Agency at no additional charge and without restriction or limitation on their use.

11. **SUBCONTRACT AND ASSIGNMENT**

This Agreement binds the heirs, successors, assigns and representatives of the Contractor. The Contractor shall not enter into subcontracts for any work contemplated under this Agreement and shall not assign this Agreement or monies due or to become due, without the prior written consent of the General Manager of the Agency or his designee, subject to any required state or federal approval. (*Note: list any subcontractors here*)

12. **NONRENEWAL**

The Contractor understands and agrees that there is no representation, implication, or understanding that the services provided by the Contractor under this Agreement will be purchased by the Agency under a new agreement following expiration or termination of this Agreement, and waives all rights or claims to notice or hearing respecting any failure to continue purchase of all or any such services from the Contractor.

13. **NOTICE**

Any notice provided for herein are necessary to the performance of this Agreement and shall be given in writing by personal delivery or by prepaid first-class mail addressed as follows:

AGENCY

Roland Sanford, General Manager
Solano County Water Agency
810 Vaca Valley Parkway, Suite 203
Vacaville, CA 95688

CONTRACTOR

Kevin Dearborn, Senior Associate
Brereton Architects
909 Montgomery Street, Suite 260
San Francisco, CA 94133

The parties have executed this Agreement the day and year first above written. If the Contractor is a corporation, documentation must be provided that the person signing below for the Contractor has the authority to do so.

Solano County Water Agency
a Public Agency

By: _____
Roland Sanford
General Manager

By: _____
Kevin Dearborn,
Senior Associate

FOR SCWA USE ONLY

Contract Period: 7/1/2020 to 6/30/2021
File Number: AG-B-9
Account Manager: Alex Rabidoux
G/L Account #: 5500AC
Job Cost #: ----
Contract Type: Professional Services (Eng/Arch)

EXHIBIT A

SCOPE OF SERVICES

Contractor will provide services including space plan revisions, additional design development, future coordination, construction documents, permit filing, and other architectural duties as requested to support the SCWA Office Expansion project. Project tasks to be invoiced to this contract will be issued as separate Additional Services and/or Work Authorization and must be approved in writing or by e-mail by the Solano County Water Agency.

EXHIBIT B

RATE OF COMPENSATION

I. FEES:

- A. PROFESSIONAL SERVICES performed for a FIXED FEE: The client agrees to pay Brereton Architects the lump sum fee stated in the Proposal Letter or Form of Agreement.
- B. PROFESSIONAL SERVICES performed on a TIME AND MATERIALS BASIS: The Client agrees to pay Brereton Architects in accordance with the following schedule of charges:
1. Hourly rate for Employees' time are as shown below. These rates include direct personal expense, mandatory and customary benefits, insurance, sick leave, holidays, vacations, and similar benefits. These hourly rates are for budgetary purposes and will vary depending upon the actual personnel employed:
 - a. Principal \$240.00/hour
 - a. Senior Project Manager \$170-200.00/hour
 - b. Project Manager \$140-170.00/hour
 - c. Job Captain \$150-180.00/hour
 - d. Senior Designer/CADD \$160-190.00/hour
 - e. Intermediate Designer/CADD \$120-160.00/hour
 - f. Designer/CADD \$100-120.00/hour
 - g. Administrative \$85-175.00/hour
 - h. Technical Support \$100-120.00/hour

II. REIMBURSABLE EXPENSES:

- A. Expenses borne on behalf of the Owner will be compensated at net cost plus a fifteen (15) percent administrative fee. Reimbursable costs shall include: coordination of consultants' fees not specifically included within the Proposal Letter or Form of Agreement, duplication, printing, transportation, models, renderings, photography, postage, etc. Automobile travel will be expensed at a rate of \$0.54 cents per mile.
- B. Billings which are reviewed by Brereton and passed directly to you for payment will be without any administrative fee.

III. ADDITIONAL SERVICES: Compensation for additional services and major expenses, when authorized in writing by the Client, will be based on an hourly rate set forth in Section IB above.

- A. ACCESS TO SITE: Architect shall have access to the Project Site at all reasonable hours and shall be permitted to photograph the Project during construction and upon completion for its records and future use.
- B. OWNERS RESPONSIBILITIES: The Owner shall provide complete and reliable information regarding its requirements, budget and schedule for the Project and shall designate a Project Representative authorized to act on its behalf. The Owner shall render decisions promptly to avoid unreasonable delay to the Project and to the progress of Architect's work.

IV. INVOICES AND PROGRESS PAYMENTS:

- A. Invoices for Professional Services will be submitted, at our option, on a monthly basis or when work is completed. Invoices will be due immediately, but will not be delinquent if paid within thirty (30) days from which the invoice is dated. If payment is not so made, a late payment charge of 1.5 percent per month will be due on the amount of the unpaid invoices from the date of these invoices until the same is paid.
- B. Invoices for PROFESSIONAL SERVICES performed with a FIXED FEE will be based on percentage of work completed.
- C. Invoices for PROFESSIONAL SERVICES performed on a TIME AND MATERIALS BASIS will be based on actual time spent on services rendered within the billing period.
- D. Reimbursable expenses shall be shown separately on the invoices for expense billings received during that billing period.
- E. Termination of Services: We reserve the right to suspend or terminate further services for non-payment of fees, expenses or costs. You may cancel or suspend this Agreement on ten (10) days' written notice. In the event of suspension or termination all accrued costs (fees, reimbursable expenses, additional services, etc.) become due for work completed to that date. Any collection costs and reasonable legal costs shall be awarded to the prevailing party in any action on this Agreement.

V. LIMITATION OF LIABILITY: To the fullest extent permitted by law, the total liability, in the aggregate, of the Architect of Record, Brereton Architects, and the Architect's officers, employees, agents, and independent professional associates and consultants, and any of them, to the Client and anyone claiming by or under the Client, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to the Architect's services, the project, or this Agreement, including but not limited to the tort liability or breach of contract or warranty, if any, of the Architect, the Architect officers, partners, directors, employees, agents, and independent professional associates and consultants, or any of them, shall not exceed the total compensation received by the Architect under this Agreement or the total amount of \$100,000 whichever is greater, except in case of Architect's negligence or violation of this Agreement or applicable laws and regulations.

VI. USE OF DOCUMENTS: Drawings, plans, specifications and materials to be prepared under the terms of this Agreement (the "Drawings and Specifications") are and shall remain the property of both the Owner and Architect. Owner shall have the right to use all such Drawings and Specifications in connection with the Project in such manner or for such purpose as Owner may desire, provided, however, that Architect will not be responsible for the use, accuracy or utility of such Drawings and Specifications in connection with any additional construction, provided that the Owner will hold Architect harmless from and indemnify it against any liability Architect may incur by reason of any claim made against Architect resulting from such use.

VII. APPLICABLE LAW: Unless otherwise specified, this Agreement shall be governed by the laws of the principal place of business of the Architect.