

PROFESSIONAL SERVICES AGREEMENT

Project: District Mapping Services

THIS AGREEMENT is made and entered into this ____ day of _____, 20 __, by and between the City of Roseville, a municipal corporation ("CITY"), and National Demographics, Inc., a California corporation ("CONSULTANT"); and

W I T N E S S E T H:

WHEREAS, CITY desires professional services consisting of preparation of district election maps and district plan development, plan presentation, and plan implementation; and

WHEREAS, CONSULTANT has prepared a proposal dated June 25, 2019, which describes the scope of work to be performed by CONSULTANT, the budget for the work, and the schedule for performance of the work; and

WHEREAS, CONSULTANT is qualified and experienced to provide such professional services.

NOW, THEREFORE, the parties agree as follows:

1. Services. CONSULTANT shall perform, at the direction of CITY, the Districting Project Elements scope of services as described in EXHIBIT "A," attached hereto and incorporated herein by this reference.
2. Compensation. For its services provided hereunder, CONSULTANT shall be compensated only for the tasks completed at the direction of CITY as described in EXHIBIT

“A,” attached hereto and incorporated herein by this reference. Total compensation shall not exceed thirty thousand, seven hundred and fifty dollars (\$30,750.00).

CONSULTANT shall submit one monthly invoice for its services. Such invoices shall be delineated by task, the person performing the services, and the hourly rate, which shall be stated in time increments of not greater than one tenth (1/10) hours. CITY shall pay invoices within thirty (30) days after receipt, if the services specified in the invoice have been satisfactorily completed.

3. Indemnification. To the fullest extent allowed by law, CONSULTANT shall defend, indemnify, and save and hold harmless CITY, its officers, agents, employees and volunteers from any claims, suits or actions of every name, kind and description brought forth, or on account of, injuries to or death of any person (including but not limited to workers and the public), or damage to property, resulting from or arising out of CONSULTANT's willful misconduct or negligent act or omission while engaged in the performance of obligations or exercise of rights created by this Agreement, except those matters arising from CITY's sole negligence or willful misconduct. The parties intend that this provision shall be broadly construed.

CONSULTANT's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law. The defense and indemnity obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement.

4. Insurance. CONSULTANT agrees to continuously maintain, in full force and effect, the following minimum policies of insurance during the term of this Agreement.

<u>COVERAGE</u>	<u>LIMITS OF LIABILITY</u>
Workers' Compensation	Statutory
Commercial General Liability	\$1,000,000 each occurrence \$2,000,000 aggregate Personal Injury: \$1,000,000 each occurrence \$2,000,000 aggregate
Automobile Liability	\$1,000,000 combined single limit
Professional Liability (errors and omissions)	\$1,000,000 per claim \$2,000,000 aggregate

a. Form. CONSULTANT shall submit a certificate evidencing such coverage for the period covered by this Agreement in a form satisfactory to Risk Management and the City Attorney, prior to undertaking any work hereunder. Any insurance written on a claims made basis is subject to the approval of Risk Management and the City Attorney.

b. Additional Insureds. CONSULTANT shall also provide a separate endorsement form or section of the policy showing CITY, its officers, agents, employees and volunteers as additional insureds for each type of coverage, except for Workers' Compensation and Professional Liability. Such insurance shall specifically cover the contractual liability of CONSULTANT. The additional insured coverage under the CONSULTANT's policy shall be primary and noncontributory, as evidenced by a separate endorsement or section of the policy, and shall not seek contribution from CITY's insurance or self-insurance. In addition, the additional insured coverage shall be at least as broad as the Insurance Services Office ("ISO") CG 20 01 Endorsement. Any available insurance proceeds in excess of the specified minimum insurance coverage requirements and limits shall be available to the additional insureds. Furthermore, the requirements for coverage and limits shall be: (1) the minimum coverage and

limits specified in this Agreement; or (2) the full coverage and maximum limits of any insurance proceeds available to the named insureds, whichever is greater.

c. Cancellation/Modification. CONSULTANT shall provide ten (10) days written notice to CITY prior to cancellation or modification of any insurance required by this Agreement.

d. Umbrella/Excess Insurance. The limits of insurance required in this Agreement may be satisfied by a combination of primary and excess insurance. Any excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and noncontributory basis for the benefit of CITY (if agreed to in a written contract) before CITY's own insurance shall be called upon to protect it as a named insured.

e. Subcontractors. CONSULTANT agrees to include in its contracts with all subcontractors the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, to the extent they apply to the scope of the subcontractor's work. Furthermore, CONSULTANT shall require its subcontractors to agree to be bound to CONSULTANT and CITY in the same manner and to the same extent as CONSULTANT is bound to CITY under this Agreement. Additionally, CONSULTANT shall obligate its subcontractors to comply with these same provisions with respect to any tertiary subcontractor, regardless of tier. A copy of CITY's indemnity and insurance provisions will be furnished to the subcontractor or tertiary subcontractor upon request.

f. Self-Insured Retentions. All self-insured retentions ("SIR") must be disclosed to Risk Management for approval and shall not reduce the limits of liability. Policies containing any SIR provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or CITY. CITY reserves the right to obtain a full

certified copy of any insurance policy and endorsements. The failure to exercise this right shall not constitute a waiver of such right.

g. Waiver of Subrogation. CONSULTANT hereby agrees to waive subrogation which any insurer of CONSULTANT may acquire from CONSULTANT by virtue of the payment of any loss under a Workers Compensation, Commercial General Liability or Automobile Liability policy. All Workers Compensation, Commercial General Liability and Automobile Liability policies shall be endorsed with a waiver of subrogation in favor of CITY, its officers, agents, employees and volunteers for all work performed by CONSULTANT, its employees, agents and subcontractors.

h. Liability/Remedies. Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve CONSULTANT of liability in excess of such coverage, nor shall it preclude CITY from taking such other actions as are available to it under any other provisions of this Agreement or law.

5. Records. CONSULTANT and its subcontractors shall maintain all files and records relating to the services performed hereunder during the term of this Agreement and for a period of not less than one (1) year after the date of termination or expiration. Provided, however, that in the event of litigation or settlement of claims arising from the performance of this Agreement, CONSULTANT and its subcontractors shall maintain all files and records until such litigation, appeals or claims are resolved. Duly authorized representatives of CITY shall have right of access during normal business hours and after reasonable notice to CONSULTANT's and subcontractors' files and records relating to the services performed hereunder, and may review and copy the files and records at appropriate stages during performance of the services and during the one (1) year period following termination or

expiration of this Agreement. CONSULTANT shall include this provisions in its contracts with all subcontractors.

6. Time is of the Essence. Time is of the essence of this Agreement.

7. Compliance with Laws. CONSULTANT shall comply with all federal, state and local laws, ordinances and policies as may be applicable to the performance of services under this Agreement.

8. Ability to Perform. CONSULTANT agrees and represents that it has the time, ability and professional expertise to perform the services required under this Agreement.

9. Governing Agreement. In the event of any conflict between this Agreement and its EXHIBITS, the provisions of this Agreement shall govern. In the event of any conflict between any of the EXHIBITS, the provisions of the first in order of attachment shall govern.

10. Assignment. CONSULTANT is employed to perform unique personal services. CONSULTANT shall not assign this Agreement without the prior written consent of CITY. CONSULTANT shall not employ or otherwise incur any obligation to pay other specialists or experts for services in connection with this Agreement, without prior written consent of CITY.

11. Independent Contractor. CONSULTANT shall act as an independent contractor, and covenants and agrees that it will conduct itself consistent with such status, that it will neither hold itself out as, nor claim to be, an officer or employee of CITY by reason of this Agreement.

12. Representations and Warranties. CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working for CONSULTANT, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award or

making of this Agreement. For breach or violation of this warranty, CITY shall have the right to terminate as void this Agreement, without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

13. Successors in Interest. This Agreement shall be binding upon the heirs, successors, executors, administrators and assigns of the respective parties hereto.

14. Copyright, Ownership and Use of Materials. All tangible material ("Material") created or delivered pursuant to this Agreement is considered a work made for hire under the Copyright Act. To the extent such Material does not qualify as a work made for hire, CONSULTANT hereby assigns to CITY all right, title, and interest, including but not limited to all copyrights, in all Material created by CONSULTANT in its performance under this Agreement. Material constitutes the scope of work outlined in EXHIBIT "A" and attached hereto, and all written and other tangible expressions, including but not limited to, drawings (including computer aided drawings), papers, documents, reports, surveys, renderings, exhibits, sketches, maps, models, prints, paintings or photographs, in any and all media or formats in which such materials have been created or are maintained. All Material furnished by CONSULTANT is, and shall remain, the property of CITY.

CONSULTANT shall execute any documents necessary to effectuate such assignment. In the event that CONSULTANT uses, employs, designates, or retains any person or entity who is not an employee of CONSULTANT, to perform any work required of it pursuant to this Agreement, CONSULTANT shall require said person or entity to execute an agreement containing the preceding paragraph.

15. Termination of Agreement. The City may terminate this Agreement without cause by giving CONSULTANT ten (10) days advance written notice from the City Manager. CONSULTANT may terminate this Agreement without cause by giving CITY thirty (30) days advance written notice. In the event of termination through no fault of CONSULTANT, CITY shall compensate CONSULTANT for services performed as of the date of termination, upon the release to CITY of all Material hereunder, in any and all media or formats in which such materials have been created or are maintained. CITY retains the right to receive and use any MATERIAL, notwithstanding any termination or any dispute regarding the amount to be paid.

16. Attorney's Fees; Venue; Governing Law. If either party commences any legal action against the other party arising out of this Agreement or the performance hereof, the prevailing party in such action shall be entitled to recover its reasonable litigation expenses, including but not limited to, court costs, expert witness fees, discovery expenses, and attorney's fees. Any action arising out of this Agreement shall be brought in Placer County, California, regardless of where else venue may lie. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

17. Modification. This Agreement and each provision contained herein may be waived, amended, supplemented or eliminated only by mutual written agreement of the parties.

18. Severability. If any of the provisions contained in this Agreement are for any reason held invalid or unenforceable, such holding shall not affect the remaining provisions or the validity and enforceability of the Agreement as a whole.

19. Notices. Any notices to parties required by this Agreement shall be delivered personally or mailed, U.S. first class postage prepaid, addressed as follows:

CITY OF ROSEVILLE

Sonia Orozco, City Clerk
City of Roseville
311 Vernon Street
Roseville, CA 95678

CONSULTANT

Douglas Johnson, President
National Demographics Corporation
P.O. Box 5271
Glendale, CA 91221

Either party may amend its address for notice by giving notice to the other party in writing.


20. Integrated Agreement. This is an integrated agreement and contains all of the terms, considerations, understanding and promises of the parties. It shall be read as a whole.

IN WITNESS WHEREOF, the City of Roseville, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attested to by its City Clerk under the authority of Resolution No. _____, adopted by the Council of the City of Roseville on the ____ day of _____, 20__, and CONSULTANT has caused this Agreement to be executed.

CITY OF ROSEVILLE, a
municipal corporation


NATIONAL DEMOGRAPHICS, INC.,
a California corporation

BY: _____
DOMINICK CASEY
City Manager

BY: 
its: President

and

ATTEST:

BY: 
its: Secretary/Treasurer

BY: _____
SONIA OROZCO
City Clerk

APPROVED AS TO FORM:

BY: _____
ROBERT R. SCHMITT
City Attorney

EXHIBIT “A”



National Demographics Corporation

June 25, 2019

Districting Project Elements

Includes the services listed below:\$30,750

- Project Setup and coordination:
 - Development of redistricting database including Census and California Statewide Database data;
 - Incorporation of any Geographic Information System (GIS) data that the District wishes to include and provides (often including school locations; school attendance areas; important local landmarks; or local neighborhood boundaries);
 - Initial discussion with key staff and/or Council members about demographics, communities of interest, schedule and criteria;
 - Any phone- or web-conference calls to discussion the project's progress or answer any Council, staff or media questions that may arise;
 - Preparation and processing of paper, PDF and Excel-based "public participation kits" (paper kits that allow the public to draw and submit their own plans), plus hosting, managing and processing submitted plans for an online interactive system that allows public to draw and submit proposed districting plans through a standard web browser
 - Creation, hosting, and updating of an NDC--managed project information website (if the client does not wish to manage a project website as part of its existing website).
- Plan Development:
 - Creating of 2 to 4 initial draft maps for Council and public consideration;
 - Analysis and preparation for Council consideration of all whole or partial plans submitted by the public;
 - Conversion of all maps and reports to web-friendly versions for online posting;
 - Online posting of all maps to an interactive website for detailed review;
 - Any requested additional maps and/or map revisions requested;
- Plan Presentation:
 - In-person presentation at five Council meetings, facilitation of public forum(s), and/or any other requested meetings;
- Work with the County Registrar of Voters to implement the final adopted plan.

Stated prices include all travel, printing (except public participation kits and any large-plot maps), and other anticipated expenses.

Other Potential Project-Related Expenses:

The only anticipated additional districting expenses would be any site or staff costs for conducting the community forums; and the cost of printing or copying paper copies of the "Public Participation Kit." In NDC's experience, most public participants will download and print the Kits in their own homes or offices.



National Demographics Corporation

Additional Analysis

NDC is happy to assist with any additional analysis that the client requests at our standard hourly rates:

Principal (Dr. Douglas Johnson)\$200 per hour
Vice President (Justin Levitt).....\$125 per hour
Senior Analyst.....\$75 per hour
Analyst / Clerical.....\$50 per hour

Dr. Johnson is also available for deposition and/or testimony work if needed, at \$250 per hour.

Initial Timeline

(Subject to change)

TBD	Regular City Council Meeting	Staff report outlining process to transition to district-based elections
TBD	Public Hearing #1	Adoption of Resolution of Intention - Composition of voting districts and adoption of resolution of intention. Consultant presentation on districting criteria, census geography, race/ethnicity by region, zoning and general plan information. Hearing to solicit public input on communities of interest. (Adoption of resolution must come before the hearing)
TBD	Public Hearing #2	2 nd hearing to solicit public input on communities of interest.
TBD	Public Hearing #3	Discussion of proposed district maps and sequence of elections. Council direction on map preferences and requests for map revisions.
TBD	Public Hearing #4	Adoption of district map and election sequence. Transition to district elections ordinance introduced.
TBD	Regular City Council Meeting	Second reading and adoption of ordinance