

ADDENDUM NO. 1

**CITY OF SAN RAMON
ON-CALL LANDSCAPE ARCHITECTURE CONSULTING SERVICES**

SOQ Deadline: Thursday, January 18, 2024 at 2:00 PM

TO ALL RESPONDENTS:

Notice is hereby given that the following revisions are hereby made as part of and incorporated into the contract documents for the subject project:

Change No. 1: Section 15.A.iii of Attachment A (Professional Liability) on Page 14 has been updated. Replace Page 14 with the revised Page 14.

Change No. 2: Section 20 of Attachment A on Page 17 has been updated. Replace Page 17 with the revised Page 17.

All respondents shall acknowledge receipt and acceptance of Addendum No. 1 as instructed by Section 4, SOQ Requirements, of the Request for Qualifications.

City of San Ramon

Robin Bartlett

Robin Bartlett, P.E.,G.E.,CFM,QSD
Division Manager/District Engineer

Date: 1/12/24

Employer's Liability insurance in accordance with the laws of the State of California for all the subcontractor's employees.

- iv. **Professional Liability (Errors and Omissions):** Insurance appropriate to the CONSULTANT's profession, with limit no less than **two million dollars (\$2,000,000)** per occurrence or claim, three million dollars (\$3,000,000) aggregate.

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

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

- i. *Additional Insured Status:* CITY, its Council, officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONSULTANT including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONSULTANT's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used).
- ii. *Primary Coverage:* For any claims related to this agreement, the **CONSULTANT's insurance coverage shall be primary and non-contributory** and at least as broad as ISO CG 20 01 04 13 as respects the CITY, its Council, officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by CITY, its Council, officers, officials, employees, or volunteers shall be excess of the CONSULTANT's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.
- iii. *Umbrella or Excess Policy:* The CONSULTANT may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the CONSULTANT's primary and excess liability policies are exhausted.
- iv. *Notice of Cancellation:* Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to CITY.

consultants (individually, an “Indemnitee,” and collectively the “Indemnitees”) from and against any and all liability, loss, damage, claims, causes of action, demands, charges, fines, costs, and expenses (including, without limitation, reasonable attorney fees, expert witness fees, paralegal fees, and fees and costs of litigation or arbitration) (collectively, “Liability”) to the extent arising out, pertaining to, or related to the negligence, recklessness, or willful misconduct of CONSULTANT, its employees, Subcontractors, representatives, or agents, in bidding or performing the Work or in failing to comply with any obligation of CONSULTANT under the Agreement, to the extent that the claims against the indemnitee arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT. This indemnity requirement applies to any Liability arising from alleged defects in the content or manner of submission of CONSULTANT’s bid for the Agreement. CONSULTANT’s failure or refusal to timely accept a tender of defense pursuant to this Agreement will be deemed a material breach of the Agreement. City will timely notify CONSULTANT upon receipt of any third-party claim relating to the Agreement, as required by Public Contract Code § 9201. CONSULTANT’s indemnity obligations under this Agreement will survive the expiration or any early termination of the Agreement.

- b. CONSULTANT does now remise, release, forever discharge and covenant not to sue the CITY, its Council, agents, servants, employees, officers, successors and assigns, and also any and all other persons, associations and corporations, whether or not named in this Agreement, who, together with the above named, may be jointly and severally liable to CONSULTANT, of and from any and all actions and causes of action, rights, suits, covenants, contracts, agreements, judgments, claims and demands in law or equity, including claims for contribution, arising from and by reason of any and all known and unknown, foreseen and unforeseen bodily and personal injuries or death, damage to property, and the consequences of the same, which previously have been or which later may be sustained by CONSULTANT or by any and all other persons, associations and corporations, from all liability arising out of or in connection with this Agreement. Notwithstanding the foregoing, CONSULTANT may assert claims against the CITY arising from the sole negligence, active negligence, or willful misconduct of the CITY.
- c. No liability shall attach to the CITY by reason of entering into this Agreement except as expressly provided in this Agreement.

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

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

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