



REQUEST FOR PROPOSAL

#RFP-2023-10

PROJECT: INTERPRETIVE DESIGN AND FABRICATION SERVICES

The Authority is issuing this Request for Proposals for Interpretive Design and Fabrication Services on an as-needed basis over a three-year period.

**PROPOSALS DUE: FRIDAY, JUNE 30, 2023,
by 5PM PACIFIC DAYLIGHT TIME**

Request for Proposals

Interpretive Design and Fabrication Services

BACKGROUND & SCOPE OF WORK

PURPOSE OF REQUEST FOR PROPOSALS

The Santa Clara Valley Open Space Authority (Authority) is soliciting proposals from qualified consulting firms with expertise in interpretive design and fabrication services. Consultants can submit as individual firms or as a team (“prime firm” with subconsultants). The Authority is seeking proposals from experienced consultants for services which will be on an “As Needed” basis within a three (3) year term. The selected consultant or prime firm will have proven experience and skill in interpretive design and fabrication services and will be fully qualified to perform the services requested by the Authority in this Request for Proposals (RFP).

BACKGROUND

The Authority is an independent special district created on February 1, 1993, by an act of the Legislature and is governed by a seven-member elected board of directors. The Authority serves a large portion of Santa Clara County by protecting sensitive lands, preserving natural communities, and managing open space. The Authority has preserved nearly 30,000 acres, which include three preserves open to the public with over 20 miles of trail. Activities on the preserves include hiking, cycling, horseback riding, and nature study. The Authority serves a diverse population and aims to provide a welcoming and inclusive experience on our preserves. As-needed interpretive design and fabrication services will support the Authority in its role of connecting people to nature through supporting public access, resource protection, and equitable educational and interpretive experiences.

The Authority is currently planning capital improvement projects for public access across multiple preserves. Projects may include designing interpretive installations across an entire preserve and trail system or for portions of a preserve where smaller site-level improvements are planned. The selected contractor will develop content, design, fabricate, and observe installation of signage and other interpretive features as part of these projects. Services will be integrated with those of the Authority’s contractors for landscape architecture, design, and construction.

OBJECTIVES

The Authority is inviting proposals from qualified firms, groups (with prime consultant and sub-consultants identified) or individuals to work with Staff and project partners to support the design, fabrication, and installation of educational and interpretive elements as part of several capital improvement projects. The Authority is seeking proposals from consultants who are known for their quality of work, creativity, and cost effectiveness. It is preferable that firms have successfully completed projects in similar open space management, resource protection, and cultural and historic settings.

SCOPE OF WORK

To provide interpretive design and fabrication services which will be on an “As Needed” basis. The selected firm under this RFP will respond to Authority-issued Task Orders that describe the scope of services needed for specific projects. The consultant will be required to prepare a scope of work and fee proposals for each said task that will require Authority authorization to proceed. The Contract for Services will be for a three (3) year term. The consultant would be responsible for tasks and services including but not limited to those outlined below.

Design Services

- Incorporate principles of justice, equity, diversity, inclusion, and accessibility into interpretive content.
- Incorporate requirements for and conform to Americans with Disabilities Act, Architectural Barriers Act Guidelines for Outdoor Accessible Areas requirements, and/or other Federal, State, local regulations or best practices for accessibility.
- Background research on site features such as geology, biology, ecology, characteristics, and history. Reach out to experts, as needed, to gather information.
- 2D+ 3D design visualizations, graphic design, illustrations and digital renderings for interpretive components, and physical & digital 3D presentation models communicating design intent and deliverables for presentation, client review, and approval.
- Develop text and imagery for interpretive installations. Work with the Authority to identify photo needs and/or sources. Design interpretive signage or other works of art to express interpretive themes. Create original artwork to be incorporated into interpretive elements.
- Expertise with interface between digital artwork and material fabrication limitations.

Desired Fabrication Services

- Fabricate interpretive materials suited to withstand local natural elements, vandalism as best as possible, and resistant to normal wear and tear.
- Desired Fabrication Services:
 - Prototype construction
 - Realistic 3D sculpture/tactile relief components in metal, concrete, stone
 - Porcelain enamel signs
 - Traditional painted metal sign frames and cabinets – outdoor rated
 - Panel or sign mounting into wood, stone, and/or concrete
 - Cast metal sculpture in bronze, aluminum, or steel
 - Metal etching, laser or water jet capacities
 - CNC router work
 - Custom concrete work (i.e. sandblasting, staining, sawcutting, and etching, etc.)
 - Wood customization and detailing (routing, burning, infill, etc.)

Project Management / Other

- Review existing project materials and work to-date (such as: Authority and Authority consultant materials, concepts, and design drawings).
- Coordinate with Authority and Authority's consultants and contractors for design, engineering, fabrication, and/or installation of interpretive signage or other elements.
- Develop specifications for interpretive work, including material, size, quantity, fabrication, handling, and shipping.
- Provide final proofs and original design files to the Authority for project bidding and/or fabrication as required.
- Provide cost estimates for all phases of work as well as fabrication and installation of interpretive elements.
- Ensure conformance with plans and specification for the installation of interpretive elements.
- Provide input in the development of bid documents for project construction including coordination for the design of sign framing, connections, and other details.

- Review construction bids for consistency with proposed interpretive elements.
- Attend team meetings and conduct site visits.
- Adhere to the Santa Clara Valley Open Space Authority Brand Standards and Style Guide.

MINIMUM BIDDER REQUIREMENTS

- Proven expertise planning, designing, and fabricating educational and artistic content for interpretive signage and other types of interpretive features.
- Demonstrated ability and skill in developing designs that promote equitable enjoyment of space for diverse user groups, including language independent imagery and multilingual elements.
- Demonstrated ability and skill in developing designs that interpret the natural environment and historic and contemporary settings.
- Strong written and graphic capacity to support the development of interpretive content.
- Proven experience overseeing fabrication and installation of interpretive features.
- Proven experience coordinating with a larger design team for design development and installation.
- Desired Certification (not required): National Association for Interpretation Certification or other similarly recognized national certification for interpretive planning.

SUBMISSION, REVIEW & SPECIAL CONDITIONS

PREPARATION OF RESPONSES

All responses to the items in the REQUIRED INFORMATION section must be answered fully and must be able to be substantiated by the vendor.

KEY DATES*

Event	Tentative Date
Request For Proposals Issuance	May 26, 2023
Deadline to Submit Questions	June 9, 2023
Final Addenda Issued	June 13, 2023
Deadline to Submit Proposal	June 30, 2023
Consultant Selection	July 18, 2023
Contract Award	July 27, 2023

* Dates subject to change

SUBMISSION OF RESPONSES

Proposals must be delivered by email (with attachments, if any) to the following email address: proposals@openspaceauthority.org, with the following language in the subject line of the email "Attention: RFP-2023-10 re: Interpretive Design Services":

Proposals will be received only at the email address identified above. All proposals must be received by email by the Authority prior to **5:00 p.m. Pacific Daylight Time (PDT), June 30, 2023**. Proposals will not be accepted via fax, mail, or by courier. Late responses will not be considered.

1. Mail and facsimile responses will not be considered. Bidders shall have sole responsibility for delivery of responses on time and to the proper email address.
2. To facilitate the analysis of responses to this RFP, Bidders are required to prepare their responses in accordance with the instructions outlined in this section. Each Bidder is required to submit the responses electronically. Bidders whose responses deviate from these instructions may be considered non-responsive and may be disqualified at the discretion of the Authority.
3. The Authority cautions Bidders to assure electronic email delivery of responses directly to the email address noted above by the established deadline. A response received by the Authority after the established deadline will not be considered.
4. Note: Any deviation from the requirements listed in the Required Information section below may result in the response being considered non-responsive, thus eliminating a Bidder from further consideration.

RFP QUESTIONS

Any questions about this RFP shall be submitted in writing to proposals@openspaceauthority.org on or before June 9, 2023 by 5PM PDT. The Authority will post written responses to questions and email answers to vendors no later than June 13, 2023, at 5:00 p.m. PDT. Responses may be posted incrementally as received.

ADDENDA

The Authority will post any addenda on the Authority's website. Bidders shall be responsible for ensuring that all addenda are included in their responses. It is the Bidder's sole responsibility to monitor the Authority website for possible addenda to this RFP.

PUBLIC RECORDS LAW

Pursuant to the California Public Records Act (California Government Code Section 6250 and following), public records are open to inspection at all times during the office hours of the Authority and every person has a right to inspect any public record or request copies of public records. All submitted responses are public records and are subject to public disclosure pursuant to the California Public Records Act.

ACCEPTANCE

Submission of any response indicates acceptance of the conditions contained in this Request for Proposals.

RESPONSE COSTS

Those submitting responses do so entirely at their own expense. The Authority will not be responsible for reimbursement to any individual or firm for any costs incurred in preparing or submitting responses, providing additional information when requested by the Authority, or for participating in any selection interviews or meetings.

NON-DISCRIMINATION

No person shall be excluded from participation in, denied any benefits or otherwise discriminated against in connection with the award and performance of any contract on the basis of race, religious

creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age (over 40), military and veteran status of any person, or any other non-merit factor unrelated to job duties and protected by law.

RESPONSE FORMAT

To facilitate Responses should be prepared as simply as possible and provide a straightforward, concise description of the contractor's capabilities to satisfy the requirements of this RFP. Emphasis should be concentrated on accuracy, completeness, and clarity of content. All parts, pages, figures and tables should be numbered and clearly labeled. There is no page limit, however, responses should be comprehensive, succinct, and direct. Font size should be no less than 11 points.

REQUIRED INFORMATION

The Bidder must include the following major sections:

Executive Summary

This part of the response should be limited to a brief narrative highlighting how the Bidder and any subconsultant's expertise and experience qualifies for this RFP, the general approach to the Bidder's work and specifically experience in performing interpretive design services.

Proposed Rate Schedule

The Bidder shall include hourly billing rates for all proposed work and team members including subcontractors that may work on tasks related to this RFP as well as other costs that may be required to perform said work.

Firm Qualifications

Provide an overview of the Bidder and any subconsultant firm experience and a summary narrative describing how each is qualified to perform tasks that may be requested under this RFP. Please reference specific examples of services provided and include a description of work products prepared as part of the project.

Relevant Experience

The Bidder and any subconsultants must provide a description of experience, including examples of relevant projects demonstrating the team's interpretive design work expertise. The proposal must include three (3) examples of projects which demonstrate the team's experience in designing aesthetically pleasing and informative interpretive elements. Please include examples demonstrating prior experience in open space or other natural settings. The description of experience shall include experience with local governments and special districts, if any. For all projects included, please provide the client name and contact information, general scope of work, and total fees for work performed. Please do not include information on projects that are not similar in scope and character to the scope of work described in this RFP.

Team Resumes

Please provide resumes for all team members who may work on future projects as part of this RFP to include education, special expertise, licensing or certifications, and relevant project experience.

Client References

Bidders should provide a list of at least three (3) clients (include names of contact persons, telephone numbers, brief description of the work performed) for whom the bidder has performed services similar to those required by this RFP.

Statement of Agreement with Terms of Contract

The bidder must provide a statement that indicates agreement to the terms of the contract (Attachment 1), including an agreement to meet the insurance requirements.

SELECTION CRITERIA

Proposals will be evaluated by Authority Staff and recommended for approval by the Board of Directors. Proposals will be evaluated for completeness of response and quality of response; the extent to which the Bidder's proposal fulfills the Authority's stated requirements as set out in the RFP; proposed fees and rates; relevant experience, and previous client satisfaction. Staff may conduct in-person interviews as part of the selection process. In determining the most responsible and qualified proposal, the Board of Directors may use the following criteria to evaluate submitted proposals:

1. Experience of the Bidder and subconsultants (if applicable), including past performance of the firm on contracts of similar size and scope;
2. Experience and qualifications of personnel employed by the Bidder and subconsultants (if applicable);
3. Demonstrated understanding of the scope of the service;
4. Best overall financial return to the Board of Directors on the contract; and,
5. A responsible Bidder who has demonstrated the attribute of trustworthiness, as well as quality, fitness, and experience to satisfactorily perform the work or provide the goods required.

The Board may reject all proposals.

REJECTION OF RESPONSES

The Authority may reject any proposal if:

1. The Bidder fails to respond to the RFP Required Information, or otherwise comply with the format and submission required set forth in this RFP, or
2. The vendor misstates or conceals any material fact in the response.

The Authority may reject all nonconforming, non-responsive or conditional proposals, and may waive any minor informalities or irregularities in any proposal and at the Authority's sole discretion.

ATTACHMENTS

LIST OF ATTACHMENTS

Attachment 1 – Contract Template/Terms of the Contract

CONTRACT FOR SERVICES

THIS AGREEMENT is entered into between the Santa Clara Valley Open Space Authority (hereinafter “Authority”) and [INSERT NAME] (hereinafter “Contractor”) and sets forth the terms of this Agreement. Authority and Contractor are collectively referred to as the “Parties.” This Agreement is effective upon full execution of this Agreement by the Parties. In consideration of the mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to the laws of the State of California, the parties agree as follows:

1. Scope of the Agreement

During the term of this Agreement, Contractor shall provide the [(OPTION 1) services set forth in the Scope of Work, attached hereto as Exhibit A and hereby incorporated by reference. However, if any provision or term of Exhibit A conflicts with any provision or term of this Agreement, the provisions and terms of this Agreement shall prevail and supersede any inconsistent provisions or terms in Exhibit A. (OR OPTION 2) following services: _____.]

2. Documents, Materials and Records Property of Authority

All documents, materials, and records of a finished nature, including but not limited to final plans, specifications, video or audio tapes, photographs, computer data, software, reports, maps, electronic files and films, and any final revisions, prepared or obtained in the performance of this Agreement (collectively “work product”), shall be delivered to and become the property of Authority without restriction or limitation on their use. All documents and materials of a preliminary nature, including but not limited to notes, sketches, preliminary plans, computations and other data, and any other material referenced in this section, or prepared or obtained in the performance of this Agreement, shall be made available, upon request, to Authority at no additional charge and without restriction or limitation on their use. Upon Authority’s request, Contractor shall execute appropriate documents to assign to the Authority the copyright or trademark to work product created pursuant to this Agreement. Contractor shall return all Authority’s property in Contractor’s control or possession immediately upon termination.

3. Payment

a. Payment for Services. [(OPTION 1) Authority shall pay for services and reimbursable expenses in a total amount of \$_____ upon completion of the services to the satisfaction of Authority and delivery of the work product. (OR OPTION 2) Authority shall pay for services performed in accordance with this Agreement according to the fee schedule and any reimbursable expenses contained in Exhibit B. Contractor shall invoice Authority monthly. (OR OPTION 3) Authority shall pay for services performed in accordance with this Agreement at an hourly rate of \$_____, and reimbursable expenses in the amount of \$_____. Contractor shall invoice Authority monthly.]

b. [(OPTIONAL PROVISION IN LIEU OF REIMBURSIBLE EXPENSES ABOVE) Reimbursement of Expenses. All expenses incurred as part of this Agreement will be reimbursed at actual cost.]

c. [THIS IS AN OPTIONAL NOT TO EXCEED PROVISION TO ADD TO OPTIONS 2 AND 3 SET FORTH ON SUBSECTION a.] Maximum Payment. Contractor agrees that fees and any reimbursable expenses to complete the services promised under this Agreement shall not exceed a maximum of \$_____.

d. Audit of Records. Contractor shall maintain complete and accurate records of all payrolls, expenditures, disbursements, and other cost items charged to Authority or establishing the basis for an invoice, for a minimum of four (4) years from the date of final payment to Contractor. All such records shall be clearly identifiable. Contractor shall allow an Authority representative to inspect, examine, copy, and audit such records during regular business hours upon 24 hours' notice.

4. Time for Performance

Contractor's work shall be scheduled and performed to meet agreed-upon deadlines. The term of this Agreement shall end [(OPTION 1:) on or before [INSERT END DATE], unless abandoned as provided in section 5 below. The time for performance may not be extended without Authority's express written approval. (OR OPTION 2:) when the services described herein are completed, unless abandoned as provided in section 5 below.]

5. Standard of Performance

Services shall be performed by Contractor in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised under similar conditions by members of Contractor's profession currently practicing in California.

6. Abandonment of Project

Authority shall have the right to abandon or indefinitely postpone ("abandonment") the project that is the subject matter of this Agreement and the services hereunder, or any portion thereof, at any time. In such event, Authority shall give written notice of such abandonment. In the event of abandonment prior to completion of the project, Contractor shall cease work immediately. All charges incurred up to the time of notice of abandonment, together with any other charges outstanding at the time of termination, shall be payable by Authority within 30 days following submission of a final statement by Contractor and shall be considered as full payment due hereunder. However, Authority may condition payment of such compensation upon Contractor's delivery to Authority of any or all work product generated by Contractor pursuant to this Agreement.

7. Contractor as Independent Contractor

At all times during the term of this Agreement, it is expressly agreed that in the performance of the services necessary to carry out this Agreement, Contractor shall be an independent contractor and shall not be an employee of Authority. It is agreed that Authority is interested only in the results obtained and that Contractor shall perform as an independent contractor with sole control of the manner and means of performing the services required under this Agreement. Authority shall have the right to control Contractor only insofar as the results of Contractor's services rendered pursuant to this Agreement; however, Authority shall not have the right to control the

means by which Contractor accomplishes the results required under this Agreement. Contractor has and shall retain the right to exercise full control and supervision of the services, and full control over the employment, direction, compensation, and discharge of all persons assisting Contractor in the performance of Contractor's services hereunder. Contractor shall be solely responsible for all matters relating to the payment of Contractor's employees, including compliance with social security, withholding, and all other regulations governing such matters, and shall be solely responsible for Contractor's own acts and this of Contractor's subordinates, subcontractors, agents, and employees. Contractor is responsible for all insurance and all taxes, charges, fees, benefits, or contributions required to be paid or withheld on behalf of Contractor, including, but not limited to, compliance with social security, withholding, and all other regulations governing such matters. Contractor is not entitled to any employee benefits. Contractor shall exonerate, indemnify, defend, and hold harmless Authority (which shall include, without limitation, its officers, agents, employees and volunteers) from and against any and all federal, state, and local taxes, charges, fees, or contributions required to be paid with respect to Contractor and Contractor's officers, employees and agents engaged in the performance of this Agreement (including, without limitation, unemployment insurance, social security and payroll tax withholding).

8. Non-Discrimination

During and in relation to the performance of this Agreement, Contractor agrees as follows. Contractor shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex (including pregnancy, childbirth, breastfeeding or related medical conditions), gender, gender identity, gender expression, sexual orientation, age (over 40), military and veteran status of any person, or any other non-merit factor unrelated to job duties and protected by law. Contractor shall not discriminate on the basis of the above characteristics against any employee or applicant for employment who has, perceives he or she has, or is associated with a person who has, or is perceived to have any of the above characteristics. Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex (including pregnancy, childbirth, breastfeeding or related medical conditions), gender, gender identity, gender expression, sexual orientation, age (over 40), military and veteran status of any person, or any other non-merit factor unrelated to job duties and protected by law. Such action shall include, but not be limited to, the following: employment, terms, conditions or privileges of employment, promotion, demotion or transfer, recruitment advertising, layoffs or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Furthermore, Contractor shall include this requirement in any and all sub-contracts it enters into in any way related to this Agreement. Nothing in this section shall prohibit Contractor from applying a bona fide occupational qualification, or any other exception established by the California Fair Employment and Housing Act under Government Code § 12940.

9. Indemnification

- a. Contractor agrees to indemnify, hold harmless, defend and protect Authority, its directors, officers, officials, employees, agents and invitees, from and against any and all claims, losses,

damages, demands, liabilities, suits, costs, expenses (including attorneys' fees), penalties, judgments, or obligations whatsoever arising out of, pertaining or relating to the negligence, omission, recklessness or willful misconduct of Contractor, its employees, subcontractors, or agents, or on account of the performance or character of the Services or in any way related to activity conducted by Contractor, except for any such claim resulted from the sole negligence or the intentional and willful misconduct of Authority, its officers, directors, agents or employees. The provisions of this section shall survive the termination or expiration of this Agreement. It is understood that the duty of Contractor to indemnify and hold harmless includes the duty to defend as set forth in section 2778 of the California Civil Code. Acceptance of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

b. The provisions of this section shall survive the termination or expiration of this Agreement.

10. Insurance

a. Contractor shall procure and keep in force during the term of this Agreement, at Contractor's own cost and expense, the following policies of insurance with California-admitted insurance companies licensed to do business in the State of California, which are rated at least "A" or better by A.M. Best Company and which are acceptable to Authority:

- i) If Contractor has and will have employees during the term of this Agreement, Workers' Compensation Insurance as required by law with limits of **\$1,000,000**;
- ii) Comprehensive or Commercial General Liability Insurance, which shall be occurrence coverage, in the minimum amount of **\$1,000,000 per occurrence, \$2,000,000** aggregate, combined single limit, including coverage for (a) bodily injury, (b) personal injury, (c) broad form property damage, (d) contractual liability, and (e) cross-liability; **and**
- iii) Business Automobile Liability Insurance for each of Contractor's vehicles used in the performance of this Contract, including owned, non-owned (e.g., owned by Contractor's employees), leased, or hired vehicles, in the minimum amount of **\$1,000,000** per occurrence for bodily injury and property damage.

Proof of all insurance policies is attached to this Agreement as Exhibits XX-XX.

Contractor shall provide to Authority proof of renewal of each insurance policy at least thirty (30) days prior to the expiration of the insurance policy as long as this Agreement remains in effect.

Contractor certifies that Contractor 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. Contractor shall comply with the provisions of Section 3700 of the Labor Code before commencing the performance of the work under this Agreement.

In the event that any coverage required under the Agreement is reduced, limited, or materially affected in any other manner, Contractor shall provide written notice to Authority at Contractor's earliest possible opportunity and in no case later than five days after Contractor is notified of the change in coverage.

In the case of the breach of any provision of this section, Authority may, at Authority's option: (1) take out and maintain, at the expense of Contractor, such types of insurance in the name of Contractor as Authority may deem; (2) order Contractor to stop work under the Agreement until Contractor complies with the insurance requirements required by this Agreement; or (3) terminate this Agreement.

b. Other Insurance Provisions. The policies shall include or be endorsed to include, but not limited to, the following provisions:

- i) Authority, its officers, officials, employees, and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor, premises owned, occupied, or used by Contractor, or automobiles owned, leased, hired, or borrowed by Contractor. The coverage shall contain no special limitations on the scope of the protection afforded to Authority, its officers, officials, employees or volunteers, and no endorsement shall be attached limiting the coverage. Contractor shall furnish Authority with certificates of insurance and with original endorsements effecting coverage required by this clause.
- ii) Contractor's insurance coverage shall be primary insurance as respects Authority, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by Authority, its officers, officials, employees, or volunteers shall be in excess of Contractor's insurance and shall not contribute to it.
- iii) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to Authority, its officers, officials, employees, or volunteers.
- iv) Contractor'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.

11. Prevailing Wage and Labor Compliance

Work done under this agreement may be subject to the prevailing wage and other provisions of the California Labor Code requirements (see Labor Code § 1720 et seq.). The Contractor shall pay prevailing wages to all persons employed in the performance of any part of the Project and otherwise comply with all associated requirements and obligations, if required by law to do so.

Contractor shall retain copies of payroll records for four years after the audit year in which wages were paid, or until the expiration of all applicable statute of limitations period(s), whichever is later.

12. Assignment

A substantial inducement to Authority for entering into this Agreement is the professional reputation and competence of Contractor. Contractor shall not assign or otherwise transfer any rights, duties, obligations, or interest in this Agreement or arising hereunder to any persons or entities whatsoever without the prior written consent of Authority and any attempt to assign or transfer without such prior written consent shall be void and shall terminate this Agreement. Consent to any single assignment or transfer shall not constitute consent to any further assignment or transfer.

13. Subcontractor

- a. Contractor will perform the work personally or through Contractor's employees. Contractor may subcontract work only as specified in this Agreement or upon prior approval of Authority. If subcontracting of work is permitted, Contractor shall pay subcontractor within ten (10) days of receipt of payment by Authority for work performed by a subcontractor and billed by Contractor.
- b. Authority is an intended beneficiary of any work performed by the subcontractor for purposes of establishing a duty of care between the subcontractor and Authority.

14. Conflict of Interest

Contractor warrants and covenants that Contractor presently has no interest in, nor shall any interest be hereinafter acquired in, any matter which will render the services required under the provisions of this Agreement a violation of any applicable state, local, or federal law. In the event that any conflict of interest should nevertheless hereinafter arise, Contractor shall promptly notify Authority of the existence of such conflict of interest so that Authority may determine whether to terminate this Agreement. Contractor further warrants its compliance with the Political Reform Act (Government Code § 81000 et seq.) respecting this Agreement.

15. Compliance with Laws

In the performance of this Agreement, Contractor shall abide by and conform to any and all applicable laws of the United States and the State of California, and all ordinances, regulations, and policies of Authority and other local agency with jurisdiction. Contractor warrants that all work done under this Agreement will be in compliance with all applicable safety rules, laws, statutes, and practices, including but not limited to Cal/OSHA regulations. If a license, permit, or registration of any kind is required by law of Contractor, its employees, agents, or subcontractors to practice Contractor's profession, Contractor represents and warrants that such license has been obtained, is valid and in good standing, and Contractor shall keep it in effect at all times during the term of this Agreement.

16. Changes in Work

No payment for changed or additional work shall be made unless the changed or additional work has first been approved in writing by Authority and the Parties have agreed upon the appropriate

adjustment, if any, to the payment schedule and maximum payment amount for the changed or additional work.

17. Accident Reports

Contractor shall immediately report (as soon as feasible, but not more than 24 hours) to Authority any accident or other occurrence causing injury to persons or property during the performance of this Agreement. If required by Authority, the report shall be made in writing and shall include, at a minimum: (a) the names, addresses, and telephone numbers of the persons involved, (b) the names, addresses and telephone numbers of any known witnesses, (c) the date, time and description of the accident or other occurrence.

18. Default

In the event that Contractor defaults in any obligation of Contractor under this Agreement, or Contractor defaults in the performance of any of the terms and conditions of this Agreement, Authority may, at its option, declare this Agreement to be in default and, at any time thereafter, may do any one or more of the following: (1) enforce performance of the Agreement by Contractor; (2) terminate this Agreement; or (3) perform the obligations of Contractor, whereupon Contractor shall reimburse Authority for any amounts paid or expenses incurred by Authority in the performance of such obligations. The above remedies are in addition to any other remedies at law or equity Authority may have. Contractor shall pay or reimburse Authority for all of Authority's costs and expenses, incurred in enforcing its rights hereunder.

19. Notices

If either party shall desire or be required to give notice to the other, such notice shall be given in writing, and shall be: (1) personally delivered; (2) deposited in the United States mail, certified or registered, postage pre-paid, return receipt requested; or (3) sent electronically via email with a copy also deposited in the United States mail, First Class postage. Notice shall be addressed to the recipient as follows:

AUTHORITY: Santa Clara Valley Open Space Authority
33 Las Colinas Ln.
San Jose, CA 95119
Attention: [INSERT]
Email: [INSERT]

CONTRACTOR: Attention: [INSERT]
Email: [INSERT]

Either party may change its address by giving notice to the other in the manner provided herein.

Contractor shall mail invoices to Authority at the above referenced address, but shall make invoices to the attention of "Accountant," or Contractor may email invoices to accountant@openspaceauthority.org.

20. Entire Agreement

This Agreement contains all of the agreements and understandings of the parties pertaining to the subject matter contained herein and supersedes all prior, contemporaneous agreements, representations, and understandings of the parties. This Agreement cannot be amended or modified except by written agreement of all the parties.

21. Waiver

No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver.

22. Severability

Should any part of this Agreement be declared by a final decision by a court to be unconstitutional, invalid, or beyond the authority of either of the Parties 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, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the Parties.

23. Interpretation

Section headings in this Agreement are used solely for convenience and shall be wholly disregarded in the construction of this Agreement.

24. Governing Law and Venue

This Agreement shall be construed and interpreted in accordance with the laws of the State of California. If any party herein initiates an action to enforce the terms hereof or declare rights hereunder, the parties agree that venue thereof shall be the County of Santa Clara, State of California.

25. Advice of Counsel

Both parties have had a full and complete opportunity to have the Agreement reviewed by legal counsel, and no presumption or rule that ambiguity shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

26. Time of The Essence

Time is hereby expressly declared to be of the essence in this Agreement and of each and every provision thereof, and each such provision is hereby made and declared to be a material, necessary and essential part of this Agreement.

The signatories below warrant and represent that they have all legal authority and capacity to enter into this Agreement. **IN WITNESS WHEREOF**, Contractor and Authority hereby execute this Agreement.

**SANTA CLARA VALLEY
OPEN SPACE AUTHORITY**

Andrea Mackenzie
General Manager

Dated: _____

[INSERT NAME OF CONTRACTOR/BUSINESS]

[INSERT NAME]
[INSERT TITLE]

Dated: _____