

REQUEST FOR QUALIFICATIONS

FOR

**COORDINATION AND OPERATION OF AMUSEMENT
RIDES, AND ATTRACTIONS**

at the City of San Ramon Art & Wind Festival



**CITY OF SAN RAMON
PARKS & COMMUNITY SERVICES**

Issued: November 15, 2023

SOQ Deadline: December 13, 2023 at 3:30p.m.

TO

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

ATTN: City Clerk

**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 COORDINATION AND OPERATION OF AMUSEMENT RIDES, AND ATTRACTIONS at the City of San Ramon Art & Wind Festival (“**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 COORDINATION AND OPERATION OF AMUSEMENT RIDES, AND ATTRACTIONS (“**Services**”) for City of San Ramon Art & Wind Festival. The San Ramon Art & Wind Festival began as a “Street Fair” in 1989. It became the City of San Ramon’s signature event in 1990. The San Ramon Art & Wind Festival is considered one of the best festivals in the East Bay. The Art & Wind Festival is always scheduled for the Sunday and Monday of the Memorial Day Weekend in San Ramon’s Central Park, 12501 Alcosta Blvd., 11am-6pm, on both days. The Art and Wind Festival is a pet friendly, bike friendly, and family friendly event attracting approximately 40,000 people to San Ramon every year.

B. Form of Agreement. A copy of the City’s standard Professional 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 REQUIREMENTS

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 Mae Mlyniec, at mmlyniec@sanramon.ca.gov by 4:00 p.m., December 7, 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 not be held.

C. Submittal Instructions. SOQs must be **received** by the City by or before December 13, 2023 at 3:30 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 COORDINATION AND OPERATION OF AMUSEMENT RIDES, AND ATTRACTIONS,” 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	November 15, 2023
Deadline for Questions regarding RFQ	December 7, 2023/4:00pm
SOQ Deadline	December 13, 2023/3:30pm
City Evaluation of SOQ Submissions	December 15, 2023
Interviews of Finalists	January 3, 2024
Notice of Selection Issued	January 8, 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 fifteen (15) 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 his or her 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. Designate Respondent's point-of-contact for City staff to direct questions and concerns as it relates to amusement rides and attractions during this event.

E. Price. The City will not compensate Respondent for performance of said Services. Rather, the City is looking for Respondent to propose payment of a flat rate or commission to the City in exchange for the ability to provide Services at the City's Art & Wind Festival.

F. Proposed Approach. Briefly describe Respondent's proposed approach to providing the Services and how that approach will offer value to the City. The City may consider concession services in the future. Respondents should include if they are able to provide concession services.

5. EVALUATION

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

- | | |
|----------------------------|-------------|
| • General qualifications | 1-20 points |
| • Relevant experience | 1-20 points |
| • Proposed staffing | 1-15 points |
| • Pricing proposal | 1-15 points |
| • Proposed approach | 1-10 points |
| • References | 1-10 points |
| • Interview (if requested) | 1-10 points |

6. SELECTION AND AWARD

A. Review. SOQs will be reviewed, 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 mmlyniec@sanramon.ca.gov and must clearly specify the basis for the protest. The protest will be reviewed by the Parks and Community Services 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. 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
PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF SAN RAMON AND
VENDOR
FOR
COORDINATION AND OPERATION OF AMUSEMENT RIDES, AND ATTRACTIONS AT THE
ART & WIND FESTIVAL

This is an agreement between the City of San Ramon, a municipal corporation (“CITY”) and **VENDOR**, (“CONTRACTOR”) together referred to as the “Parties.”

RECITALS

WHEREAS, CITY solicited Statement of Qualifications (“SOQ”) by Request for Qualifications (“RFQ”) for COORDINATION AND OPERATION OF AMUSEMENT RIDES, AND ATTRACTIONS; and

WHEREAS, after review of all SOQs submitted pursuant to said RFQ, CONTRACTOR’s SOQ on the project was accepted by CITY and identified as most advantageous; and

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

WHEREAS, CONTRACTOR is willing to provide the requested services.

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

1. **Award of Agreement.** In response to the RFQ, CONTRACTOR submitted an SOQ to perform the Work as set forth in the RFQ Attachment B – Scope of Services. On _____, 202X, CITY authorized award of this Agreement to CONTRACTOR for the amount set forth in Section 6, below.
2. **RFQ Documents.** The RFQ Documents incorporated into this Agreement include and are comprised of all the documents listed below.

Sections

- 2 The Services
- 3 Request for Proposal Procedures
- 4 Proposal Requirements
- 5 Evaluation
- 6 Selection and Award
- 7 Miscellaneous

3. **Scope of Service.** The scope of services covered by this Agreement include mandatory timeframes for performance, deadlines for providing deliverables to CITY, and the maximum fee for each item are further described in **Exhibit A** (the “Goods”) attached and incorporated herein by reference.

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

4. **Modification of Agreement.** CITY may request changes to this Agreement including the Scope of Services to be performed by CONTRACTOR. Such requests shall be made in writing exclusively by CITY's designated Project Manager, and shall describe in detail the proposed additions, deletions, or modifications. Such requests will include tabulation of costs, expenses, and time required to complete the requested work. CONTRACTOR shall have the length of time specified in the request to reply in writing to the request. Neither CITY's request nor CONTRACTOR's reply shall constitute a modification of this Agreement. Any modification shall be contained in a written amendment to the Agreement and will be effective only if signed by both parties. Execution of the amendment by CITY shall constitute authorization to proceed with the work identified herein.
5. **Time of Performance.** CONTRACTOR's performance shall commence as of the effective date listed below and be completed by the Wednesday following the conclusion of the Festival or the date CONTRACTOR completes the services provided for in this Agreement, whichever occurs first, unless otherwise terminated under the terms of this Agreement.

However, CONTRACTOR 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 four (4) successive one (1) year terms, upon the same terms and conditions as provided in this Agreement. Any contract extension or amendment must be in writing and fully executed by both parties to take effect.

6. **Compensation.** CONTRACTOR agrees to pay CITY at the rates set forth in **Exhibit A** and incorporated herein.

Upon completion and acceptance of the deliverables CONTRACTOR shall submit an itemized invoice for the completed work showing applicable rates and charges as agreed to hereunder and the total amount due.

Due to continued potential for service level reductions and budget cuts; there is no guarantee that any or all work will be authorized.

7. **Designated Representatives.**
- A. CITY designates Steve Cox, Recreation Supervisor or his designee as its representative in all matters under this Agreement.
 - B. CONTRACTOR designates Contact Title, Contact Name as its Project Manager for this Agreement. CONTRACTOR may designate a different Project Manager only with prior written authorization from CITY.
8. **Cooperation of the City.** CITY shall make available to CONTRACTOR all financial records and related information necessary for performance of CONTRACTOR'S work under this Agreement.
9. **Independent Contractor.** The Parties intend that this Agreement will create an independent CONTRACTOR/CITY relationship. No agent, employee, or representative of the CONTRACTOR shall be deemed to be an employee, agent, or representative of the CITY for any purpose, and the employees of the CONTRACTOR are not entitled to any of the benefits the CITY provides for its employees. The CONTRACTOR will be solely and entirely responsible for its acts and for the acts of its agents, employees, subcontractors, or representatives during the performance of this Agreement.

In the performance of the services contemplated in this Agreement, the CONTRACTOR 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 approval of the CITY and shall be subject to the CITY's general rights of inspection and review to secure the satisfactory completion of the work.

CONTRACTOR agrees to conduct background checks and screenings through the Department of Justice or equivalent and provide documentation of clearance of all of its employees prior to commencement of work on the Friday prior to the Festival.

- 10. Out of State Business.** If CONTRACTOR is an out of state business and does not have a local office within the State of California, CONTRACTOR shall provide to CITY a completed Withholding Exemption Certificate Form as required by the California Franchise Tax Board. If the out of state contractor 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.
- 11. Proprietary or Confidential Information.** CONTRACTOR understands and agrees that, in the performance of the work under this Agreement or in contemplation thereof, CONTRACTOR 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.

CONTRACTOR agrees that all confidential information disclosed to CONTRACTOR by CITY shall be held in confidence and used only in performance of this Agreement. CONTRACTOR 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.

- 12. Ownership and Final Work Product.** Final work products produced by CONTRACTOR in any form shall be delivered in an easily accessible digital format, where applicable. ALL work products of CONTRACTOR provided hereunder shall become the property of CITY.
- 13. Public Records.** CONTRACTOR 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 CONTRACTOR's Proposal or Statement of Qualifications, is subject to disclosure as a public record, unless any portion thereof is exempt under the Act. If CONTRACTOR 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. CONTRACTOR bears the burden of proving any claimed exemption under the Act, and by signing this Agreement and initialing the acknowledgement below, CONTRACTOR 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:

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

- 14. Financial Records of Contractor.** CONTRACTOR shall maintain accounting records of funds received under this Agreement and full documentation of performance hereunder. CONTRACTOR 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. CONTRACTOR 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, CONTRACTOR shall make all such records available to CITY within fourteen (14) days of the request.

- 15. Compliance with Law.** CONTRACTOR shall comply with all applicable laws, regulations, and ordinances. CONTRACTOR has and shall maintain in effect all the licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under this Agreement.
- 16. Conflict of Interest.** CONTRACTOR 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. 2020-017, 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. CONTRACTOR 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.
- 17. Nondiscrimination.** CONTRACTOR 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.
- 18. 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.
- 19. 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.
- 20. Indemnification.**
 - A. To the fullest extent permitted by law, CONTRACTOR 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 CONTRACTOR, its employees, Subcontractors, representatives, or agents, in bidding or performing the Work or in failing to comply with any obligation of CONTRACTOR 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 CONTRACTOR's bid for the Agreement. CONTRACTOR'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 CONTRACTOR upon receipt of any third-party claim relating to the Agreement, as required by Public Contract Code § 9201. CONTRACTOR waives any right to express or implied indemnity against any Indemnitee. CONTRACTOR's indemnity obligations under this Agreement will survive the expiration or any early termination of the Agreement.

- B. CONTRACTOR 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 CONTRACTOR, 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 CONTRACTOR 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, CONTRACTOR 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.

21. Intellectual Property Indemnification. CONTRACTOR 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 the Goods infringes or misappropriates the patent, copyright, trade secret or other intellectual property right of any third party. In no event shall CONTRACTOR enter into any settlement without CITY's or Indemnified Party's prior written consent.

22. Insurance. CONTRACTOR 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 CONTRACTOR, its agents, representatives, employees or subcontractors. The cost of such insurance shall be incorporated in the CONTRACTOR's proposal.

A. **Required Insurance.** CONTRACTOR shall maintain, at all times, during the term of this Agreement and at CONTRACTOR'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 three million dollars (\$3,000,000) 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 a minimum of five million dollars (\$5,000,000).
- ii. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if CONTRACTOR 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. CONTRACTOR 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.

If the CONTRACTOR 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 CONTRACTOR. 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 policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR 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 CONTRACTOR'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 **CONTRACTOR'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 CONTRACTOR's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.
- iii. *Umbrella or Excess Policy:* The CONTRACTOR may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the CONTRACTOR's primary and excess liability policies are exhausted.
- iv. *Notice of Cancellation:* Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to CITY.
- v. *Waiver of Subrogation:* CONTRACTOR hereby grants to CITY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the CITY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether

or not the CITY has received a waiver of subrogation endorsement from the insurer.

- vi. *Self-Insured Retentions:* Self-insured retentions must be declared to and approved by CITY. The CITY may require the CONTRACTOR to purchase coverage with a lower retention or 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 CITY. The CGL and any policies, including Excess liability policies, may not be subject to a self-insured retention (SIR) or deductible that exceeds \$25,000 unless approved in writing by CITY. Any and all deductibles and SIRs shall be the sole responsibility of CONTRACTOR or subcontractor who procured such insurance and shall not apply to the Indemnified Additional Insured Parties. CITY may deduct from any amounts otherwise due to CONTRACTOR to fund the SIR/deductible. Policies shall NOT contain any self-insured retention (SIR) provision that limits the satisfaction of the SIR to the Named Insured. The policy must also provide that Defense costs, including the Allocated Loss Adjustment Expenses, will satisfy the SIR or deductible. CITY reserves the right to obtain a copy of any policies and endorsements for verification.
- vii. *Acceptability of Insurers:* Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the CITY.
- viii. *Subcontractors:* CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that CITY is an additional insured on insurance required from subcontractors.
- ix. *Verification of Coverage:* CONTRACTOR shall furnish the CITY with original certificates and amendatory endorsements or copies of the applicable policy language effecting 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 CONTRACTOR's obligation to provide them. The CITY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
- x. *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:

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

23. Suspension on Performance. For the convenience of CITY or because of events beyond the control of CITY, CITY may give written notice to CONTRACTOR to suspend all work under this Agreement. If CONTRACTOR's work is suspended for longer than a period of one hundred twenty (120) days, an adjustment to CONTRACTOR's compensation may be made for increased costs, if any, and this Agreement shall be modified accordingly.

24. Assignment. The expertise and experience of CONTRACTOR 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 CONTRACTOR under this Agreement. In recognition of this interest, CONTRACTOR 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.

25. 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 CONTRACTOR shall be paid its costs, including Agreement close-out costs, and profit on work performed up to the time of termination. The CONTRACTOR shall promptly submit a termination claim to the CITY. If the CONTRACTOR has any property in its possession belonging to the CITY, the CONTRACTOR will account for such property and dispose of it in a manner directed by the CITY.

If the CONTRACTOR fails to perform in the manner called for in this Agreement, or if the CONTRACTOR 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 effected by serving a notice of termination on the CONTRACTOR setting forth the manner in which the CONTRACTOR is in default. The CONTRACTOR will only be paid for services performed in accordance with the manner of performance set forth in this Agreement.

26. Survival. Subject to the limitations and other provisions of this Agreement.

- A. The representations and warranties of the Parties contained herein shall survive the expiration or earlier termination of this Agreement; and
- B. Sections of this Agreement, as well as any other provision that, in order to give proper effect to its intent, should survive such expiration or termination, shall survive the expiration or earlier termination of this Agreement.

27. Cumulative Remedies. All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either Party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the Parties, or otherwise. Notwithstanding the foregoing, the Parties intend that, if CITY terminates the Agreement in accordance with Section 25, CONTRACTOR's sole and exclusive remedy is the right to payment for the Goods received and accepted.

28. Force Majeure.

- A. Neither Party shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make payments to the other Party hereunder), when and to the extent such Party's (the "**Impacted Party**") failure or delay is caused by or results from the following force majeure events ("**Force Majeure Event(s)**"): (a) acts of God; (b) flood, fire, earthquake, other potential disaster(s) or catastrophe(s), such as epidemics, or explosion caused by a third party; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other

civil unrest; (d) government order, law, or action; (e) embargoes or blockades in effect on or after the date of this Agreement; (f) national or regional emergency; (g) strikes, labor stoppages or slowdowns or other industrial disturbances; (h) telecommunication breakdowns, power outages or shortages, lack of warehouse or storage space, inadequate transportation services, or inability or delay in obtaining supplies of adequate or suitable materials; or (i) other similar events beyond the reasonable control of the Impacted Party.

- B. The Impacted Party shall give notice within three (3) days of the Force Majeure Event to the other Party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period of TEN consecutive days following written notice given under Section 29, either Party/the other Party may thereafter terminate this Agreement upon fourteen (14) days' written notice.

- 29. Notices.** If either party shall desire or is required to give notice to the other such notice shall be given in writing, via prepaid U.S. certified or registered postage, addressed to recipient as follows:

To City:

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

To CONTRACTOR:

VENDOR
Attn: Contact Name, Title
Address
Address
Email

Changes to the above information shall be given to the other party in writing ten (10) business days before the change is effective.

- 30. Commencement, Completion and Closeout.** Time is of the essence in the performance of this Agreement. Any time extension granted to CONTRACTOR must be in writing and shall not constitute a waiver of right CITY may have under the Agreement.

It shall be the responsibility of CONTRACTOR to coordinate and schedule the work to be performed so that commencement and completions take place in accordance with the provisions of the Agreement. Within thirty (30) days of completion CONTRACTOR shall submit to CITY a final billing to include all costs, charges, and claims in connection with the completed work. CITY shall not be required to pay for any work or claims not included on the aforementioned final billing.

- 31. 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.
- 32. 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.

33. 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 contract 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.

34. 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.

Signatures intentionally omitted.

Attachment B – Scope of Services

The purpose of this project is to provide, coordinate, and operate Amusement Rides, and Attractions at the City of San Ramon Art & Wind Festival held on the Sunday and Monday of Memorial Day Weekend in the San Ramon Central Park. The festival includes over 150 fine arts & crafts vendors, food vendors, entertainment on four stages, kite-flying demonstrations, kite making workshops, free children's activities, non-profit information alley, business vendors and amusement rides and attractions.

This RFQ is seeking SOQs from interested Respondents who have the ability to provide all of the following services:

- a. A minimum of twelve (12) children's amusement rides (rides that reflect the festival theme of wind is highly desirable);
- b. A minimum of four (4) skill-oriented activities with the following caveats:
 - Activities may not include any guns, knives, or other types of items that may be construed as weapons.
 - Use of live prizes (such as goldfish, etc.) is not permitted.
 - Inflatables and/or bounce houses are not allowed at the event.
 - Examples of allowable activities are rock climbing walls, miniature golf, and basketball shoots;
 - All activities shall be approved by the City prior to the Festival.
- c. Provide a list of proposed Amusement Rides, and Attractions available for City of San Ramon Art & Wind Festival along with the necessary footprint size and set up diagram 30 days prior to the Festival.
- d. All equipment, generators, crowd control barriers, and permit requirements necessary to operate an amusement area;
- e. Site management during the Festival to include oversight and supervision of all amusement rides and attractions and provided personnel;
- f. Demonstrate responsibility for oversight of provided personnel;
- g. Provide both of the following documentation upon request:
 - All personnel have a background check clearance through Department of Justice or equivalent, and
 - All personnel are at least 18 years of age;
- h. Provide the City with payment as specified in the SOQ. Respondent to pay a pre-determined \$1,000 deposit 60 days prior to the event. The remaining balance to be paid by the Respondent within 15 business days after completion of the event.
- i. Keep the proposed amusement rides and attractions affordable to City residents, utilizing competitive pricing from the surrounding festivals;
- j. Maintain adequate insurance that meets or exceeds the requirements set forth by the City.
- k. Provide overnight security of the rides and amusement area, if desired. City will not provide overnight security in this area.
- l. The City may consider concession services in the future. Respondent should include if they can provide concession services.

Delivery, Operation, and Break-out Schedule:

- a. Respondent guarantees that the rides can be delivered to the Festival no earlier than 8:00am, Friday of Memorial Day Weekend.
- b. The morning of delivery, the Respondent will notify the Festival Supervisor 1 hour prior to arrival.
- c. Respondent shall secure all necessary permits and certifications from governmental agency(s) requiring licensing and inspection of amusement rides.
- d. Respondent shall ensure the rides shall be operational and inspected by the Saturday of Memorial Day Weekend.
 - a. If a ride is not operational upon inspection, it must be removed from the premises prior to the opening of the Festival on Sunday morning.
- e. Respondent shall ensure the rides and attractions shall be fully operational and able to load passengers at all times throughout the Festival.
- f. The hours of operation for the rides shall be Sunday & Monday – 11:00am- 6:00pm.
- g. City will work with the Respondent for parking arrangements for all company delivery, transport vehicles.
- h. The Festival grounds cannot accommodate any overnight personal vehicles, sleeping quarters, etc. Additional parking may be arranged nearby with City permission.
- i. Respondent shall install a security/barricade system which secures the perimeter of the rides and also serves as a queuing/exiting scheme for amusement riders.
- j. Respondent shall ensure the rides will be disassembled and removed from the Festival site no later than Wednesday after the Memorial Day Weekend.
- k. City is an inclusive city and incorporates individuals with special needs into the programs. Respondents shall describe their experience with children with special needs utilizing amusement rides and attractions, and explain how the proposed amusement rides and attractions would be able to accommodate these children and their families.
- l. Be certified and possess all licenses to operate amusements with the City of San Ramon, Contra Costa County, and State of California.
- m. Maintain all licenses, permits and, certifications as required by federal, state and local laws, regulations, codes or ordinances for the performance of this contract including, but not limited to, a City of San Ramon Business License ("Business License").
- n. Provide copies of any required documentation as proof of valid licensure, permits, and certification prior to the contract being fully executed.
- o. Maintain all licenses, permits, and certifications during the term of the contract. Should any license, permit or certification expire, be cancelled, suspended, or revoked before the expiration of the contract, the Respondent shall, within 72 hours, provide written notice to the City of such action. In the event any license, permit or certification is not in effect at any time during the term of the contract, the contract will be considered canceled effective on the date the license, permit or certification lapsed.
- p. Perform the services consistent with good safety practices in the safest manner possible because Respondent is responsible for the health and safety of all Respondent's staff and the general public.

City will perform all of the following:

- a. Provide the facilities and grounds to operate amusement rides, and attractions;
- b. Review and approve all equipment and location of all rides and attractions prior to the Festival; and

- c. Review and approve all other aspects of the operation, in accordance with facility agreement compliance and terms.

END OF ATTACHMENT