

**CITY OF WALNUT CREEK,  
CALIFORNIA**

**REQUEST FOR PROPOSALS (RFP)**

**GEOTECHNICAL SERVICES  
FOR  
AQUATIC/COMMUNITY CENTER  
AT HEATHER FARM PARK**



**Proposals Due: May 30, 2023 no later than 5:00 p.m. PST**

**Contact: Steve Waymire, Assistant Public Works Director**

**[waymire@walnut-creek.org](mailto:waymire@walnut-creek.org)**

**925-256-3507**

The City of Walnut Creek (City) is soliciting proposals from qualified firms to provide geotechnical consulting services for a new combined Community Center and Aquatic Facility at Heather Farm Park. The project will replace an outdated Community Center and Aquatic Facility, each of which is currently located in Heather Farm Park.

**Proposals are due to the City of Walnut Creek’s Engineering Department no later than 5:00 p.m. PST on May 30, 2023**

**A. BACKGROUND**

The City of Walnut Creek, located in the east San Francisco Bay Area, is a city of approximately 70,000 residents and is a retail, cultural, and recreational destination for people throughout the Bay Area.

The City owns and operates an Aquatic Facility and a Community Center in Heather Farm Park. Both facilities were constructed in the early 1970s and are past their useful life. The City hired RRM Landscape Architects and Noll & Tam architects to prepare a conceptual site plan for the replacement of these facilities. The proposed project site is within Heather Farm Park and will occupy the site where the existing Community Center is located. The site plan was presented to the public at the February 7, 2023 City Council Meeting.

The conceptual site plan encompasses a 4.7-acre site that includes a combined community center and aquatic facility with several multi-purpose rooms and classrooms, outdoor event terraces, a 50-meter lap pool, a recreational pool and pool mechanical building. The total building square footage for the facility is currently estimated to be between 25,000 and 27,000 square feet.

The City has hired a Project Manager and is in the process of hiring a CEQA consultant and a Design/Architect Consultant. The successful Geotechnical Consultant will work closely with these other team members.

More information about the project can be found as attachments to the Project Design RFP here:

<https://www.walnut-creek.org/Home/Components/RFP/RFP/100/1990>

**B. SCOPE OF SERVICES**

The purpose of the geotechnical investigation will be to provide design-level, geotechnical recommendations for the project as presently proposed. The investigation will include a field exploration program, geotechnical laboratory testing, engineering analysis, and report preparation, based on the following scope of services:

- Review geologic maps and geotechnical reports to aid in evaluating if geologic hazards are present at or near the site.

- Review available design/location as-built plans to select exploration locations.
- Perform a site reconnaissance to review project limits, confirm equipment access and mark out exploration locations for subsequent utility clearance.
- Notify subscribing utility companies via Underground Service Alert (USA) a minimum of 72 hours (as required by law) prior to performing soil borings at the site.
- Retain the services of a private utility locator to aid in delineating underground utilities in the vicinity of the planned soil borings. A private utility locator can generally detect electronically conductive utilities such as metal pipes and utilities accompanied by a tracer wire but non-electronically conductive or non-magnetic utilities such as clay or transite pipe may be non-detectable.
- Engage a dedicated concrete coring subcontractor to core pond concrete deck or other concrete flatwork at boring locations where limited access drilling equipment will be used.
- Retain the services of a California C57-licensed drilling subcontractor to perform exploratory borings with a conventional truck-mounted rig and portable, limited-access drilling equipment.
- Obtain a soil boring permit from Contra Costa County and pay the requisite fees if necessary.
- Perform ten to twelve hollow- and/or solid-stem auger borings to maximum depths of approximately 20 feet or less to observe and sample the prevailing soils conditions. Anticipate performing five to seven borings with a truck-mounted drill rig and four to five borings with limited access drilling equipment.
- Obtain representative soil samples from the exploratory borings and provide laboratory examination and testing.
- Log the soils encountered in the borings in accordance with the Unified Soil Classification System.

Upon completion, the borings will be backfilled with in accordance with permit requirements. Excess soil cuttings will be removed for offsite disposal by the drilling contractor. Borings in pavement areas will be capped with cold patch asphalt or quick-set concrete dyed black. Borings in pond deck areas will be capped with quick-set concrete.

- Perform laboratory tests on selected samples to evaluate pertinent geotechnical parameters. Laboratory testing assignments will be based on the soils conditions encountered in field exploration; testing for shear strength, gradation, in-situ dry density and moisture content, plasticity, and expansion potential may be performed. In addition, three soil samples will be submitted to our laboratory for screening-level corrosion testing.
- Prepare a report with conclusions and recommendations for project design and construction. The report will include (but not be limited to) the following:
  - Site vicinity map

- Site plan showing the locations of the exploratory borings.
- Logs of the exploratory borings, including depth to groundwater (if encountered)
- Laboratory test results
- Seismic hazard analysis
- Anticipated excavation characteristics
- Site grading and subgrade preparation recommendations, including recommendations for the planned pools and surrounding pool decks
- Suitability of onsite materials for use as engineered fill and import fill recommendations.
- Utility trench excavation and backfill recommendations.
- Recommended foundation type(s) and associated design parameters for the proposed new aquatics center building and anticipated shade structures and retaining walls.
- Settlement estimates
- Lateral earth pressure parameters for the design of foundations and retaining walls.
- Seismic design criteria (2019 California Building Code)
- Exterior concrete flatwork recommendations
- Recommendations for rigid and flexible pavements

Submit a draft report for your review followed by one electronic copy (PDF format) of final report.

### **C. PROPOSAL CONTENT & SUBMISSION REQUIREMENTS**

Responses should not exceed **20 pages** in length including all exhibits or attachments other than resumes. **An original and five hard copies** of the proposal **and an electronic version (USB Drive preferred)** of the proposal must be submitted. **Responses must be received no later than 5:00 p.m. PST on May 30, 2023** at the address listed below. Facsimile copies of proposals will not be accepted. The City must receive both the hard copy and the electronic versions before the expiration of the hour specified to consider a proposal. Submissions of a paper version that differs from the electronic version may result in disqualification. Late submittals and submittals not received in both hard copy and electronically before the expiration of the hour specified may not be considered and may be rejected/returned unopened, regardless of when they were sent.

The proposals should highlight the proposer's expertise in the areas listed in the Scope of Services, and must include all of the following:

#### **A. Executive Summary**

An executive summary letter should include key elements of the respondent's RFP and an overview of the proposed team. Indicate the office from which the project will be managed. The executive summary should include a brief narrative on the proposer's

qualifications for the job and why their team best meets the City's needs. A brief narrative of the challenges for each project should be listed.

**B. Approach**

- a. Work Plan: Describe the tasks and timeline to complete geotechnical services.
- b. Project Organization and Staffing: Describe the approach and methods for executing the project. Provide an Organizational chart showing all proposed team members. Describe the responsibilities of each person on the project team. Identify the Project Manager and the key contact person for the City.
- c. Provide an estimate of the hours required for each task in the work plan. We understand that this can change during negotiations.
- d. Provide a fee rate schedule.

**C. Related Experience**

Describe recent, directly related experience. Include the name of the client, description of the project, services you provided, the name of your project lead and dates of the project. At least five reference projects should be included. For each reference indicate the reference name, organization, title, complete mailing address and telephone number. The City reserves the right to contact any organizations or individuals listed.

**D. Ability to Meet Contract Requirements**

The City will utilize a Master Consulting Services Agreement with subsequent task orders to procure the Project Management services. A copy of the agreement is attached. The proposer shall provide a statement of its ability to sign the agreement as presented and meet the insurance requirements. If proposer is unable to meet these requirements, it shall provide its reasons why.

The hard-copy and electronic versions of the proposal packet must be received by the City Engineering Department no later than 5:00 p.m. PST on May 30, 2023:

Hard Copies and USBs (if applicable for an electronic version) must be delivered to:  
Steve Waymire  
City of Walnut Creek  
Public Works / Engineering  
1666 North Main Street  
Walnut Creek, CA 94596

Electronic copies may be delivered to:  
Steve Waymire  
[waymire@walnut-creek.org](mailto:waymire@walnut-creek.org)

**D. PROJECT TIMELINE (ESTIMATED)**

| <b>Milestone</b>                                | <b>Date</b> |
|---|-------------|
| Request for Proposal Issued                     | 5/08/23     |
| Last Date for Questions                         | 5/18/23     |
| Proposals Due                                   | 5/30/23     |
| Interviews if needed                            | 6/08/23     |
| Selection & Completion of Contract Negotiations | 6/15/23     |
| Successful Proposer Begins Work                 | July 2023   |
|   |             |

**E. SELECTION PROCESS**

The City will review all proposals received by the deadline, evaluate proposals that are deemed to be responsive, identify a short list of proposers to interview, and conduct interviews, if necessary. The City reserves the right, at its sole discretion, to request clarifications of proposals or to conduct discussions for the purpose of clarification with any or all proposers. The purpose of any such discussions shall be to ensure full understanding of the proposal.

The City will enter into contract negotiations with the proposer whose understanding of the City’s goals, qualifications, experience, proposal content and quality, proposed approach and work plan, availability, references, and other factors best meet the City’s needs. The City’s ultimate acceptance of any proposal and its negotiation and execution of any contract will be based on a determination of the best overall value for the City.

If it is not possible to negotiate a satisfactory agreement with the City’s first choice, the City may negotiate with another proposer.

**F. STANDARD CITY CONSULTANT AGREEMENT**

An agreement will be negotiated and executed with the selected consultant. The City’s standard consultant agreement is provided as attached for information. Please review this document and state, for the City’s consideration, in the proposal any requested changes or objections to the terms of the agreement. All work performed, all charges billed by the selected architect/firm, and all insurance and other requirements will be in accordance with the terms of the agreement.

**G. TERMS & CONDITIONS OF THIS REQUEST**

1. All costs for preparing or responding to the proposal in response to this RFP are solely the responsibility of the proposer, and shall not be reimbursed in any manner by the City.
2. A proposer may withdraw and resubmit a proposal prior to the proposal submission deadline. No re-submissions will be allowed after the submission deadline.
3. The selected proposer is required to provide a valid City of Walnut Creek business license number prior to contract approval.

4. Proposals and materials produced by the selected proposer in the course and scope of this engagement shall become property of the City of Walnut Creek once received by the City.
5. Changes to the selected proposer's project personnel shall not be allowed without prior written approval by the City.
6. Pursuant to the California Public Records Act (California Government Code Section 6250 et. seq.), public records may be inspected and examined by anyone desiring to do so. All submitted proposals are considered public records subject to disclosure.
7. The City does not make representation that an agreement will be awarded to any party making a submittal. The City is not liable for any costs incurred by the proposers related to the preparation of their proposal or in any other aspect of their consideration for this engagement.
8. The City reserves the right, at its sole discretion, to alter, amend, modify or cancel this solicitation at any time, including the modification of the deadlines and schedule and/or the scope of work, or to withdraw this solicitation, in whole or in part, at any time prior to the award of a contract pursuant hereto.
9. The City reserves the right to reject any proposals that are deemed to be unresponsive, reject all proposals, in whole or in part, or to otherwise cancel this RFP, in whole or in part. The City reserves the right to request clarification of any proposal term from proposers.
10. The City may contact the references provided; contact any proposer to clarify any response; contact any current users of a proposer's services; solicit information from any available source concerning any aspect of a proposal; and seek and review any other information deemed pertinent to the evaluation process. The City reserves the right to waive informalities and minor irregularities in proposals received and/or the RFP process.
11. Any irregularities or lack of clarity in the solicitation should be brought to the City's attention as soon as possible so that corrective addenda may be furnished to proposers if deemed necessary by the City.
12. Any final contract will include the City's standard insurance and indemnification requirements, substantially in the form outlined in Attachment 1. Proposals must include any exception to the City's standard insurance and/or indemnification requirements that proposer may require, and shall include any and all of proposer's proposed terms and conditions, including the proposer's standard contract language. The omission of these documents may render a proposal non-responsive.
13. A proposal submitted in response to this solicitation must identify any subcontractors and outline the contractual relationship between the proposer and each subcontractor. An official of each proposed subcontractor must sign and include as part of the proposal submitted in response to this solicitation, a statement to the effect that the subcontractor has read and will agree to abide by the proposer's obligations. The City may approve or disapprove the use of particular subcontractors.
14. Each proposer must include in its proposal a complete disclosure of any alleged significant prior or ongoing contract failures, suspensions, any civil or criminal litigation or investigation pending which involves the proposer or in which the proposer has been judged guilty or liable. Failure to comply with the terms of this provision will disqualify any proposal. The City reserves the right to reject any proposal based upon the proposer's prior history with the City or with any other party, which documents, without limitation,

unsatisfactory performance, adversarial or contentious demeanor, significant failure(s) to meet contract milestones or other contractual failures.

15. Submission of a proposal for this solicitation shall constitute an agreement to all terms and conditions specified in the solicitation, except such terms and conditions that the proposer expressly excludes.
16. Any contract resulting from this solicitation shall not be effective unless and until approved by the appropriate City officials.
17. Proposer understands and acknowledges that the representations above are material and important and will be relied on by the City in evaluation of the proposal.
18. By submitting a proposal, proposer represents and warrants that it has thoroughly examined and is familiar with work required under this RFP, that proposer has conducted such additional investigation as it deems necessary and convenient, that proposer is capable of providing the services requested by the City in a manner that meets the stated objectives and specifications as outlined in this RFP, and that 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 selected proposer to request additional compensation.
19. By submitting a proposal, the proposer represents that it and its subsidiaries 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.

## H. QUESTIONS

Please direct questions regarding this Request for Proposal to:

Steve Waymire  
Assistant Public Works Director  
City of Walnut Creek  
925-256-3507  
[waymire@walnut-creek.org](mailto:waymire@walnut-creek.org)

All questions on this Request for Proposal must be submitted by email or phone to Steve Waymire no later than 4:00 p.m. on May 18, 2023.

**MASTER CONSULTANT SERVICES AGREEMENT**

THIS AGREEMENT is entered into on \_\_\_\_\_, 202\_\_ between the City of Walnut Creek, a California municipal corporation (“City”), and \_\_\_\_\_ (“Consultant”).

**RECITALS**

A. The City wishes to contract for the provision of professional services, as described by each Task Order.

B. Consultant has the skill, experience, ability, background, certification and knowledge to provide the services. Consultant qualifications have been reviewed and accepted by the City. Consultant desires to perform such professional services under agreement with the City.

C. The City having issued a Request for Qualifications which outlined necessary skills and experience and timeframe for the work contemplated under this Agreement.

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

**AGREEMENT**

1. **Services.** Subject to the terms and conditions set forth in this Agreement (“Agreement”), Consultant shall provide the professional engineering design services as described in each Task Order provided by the City and coordinate activities so the project that is the subject of each Task Order is completed according to the City’s requirements.

a. Task Orders. It is understood and agreed that each Task Order shall list the scope of services to be performed, the schedule for performance, any special conditions, and the form and conditions of compensation for services. A Task Order is effective only when signed by Consultant and the City Manager and Administrative Services Director, or their authorized representatives. The City shall designate a representative who shall be fully acquainted with the project and have authority within the limits of City policy to render decisions promptly.

The City will cooperate with Consultant and provide reasonable access to the site. Upon written request, the City shall provide all reasonably available information including reports, preliminary plans, maps, surveys, and other related information regarding its requirements for a project that is the subject of a Task Order. Consultant may reasonably rely on the accuracy and completeness of the information provided.

b. Performance. Consultant shall perform the services described in the Task Order. The time of performance of the services under this Agreement is important to the City, and all time deadlines identified in the Task Order shall be strictly construed.

**2. Compensation and Payment.**

a. Compensation. As consideration for services, City agrees to pay Consultant, and Consultant agrees to accept from City as full compensation for the services, a fee that does not

exceed the total budgeted amount detailed in each Task Order. The maximum amount of compensation for this Agreement and Task Orders issued with it is \$\_\_\_\_\_.

Consultant is under no obligation to provide continuing services for a Task Order when the fee reaches the budgeted amount, unless the Task Order is amended to reflect an increased amount. Each Task Order may reflect either a fixed fee amount or an hourly rate. The rates shall include all direct and indirect charges to each Task Order, except as noted in the Task Order. If Consultant uses subconsultants, those services shall be invoiced at cost plus a percentage as indicated in the Task Order. Consultant may revise the hourly rate schedule yearly, to take effect on the first day of January.

b. Payment. Consultant shall bill City monthly, and City agrees to pay the invoice within 30 days of receipt (with no retention withheld). Each payment shall be for the invoiced amount, with no retention. Consultant reserves the right to assess a 1 ½ % per month (18% per year) service charge on any unpaid balances over 60 days.

### 3. **Term; Termination.**

a. Term. This Agreement shall begin upon execution by both parties and remain in effect until terminated by either party, under subsection b. The maximum term will be \_\_\_\_\_.

b. Termination. Either party may terminate the Agreement by giving seven days written notice to the other party. If City sends a termination notice, Consultant shall stop work at the stage directed by the City, and shall deliver all drawings, specifications, and documentation developed as of that time. Consultant shall accept as full payment either: (i) if the Task Order indicated an hourly rate, payment based on the hours worked up to the time of termination; or (ii) if the Task Order indicated a fixed fee, a pro rata share of the total Agreement based on the portion of work actually performed.

4. **Professional Efforts; Responsible Personnel.** Consultant shall perform all services required under this Agreement in the manner and according to the standards observed by a competent Bay Area practitioner of the profession in which Consultant is engaged. All products that Consultant delivers to City shall be prepared in a substantial, worker-like manner, and conform to the standards of quality normally observed by a person practicing in Consultant's profession. The City shall be the sole judge as to whether the product of the Consultant is satisfactory. Consultant shall be liable and, upon demand, shall reimburse City for additional costs incurred by the City as a result of Consultant's errors or omissions. Consultant makes no other warranty, express or implied.

Consultant represents that it and its employees are 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, desires the removal of any person or persons assigned by Consultant to perform services under this Agreement, Consultant shall remove any such person immediately upon receiving notice from the City.

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

5. **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 any such 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.

6. **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).)

7. **Accounting Records.** The Consultant agrees to maintain all records and other evidence pertaining to costs incurred and work performed under this Agreement, 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.

8. **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. Any re-use of designs without Consultant's written authorization will be at the City's risk.

9. **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 of 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 10 relating to insurance.

10. **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.

**11. 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: Steve Waymire, City Engineer

1666 North Main Street  
Walnut Creek, CA 94596-8039

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 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 shall be voidable at the option of the City if this provision is violated.

e. Governing Law; Litigation Expenses. 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.

12. Signatures.

|                      |            |
|----------------------|------------|
| CITY OF WALNUT CREEK | CONSULTANT |
|----------------------|------------|

|                                    |                               |
|------------------------------------|-------------------------------|
| By: _____<br>City Manager          | By: _____                     |
| By: _____<br>Public Works Director | Its: _____                    |
| Reviewed by:<br>_____              | Date: _____                   |
| City Attorney                      | City business license # _____ |

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