

REQUEST FOR QUALIFICATIONS
FOR
ARCHITECTURAL DESIGN AND CONSULTING SERVICES FOR
BOONE HOUSE – PRESERVATION, REPAIR, AND UPGRADING
CIP 925418



CITY OF SAN RAMON
PUBLIC WORKS DEPARTMENT

Issued: DECEMBER 18, 2023

SOQ Deadline: JANUARY 19, 2024 AT 2:00 P.M.

TO

City of San Ramon
7000 Bollinger Canyon Road
San Ramon, CA 94583

ATTN: City Clerk

A handwritten signature in blue ink, appearing to read "M. Fierner", written over a horizontal line.

Maria Fierner, P.E.
Public Works Director

CITY OF SAN RAMON
REQUEST FOR QUALIFICATIONS

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CITY OF SAN RAMON

REQUEST FOR QUALIFICATIONS

The City of San Ramon (“**City**”) requests a statement of qualifications (“**SOQ**”) from qualified individuals or firms (individually, a “**Respondent**” and collectively, “**Respondents**”) for Architectural Design and Consulting Services for Boone House – Preservation, Repair, and Upgrading Project (“**Project**”).

1. ABOUT THE CITY

The City of San Ramon was incorporated in 1983 as a charter city and located in the San Ramon Valley of Contra Costa County, approximately 35 miles east of the City of San Francisco in the San Francisco Bay Area. The San Ramon Valley has long been considered one of the most desirable living areas in the Bay Area because of its scenic beauty, suburban charms, excellent school systems, and proximity to major employment centers. The City occupies a land area of 18.56 square miles and is surrounded by the communities of Danville and Dublin, as well as the unincorporated lands in both the Alameda and Contra Costa Counties.

The City operates under a Council-Manager form of government with over 250 employees, serving a population of approximately 81,344. Additional information about the City is available online at www.sanramon.ca.gov.

2. THE SERVICES

A. Summary. The City requires architectural design and consulting services (“**Services**”) for the Boone House Preservation, Repair, and Upgrading (“**Project**”). The Boone House was largely built in 1900 but contains elements from the 1860s, has a total of 22 rooms, and is part of the Forest Home Farms Park in San Ramon. More information regarding the Park can be found here: sanramon.maps.arcgis.com/apps/MapJournal/index.html?appid=dc741087b65d478b80b815f83726524b. The brick porch was installed by Ruth Boone during the early 1940s. Further details regarding the condition of the house can be found in the attached Forest Home Farms, Conditions Assessment and Recommendation Report listed in the Scope of Services.

The City is seeking services from an architectural consultant with experience in preserving and restoring historic structures, to provide services for a multi-phased approach, which will include design of structural repairs and improvements, plumbing and other upgrades, and modifications to facilitate the planned uses and access to the site for the public.

B. Form of Agreement. A copy of the City’s standard Consultant Services Agreement (“**Agreement**”) is attached hereto as **Attachment A** and incorporated herein. By submitting an SOQ, the Respondent agrees to enter into the Agreement using the attached form with no exceptions to the form of the Agreement.

C. Scope of Services. The required Scope of Services is attached hereto as **Attachment B** and incorporated herein. By submitting an SOQ, the Respondent represents that it is fully qualified and available to provide the Services set forth in the Scope of Services at the price set forth in its SOQ, and that it agrees to provide those Services if it is awarded the Agreement, which will attach and incorporate the Scope of Services.

3. REQUEST FOR QUALIFICATION PROCEDURES

A. Requests for Information. Questions or objections relating to the RFQ, Agreement, the attachments hereto, the RFQ procedures, or the required Services may only be submitted via email to Vincent Santamaria, Associate Engineer at vsantamaria@sanramon.ca.gov by 4:00 p.m., December 29, 2023, (the “**Request for Information Deadline**”). Any questions or objections that are not submitted in the manner specified and by the Request for Information Deadline will be deemed waived. City will not be bound by the oral representations of any City officials, employees, or representatives.

B. Pre-Submittal Meeting. A Pre-Submittal Meeting will be held on January 3, 2024, from 10:00 to 11:00 a.m., in Conference Room 218 at 7000 Bollinger Canyon Road, San Ramon, CA 94583. Prospective Respondents will have the opportunity to ask questions about the RFQ and the required Services. Respondents will be required to sign-in at the Pre-Submittal Meeting and to provide an email address for the Respondent’s representative for receipt of any subsequent addenda. The Pre-Submittal Meeting is **mandatory**, and the City may, acting in its sole discretion, disregard any SOQ submitted by a Respondent that failed to attend or failed to arrive on time for the Pre-Submittal Meeting.

C. Submittal Instructions. SOQs must be **received** by the City by or before January 19, 2024 at 2:00 p.m. (“**SOQ Deadline**”). Respondent must submit one original and three (3) identical copies of the SOQ in a sealed envelope labeled with Respondent’s name and return address, marked “**SOQ for Architectural Design and Consulting Services for Boone House – Preservation, Repair, and Upgrading Project,**” and addressed as follows:

City of San Ramon
ATTN: City Clerk
7000 Bollinger Canyon Road
San Ramon, CA 94583

The SOQ may be hand-delivered, sent via overnight delivery, or by regular mail, provided that it is received by the City no later than the SOQ Deadline. Late submissions will be disregarded.

D. Planned RFQ Schedule. The following schedule is provided for planning purposes based on current information. However, all dates are subject to revision, including the SOQ Deadline, and may be amended by addenda to this RFQ:

ACTIVITY	PLANNED DATES/TIME
RFQ Issued	December 18, 2023
Pre-Submittal Meeting	January 3, 2024, at 10:00 a.m.
Request for Information Deadline	December 29, 2023, at 4:00 p.m.
SOQ Deadline	January 19, 2024, at 2:00 p.m.
Interviews (if requested by City)	January 24, 2024
Notice of Selection	January 31, 2024
Council Approval and Award	TBD
Commence Services	February 26, 2024

E. Addenda. City reserves the right to issue addenda to modify the terms and conditions of this SOQ, including modifications to the SOQ Deadline or to the Attachments to this SOQ. Addenda will be posted on the City’s website at www.sanramon.ca.gov/our_city/bids_rfp. Each Respondent is solely responsible for checking the City’s website for addenda, and for reviewing all addenda before submitting its SOQ.

4. SOQ REQUIREMENTS

Each SOQ must be submitted in compliance with the requirements of this RFQ. Each SOQ must respond to the items listed below. *Clarity and brevity are preferable to volume.* Do not attach brochures or promotional materials to the SOQ. SOQs should not exceed 18 one-sided pages, excluding any tabs or dividers. However, resumes may be included in an appendix and not counted in the total page count. By submitting an SOQ, the Respondent agrees that the pricing and proposed approach to providing the Services, including staffing, constitute a firm offer to enter into the Agreement with the City, and that the offer will remain open for 60 days following the SOQ Deadline.

A. Cover Letter. Provide a brief cover letter that includes all the following information:

- (1) Respondent's name, address, phone number, and website address;
- (2) Type of organization (e.g. corporation, partnership, etc.);
- (3) A summary of general information about Respondent and the types of services it provides in relation to the Services required by the City;
- (4) Contact information, including name, title, address, phone number, and email, of Respondent's primary representative for purposes of this RFQ;

INCLUDE THE STATEMENTS BELOW:

- (5) Respondent agrees that it has confirmed receipt of or access to, and reviewed, all addenda issued for this RFQ. Respondent waives any claims it might have against the City based on its failure to receive, access, or review any addenda for any reason. Respondent specifically acknowledges receipt of the following addenda(s):

Addendum: Date Received:

01 _____

02 _____; and

- (6) Respondent has read and understood the insurance requirements outlined in **Attachment A** and hereby affirms (1) the cost of providing such insurance has been incorporated in the Respondent's Proposal, and (2) Respondent will be able to obtain the required insurance coverage if awarded the contract.

The cover letter must be signed by a representative that is authorized to bind Respondent by contract and must state name, title, and email address.

B. General Qualifications. Provide a brief description of the Respondent's business, including the number of years in business under the current name. Describe the size of the business, including total number of employees and office, and identify and briefly describe each local office that will be involved in providing the Services if awarded the Agreement. Describe how and why Respondent is qualified to provide the Services.

C. Experience. Identify services Respondent has provided in the last five (5) years that are similar in scope and nature to the Services required by this RFQ, particularly with respect to services provided to other cities or public agencies. For each example, provide (1) a brief description of the services provided, (2) an explanation of why this experience is relevant to the required Services, and (3) the name and address of the contracting agency, including contact information for a reference check (name, title, phone number, and email address).

D. Staffing. Identify by name and title Respondent's key personnel that will be assigned to provide the Services and for each, include a resume with his or her education, training, and experience. Identify by name, address, and website, each subconsultant or subcontractor, if any, that will be involved with providing the Services, including the proposed role for each such

subconsultant or subcontractor. Include all applicable license numbers for any license required to perform the Services.

E. Price. Provide a detailed price proposal that is fully inclusive of all costs to provide the Services for the first phase of the project as described in the Scope of Services, including hourly billing rates, all labor, materials, equipment, supplies, the insurance required under the terms of the Agreement, travel fees, etc.

F. Proposed Approach. Briefly describe Respondent's proposed approach to providing the Services and how that approach will offer value to the City.

5. EVALUATION

The factors that the City will consider in evaluating SOQs are as follows:

- | | |
|--------------------------|-------------|
| • General qualifications | 1-15 points |
| • Relevant experience | 1-20 points |
| • Proposed staffing | 1-15 points |
| • Price Structure | 1-10 points |
| • Proposed approach | 1-20 points |
| • Responsiveness | 1-10 points |
| • References | 1-10 points |

The City may request an interview of selected applicants for further consideration.

6. SELECTION AND AWARD

A. Review. SOQs will be reviewed for responsiveness and evaluated and ranked based on the factors listed in Section 5, above. When the evaluation is complete, the SOQs will be ranked based on total scores to identify the SOQ that is the most advantageous to the City. Acting in its sole discretion, the City may elect to conduct interviews with shortlisted Respondents.

B. Award. The City will award the Agreement, if at all, to the Respondent that is determined by the City, acting in its sole discretion, to offer the most advantageous SOQ to the City based on the City's review, as outlined above. City staff will submit its recommendation to the City Council or the awarding officer, as applicable, for award of the Agreement to the Respondent that it determines to offer the most advantageous SOQ. The Respondents will be notified of staff's intended recommendation by a Notice of Selection which will be posted on the City's website at www.sanramon.ca.gov/our_city/bids_rfp, and which may also be emailed to each Respondent that submits an SOQ.

C. Protest Procedures. Any protest challenging the City's intended selection or the selection process must be submitted no later than 5:00 p.m., on the fifth business day following the date of the Notice of Selection. The protest must be submitted in writing via email to City Clerk at cityclerk@sanramon.ca.gov, copy to vsantamaria@sanramon.ca.gov and must clearly specify the basis for the protest. The protest will be reviewed by the Public Works Director in consultation with the City Attorney's Office, and their determination on the protest is final. No public hearing will be held on the protest. Time being of the essence, the City reserves the right to proceed with award of the Agreement and commencement of the Services notwithstanding any pending protest or legal challenge.

7.

8. MISCELLANEOUS

- A. Disclaimers and Reservation of Rights.** Upon receipt, each SOQ becomes the sole property of the City and will not be returned to the Respondent. Each Respondent is solely responsible for the costs it incurs to prepare and submit its SOQ. The City reserves, in its sole discretion, the right to reject any and all SOQs, including the right to cancel or postpone the RFQ or the Services at any time, or to decline to award the Agreement to any of the Respondents. The City reserves the right to waive any immaterial irregularities in an SOQ or submission of an SOQ. The City reserves the right to reject any SOQ that is determined to contain false or misleading information, or material omissions.
- B. Conflict of Interest.** Respondents must disclose to the City any actual, apparent, direct or indirect, or potential conflicts of interest that may exist with respect to Respondent, any employees of Respondent, or any other person relative to the Services to be provided pursuant to this RFQ. This RFQ process will be conducted in compliance with all laws regarding political contributions, conflicts of interest, or unlawful activities. City employees are prohibited from participating in the selection process for this RFQ if they have any financial or business relationship with any Respondent.
- C. Public Records.** The City is subject to the provisions of the California Public Records Act (Govt. Code § 7920.000, *et seq.*) (the “Act”), and each SOQ submitted to the City is subject to disclosure as a public record, unless the SOQ or any portion thereof is exempt under the Act. If a Respondent believes that any portion of its SOQ is exempt from disclosure under the Act, it must clearly identify the portion(s) it believes to be exempt and identify the basis for the exemption. Each Respondent bears the burden of proving any claimed exemption under the Act, and by submitting an SOQ, a Respondent agrees to indemnify, defend, and hold harmless the City against any third-party claim seeking disclosure of the SOQ or any portions thereof.

ATTACHMENTS:

Attachment A – Form of Agreement
Attachment B – Scope of Services

Attachment A – Form of Agreement

CONSULTANT SERVICES AGREEMENT BETWEEN THE CITY OF SAN RAMON AND VENDOR FOR ARCHITECTURAL DESIGN AND CONSULTING SERVICES FOR BOONE HOUSE – PRESERVATION, REPAIR, AND UPGRADING – CIP 925418

This Agreement is made by and between the City of San Ramon, a municipal corporation (“CITY”), and VENDOR (“CONSULTANT”), together referred to as the “Parties.”

RECITALS

WHEREAS, CITY solicited Statement of Qualifications (“SOQ”) by Request for Qualifications (“RFQ”) for ARCHITECTURAL DESIGN AND CONSULTING SERVICES FOR BOONE HOUSE – PRESERVATION, REPAIR, AND UPGRADING – CIP 925418; and

WHEREAS, after review of all responses submitted pursuant to said RFQ, CONSULTANTs SOQ was accepted by the CITY and identified as most advantageous to the CITY; and

WHEREAS, CONSULTANT by reason of qualifications, experience, and facilities for performing the type of services contemplated herein, has proposed to provide the requested services; and

WHEREAS, the City Council authorized the Mayor to enter into an agreement for ARCHITECTURAL DESIGN AND CONSULTING SERVICES FOR BOONE HOUSE – PRESERVATION, REPAIR, AND UPGRADING – CIP 925418 by adopting Resolution No. 20XX-XX on _____, 2024; and

WHEREAS, CONSULTANT is willing to provide the requested services.

NOW, THEREFORE, in consideration of the mutual promises set forth, CITY and CONSULTANT agree as follows:

1. **Award of Agreement.** In response to the RFQ, CONSULTANT has submitted a SOQ to perform the Work as set forth in the RFQ, Attachment B – Scope of Services. On Month XX, 202X, CITY authorized award of this Agreement to CONSULTANT for the amount set forth in Section 5, below.
2. **RFQ Documents.** The RFQ documents incorporated into this Agreement include and are comprised of all the documents listed below.

Sections

- 1 The Services
- 2 Request for Qualification Requirements
- 3 SOQ Requirements
- 4 Evaluation
- 5 Selection and Award
- 6 Miscellaneous

3. **Scope of Service.** The scope of services covered by this Agreement includes architectural, structural and similar design and consulting services as further described and contained in the Scope of Work as set out in **Exhibit A**, attached and incorporated herein by reference.

CONSULTANT shall comply with specific industry standards or governmental requirements applicable to specific tasks hereunder or as may be necessary to enable CONSULTANT to provide the services required hereunder.

4. **Term of Agreement.** This Agreement shall commence as of the effective date listed below and shall end on Month XX, 20XX, or the date CONSULTANT completes the services provided for in this Agreement, whichever occurs first, unless otherwise terminated under the terms of this Agreement.

However, CONSULTANT is under no obligation to commence work hereunder prior to execution of this Agreement.

CITY shall have the option to renew this Agreement for not more than one (1) year terms, upon the same terms and conditions as provided in this Agreement. Any Agreement extension or amendment must be in writing and fully executed by both parties to take effect.

5. **Compensation.** Compensation for the services shall be paid on a time-and-material basis. The maximum compensation is not to exceed **XX DOLLARS (\$XX,XXX.XX)**. No compensation shall be made in excess of this amount. This includes all costs and reimbursable expenses as specified in **Exhibit A**.

6. **Invoicing, Payments, Notices.** CONSULTANT shall submit invoices, not more frequently than every two (2) weeks, for the services rendered during the preceding period. Invoices shall describe the beginning and end dates of the billing period, services performed including tasks summary, account of hours worked, reimbursable expenses incurred, and any other documentation as may be requested by CITY.

CITY shall make payments based on invoices received for work satisfactorily performed and for authorized reimbursable expenses incurred. CITY shall pay undisputed invoices within net thirty (30) days from receipt of the invoice.

Transmittal of Notices and Invoices are as follows:

To CITY:

City of San Ramon
Attn: City Clerk
7000 Bollinger Canyon Road
San Ramon, CA 94583
cityclerk@sanramon.ca.gov

To CONSULTANT:

VENDOR
Attn: [Contact Name, Title](#)
[Address](#)
[Address](#)
[Email](#)

Invoices to CITY:

City of San Ramon
Attn: [Vincent Santamaria, Associate Engineer](#)
[Public Works Department](#)
7000 Bollinger Canyon Road
San Ramon, CA 94583
vsantamaria@sanramon.ca.gov
copy to Amy A. Amiri, Senior CIP Analyst
aamiri@sanramon.ca.gov

7. **Professional Services – Additional Obligations on Scope of Work.** CONSULTANT shall:
- A. Not either during or after the term of this Agreement, make public any reports or articles or disclose to any third party any confidential information relative to the work of CITY or the operations or procedures of CITY without prior written consent of CITY.
 - B. Not during the term of the Agreement, take any action that would affect the appearance of impartiality or un-professionalism. CONSULTANT shall perform all services of this Agreement according to the standards observed by a competent practitioner of the profession in which CONSULTANT is engaged.
8. **Final Work Product.** Final work products produced by CONSULTANT in the form of computer files shall be delivered on a CD, in ESRI GIS shape file version 8.3(or newer), or a Autodesk AutoCAD 2010 (or newer) file, Microsoft Word, Access or Excel format. All hard copy (paper) reports shall be accompanied by associated digital files used to create them. The deliverable of GIS data layers will represent all new and derivative mapped layers used to create all mapped information. It will be delivered in AutoCAD or ESRI GIS format. Data representing areas will be represented by closed polylines. All GIS data should be delivered in the State Plane Projection system, NAD 83, units of feet. In addition, all new mapped information (information pertaining to a geographic location) or information created from map base GIS data, including various analysis options, will be documented to indicate basic metadata about the information created. A final acceptable GIS documentation report will be delivered at the time of completion of the final report. All of CONSULTANT'S work product under the Agreement shall be the property of CITY.
9. **Ownership of Work Product.** All work products of CONSULTANT provided hereunder shall become the property of CITY.
10. **Finance Records of Consultant.** CONSULTANT shall maintain accounting records of funds received under this Agreement and full documentation of performance hereunder. CONSULTANT shall permit CITY to have access to those records for the purpose of making an audit, examination, or review of financial and performance information relating to this Agreement. CONSULTANT shall maintain such records for a minimum of four (4) years following payment by CITY for the last invoice for such services to be provided. When requested by CITY, CONSULTANT shall make all such records available to CITY within fourteen (14) days of the request.
11. **Ownership and Final Work Product.** Final work products produced by CONSULTANT in any form shall be delivered in an easily accessible digital format, where applicable. ALL work product of CONSULTANT provided hereunder shall become the property of CITY.
12. **Proprietary or Confidential Information.** CONSULTANT understand and agrees that, in the performance of the work under this Agreement or in contemplation thereof, CONSULTANT may have access to private, proprietary, or otherwise confidential information owned or controlled by CITY, the disclosure of which may be damaging to CITY or to third parties.
- CONSULTANT agrees that all confidential information disclosed to CONSULTANT by CITY shall be held in confidence and used only in performance of this Agreement. CONSULTANT shall exercise the same standard of care to protect such information, as a reasonably prudent businessperson would use to protect its own private proprietary or confidential information.
13. **Public Records.** CONSULTANT acknowledges that CITY is subject to the provisions of the California Public Records Act (Govt. Code § 7920.000, *et seq.*) (the "Act"); therefore, this Agreement and any writing prepared for or submitted to CITY, including but not limited to CONSULTANT's Proposal or Statement of Qualifications, is subject to disclosure as a public

record, unless any portion thereof is exempt under the Act. If CONSULTANT believes that any portion of a public record is exempt from disclosure under the Act, it must clearly identify the portion(s) it believes to be exempt and identify the basis for the exemption. CONSULTANT bears the burden of proving any claimed exemption under the Act, and by signing this Agreement and initialing the acknowledgement below, CONSULTANT agrees to indemnify, defend, and hold harmless CITY against any third-party claim seeking disclosure of the public record or any portions thereof.

PLEASE INITIAL:

_____ CONSULTANT has read and understands the Public Records Act requirements outlined above and hereby affirms that (1) CONSULTANT bears the burden of proving any claimed exemption under the Act, and (2) CONSULTANT agrees to indemnify, defend, and hold harmless CITY against any third party claim seeking disclosure of the public record or any portions thereof.

- A. **Apprentices.** If the Agreement is for \$30,000 or more, CONSULTANT must comply with the apprenticeship requirements in Labor Code § 1777.5.
- B. **DIR Monitoring, Enforcement, and Registration.** This Agreement is subject to compliance monitoring and enforcement by the DIR pursuant to § 1725.5 of the Labor Code, and CONSULTANT and any subcontractor must be registered with the DIR to perform public works projects.

- 14. Independent Contractor.** The Parties intend that this Agreement will create an independent CONSULTANT/CITY relationship. No agent, employee, or representative of the CONSULTANT shall be deemed to be an employee, agent, or representative of the CITY for any purpose, and the employees of the CONSULTANT are not entitled to any of the benefits the CITY provides for its employees. The CONSULTANT will be solely and entirely responsible for its acts and for the acts of its agents, employee, subcontractors, or representatives during the performance of this Agreement.

In the performance of the services contemplated in this Agreement, the CONSULTANT is an independent contractor with the authority to control and direct the performance of the details of the work; however, the results of the work contemplated in this Agreement must meet the approve of the CITY and shall be subject to the CITY's general rights of inspection and review to secure the satisfactory completion of this work.

- 15. Reports and Inspections.** The CONSULTANT, at such times and in such forms as the CITY may require, shall furnish the CITY such statements, records, reports, data, and information as the CITY may request pertaining to matters covered by this Agreement.

The CONSULTANT shall at any time during normal business hours, and as often as the CITY may deem necessary, make available for examination of all its and data with respect to all matters covered, directly or indirectly, by this Agreement and shall permit the CITY or its designated authorized representative to audit and inspect other data relating to all matters covered by this Agreement. The CITY may, at its discretion, conduct an audit at its expense, using its own or outside auditors, of the CONSULTANT's activities that relate directly or indirectly to this Agreement.

- 16. Out of State Business.** If CONSULTANT is an out of state business and does not have a local office within the State of California, CONSULTANT shall provide to CITY a completed Withholding Exemption Certificate Form as required by the California Franchise Tax Board. If the out of state CONSULTANT fails to provide the required form, CITY shall withhold seven

(7%) percent of the total payment amount and send the withholdings to the Franchise Tax Board, as required by State law.

17. Insurance. CONSULTANT shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by CONSULTANT, its agents representatives, employees, or subcontractors. The cost of such insurance shall be incorporated in the CONSULTANT's sole cost and expense:

A. **Required Insurance.** CONSULTANT shall maintain, at all times, during the term of this Agreement and at CONSULTANT's sole cost and expense:

- i. **Comprehensive General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury, including, without limitation, blanket contractual liability, with limits no less than two million dollars (\$2,000,000) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
- ii. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if CONSULTANT has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than one million dollars (\$1,000,000) per accident for bodily injury and property damage.
- iii. **Workers' Compensation:** 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. Any notice of cancellation or non-renewal of Workers' Compensation policies must be received by CITY at least thirty (30) days prior to such change. CONSULTANT shall require each subcontractor to maintain Workers' Compensation insurance and Employer's Liability insurance in accordance with the laws of the State of California for all the subcontractor's employees.
- iv. **Professional Liability (Errors and Omissions):** Insurance appropriate to the CONSULTANT's profession, with limit no less than three million dollars (\$3,000,000) per occurrence or claim, three million dollars (\$3,000,000) aggregate.
- v. **Cyber Liability Insurance,** with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by CONSULTANT in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.

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

B. The liability policies must contain, or be endorsed to contain the following provisions:

- i. *Additional Insured Status:* CITY, its Council, officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL with respect to liability arising out of work or operations performed by or on behalf of the CONSULTANT 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 CONSULTANT's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used).
- ii. *Primary Coverage:* For any claims related to this agreement, the **CONSULTANT's insurance coverage shall be primary and non-contributory** and at least as broad as ISO CG 20 01 04 13 as respects the CITY, its Council, officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by CITY, its Council, officers, officials, employees, or volunteers shall be excess of the CONSULTANT's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.
 1. .
- iii. *Subcontractors:* CONSULTANT shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONSULTANT shall ensure that CITY is an additional insured on insurance required from subcontractors.
- iv. *Verification of Coverage:* CONSULTANT shall furnish the CITY with original certificates and amendatory endorsements or copies of the applicable policy language effective coverage required by this clause and a copy of the Declarations and Endorsements Pages of the CGL and any Excess policies listing all policy endorsements. All certificates and endorsements and copies of the Declarations & Endorsements pages are to be received and approved by the CITY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONSULTANT's obligation to provide them. The CITY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by the specification, at any time.
- v. *Duration of Coverage:* CGL & Excess liability policies for any construction related work, including, but not limited to, maintenance, service, or repair work, shall continue coverage for a minimum of 5 years for Completed Operations liability coverage. Such Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the agreement of work.
- vi. *Special Risks or Circumstances:* CITY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

PLEASE INITIAL:

_____ CONSULTANT has read and understood the insurance requirements outlined above and hereby affirms that (1) the cost of providing such insurance has been incorporated into CONSULTANT's proposal, and (2) that CONSULTANT provided the required documentation for insurance coverages prior to execution of this Agreement.

- 18. Conflicts of Interest.** CONSULTANT certifies that it has disclosed to CITY any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this Agreement, CITY Resolution No. 2022-029, California Government Code §1090, *et seq.*, or the Political Reform Act, as set forth in California Government Code §81000, *et seq.* and its accompanying regulations. CONSULTANT agrees to advise CITY of any actual, apparent or potential conflicts of interest that may develop after the date of execution of this Agreement. Any violation of this Section constitutes a material breach of the Agreement.
- 19. Prohibited Interest.** No member, officer, or employee of the CITY shall have any interest, direct or indirect, in this Agreement or the proceeds of this Agreement.
- 20. Political Activity Prohibited.** None of the funds, materials, property or services provided directly or indirectly under this Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.
- 21. Nondiscrimination.** CONSULTANT represents that it does not and agrees that it shall not discriminate against any employee or applicant for employment because of age, sex (including gender, gender identity, gender expression, transgender, pregnancy, and breastfeeding), religion, color, disability, genetic characteristics or information, race, national origin, ancestry, citizenship status, marital status, military or veteran status, medical condition, or sexual orientation (including homosexuality, bisexuality, or heterosexuality) or any other protected classification as defined and protected by law.
- 22. Indemnification.**
- A. To the fullest extent permitted by law, CONSULTANT must indemnify, defend, and hold harmless City, its Council, officers, officials, employees, agents, volunteers, and consultants (individually, an "Indemnitee," and collectively the "Indemnitees") from and against any and all liability, loss, damage, claims, causes of action, demands, charges, fines, costs, and expenses (including, without limitation, attorney fees, expert witness fees, paralegal fees, and fees and costs of litigation or arbitration) (collectively, "Liability") of every nature arising out of or in connection with the acts or omissions of CONSULTANT, its employees, Subcontractors, representatives, or agents, in bidding or performing the Work or in failing to comply with any obligation of CONSULTANT under the Agreement, except such Liability caused by the active negligence, sole negligence, or willful misconduct of an Indemnitee. This indemnity requirement applies to any Liability arising from alleged defects in the content or manner of submission of CONSULTANT's bid for the Agreement. CONSULTANT's failure or refusal to timely accept a tender of defense pursuant to this Agreement will be deemed a material breach of the Agreement. City will timely notify CONSULTANT upon receipt of any third-party claim relating to the Agreement, as required by Public Contract Code § 9201. CONSULTANT waives any right to express or implied indemnity against any Indemnitee. CONSULTANT's indemnity obligations under this Agreement will survive the expiration or any early termination of the Agreement.
 - B. CONSULTANT does now remise, release, forever discharge and covenant not to sue the CITY, its Council, agents, servants, employees, officers, successors and assigns, and also any and all other persons, associations and corporations, whether or not named in this Agreement, who, together with the above named, may be jointly and severally liable to CONSULTANT, of and from any and all actions and causes of action, rights, suits, covenants, contracts, agreements, judgments, claims and demands in law or equity, including claims for contribution, arising from and by reason of any and all known and unknown, foreseen and unforeseen bodily and personal injuries or death, damage to property, and the consequences of the same, which previously have been or which later may be sustained by CONSULTANT or by any and all other persons, associations and

corporations, from all liability arising out of or in connection with this Agreement. Notwithstanding the foregoing, CONSULTANT may assert claims against the CITY arising from the sole negligence, active negligence, or willful misconduct of the CITY.

C. No liability shall attach to the CITY by reason of entering into this Agreement except as expressly provided in this Agreement.

23. Intellectual Property Indemnification. CONSULTANT shall, at its expense, defend, indemnify and hold harmless CITY and any Indemnified Party against any and all Losses arising out of or in connection with any claim that CITY's or Indemnified Party's use or possession of goods infringes or misappropriates the patent, copyright, trade secret or other intellectual property right of any third party. In no event shall CONSULTANT enter into any settlement without CITY's or Indemnified Party's prior written consent.

24. Amendments. Any modifications or amendment of any provision of the Agreement shall be in writing and must be executed by all parties.

25. Assignment. The expertise and experience of CONSULTANT are material considerations for this Agreement. CITY has a strong interest in the qualifications and capability of the persons and entities that will fulfill the obligations imposed on CONSULTANT under this Agreement. In recognition of this interest, CONSULTANT must not assign any right or obligation pursuant to this Agreement without the written consent of the CITY. Any attempted or purported assignment without CITY's written consent shall be void and of no effect.

26. Termination. CITY may terminate this Agreement, in whole or in part, at any time, by providing at least ten (10) days' written notice to the other party. The CONSULTANT shall be paid its costs, including Agreement close-out costs, and profit on work performed up to the time of termination. The CONSULTANT shall promptly submit a termination claim to the CITY. If the CONSULTANT has any property in its possession belonging to the CITY, the CONSULTANT will account for such property and dispose of it in a manner directed by the CITY.

If the CONSULTANT fails to perform in the manner called for in this Agreement, or if the CONSULTANT fails to comply with any other provisions of the Agreement and fails to correct such noncompliance within fourteen (14) days after written notice of such failure, the CITY may immediately terminate this Agreement for cause. Termination shall be affected by serving a notice of termination on the CONSULTANT setting forth the manner in which the CONSULTANT is in default. The CONSULTANT will only be paid for services performed in accordance with the manner of performance set forth in this Agreement.

27. Jurisdiction, Venue, and Governing Law. Any action at law or in equity brought by either of the Parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of Contra Costa, State of California, and the Parties waive all provisions of law providing for a change of venue in these proceedings to any other county. This Agreement shall be governed by the laws of the State of California.

28. Severability. If, for any reason, any part, term, or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

If it should appear that any provision of this Agreement is in conflict with any statutory provision of the state of California, such conflicting provision shall be deemed inoperative and null and void insofar as it may be in conflict with such statutory provisions and shall be deemed modified to conform to such statutory provisions.

- 29. Entire Agreement, Time of Essence, No Waiver.** The parties agree that this Agreement is the complete expression of the terms of this Agreement and any oral representations or understandings not incorporated in this Agreement are excluded. Failure to comply with any of the provisions of this Agreement shall constitute material breach of Agreement and cause for termination. Both parties recognize that time is of the essence in the performance of the provisions of this Agreement. It is also agreed by the parties that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement. In the event of conflict between the body of this Agreement and its Exhibit(s), the terms of the body of this Agreement shall prevail.
- 30. Signatures and Counterparts.** This Agreement may be entered into by the Parties by signing any one or more counterparts, all of which shall constitute one and the same instrument. It is understood and agreed that this Agreement shall become effective and binding when one or more counterparts have been executed by each party and delivered to each other party. Additionally, electronic, facsimile and scanned signatures shall be binding the same as originals.
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Signatures intentionally omitted.

IN WITNESS WHEREOF the parties have executed this Agreement on the dates indicated below, the latest of which shall be deemed the effective date of this Agreement.

CITY OF SAN RAMON, a Municipal Corporation "**CITY**"

VENDOR
"CONSULTANT"

_____	X: _____
David E. Hudson, Mayor Date	[Insert Name of Signatory] Date
_____	[Insert Title] _____
Steven Spedowski, City Manager Date	Title of Signatory

The Foregoing Agreement has been Reviewed and Approval is Recommended:

_____	X: _____
Maria Fierner, Director Date	[Insert Name of Signatory] Date
Public Works Department	_____
	[Insert Title] _____
	Title of Signatory

APPROVED AS TO FORM:

_____	XXXX _____
Martin Lysons, City Attorney Date	San Ramon Business License #

ATTEST:

_____	Resolution No. 20XX-XX _____
Christina Franco, City Clerk Date	Approved by City Council