



**Community Development Department
Planning Division
One North San Antonio Road
Los Altos, California 94022-3087**

Date: December 17, 2021

SUBJECT: Request for Proposal (RFP) – Housing Element

Dear Consultant,

You are invited to submit a proposal to update the Los Altos Housing Element.

PROJECT REQUIREMENTS

Los Altos seeks proposals from qualified consultants or consultant teams to complete a housing element update, related rezoning and all necessary environmental review as required under State law, in a manner consistent with the Regional Housing Needs Allocation 6 (RHNA 6) planning period (2022-2030).

INSURANCE REQUIREMENTS

The consultant will be required to maintain insurance coverage for Personal Injury and Worker's Compensation, with the City of Los Altos named as "Additional Insured." The City will also require Professional Errors and Omissions insurance acceptable to the City Attorney. Carefully review the insurance requirements listed in Exhibit 'B' of the enclosed Professional Services Agreement Sample

PROPOSALS

Please submit an electronic submittal via OneDrive or a dropbox link incorporating all the requirements set forth in this RFP along with a statement of qualifications for undertaking the proposed services. Please define the proposed work and the completion schedule respective to your proposal. Proposals can be submitted to:

Guido F. Persicone, AICP
Planning Services Manager
City of Los Altos
1 North San Antonio Road, Los Altos, CA 94022
gpersicone@losaltosca.gov/650-947-2633

FEE SCHEDULE

Not to exceed fees should be listed in the Fee Schedule for each task of the project. Payment for work completed will be based on progress to date for each task as described in the Scope of Services. The consultant should include costs for attending meetings, site visits, travel expenses, and all other project related expenses such as delivery services, printing costs, etc. in the fees submitted for each task.

IMPORTANT DATES

The end of the proposal period is January 21, 2021 at 4PM. We will begin our evaluation of the proposals shortly thereafter and provide notification shortly thereafter.

Contract Execution

RFP Released	December 17, 2021
Pre-Bid Conference Call	January 7, 2021 at 10AM
Posting of Answers from Pre-Bid Conference	January 14, 2021 at 10AM
Final Submittal	January 21, 2021 at 4PM
Consultant Interviews	February 4, 2021
City Council Authorization of Contract	March 9, 2021
Contract Execution/Kick Off Meeting	April 8, 2021

For context, Los Altos expects a RHNA of approximately 2,270, compared to 477 in RHNA 5, representing a 375% increase from the last planning cycle. To ensure an adequate inventory of viable sites, we anticipate the element update will necessitate rezoning in targeted areas.

Los Altos last housing element was certified by the California Department of Housing and Community Development (HCD) and is available here (see footnote below).¹ We have also completed Annual Progress Reports and implemented other housing priorities, including updating the Accessory Dwelling Unit Ordinance which has doubled the number of ADUs approved in the past 18 months; revised the Density Bonus Ordinance to ensure compliance with State law and recently entered into a Memorandum of Understanding (MOU) with the County of Santa Clara for a 90 unit affordable housing project at 330 Distel Court.

While a number of important housing issues will need to be considered and addressed through the update process, the most significant work effort is expected to be meeting Los Altos’ RHNA numbers in the site inventory. To achieve that, we anticipate pursuing the following approaches: amending the site development standards and densities at key housing opportunity sites, implementing AB 1851, and streamlining the review of proposals for the construction and development of affordable housing projects.

The selected consultant(s) will partner with city staff to explore, analyze and implement these approaches in addition to supporting [or facilitating] community engagement, working with our elected and appointed officials, and key stakeholders to present recommendations and get feedback, and coordinating with HCD to help ensure ultimate certification of the updated element.

Through the Los Altos participation in a countywide collaborative and ABAG’s Regional Housing Technical Assistance Program, we anticipate a reduction in costs for some core update tasks, as detailed below. The collaborative is supported by an approximately half time technical assistance provider, who is expected to start in early 2021 and will produce draft

¹ <https://www.losaltosca.gov/communitydevelopment/page/los-altos-housing-element-update>

material for some sections of the housing element that are similar throughout the county, as noted below. Respondents should be prepared to use and/or adapt this material as appropriate, and factor that into their proposal.

Scope of Services

Los Altos is seeking professional consulting services to update the City's adopted housing element in a manner consistent with current State law, ensuring certification of the final element by HCD by January 2023.

Proposals must address the following tasks, providing a description and timeline of how they would be accomplished. Additional or optional tasks may be included and creative approaches are welcome. The final scope of work will be subject to refinement and mutual agreement following the project's launch and further discussion.

1. Project Management and Coordination

This task covers communication and coordination between the consultant and jurisdiction staff, including meetings, phone conferences, email exchanges, and other communications to ensure timely delivery and adoption of the City's updated housing element. Proposal should identify the number of meetings anticipated and expectations for jurisdictional staff. Strategies or practices to ensure clear and timely communication and effective project coordination should be described. Strategies for ensuring coordination with HCD over the course of the project should also be addressed, as needed.

2. Community Outreach and Engagement

Develop a program that effectively reaches, educates and engages the community throughout the Housing Element update. This should include strategies to ensure broad inclusion, particularly of hard to reach groups and special needs populations, with special attention given to communicating information so it is accessible and easy to understand. Outreach is expected to begin early in the process and continue throughout for feedback on important topics such as draft ideas, site options, the draft Housing Element and environmental reviews. Please discuss options for virtual as well as in person meetings, depending on changing safety considerations. Consultant should lead the engagement as well as a summary of the work. At a minimum outreach should consist of:

- Initial presentation to City Council
- One stakeholder focus group
- Online/virtual participation opportunities

Due to the significant amount of public interest in this project, in addition to the minimum community outreach required by Housing Element Law, the consultant should also budget for at least 4-6 community meetings to discuss the RHNA process with the community.

3. Housing and Special Housing Needs

ABAG's Regional Housing Technical Assistance Program will provide jurisdiction-specific tables, charts and a text summary for all required data, including population,

demographic, housing, market conditions and regional comparisons. ABAG/REAP funded County Collaboratives will also provide county-level narratives, which expand on key themes. In some cases, these may capture all the information needed, in other cases, jurisdictions may want to tailor for their specific circumstances. Because these documents are not completed yet, respondents should hold some hours as an optional task to tailor the work as needed. For more information about ABAG's assistance, review this slide deck and webinar recording:

- https://abag.ca.gov/sites/default/files/planning_innovations_regional_data_tools_10.29.20_20_final_cl.pdf
- <https://www.youtube.com/watch?v=6cS2ZIGTE4g&feature=youtu.be>

4. Housing Constraints

Identify potential and actual governmental and nongovernmental constraints for the preservation, protection or production of housing across income levels within the city. ABAG's Regional Housing Technical Assistance Program is expected to provide all cross-jurisdictional comparisons necessary for this task (e.g., comparison of fees and processing time). It will also provide write ups of typical countywide non-governmental constraints, including community opposition to housing, cost of construction, limited availability of land and other topics.

5. Existing Housing Element

Review the current Housing Element and identify Los Altos success in accomplishing/implementing the identified goals, policies and programs; and provide explanations and updates where goals, policies or programs are in progress, have been abandoned or have not proven effective.

6. Sites Inventory

Prepare the sites inventory section of the Housing Element, demonstrating how Los Altos will satisfy its RHNA in each income category. This includes identifying safe assumptions, evaluating sites and analyzing potential policy strategies to increase site capacity, demonstrating development viability (per State law) and inputting the information into HCD's electronic form for submittal with the updated element. We anticipate that this will be the most significant area of work for the update process, and will need to start early in order to ensure adequate time for consideration of potential areas for rezoning or other changes to development standards needed to achieve the RHNA.

7. Goals, Policies, Programs and Quantified Objectives

Identify goals, policies, programs and quantified objectives to include in the Housing Element to ensure compliance with State law and effective response to the housing needs, constraints and key priorities identified through the update process. This task includes ensuring responsiveness to priorities articulated through the community engagement process as well as ensuring internal consistency with other elements of the General Plan. This task will include identification of other General Plan policy updates or revisions needed to ensure consistency.

8. Rezoning

Based on the sites analyses, work with jurisdiction staff to identify potential areas for rezoning, if necessary. This must include consideration of the State requirement for maintaining an adequate housing sites inventory throughout the eight-year planning period.

9. Draft Housing Element and Public Hearings

Prepare and submit an administrative draft Housing Element for jurisdictional staff review. Staff will provide a comprehensive set of desired changes. Once edits are complete, prepare a draft Housing Element that is made available to the public and presented to both the Planning Commission and City Council at public hearings. Based on Commission and Council input, prepare a HCD review draft and submit to HCD for the mandated review.

- Administrative draft and draft housing element (Microsoft Word)
- PowerPoint
- Six (6) public hearings

10. Final Draft Hearings, Final Adoption and Certification

The consultant will work closely with HCD and jurisdiction staff to respond to any comments, and produce a final draft housing element for adoption. Present to the Planning Commission and City Council at public hearings. Prepare the final Housing Element, including any changes from the public hearings, and submit to HCD for final certification as well as the water/sewer district and the California Office of Planning and Research.

- Draft final and final housing element (Microsoft Word and PDF)
- PowerPoint
- Six (6) public hearings

11. CEQA Documentation

Prepare all required documents for California Environmental Quality Act (CEQA) review and submittal, including the Initial Study, Mitigated Negative Declaration or Environmental Impact Report and CEQA Determination. This should include public posting and noticing for comment. For budget purposes, consultant may list different prices depending on the level of analysis that may ultimately be needed.

12. Affirmatively Furthering Fair Housing and the Housing Element

Starting in January 2021, California law requires that Housing Elements include an Assessment of Fair Housing (AFH). This applies to all jurisdictions. Housing Elements must factor the AFH into the housing sites inventory and include goals, policies and/or programs to combat discrimination, overcome patterns of segregation and foster inclusive communities.

13. Additional Task

- a. AB 1851 is a unique way to build infill affordable housing and partner with the faith-based community. The City of Los Altos would like the selected consultant to identify large parcels within the City that could potentially be

utilized to implement this new legislation effective January 1, 2021 and to create policies by which this state law can be implemented in the near term.

- b. The El Camino Real Corridor is a unique area in Los Altos that provides services and access to transit that makes it ripe for California Tax Credit Allocation Committee financing. The City of Los Altos would like the selected consultant to prepare GIS maps and documentation to identify the properties that are most suitable for TCAC funding in the next three to five years along the El Camino Real.
- c. Creation of an Affordable Housing Overlay Zone is one regulatory mechanism some local agencies have adopted to increase the production of affordable housing. The City would like the selected consultant to prepare policies within the Housing Element and provide specific examples of successful Affordable Housing Overlay Zones that can be replicated in Los Altos.
- d. The chosen consultant will partner with a economic firm to prepare a Housing In Lieu Fee study that measures the true gap financing that is needed to actually build affordable units in Los Altos (see footnote below for a sample report).²

OTHER INFORMATION

The City will evaluate each of the consultant's qualifications and may conduct interviews with the consultants that demonstrate the best qualifications for the proposed services. From this evaluation and possible interviews, the City will select a consultant and negotiate a fee for the services delineated in this RFP. The consultant must be ready to execute a standard Agreement for Consultant Services (draft version is attached) within thirty (30) days of award of the project. The proposal submitted in response to this RFP will be included as part of the Agreement with the selected consultant.

If you need assistance or have questions, please call the Guido F. Persicone, Planning Services Manager, at (650) 947-2633 or email at gpersicone@losaltosca.gov.

Sincerely,

Guido F. Persicone, AICP
City of Los Altos, Planning Services Manager

Enclosures
A-Professional Services Agreement Sample

²

https://www.cityofepa.org/sites/default/files/fileattachments/housing/page/11471/chapter_2c_david_rosen_associates_inlieu_fee_study.pdf

Enclosure A

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE CITY OF LOS ALTOS, CALIFORNIA
AND
XXXXXX
FOR
XXXXXXXX SERVICES FOR XXXXXXXX**

THIS AGREEMENT is made and entered into as of the _____ day of _____, 2020, by and between the CITY OF LOS ALTOS, a municipal corporation, hereinafter referred to as “**CITY**,” and XXXXXXXX, a xxx, hereinafter referred to as “**CONSULTANT**.”

RECITALS

WHEREAS, CITY desires to retain a qualified consulting firm to perform Xxxxxxxx and Xxxxxxxx to produce a xxxxxxxx; and

WHEREAS, CITY has determined that CONSULTANT possesses the skills, experience and certifications required to provide the services required by the CITY; and

WHEREAS, CONSULTANT is an independent consultant providing similar professional services to numerous other cities; and

WHEREAS, CITY desires to retain CONSULTANT to provide professional services under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and promises identified herein, the parties mutually agree as follow:

1. SCOPE OF SERVICES.

A. CONSULTANT. CONSULTANT shall assist the CITY by executing the following scope of services in a satisfactory and proper manner in accordance with requirements provided by the City Manager, or designee. Services will include, but not be limited to, the items noted in CONSULTANT’s proposal attached hereto and incorporated herein as Exhibit A.

B. CITY. CITY will provide all xxxxxxxx. (this section if needed)

2. SCHEDULE. Services of CONSULTANT are to commence upon the execution of this Agreement and shall continue in full force and effect until it is terminated. It is intended that the termination of this Agreement be contemporaneous with final acceptance of all services described in Exhibit A by the Los Altos City Manager, or designee. CONSULTANT shall meet the completion date as indicated on Exhibit A.

3. TERM. The term of this Agreement shall continue in full force and effect for the (example: FY2017/18, FY2018/19 and FY2019/20 years, and can be extended for two

additional years for a total of five years.) Changes in Scope of Services and Payment Schedule, Exhibit A, can be amended, as needed, thirty (30) days prior to the expiration of each fiscal year. If the Agreement is terminated, it is intended that the termination of the Agreement be contemporaneous with final acceptance of all services by CITY.

4. **COMPENSATION.** CONSULTANT will perform the work outlined above and will invoice CITY upon completion of the project. CONSULTANT’s total compensation, including reimbursed expenses, for the services set forth for the Contract shall not exceed \$x,xxx as outlined in Exhibit A.

Suggested samples of COMPENSATION language_____

Example 1

A.**Compensation.** The compensation shall be paid to CONSULTANT based on the following hourly rates guide:

Consultant	\$xxx/hour
Partner	\$xxx/hour
Xxx process	\$xx,x00 flat fee
Yyy process	\$x,x00

The total contract value shall not to exceed \$xx,x00.

B.**Method of Payment.** As a condition precedent to any payment to CONSULTANT under this Agreement, CONSULTANT shall submit monthly to the CITY a statement of account which clearly sets forth the designated items of work for which the billing is submitted. Each statement of account shall also include a detailed record of the month’s actual reimbursable expenditures.

CITY shall review CONSULTANT’s monthly statement and pay CONSULTANT for services rendered hereunder at the rates if acceptable and in the amounts provided hereunder on a monthly basis in accordance with the approved monthly statements. Payment will be made according to the CITY’s standard Payment Schedule and Terms.

Example 2

A.**Compensation.** The professional fee for the xxxx shall not exceed \$xx,x00 for the Scope of Work articulated in this quote. This fee includes all onsite visits for the purpose of meeting with the Client as well as xxxxxxxxxx.

REIMBURSABLE EXPENSES	NOT TO EXCEED (NTE)
Advertising	\$ xxx
Brochure & mailing	\$x,x00
Misc. supplies/administrative expenses	\$ xx0

Printing & FedEx	\$ xxx
XXXXXXXXXXXX	\$ xxx
Consultant travel	\$x,x00
	<hr/>
Project expenses (NTE)	\$x,x00

Reimbursable expenses are not included in the professional fees. Professional fees and expenses are typically billed on a monthly basis as work is completed and expenses are incurred.

Total cost of professional fees and expenses will not exceed \$xx,x00. The advertising expense listed above reflects online and print advertising in the xxxxxxx. Additional advertising will be handled directly by the CITY.

Xxxxxx will serve as the lead consultant and primary contact for this service. Xxxxxx as support staff will also be engaged in the successful completion of this agreement.

- B. **Method of Payment.** As a condition precedent to any payment to CONSULTANT under this Agreement, CONSULTANT shall submit monthly to the CITY a statement of account which clearly sets forth the designated items of work for which the billing is submitted. Each statement of account shall also include a detailed record of the month's actual reimbursable expenditures.

CITY shall review CONSULTANT's monthly statement and pay CONSULTANT for services rendered hereunder at the rates if acceptable and in the amounts provided hereunder on a monthly basis in accordance with the approved monthly statements. Payment will be made according to the CITY's standard Payment Schedule and Terms.

5. **OWNERSHIP OF WORK.** All documents furnished to CONSULTANT by CITY and all reports and supportive data prepared by CONSULTANT by this Agreement are CITY's property, for the exclusive use of the CITY, shall be given to CITY at the completion of CONSULTANT services. CITY shall be granted xxx.

CONSULTANT may contract with others to provide xxxx. (if needed)

6. **COMPLIANCE WITH LAW.** CONSULTANT shall comply with all applicable federal, state and local laws, codes, ordinances and regulations, including Cal/OSHA requirements. CONSULTANT represents to CITY that it has, and will maintain through the term of the Agreement, all licenses, permits, qualifications, insurance and approvals of whatsoever nature, which are legally required for CONSULTANT to practice its profession. CONSULTANT shall maintain a City of Los Altos Business License.

7. **STANDARD OF CARE.** CONSULTANT's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.
8. **INSURANCE.** CONSULTANT shall procure and maintain for the duration of the contract insurance as described in Exhibit B against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONSULTANT, its agents, representatives, employees or subcontractors.
9. **RELATIONSHIP BETWEEN THE PARTIES.** CONSULTANT is, and at all times shall remain, an independent contractor, not an agent or employee of the CITY. CONSULTANT shall be solely responsible for all acts of its employees, agents or sub-consultants, including any negligent acts or omissions. CONSULTANT shall have no authority to act on behalf of the CITY or to bind the CITY to any obligation whatsoever, unless the CITY provides prior written authorization to CONSULTANT. As an independent contractor, CONSULTANT shall not be entitled to any benefit, right or compensation from the CITY other than those provided for in this Agreement.
10. **INDEMNIFICATION.** To the fullest extent permitted by law, CONSULTANT shall defend (with counsel reasonably approved by CITY), indemnify and hold CITY, the City Council, members of the City Council, its employees, representatives, agents and volunteers harmless from any and all suits, damages, costs, fees, claims, demands, causes of action, liabilities, losses expenses, damage or injury of any kind, in law or equity, to property or persons, including wrongful death and financial losses (collectively, "Claims") in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of CONSULTANT or CONSULTANT'S officers, assistants, subcontractors, employees or agents in connection with the performance of CONSULTANT's services or this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses.

Notwithstanding the foregoing, to the extent CONSULTANT's services are subject to Civil Code Section 2782.8, (Design Professionals) the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to Claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT. CONSULTANT's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by CITY, the City Council, members of the City Council, its employees, or authorized volunteers.

11. **CALIFORNIA LABOR CODE REQUIREMENTS.** CONSULTANT is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" or "maintenance" projects. If the services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more,

CONSULTANT agrees to fully comply with such Prevailing Wage Laws, if applicable. CONSULTANT shall defend, indemnify and hold the CITY, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the CONSULTANT and all sub-consultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Section 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1).

If the services are being performed as part of an applicable “public works” or “maintenance” project, then pursuant to Labor Code Sections 1725.5 and 1771.1, CONSULTANT and all sub-consultants performing such services must be registered with the Department of Industrial Relations. CONSULTANT shall maintain registration for the duration of the Project and require the same of any sub-consultants, as applicable. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be CONSULTANT’s sole responsibility to comply with all applicable registration and labor compliance requirements.

12. **TERMINATION OF AGREEMENT.** Notwithstanding any other provision of this Agreement, the CITY may terminate this Agreement without cause at any time upon giving ten days written notice to CONSULTANT. In the event of such a termination, CONSULTANT shall be entitled to any compensation owed for services rendered up to the effective date of termination.
13. **MAINTENANCE OF RECORDS.** Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by CONSULTANT and made available at all reasonable times during the contract period and for four (4) years from the date of final payment under this Agreement for inspection by CITY.
14. **ORGANIZATION.** CONSULTANT shall assign _____ as Project Manager. The Project Manager shall not be removed from the Project or reassigned without the prior written consent of CITY.
15. **WRITTEN NOTIFICATION.** Any notice, demand, request, consent, approval, or communications that either party desires or is required to give to the other party shall be in writing and either served personally or sent by prepaid, first class mail. Any such notice, demand, etc., shall be addressed to the other part at the address set forth herein below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 48 hours from the time of mailing it mailed as provided in this section.

CITY: City of Los Altos
Jon Maginot, Acting City Manager
1 N. San Antonio Road

Los Altos, CA 94022

CONSULTANT: XXX
Contact
Address
Address

16. **PARTIAL INVALIDITY.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.
17. **WAIVER.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision of the Agreement.
18. **NO IMPLIED WAIVERS.** The failure of either party at any time to require performance by the other party of any provisions hereof shall not affect in any way the full right to require such performance at any time thereafter. Nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself.
19. **ASSIGNMENT.** The parties recognize that a substantial inducement to CITY for entering into this Agreement is the professional reputation, experience and competence of CONSULTANT. CONSULTANT, therefore, shall not assign, delegate, nor transfer any rights or obligations pursuant to this Agreement, except as specified in this Agreement, without the prior written consent of CITY. Any assignment of any right or obligation or subcontracting of any work without CITY consent shall be void and of no effect.
20. **TAXES.** CONSULTANT agrees to file tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement, and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. CONSULTANT agrees to indemnify and hold CITY harmless from any liability which it may incur to the United States of America or the State of California as a consequence of CONSULTANT's failure to pay, when due, all such taxes and obligations. In the event CITY is audited for compliance regarding withholding or other applicable taxes, CONSULTANT agrees to furnish CITY with proof of payment of taxes on these earnings.
21. **NONDISCRIMINATION.** CONSULTANT shall not discriminate against any person related to the performance under this Agreement (including any employee or applicant) or the basis of race, color, religious creed, national origin, gender, physical or mental disability, marital status, or sexual orientation.
22. **DEFAULT.** In the event CONSULTANT fails to provide the services set forth in this Agreement due to the fault of CONSULTANT, CITY shall have the right to either do the work itself or hire an outside contractor to perform those services.

23. **TIME OF ESSENCE.** Time is of the essence for each and every provision of this Agreement.
24. **CITY'S RIGHT TO EMPLOY OTHER CONSULTANTS.** CITY reserves its right to employ other consultants in connection with this Project or other projects.
25. **VENUE.** In the event that suit shall be brought by either party hereunder, the parties agree that trial of such action shall be held exclusively in a state court in the County of Santa Clara, San Jose, California.
26. **CONSTRUCTION.** To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in the manner that avoids any violation of statute, ordinance, regulation or law.
27. **AMENDMENT.** This Agreement constitutes the complete and exclusive statement of the Agreement to CITY and CONSULTANT. It may be amended or extended from time-to-time by written agreement of the parties hereto.
28. **INTEGRATION.** This Agreement supersedes any and all agreements, either oral or written, between the parties hereto with respect to the rendering of services by CONSULTANT for CITY, and contains all the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party or anyone acting on behalf of any party, which is not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement shall be effective only if it is in writing, signed by the party to be charged. If there is any conflict in the terms of this Agreement with the exhibits or attachments, then the provisions of this Agreement shall control.
29. **EXECUTION.** This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement it shall not be necessary to produce or account for more than one such counterpart.
30. **IN WITNESS, WHEREOF,** the CITY and CONSULTANT have executed this Agreement as of the date first above written.

APPROVED AS TO CONTENT:

Jon Biggs, Community Development Director

APPROVED AS TO FORM:

Jolie Houston
City Attorney

AGREED:

Jon Maginot
Acting City Manager

Date

CONSULTANT:

XXX
Title

Date

EXHIBIT B
INSURANCE

CONSULTANT shall provide its insurance broker(s)/agent(s) with a copy of these requirements and request that they provide Certificates of Insurance complete with copies of all required endorsements to: **Project Manager, City of Los Altos, 1 N. San Antonio Road, Los Altos, CA 94022**

Minimum Scope of Insurance

Coverage shall be *at least as broad as*:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, with limits no less than **\$1,000,000 or \$2,000,000 aggregate or \$2,000,000 or \$4,000,000 aggregate (select either \$1/\$2M aggregate or \$2/4M aggregate)** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. CGL insurance must include coverage for the following:
 - a. Bodily Injury and Property Damage
 - b. Personal Injury/Advertising Injury
 - c. Premises/Operations Liability
 - d. Products/Completed Operations Liability
 - e. Aggregate Limits that Apply per Project
 - f. Explosion, Collapse and Underground (UCX) exclusion deleted
 - g. Contractual Liability with respect to this Agreement
 - h. Broad Form Property Damage
 - i. Independent Consultants Coverage

The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

2. **Automobile Liability:** Insurance Services Office Form Number CA 00 01 covering, Code 1 (any auto), or if CONSULTANT has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers’ Compensation/Employer’s Liability:** CONSULTANT certifies that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and it will comply with such provisions before commencing work under this Agreement. To the extent CONSULTANT has employees at any time during the term of this

Agreement, at all times during the performance of the work under this Agreement CONSULTANT shall maintain insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.

4. **Professional Liability** (Errors and Omissions) Insurance appropriate to the CONSULTANT's profession, with limit no less than **\$1,000,000** per occurrence or claim. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the CONSULTANT. "Covered Professional Services" as designed in the policy must specifically include work performed under this Agreement.
5. **Umbrella or Excess Liability: Umbrella or Excess Insurance.** If umbrella or an excess liability insurance policy is used to satisfy the minimum requirements for CGL or Automobile Liability insurance coverage listed above, the umbrella or excess liability policies shall provide coverage at least as broad as specified for the underlying coverages and covering those insured in the underlying policies. Coverage shall be "pay on behalf," with defense costs payable in addition to policy limits. CONSULTANT shall provide a "follow form" endorsement or schedule of underlying coverage satisfactory to the CITY indicating that such coverage is subject to the same terms and conditions as the underlying liability policy.
6. The CITY, its officers, officials, employees, and volunteers are to be covered as additional insureds on the umbrella or excess 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. If CONSULTANT maintains broader coverage, umbrella or excess coverage and/or higher limits than the minimums shown above, the CITY requires and shall be entitled to the broader coverage, umbrella or excess coverage and/or the higher limits maintained by CONSULTANT. Any available insurance proceeds in excess of the specified minimum limits of insurance and any other coverages shall be available to the CITY.

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

Additional Insured Status. The CITY, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy and the Automobile Liability policy, with endorsements under CG 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage, 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.

Primary Coverage. For any claims related to this contract, the 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, or volunteers shall be excess of the CONSULTANT's insurance and shall not contribute with it.

Notice of Cancellation. Each insurance policy required above shall be endorsed to state that coverage shall not be canceled except after thirty (30) days' prior written notice (10 days for non-payment) has been given to the CITY.

Waiver of Subrogation. CONSULTANT hereby grants to CITY a waiver of any right to subrogation which any insurer of said CONSULTANT may acquire against the CITY by virtue of the payment of any loss under such insurance. CONSULTANT agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the CITY has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the CITY. The CITY may require the CONSULTANT to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the CITY.

Claims Made Policies. If any of the required policies provide claims-made coverage:

7. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.
8. Insurance must be maintained and evidence of insurance must be provided *for at least three (3) or five (5) (select either 3 or 5 years) years after completion of the contract work.*
9. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONSULTANT must purchase "extended reporting" coverage for a minimum of *three (3) years* after completion of contract work.

Verification of Coverage. CONSULTANT shall furnish the CITY with original certificates and amendatory endorsements effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the CITY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONSULTANT's obligation to provide them. The CITY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Special Risks or Circumstances. CITY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

