



REQUEST FOR PROPOSALS

**Lesher Center for the Arts
Printing & Mailing Services**

RFP# 2024-002-LCA

ALL PROPOSALS MUST BE SUBMITTED TO:

LESHER CENTER FOR THE ARTS
CITY OF WALNUT CREEK
1601 CIVIC DRIVE
WALNUT CREEK, CA 94596
Attn: Carolyn Jackson, General Manager
jackson@lesherartscenter.org

PRIOR TO AND NO LATER THAN 5:00 PM, WEDNESDAY, OCTOBER 23, 2024

RESPONSES WILL BE CONSIDERED FOR AWARD BY THE CITY OF WALNUT CREEK WITH ALL
PROPOSALS FIRM FOR 90 DAYS FOLLOWING THE OPENING THEREOF.

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Section 1: RFP Overview

1.1 Background

The Leshner Center for the Arts is located in Walnut Creek, California. First opened in October 1990, the Center presents more than 900 productions and events a year, including a curated selection of visual art exhibitions. More than 350,000 patrons walk through the Center's front doors each year. The Leshner Center for the Arts is owned and operated by the City of Walnut Creek. Upwards of ninety producers rent our spaces annually.

The Leshner Center includes three theater spaces at our 1601 Civic Drive address. These include the Hofmann Theatre, Margaret Leshner Theater, and the George & Sonja Vukasin Theatre. Refer to Appendix C for current theater house maps. The Leshner Center houses the Bedford Gallery, the largest community-based visual arts facility between the Bay Area and Sacramento, with 3,500 square feet of exhibition space.

The Leshner Center also houses Center Repertory Company, or Center REP, our resident professional theatre company. Center REP produces six to eight plays and musicals a season.

The Leshner Center also partners closely with the Diablo Regional Arts Association (DRAA). DRAA is an incorporated non-profit, 501 (c)(3) organization and the City of Walnut Creek's designated curator for the Center's programming and audience outreach.

1.2 Purpose of RFP

The purpose of this Request for Proposal (RFP) is to identify and select a vendor with a proven track record in providing printing and mailing services. The selected vendor must be capable of providing all services.

1.3 RFP Schedule of Events

Table 1, RFP Schedule of Events, identifies the City's best estimate of the schedule that will be followed.

Table 1 – RFP Schedule of Events

	RFP Event	DATE/TIME
1	City Issues RFP	Wednesday, Oct 9, 2024
2	Deadline for Intent to Propose	Wednesday, Oct 16, 2024
3	Deadline for Written Questions	Wednesday, Oct 16, 2024
4	City Issues Responses to Written Questions	Friday, Oct 18, 2024
5	Deadline for Submitting a Proposal	Wednesday, Oct 23, 2024 by 5:00 PM PDT

6	City Completes Evaluations, Determines Finalist, & Contract Negotiations begin	Friday, Nov 1, 2024
7	Authorization of Award to Selected, Contracted Vendor	November 2024 ¹

The City reserves the right, at its sole discretion, to adjust this schedule, as it deems necessary. Notification of any adjustment to the RFP Schedule of Events will be provided to all vendors that submitted a Letter of Intent to Propose.

1.4 RFP Coordinator

All communications concerning this RFP must be submitted in email to the RFP Coordinator identified below. The RFP Coordinator will be the sole point of contact for this RFP. Please address any requests for additional information or clarification via email to Carolyn Jackson, General Manager, at jackson@lesherartscenter.org. All vendors who have notified the City of their intent to respond to the RFP will be provided, via email, with a copy of any questions submitted and the answer given by the City. The City is not responsible for delayed or lost email, regardless of the cause.

Unauthorized vendor contact with anyone else in the City is expressly forbidden and may result in disqualifications of the vendor’s bid.

1.5 Proposal Preparation Cost

The City will not pay any costs associated with the preparation, submittal, or presentation of any proposal, including preparation and participation at the proof-of-capabilities demonstrations.

1.6 RFP Amendments and Cancellation

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 cancel, extend, or revise, in part or in its entirety, this RFP including but not limited to: selection schedule, submittal date, and submittal requirements. The City reserves the right to waive any irregularities or informalities contained within the RFP, to request clarification of services submitted, to request additional information from competitors, to reject any or all proposals received as a result of this request; and to negotiate with any qualified candidates or to cancel the RFP in part or whole. The City and the final selected firm may agree to add additional work to the scope of services 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.

¹ A contract of this size and scope is subject to City Council review and approval. Awarding final contract to the successful Vendor will be driven by the City Council’s schedule and agenda.

1.7 Questions Pertaining to the RFP

Specific questions concerning the RFP should be submitted via email to the RFP Coordinator (See Section 1.7) before the date identified in Section 1.3 RFP Schedule of Events. Vendor questions should clearly identify the relevant section of the RFP and page number(s) related to the question being asked.

Content of all questions and the City's responses will be emailed to all vendors submitting a Letter of Intent to Propose (See Section 1.8).

1.8 Letter of Intent to Propose

Vendors who anticipate submitting a proposal must register by submitting an email indication of a vendor's intent to respond to this RFP. This Letter of Intent to Propose must be emailed to the RFP Coordinator (See Section 1.4) by the date identified in Section 1.3 RFP Schedule of Events. The following information must be included in the Letter of Intent to Propose.

- Vendor's Name
- Name and Title of main contact
- Address, telephone number, and email address of main contact

Submittal of a Letter of Intent to Propose, by the specified deadline in Section 1.3, is necessary to ensure a vendor's receipt of RFP amendments and other communications regarding the RFP. The Letter of Intent does not bind vendors to submitting a proposal.

1.9 Proposal Submittal

Proposals must be submitted electronically no later than the scheduled deadline time and date detailed in Section 1.3 RFP Schedule of Events.

Vendors must submit an electronic copy in a single .pdf file to RFP Coordinator, Carolyn Jackson at jackson@lesherartscenter.org. The subject line of the email should identify "RFP 2024-002-LCA Printing & Mailing Services." The body of the email should identify the following:

- Proposal for Leshar Center Printing & Mailing Services
- RFP #2024-002-LCA
- Name of Vendor
- Vendor's Address
- Vendor's Contact Person
- Vendor's Telephone Number

Refer to Section 4. Proposal Submission Requirements for additional details and guidance.

The City must receive all proposals by the date and time shown in Section 1.3 RFP Schedule of Events. Proposals received after this time and date will not be considered.

Vendors are solely responsible for ensuring the proposal is received by the City contact prior to the deadline. The City will indicate successful receipt of the vendor's proposal with an email reply to the submission email that acknowledges receipt. An automated system generated receipt (e.g. read receipt or delivery receipt) does not constitute proof of successful submittal. Vendors must receive a specific email from the RFP Coordinator confirming receipt.

1.10 Public Records Law

All proposals and material submitted will become the property of the City and disclosable public records, and will not be deemed confidential or proprietary. In the event that a candidate desires to claim portions of its proposal as exempt from disclosure, it is incumbent upon the candidate to clearly identify those portions as confidential. Please note that although the California Public Records Act recognizes certain confidential trade secret information may be protected from disclosure, the City may not be in a position to establish that the information that a prospective candidate submits is a trade secret. If a request is made for information marked "Trade Secret" or "Business Secret," and the requester takes legal action seeking release of the materials it believes does not constitute trade secret information, by submitting a proposal in response to this RFP, a candidate 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.

Section 2. Scope of Services

The Lesher Center's printing and mailing needs are dynamic and dependent on status of ticket sales, available budget, and potential return on investment. For purposes of comparing services from various vendors, please provide pricing for the following frequently utilized specifications.

2.1 Street Banners

60" wide by 62" high with 3 ¾" double reinforced pocket at top and bottom

Printed on 1 side, full color

Material: White 13.0pt Gloss Banner

Quantity: 28

Pick up coordinated with vendor for installation

2.2 Coated Playbill Handouts

5.5" x 8.5"

Printed on 2 sides, full color

Material: 100# Gloss Cover, UV Coated

Quantity: 1000

Delivery to 1601 Civic Drive, Walnut Creek

2.3 Postcard (6 x 8.5)

6" x 8.5"

Printed on 2 sides, full color

Material: 130# Gloss Cover

Quantity: 8,500

Mail Service: 8,000 Ink jet and mail non-profit presort std, including delivery to post office and coordination of payment of postage.

Delivery of 500 remainder to 1601 Civic Drive, Walnut Creek

2.4 Postcard (5 x 7)

5" x 7"

Printed on 2 sides, full color

Material: 130# Gloss Cover

Quantity: 5,300

Mail Service: 4,640 Ink jet and mail non-profit presort std, including delivery to post office and coordination of payment of postage.

Delivery of 660 remainder to 1601 Civic Drive, Walnut Creek

2.5 Poster

11" x 17"

Printed on 1 side, full color

Material: 80# Uncoated Opaque Cover

Quantity: 150

Delivery to 1601 Civic Drive, Walnut Creek

2.6 Case Sign

37" x 37"

Printed on 1 sides, full color

Material: White 60# Aspire Glossy Paper Sticky Back Gloss, mount on gator board

Quantity: 1
Delivery to 1601 Civic Drive, Walnut Creek

2.7 Rack Brochure

9.25" x 11.5" score fold to 5.75" x 9.25"
Printed on 2 sides, full color
Material: 100# Dull Cover
Quantity: 10,000
Mail Service: 9,000 Ink jet and mail non-profit presort std, including delivery to post office and coordination of payment of postage.
Delivery of 1,000 remainder to 1601 Civic Drive, Walnut Creek

2.8 Flier

8.5" x 11"
Printed on 2 sides, full color
Material: 100# Gloss Text
Quantity: 500
Delivery to 1601 Civic Drive, Walnut Creek

2.9 Season Brochure

8.5" x 11", 20 page self cover, saddlestitched
Full color
Material: 80# gloss text
Quantity: 38,000
Mail Service: 35,000 Ink jet and mail non-profit presort std, including delivery to post office and coordination of payment of postage.
Delivery of 3,000 remainder to 1601 Civic Drive, Walnut Creek

2.10 Additional Mailing Services

Acceptance and secure storage of mailing list data from Lesher Center and/or approved 3rd party list broker

Section 3. Proposal Submission Requirements

3.1 General Instructions

Proposals should be prepared simply, economically, and provide a straightforward, concise description of the vendor's company, qualifications, proposed solutions, and capabilities to satisfy the requirements of this RFP. Emphasis should be on completeness and clarity of content.

Proposals should be organized consistent with the outline provided in this section of the RFP.

3.2 Proposal Format

Proposals must be structured, presented, and labeled in the following manners:

- Transmittal Letter
- Table of Contents
- Section 1.0 Company Background and Qualifications
- Section 2.0 References
- Section 3.0 Pricing

Failure to follow the specified format, to label the responses correctly, or to address all the subsections may, at the City's sole discretion, result in the rejection of the Proposal.

Proposals should not contain extraneous information. All information presented in a Proposal must be relevant in response to a requirement of this RFP, must be clearly labeled, and, if not incorporated into the body of the Proposal itself, must reference to the appropriate place within the body of the Proposal. Any information not meeting these criteria will be deemed extraneous and will not factor into the evaluation.

3.2.1 Transmittal Letter

The proposal must provide a written transmittal of the proposal in the form of a standard business letter. The Transmittal Letter will reference and respond to each of the following bulleted items:

- *Signature of a company officer empowered to bind the vendor to the provisions of this RFP and any contract awarded pursuant to it.*
- A statement indicating the proposal remains valid for at least 90 days.
- A statement that the vendor or any individual who will perform work for the vendor is free of any conflict of interest (e.g., employment by the City or any other existing business relationship or arrangement with a City official or employee regarding this RFP).
- Identify any exceptions that the vendor wishes to take from the City's standard service terms and conditions as found in Appendix A.

3.2.2 Table of Contents

All pages are to be numbered and the table of contents should identify each major section.

3.2.3 Section 1.0 Company Background and Qualifications

This section of the proposal must include the following company information:

- Provide the legal entity name, Federal Employer Identification Number (EIN), and form of business (i.e. Corporation, LLC, etc.).
- Provide the proposal contact name, address, phone number, and email address.
- Identify the location of company headquarters and office that will support the implementation.
- A description of the Vendor's background, nature of business, and organizational history.
- A statement of how long the Vendor has been providing printing and mailing services similar to the scope of this RFP.
- A statement confirming the Vendor's ability and experience in providing all services identified in this RFP, including specifically the Vendor's services regarding mailhouse and mailing services.

3.2.4 Section 2.0 References

The vendor must provide at least two references. For each reference, Vendor should provide the following information:

- Entity name
- Customer contact information (name, title, phone number, and email)

The Reference section should not exceed 1 page.

3.2.5 Section 3.0 Pricing

Utilizing the projects identified in the Section 2 Scope of Services:

1. Provide detailed pricing for each project
2. Clearly identify any fees for associated mailing service or delivery
3. Clearly identify any bulk printing discounts applied, if applicable
4. Provide an estimated print time from media delivery

Note: Anticipated postage costs do not need to be incorporated as those costs are variable depending on the final mailing list. Please provide printing costs and any associated fees for preparing and delivering the mailing.

Section 4. Proposal Evaluation

A City Selection Committee will review all proposals to determine which vendors are qualified for consideration. The Selection Committee will be comprised of Leshar Center General Manager and Marketing Supervisor.

The initial review will evaluate submissions for conformance to stated specifications in order to eliminate all responses that deviate substantially from the basic intent and/or fail to satisfy the mandatory requirements of the RFP. Following the initial review, the evaluators will complete a detailed review of vendor proposals to identify finalists. Finalist may be asked to provide examples of each project identified in Section 2 Scope of Services should they move to the next round. Proposals will be evaluated based on the following evaluation criteria:

Criteria	Percentage of Score
Quality, clarity, and responsiveness of proposal	5%
Proven ability to provide the services identified in Section 2 Scope of Services	45%
Anticipated value and price	40%
References for each of the primary product(s) and service(s) proposed	10%

Section 5. Terms of RFP

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.

1. An applicant may withdraw and resubmit a proposal prior to the proposal submission deadline. No re-submissions will be allowed after the submission deadline.
2. The City may contact the references provided; contact any applicant to clarify any response; contact any current users of an applicant'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.

3. Each applicant 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 applicant or in which the proposer has been judged guilty or liable. Failure to comply with the terms of this provision will disqualify any applicant. The City reserves the right to reject any proposal based upon the applicant'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.
4. The City reserves the right to accept or reject any or all proposals, in whole or in part, or to alter the selection process in any way, to postpone the selection process for its own convenience at any time, and to waive any minor defects, informalities, or irregularities in the proposals. The City also reserves the right to accept or reject any individual sub-consultant that a candidate proposes to use.
5. This RFP and the interview process shall in no way be deemed to create a binding contract or agreement of any kind between the City and any applicant. The City is not obligated to select an applicant with no or unsatisfactory related experience.
6. By submitting a response to this RFP, the selected consultant agrees to execute a master agreement with the City in the form attached to this RFP as Attachment A.
7. The City reserves the right to negotiate any and all terms of the master agreement and task orders, including the Term, Scope of Service and Compensation, with any applicant or no applicant.
8. Each applicant submitting a proposal in response to this RFP acknowledges and agrees that the preparation of all materials for submittal to the City and all presentations, related costs and travel expenses are the applicant's sole expense and the City shall not, under any circumstances, be responsible for any cost or expense incurred by the applicant.
9. Each applicant acknowledges and agrees that all documentation and/or materials submitted with the proposal shall remain the property of the City.
10. Changes to the selected consultant's project personnel shall not be allowed without prior written approval by the City.
11. Pursuant to the California Public Records Act (California Government Code Section 6250 et. seq.) ("CPRA"), public records may be inspected and examined by anyone

desiring to do so. All submitted proposals are considered public records subject to disclosure. Each applicant should be aware that although the CPRA recognizes that certain confidential trade secret information may be protected from disclosure, the City might not be in a position to establish that the information, which an applicant submits, is a trade secret. If a request is made for information marked “confidential”, the City will provide the applicant who submitted such information with reasonable notice to allow the applicant to seek protection from disclosure by a court of competent jurisdiction.

12. The selected consultants shall procure at their own expense, and keep in effect at all times during the term of any agreement with the City, the types and amounts of insurance as specified in Attachment A to this RFP.
13. The selected consultant is required to provide a valid City business license number prior to contract approval.
14. By submitting a proposal, the applicant 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.
15. Any contract resulting from this RFP shall not be effective unless and until approved by the appropriate City officials.
16. Applicant understands and acknowledges that the representations above are material and important and will be relied on by the City in evaluation of the proposal. Submission of a proposal for this RFP shall constitute an agreement to all terms and conditions specified in the RFP.

Appendix

Appendix A – Standard Service Agreement Terms and Conditions

It is recognized that the formal basis of any agreement between the City and the vendor is a contract rather than a proposal. In submitting proposals, Vendors must indicate that they are prepared to complete the City’s Agreement for Services as presented on the following pages. The RFP, vendor’s proposal, and interview/demonstration results will become part of the agreement between the City and the successful vendor.

The selected vendor will be expected to accept these terms and conditions unless they otherwise take exception in their proposal.

City of Walnut Creek

CONSULTANT SERVICES AGREEMENT

THIS CONSULTANT SERVICES AGREEMENT (“Agreement”) is entered into on _____, 2024, 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: <<Name of City Staff Contact Person>>

1666 North Main Street

Walnut Creek, California 94596

CONSULTANT: <<NAME OF BUSINESS>>

Attn: <<CONSULTANT CONTACT PERSON>>

<<ADDRESS>>

<<CITY, STATE ZIP>>

- 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: _____ Its: _____
Approved as to Form:	
By: _____ City Attorney	City business license # _____

Exhibits:

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