



**CITY OF
WALNUT
CREEK**

City of Walnut Creek

Arts + Recreation Department

Request for Proposals for Financial Advisor Services

DATE ISSUED: July 15, 2022

DATE DUE: August 8, 2022 by 5:00 pm

CONTACT: Sandra Naughton, Arts + Rec Business Manager

naughton@walnut-creek.org

ALL RESPONSES MUST BE SUBMITTED VIA EMAIL



BACKGROUND

The City of Walnut Creek was incorporated in 1914 and is located in Contra Costa County, a growing region in the eastern portion of the San Francisco Bay Area. The City has a permanent staff of approximately 370 City employees and serves over 70,000 residents in a land area of 19.9 square miles. The City continues to show strength as a major employer, a successful retail and entertainment hub, and a safe community with attractive residential neighborhoods.

The City operates under the Council-Manager form of government. Five at-large Council Members are elected to staggered four-year terms to govern the City. The City Treasurer is also elected to a four-year term. The Mayor and Mayor Pro Tem are elected by the City Council from their own membership and each serve one-year terms. The City Council is responsible for adopting City ordinances, resolutions, and the annual budget, appointing commissions and committees, and hiring the City Manager and City Attorney. The City Manager is responsible for implementing the Council's policies, ordinances and directives, for overseeing the day-to-day operations of the City, and for appointing the directors of the City's departments.

One of those departments is the Arts + Recreation Department which oversees the Boundary Oak Golf Course, Aquatics, the Bedford Gallery, Center for Community Arts, the Leshner Center for the Arts, the Public Art Program, Recreation Services, and Social Services for seniors and physically and developmentally disabled youth and adults. Together these programs contribute to making Walnut Creek a regional destination.

The Arts + Recreation Department has responsibility for fiscal and operational oversight of the Boundary Oak Golf Course. Opened in 1969, the golf course is a full service, 18-hole championship course with multiple practice areas, a driving range, and a 30,000-square-foot clubhouse. The clubhouse houses the golf shop, cart barn, and Taphouse grill on the lower level, and banquet and special event rooms on the upper level. CourseCo, Inc. operates the facility under a management contract with the City of Walnut Creek, which began in 2009, was renewed in 2014, and recently renewed through 2032.

The Boundary Oak Golf Course operates as a self-supporting Enterprise Fund overseen by the City. Revenues generated by golf and food and beverage operations fund its operating expenses, annual capital improvements, support services from Arts + Recreation, Finance, and Public Works Departments, and debt service. The golf course does not use any General Fund dollars.

Boundary Oak Golf Course's driving range is currently not meeting its potential. Due to age, outdated equipment, antiquated irrigation systems and the sloping, deteriorating landscape, the driving range currently requires significant ongoing investment in upkeep and repairs. The Arts + Recreation Department is currently working with a designer to develop a conceptual plan, cost estimate and construction documents for revamping the range to a more modern operation, improved maintenance, contemporary amenities, and improved appearance. The City has used financial advisory services and financing mechanisms in the past to make significant capital improvements to the golf course.

The revamping of the driving range will be a multi-phase project with each phase taking a year or more to implement over the next several years. While the most recent cost estimate of the project is \$6 million to \$8 million, the first phase that the Department would ideally like to implement in spring 2022 is estimated to cost between \$3 million to \$4 million. This first phase is expected to focus on renovating the driving range, putting green, and adjacent plaza area. The City is seeking financial advisory services to help finance these costs.

GENERAL INFORMATION

Through this Request for Proposals (“RFP”), the Arts + Recreation Department seeks a financial consultant with experience working with municipalities in California who can provide financial advising services to assist in developing and executing a financing strategy to fund and complete construction work at Boundary Oak Golf Course.

The purpose of this RFP is to evaluate qualified firms who are able to provide all services necessary to provide a recommended funding strategy and assist the City in executing the selected strategy to complete at least the initial phase of the golf course project. The City expects the selected firm to initiate work in September 2022.

SCOPE OF WORK

The services to be provided by the selected consultant shall include, but are not limited to, the following:

- 1) With input from the City, develop a financing strategy to provide funds to construct and/or renovate the areas included in the first phase of the proposed Boundary Oak Golf Course project, and assist the City in implementing the funding strategy, including any follow-up needed. The funding strategy may include the issuance of bonds, leases, private loans or other methods that meet the Department’s and City’s goals. The consultant shall investigate, study, analyze, and recommend a financial strategy that results in a sound and feasible plan for the intended projects. This shall include, but not be limited to the following:
 - a. Meetings with appropriate City staff for consultation, strategizing, information and data collection and dissemination.
 - b. Provide financial structuring consultation, comparative schedules and analysis for the City in an effort to develop the most efficient and effecting financing possible.
 - c. Prepare analysis and materials for the City, including, but not limited to, the following:
 - i. Develop a program financing calendar.
 - ii. Prepare a cash flow analysis, sources & uses, pro form debt service schedules per City direction and related consultation.
 - iii. If needed, coordinate the development of draft disclosure documents for review and adjust based on feedback.
 - iv. Develop public presentation material and resource information for the City.

- v. Arrange for and coordinate public bidding for bonds; and arrange for and assist the City in negotiating the sale of bonds, and oversee and coordinate funding of bond sale and report results to City, if so directed.
 - d. Meetings with city officials and the general public, including presentations at City Council and/or Commission meetings, as determined by City staff.
 - e. Coordinate with bond counsel and any other consultants needed for the selected financing strategy and plan.
 - f. Coordinate with the City to perform due diligence investigation and assist in and oversee the preparation of disclosure information for disseminate to rating agencies, bond insurance companies, and prospective buyers of the bonds.
 - g. As appropriate, coordinate and arrange for ratings and bond insurance for the bonds.
 - h. Coordinate a competitive sale of the bonds in an effort to obtain the lowest responsible bid price, or assist the City in the negotiated sale of the bonds. Report to the City the results of the sale of the bonds and provide closing documentation.
 - i. Provide ongoing follow up consultation relating to the bonds, in coordination with other prospective City financings.
- 2) Other tasks as assigned related to identifying, selecting and implementing a funding strategy to complete the first phase and potentially subsequent phases of the proposed golf course project.

SUBMISSION REQUIREMENTS

All proposals shall include the following information, organized as separate sections of the proposal. The proposal should be concise and should not exceed 20 pages, and include:

I. Firm Information:

Provide the name of the firm, the firm's principal place of business, the name, email and telephone number of the contact person. Also include the firm's tax identification number and number of years in business.

II. Client References:

Provide a minimum of three (3) client references. References should be California cities or other large public sector entities for which the applicant delivered similar financial advisory services as described in the scope of work. Provide the reference's name, title, organization, address, telephone number, email address and a brief description of the project(s) that were completed, including the financing strategy used and amount financed.

III. Key Personnel:

Names, titles, previous relevant experience, and proposed roles for personnel who would work on the project.

IV. Proposed Process and Timeline:

Provide an overview of how the firm will approach this work, as outlined in the scope of work, including a proposed process timeline starting September 2022.

V. Proposed Budget:

Based on the proposed scope of work, provide detailed information on all associated fees including a total proposed budget. The proposal shall itemize all charges for services, including hourly rates for all professional, technical and support personnel. The proposal shall include proposed payment terms and timeline of amounts due.

VI. Duration of Proposal:

Proposer's submissions shall contain a statement that the submitted proposal shall remain effective for a minimum of ninety (90) days beyond the submittal date.

SUBMITTED DOCUMENTS AND MATERIAL

All proposals and material submitted, including financial records and cost proposals, will become the property of the City of Walnut Creek as public records and will not be deemed confidential or proprietary. In the event that a proposer desires to claim portions of its proposal as exempt from disclosure as proprietary material or trade secret, it is incumbent upon the proposer to clearly identify those portions as proprietary or trade secret. Please note that although the California Public Records Act recognizes certain confidential proprietary/trade secret information may be protected from disclosure, the City may not be in a position to establish that the information that a proposer submits is a trade secret or proprietary. If a request is made for information marked trade secret or proprietary, and a requester takes legal action seeking release of the materials it believes does not constitute proprietary or trade secret information, by submitting a proposal in response to this RFP, a proposer agrees to indemnify, defend and hold harmless the City, its officials, representatives, agents and employees, from any judgment, fines, penalties, and award of attorneys' fees awarded against the City in favor of the party requesting the information, and any and all costs connected with that defense. This obligation to indemnify survives the City's award of the contract.

SELECTION PROCESS

Proposals will be reviewed by City staff and evaluated to determine which proposals best meet the submission requirements listed above according to the following points allocation:

1. Firm Information (10 points)
2. Client References (25 points)
3. Key Personnel (10 points)
4. Proposed Process and Timeline (30 points)
5. Proposed Budget (25 points)
6. Duration of Proposal (0 points)

The final selection will be based on completeness, experience with similar businesses, technical merit, and fees. The City reserves the right, without qualification, to:

- Reject all proposals.
- Exercise discretion and apply its judgment with respect to any proposal submitted.
- Select a proposal which qualifies based on the following factors:
 - Experience of the firm selected to provide the specified services
 - Record of the firm in accomplishing work within a required time, and within an established budget
 - Record of the firm's responsiveness to client requests
 - Ability to work with City staff and communication and public outreach consultants
 - Financial responsibility (years in business, number of projects completed, annual volume of work in dollars, etc.)
 - References

The City reserves the right to award a contract/select a service provider without discussion based upon the initial proposals. The above factors, along with other factors that the City may deem appropriate, will be used to identify the proposal that represents the best value, which will be the basis for the contract award. After the submittals are evaluated and ranked, the City, at its sole discretion, may elect to interview one or more proposer. Please note that proposers may be asked to submit additional documentation at or after the interview stage. In addition, the City reserves the right to select a proposer without conducting interviews. If the City chooses to conduct interviews, the review panel members will score the interviews based on the following:

- Experience of the firm to provide the specified services
- Record of the firm in accomplishing work within a required time, and within an established budget
- Record of the firm's responsiveness to client requests
- Ability to work with City staff and communication and public outreach consultants
- Financial responsibility (years in business, number of projects completed, annual volume of work in dollars, etc.)
- References

All interested parties are encouraged to submit proposals to the RFP, as the award is not based solely on lowest cost proposal submitted. Total cost will be taken into consideration, but the company's capabilities, competence, and capacity will be considered as well.

If a final top-ranked proposer is identified, it will be to the most qualified proposer with whom City is able to successfully negotiate the compensation and terms and conditions of any and all agreements. If the City is unable to negotiate a satisfactory agreement, with terms and conditions the City determines, in its sole judgment, to be fair and reasonable, the City may then commence negotiations with the next most qualified candidate in sequence, until an agreement is reached or determination is made to reject all submittals. The City reserves the right to choose the overall best consultant according to the City's criteria. The City, and its designated representatives, shall be the sole judge of its own best interest, the proposal, and the resulting negotiated agreement. The City's decisions will be final.

General Conditions

The RFP is not an offer by the City to contract with a proposer responding to this RFP. This RFP does not commit the City to award a contract, to pay any costs incurred in the preparation of a proposal for this RFP, or to procure or contract for any services. The City reserves the right to waive any irregularities or informalities contained within this RFP, and/or reject any or all proposals received as a result of this request; negotiate with any qualified proposer or to cancel the RFP in part or whole. The City reserves the right to request additional information and/or clarifications from any or all responders to this RFP. The City further reserves the right to award in whole or in part, by item or group of items, when such action serves the best interest of the City. The City and the selected consultant may agree to add additional work to the final contract by mutual agreement at a later date. The City may elect to stop work at any time in the contract and will pay for work completed to that point on a time and material basis.

Potential proposers are advised to become familiar with all conditions, instructions, and specifications of this RFP, including the City's standard Consultant Services Agreement, attached hereto and incorporated herein as Appendix A. The selected firm will be asked to enter into said Consultant Services Agreement with the City and comply with the insurance requirements set forth therein. The Arts + Recreation Department staff will supervise the project and coordinate the work.

By submitting a proposal, the proposer represents and warrants that it has thoroughly examined and is familiar with work required under this RFP, that the proposer has conducted such additional investigation as it deems necessary and convenient, that the proposer is capable of providing the services requested by the City in a manner that meets the City's objectives and specifications as outlined in this RFP, and that the proposer has reviewed and inspected all materials submitted in response to this RFP. Once the proposer has been selected, a failure to have read the conditions, instructions, and specifications herein shall not be cause to alter the contract or for the selected proposer to requested additional compensation.

The selected proposer shall be prohibited from assigning or subcontracting the whole or any part of the contract without the prior written consent of the City. The selected proposer shall operate as an independent contractor and will not be considered employee(s) of the City. Selected proposer will be paid on actual invoices as work is completed as provided in written contract.

Consultant shall be in compliance with the applicable provisions of the Americans with Disabilities Act of 1990 as enacted and from time to time amended and any other applicable federal, state, or local laws and regulations. A signed, written certificate stating compliance with the Americans with Disabilities Act may be requested at any time during the life of the contract with the City or any renewal thereof.

NON-DISCRIMINATION REQUIREMENT

By submitting a proposal, the proposer represents that it and its subsidiaries (if applicable) do not and will not discriminate against any employee or applicant for employment on the basis of race, religion, sex, color, national origin, sexual orientation, ancestry, marital status, physical

condition, pregnancy or pregnancy-related conditions, political affiliations or opinion, age or medical condition.

SCHEDULE

Responses to the RFP must be submitted via email to Arts + Rec Business Manager Sandra Naughton (naughton@walnut-creek.org). Responses are due no later than August 8, 2022, at 5:00 p.m. PST. Proposals not actually received by the City before the expiration of the date and time specified herein will be rejected and not considered, regardless of when they were sent.

The anticipated schedule for selecting a consulting firm pursuant to this RFP is as follows. This schedule is subject to change at the City's discretion:

Milestone	Date
Release of RFP	July 15, 2022
Proposal Due Date	August 8, 2022 by 5:00 pm
Review of submittals	August 8-10, 2022
Interviews with finalist(s)	August 11-12, 2022
Selection of firm	August 16, 2022
Contract process and approval	Mid-August to mid-September
Project launch	September

QUESTIONS

Questions or requests for further information should be directed to Arts + Rec Business Manager Sandra Naughton (naughton@walnut-creek.org). Questions must be received by the City before August 3, 2022 for a response prior to the RFP proposal due date. If deemed necessary, the City will provide copies of the questions and answers to all prospective proposers.

Appendix A

City of Walnut Creek

CONSULTANT SERVICES AGREEMENT

THIS CONSULTANT SERVICES AGREEMENT (“Agreement”) is entered into on _____, 2017, between the City of Walnut Creek, a California municipal corporation (“City”), and _____ (“Consultant”).

RECITALS

- A. The City wishes to contract for professional consulting services.

- B. Consultant has the skill, experience, ability, background, certification and knowledge to provide the services. The City has reviewed and accepted Consultant’s qualifications.

- C. Consultant wishes to perform such professional services under agreement with the City.

NOW, THEREFORE, in consideration of the terms in this Agreement, the City and Consultant agree as follows:

AGREEMENT

- 1. **Services.** Consultant shall provide the professional services described in Exhibit A. The time of performance of the services under this Agreement is important to the City, and the time deadlines identified in Exhibit A shall be strictly construed.

- 2. **Compensation and Payment.**
 - a. Compensation. As full consideration for the performance of services under this Agreement, City agrees to pay Consultant, and Consultant agrees to accept from City, an amount not to exceed \$_____, including an accounting of time and materials expended for the entire project. Time and materials shall be billed at the rates set forth in Exhibit B.

 - b. Payment. Consultant shall bill City monthly for work completed, and City agrees to pay the invoice within 30 days of receipt.

c. Additional Services. Any additional services required beyond those set forth in this Agreement shall be performed only if mutually agreed to in writing by the parties.

3. **Term; Termination.**

a. Term. This Agreement shall begin upon execution by both parties and remain in effect until terminated under subsection (b).

b. Termination. City may terminate this Agreement without cause at any time and for any reason upon 10 days written notice to the Consultant. Upon receipt of any notice of termination, and if requested to do so by the City, Consultant shall stop work at the stage directed by City and shall deliver all drawings, specifications and documentation developed as of that stage. Consultant shall accept as full payment for services rendered to the date of termination a pro rata share of the total Agreement payment based on the portion of work actually performed.

4. **Professional Efforts.** Consultant shall perform all services required in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices his profession.

5. **Responsible Personnel.** Consultant represents that it is fully qualified to perform the services under this Agreement. Consultant represents and warrants to the City that Consultant has, and at all times during the performance of this Agreement shall, maintain all licenses, permits, qualifications, and approvals that are required for Consultant to practice Consultant's profession. Consultant shall assign only competent personnel to perform services under this Agreement. If the City, in its sole discretion, at any time, wishes the removal of any person(s) assigned by Consultant to perform services, Consultant shall remove any such person immediately upon receiving notice from the City.

6. **Facilities and Equipment.** Consultant shall, at its sole cost, expense, and liability; furnish all facilities and equipment that may be required for providing services under this Agreement.

7. **Independent Contractor.** Consultant, its agents, employees and independent contractors are and shall at all times remain as to the City wholly independent contractors. Neither the City nor any of its officers or employees shall have any control over the manner by which the Consultant performs this Agreement and shall only dictate the results of the performance. Consultant shall not represent that Consultant or its agents, employees or independent contractors are agents or employees of the City. Consultant is responsible for the payment of all taxes, workers' compensation insurance and unemployment insurance. Consultant shall obtain no rights to retirement benefits or other benefits that accrue to City's employees, and Consultant hereby waives any claim it may have to those rights. Except as the City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of the City or to bind the City to any obligation.

8. **Interest of Consultant.** Consultant (including principals, associates and professional employees) covenants and represents that it does not now have any investment or interest in real property and shall not acquire any interest, direct or indirect, in the geographical areas likely to be covered by this Agreement, or any other source of income, interest in real property or investment that would be affected in any manner or degree by the performance of Consultant's services under this Agreement. Consultant further covenants and represents that, in the performance of its duties; no person having any such interest shall perform any services under this Agreement.

If Consultant is determined to be a "Consultant" or a "designated employee" within the meaning of the Political Reform Act, Consultant will comply with the requirements of that Act by submitting a Statement of Economic Interest Form 700. (2 Cal. Code of Regs. §18701(a)(2).)

9. **Accounting Records.** The Consultant agrees to maintain all records and other evidence pertaining to costs incurred and work performed, and shall make them available at the Consultant's office during the Agreement period and thereafter for a period of three years from the date of receipt of final payment.

10. **Ownership of Documents and Data.** All data, maps, photographs, and other material collected or prepared under this Agreement, and all documents of any type developed or obtained by Consultant in the performance of this Agreement, shall become the property of the City.

11. **Indemnification.** Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the active negligence or willful misconduct of the City.

In this section, "City" means the City, its officials, officers, agents, employees and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses in connection therein) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to".

(The duty of a "design professional" to indemnify and defend the City is limited to claims that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the design professional, under Civ. Code § 2782.8. Except as otherwise authorized by Civ. Code § 2782.8, the cost to defend charged to any "design professional" shall not exceed the design professional's proportionate percentage fault.)

The provisions of this section survive completion of the services or the termination of this contract, and are not limited by the provisions of Section 12 relating to insurance.

12. **Insurance.** Consultant shall procure and maintain at its sole cost for the duration of this Agreement the following insurance:

a. Minimum Scope of Insurance. Coverage shall be at least as broad as:

- (1) Insurance Services Office Commercial General Liability coverage (“occurrence” form CG 0001).
- (2) Insurance Services Office form number CA 0001 covering Automobile Liability, code 1 (any auto).
- (3) Workers’ Compensation insurance as required by the Labor Code of the State of California and Employers Liability insurance.
- (4) Errors and omissions/Professional liability insurance for all design professionals such as architects, landscape architects or engineers.

b. Minimum Limits of Insurance. Consultant shall maintain policy limits of no less than:

- (1) General Liability: \$2,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, the general aggregate limit shall be double the combined single limit, with completed operations coverage.
- (2) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
- (3) Worker’s Compensation and Employers Liability: Worker’s Compensation limits as required by the Labor Code and Employers Liability limits of \$1,000,000 per accident.
- (4) Errors and Omissions/Professional Liability: \$1,000,000 per claim and annual aggregate. If Consultant maintains higher limits than the minimum required by this contract, the City requires and shall be entitled to coverage for the higher limits maintained by the Consultant.

c. Deductibles and Self-Insured Retention. Any deductibles or self-insured retention must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the City, its officers, officials, employees and volunteers; or Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

d. Other Insurance Provisions. The policies shall contain, or be endorsed to contain, the following provisions:

(1) General Liability and Automobile Liability Coverage.

(a) The City, its officers, officials, employees, agents and volunteers are to be covered as additional insured as respects: liability arising out of activities performed by or on behalf of Consultant; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees, agents or volunteers.

(b) Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or volunteers shall be excess of Consultant's insurance and shall not contribute with it.

(c) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, officials, employees, agents or volunteers.

(d) Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(2) Worker's Compensation and Employers Liability Coverage. The insurer shall agree to waive all rights of subrogation against the City, its officers,

officials, employees and volunteers for losses arising from work performed by Consultant for the City.

(3) Errors and Omissions/Professional Liability Coverage. Consultant's insurance shall include minimum Extended Reporting Period Coverage of three years.

e. Acceptability of Insurers. Insurance is to be placed with insurers with a Best's rating of no less than A: VII.

f. Verification of Coverage. Consultant shall furnish the City with certificates of insurance and with original endorsements effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete certified copies of all required insurance policies, at any time.

13. **Miscellaneous Provisions.**

a. Notice. Any notice to be given under this Agreement shall be given by enclosing it in a sealed envelope, first-class postage prepaid, and depositing it in the United States mail, addressed to the party at the following address. Notice shall be deemed received three business days after mailing, or upon personal delivery.

CITY: City of Walnut Creek
Attn: _____
1666 North Main Street
Walnut Creek, California 94596

CONSULTANT: _____

b. Assignment. This Agreement contemplates the personal services of Consultant and its employees and it is understood by both parties that a substantial inducement to City for entering into this Agreement was, and is, the professional reputation and competence of Consultant. Consultant shall not assign, subcontract or otherwise transfer any rights or obligations under this Agreement without the prior written consent of the City.

c. Business license. Consultant shall obtain a City business license before beginning work under this Agreement.

d. Prohibited Interests. No officer or employee of the City shall have any direct financial interest in this Agreement. This Agreement is voidable at the City's option if this provision is violated.

e. Governing Law; Venue. California law shall govern this Agreement. Any action to enforce or interpret this Agreement shall be brought in a court of competent jurisdiction in the County of Contra Costa, California.

f. Incorporation. The Preamble, the Recitals, Exhibits and all defined terms set forth in both are incorporated into this Agreement by this reference. If there is a conflict between the body of this Agreement and an exhibit prepared by Consultant, the body of the Agreement shall control.

g. Severability. Should any part of this Agreement be declared unconstitutional, invalid, or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect; provided that, the remainder of this Agreement can, absent the excised portion, be reasonably interpreted to give effect to the intentions of the parties.

h. Authority. All parties executing this Agreement represent and warrant that they are authorized to do so.

i. Entire Agreement; Amendments. This Agreement is the entire Agreement between the parties and supersedes all prior negotiations, representations, or agreements, whether written or oral. This Agreement may be amended only by written agreement signed by both parties.

j. Non-waiver. A party's waiver of any term shall not be deemed a continuing waiver or a waiver of any other term.

k. Counterparts. This Agreement may be executed in counterparts.

14. **Signatures.**

CITY OF WALNUT CREEK	CONSULTANT
By: _____ City Manager	By: _____
Approved as to Form:	Its: _____
By: _____ City Attorney	City business license # _____

Exhibits:

- A Scope of Services (Agreement Section 1.)
- B Rates for time and materials (Agreement Section 2.a.)

Exhibit A

Scope of Services

[to be completed by City staff]

Exhibit B

Rates for Time and Materials

[to be completed by City staff]